

IN THE COUNTY COURT IN AND FOR THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY FLORIDA  
SMALL CLAIMS DIVISION

MICHAEL TREVETT,	)	
	)	
Plaintiff,	)	<b>JURY TRIAL DEMANDED</b>
	)	
vs.	)	Case No.:
	)	
CAMPUS-ALAFAYA, LLC, AND	)	
CAMPUS APARTMENTS, LLC,	)	
	)	
Defendants.	)	
_____	)	

**COMPLAINT**

1) This is an action by Plaintiff Michael Anthony Trevett (“Plaintiff”) against his landlord and management company (“Defendants”) who continue to attempt to collect rents on its campus affiliated housing, despite the closure of the University of Central Florida (“UCF”) due to Coronavirus.

**JURISDICTION, VENUE, AND PARTIES**

2) This Court has subject matter jurisdiction over this action because Plaintiff seeks relief in an amount less than \$8,000.00, exclusive of interest, costs and attorney fees.

3) Defendants are subject to personal jurisdiction and venue is proper because the apartment that is the subject of the Lease at issue in this case is located in Orange County, Florida.

4) Defendants are also subject to personal jurisdiction and venue is also proper because Defendants do business in Orange County, Florida.

5) Plaintiff is a student at UCF.

6) Defendant Campus Apartments, LLC (“Apartments”) is a Pennsylvania Limited Liability Company.

- 7) Defendant Campus–Alafaya, LLC (“Alafaya”) is a Delaware Limited Liability Company.
- 8) Defendants are engaged in the rental and management of UCF campus-affiliated housing.
- 9) Upon information and belief, Defendant Alafaya owns the apartment building where Plaintiff leased an apartment and lived until UCF was closed due to the Coronavirus outbreak.
- 10) Defendant Apartments manages the apartment building where Plaintiff leased an apartment.

### **FACTUAL ALLEGATIONS**

#### *Defendants’ Operations and Advertising*

- 11) Defendant Apartments operates nationwide.
- 12) Defendants specialize in university-affiliated campus housing.
- 13) Defendants’ corporate names specifically contemplate that their residents will be university students.
- 14) Defendants specifically market their apartments on the basis that they will be attractive to university students.
- 15) Defendants’ homepage for the Campus Crossings location states:

#### **WELCOME**

Campus Crossings provides everything you need for the *student lifestyle* you want!

We’re conveniently located on *UCF’s shuttle route*, and offer spacious 4-bedroom townhomes, individual leases, and an amenity package that’s designed to support healthy living, socialization, and *academic success*.

Schedule a tour today to find out why we’re Orlando’s *best value in Student Living*.

(emphases supplied) <https://www.livealafaya.com/>

- 16) Defendants' customer service page also advertises student living:

#### **MISSION STATEMENT**

CA Cares is Campus Apartments' customer care and support program. Our mission is to build strong lasting relationships based on superior customer service, integrity, and mutual respect with our residents, their parents, and the colleges and universities we serve. Additionally, our goal is to continue to be the provider of choice for high quality and affordable housing designed around the student lifestyle.

(emphases supplied) <https://www.livealafaya.com/campus-crossings-on-alafaya/ca-cares>

- 17) Defendants' Resident Handbook specifically contemplates Student Housing by providing a "Holiday Checklist" contemplating that students will be away from their homes during the holidays and continuing until the 1st of the next month.

Page 22, Section J <https://www.livealafaya.com/campus-crossings-on-alafaya/resident-handbook>

- 18) Defendants' Resident Handbook further refers to parking permits expiring by the beginning of the next "academic year." Page 37, Section L.1

- 19) The map on Defendants' website showing the Campus Crossings location at issue in this litigation clearly shows a preoccupation with UCF.

- 20) The entire upper right quadrant of the map is dominated by a highlighted outline map of the UCF campus with large block letters stating UNIVERSITY OF CENTRAL FLORIDA.

- 21) In the lower left corner of the map, the Campus Crossings apartment complex logo is visible, and immediately next to the icon, is an icon for the "UCF Shuttle Stop."

- 22) The map also indicates that Campus Crossings is next to a Lynx Bus Stop.

- 23) Other than the aforementioned map features, four named roads appear on the map, two of which, "University Blvd" and "Research Pkwy" clearly contemplate UCF.

- 24) Overall, the map is calculated to appeal to UCF students and to show proximity to the UCF campus.

- 25) The Defendants' FAQ specifically states:

**HOW CLOSE IS THE COMMUNITY TO CAMPUS?**

Campus Crossings Alafaya is located within 1 mile of The University [sic] Central Florida. Enjoy free shuttle service to campus!

<https://www.livealafaya.com/campus-crossings-on-alafaya/faqs-alafaya>

- 26) The livealafaya.com website, used by Defendants to advertise their Orlando properties, uses the UCF color scheme.

- 27) Defendants' Occupancy Guidelines state the following:

**Age Requirements & Student Status**

Anyone of legal age in the State in which the community is located may apply for residency. *This community may require an applicant to prove their student status. To qualify, you may be required to be enrolled in a degree program, either full time or part-time. You may be asked to verify your student status by a showing a current student I.D. card or other satisfactory proof of student status.*

**Income/Employment Requirements**

*. . . Financial aid, grants or student loans may qualify as sources of income subject to approval of Landlord. . . .*

*. . .*

**Residence Requirements**

All applicants must have a government issued photo I.D. Applicants who are citizens of another country must provide (1) a passport, (2) the document that entitles the applicant to be in the United States and (3) proof of employment in this country *or an I-20 verifying student status and proof of enrollment.* The community may request copies of any of the applicant's documents, international passport and visa.

<https://www.livealafaya.com/campus-crossings-on-alafaya/occupancy-guidelines> . Thus,

Defendants clearly require residents to be college students at UCF.

28) Lastly, Plaintiff's Lease specifically states:

If you are a student at a College or University serviced by the Apartment Community, then you must also comply with all such College or University rules and regulations and student codes of conduct.

Thus, Defendants again refer to the contemplated use of their apartments as student housing and attempt to incorporate UCF rules into the lease.

29) As a result of these and other messages and business practices, Defendants have clearly attempted to market their apartments to students attending UCF.

30) Defendants knew that Plaintiff and other residents were leasing their apartments for the primary purpose of attending UCF.

31) Defendants knew that Plaintiff and other residents would not have leased their apartments but for the desire to attend UCF as students and live near the campus.

32) Plaintiff has no reason to live in Defendants' apartment now that UCF is no longer conducting in-person classes.

33) Both Plaintiff and Defendant contemplated Plaintiff's purpose of leasing the apartment so Plaintiff could attend UCF at the time of the Lease signing.

34) Despite marketing their apartments for the primary purpose of attendance at UCF, Defendants now insist on collecting rent even though UCF has closed.

### ***The Lease***

35) On December 14, 2019, Plaintiff signed a Lease with Defendants for an apartment near the UCF Campus in Orlando. ("Lease")

36) A Copy of Plaintiff's Lease is attached hereto as Exhibit 1.

37) The Lease term is from January 3, 2020 until July 31, 2020.

38) The monthly rent for the apartment is \$670 per month, consisting of a "Base Rent" of

\$635 and a “Monthly Furniture Fee” of \$35.

39) Paragraph 4(b) of the Lease states:

You understand that if this Lease is signed by you listing only the Unit Type and not an Apartment or Bedroom that the Lease is subject to availability. *We cannot guarantee the availability of the Unit Type you have leased.*”

(emphasis supplied).

40) Plaintiff’s Lease indicates only a “Unit Type and not an Apartment or Bedroom.”

41) Plaintiff’s Lease show that Apartment and Bedroom are both marked “TBD.”

42) Thus, Defendants did not guarantee the availability of any Unit Type.

43) Plaintiff’s Lease is thus “subject to availability” by its terms.

44) Thus, Defendants promised Plaintiff nothing.

45) Even once Plaintiff occupied his apartment, Defendants did not have any binding obligation to Plaintiff:

You agree that this Lease will remain effective so long as we are able, on or before the Starting Date, to assign a rental space similar to the one otherwise specified in this Lease to you. We have the right to assign a roommate to any unoccupied bedroom in the Apartment before or during the Lease Term without notice. *While we will not act arbitrarily, we have the right to relocate you from one Bedroom in the Apartment to another or even to another Apartment in the same or another Apartment Community, upon fifteen (15) days’ written notice to you.*

Paragraph 4(a) (emphasis supplied).

46) The Lease states the following regarding Defendants’ obligations under the lease:

. . . If we cannot provide the Premises to you, or you are not relocated, within thirty (30) days of the Starting Date, then you will have the right to terminate this Lease by giving us written notice before we provide the Premises to you, and upon such termination we will refund any Security Deposit and any Rent previously paid by you. *Except as set forth in this Section, no other remedy is available to you and you waive your right to any other remedy.*

Paragraph 2 (emphasis supplied).

- 47) Paragraph 2 of the Lease creates an illusory promise on the part of Defendants.
- 48) The Lease essentially operates as an option for Defendants to provide housing – any housing – to Plaintiff commencing any time within 30 days of the scheduled Starting Date.
- 49) If Defendants do not provide any housing to Plaintiff, their only penalty under Paragraph 2 above is to return the unearned rental and security deposit monies.
- 50) Plaintiff has no remedy to compel Defendants to furnish housing or indemnify his cost to rent substitute housing.
- 51) Defendants have held Plaintiff strictly to the terms of the purported Lease.
- 52) However, in Paragraphs 2 and 4, above, Defendants only provide illusory promises.

### ***Coronavirus***

- 53) UCF closed for Spring break on March 13, 2020, and has not reopened.
- 54) UCF is not scheduled to reopen until after the expiration of Plaintiff's Lease.
- 55) Plaintiff has paid his April rent of \$670 under protest.
- 56) Plaintiff has paid his May rent of \$670 under protest.
- 57) The total value of rents paid under protest since the UCF campus closed is \$1,340.
- 58) Additionally, Plaintiff paid March rent attributable to the time after UCF closed in the amount of \$389.03.  $([31-13]*[670/31])$
- 59) In total, Plaintiff has paid \$1,729.03 in rent payments attributable to time after his purpose for the Lease was frustrated  $(\$1,340+389.03)$ .
- 60) At the time of signing the Lease, neither Plaintiff nor Defendants had any reason to suspect that UCF would be closed due to Coronavirus or any other reason.
- 61) In fact, upon information and belief, UCF has never cancelled an entire semester of in-person classes in the history of its operation since 1963.

- 62) Plaintiff and his sister sent a letter to Defendants announcing that he had vacated the apartment, returned the keys, and considered the Lease annulled due to frustration of purpose.
- 63) Defendants telephoned Plaintiff's sister in response to the letters and announced that Plaintiff and his sister would need to continue to pay their rent through the Lease term.
- 64) Defendants refuse to relent or compromise.
- 65) Plaintiff has thereby discharged any condition precedent to suit.

***Attorney Fees***

- 66) Paragraph 22 of the Lease, states, in full, that:
- 22. COSTS AND FEES.** In the event we bring an action against you because you violated this Lease, we can recover all costs or fees we incur, including reasonable attorneys' fees, as part of any judgment (except in Arizona and Florida where the prevailing party may be awarded reasonable attorney's fees).
- 67) As noted in Paragraph 22 of the Lease, and pursuant to Florida Statute 57.105(7), if Plaintiff prevails in this action, he is entitled to a reasonable attorney fee.
- 68) Plaintiff has retained undersigned counsel to pursue this action and is obligated to pay a reasonable fee for his services.
- 69) Plaintiff's current attorney fees and costs incurred are \$5,000.00 for purposes of this pleading only.
- 70) Plaintiff anticipates incurring vastly increased attorney fees if this matter is litigated.

**COUNT I**  
**(DECLARATORY JUDGMENT – ILLUSORY CONSIDERATION)**

- 71) Plaintiff repeats and realleges the facts set forth in the Factual Allegations above.
- 72) Defendant's drafted their Lease such that they had no enforceable obligation to Plaintiff.
- 73) Instead, Defendants essentially obtained an option to rent a room – any room – in an apartment – any apartment – at any time within the first 30 days of the term of the Lease.



- 74) The Lease further allowed Defendants to move Plaintiff to another room or apartment even after Plaintiff occupied the apartment.
- 75) This agreement is illusory on Defendants' part and cannot provide consideration for any enforceable obligation for Plaintiff to pay rent.
- 76) Plaintiff is unsure of his legal obligation to pay rent, but has continued to make payments in order to preserve his credit and his cause of action.
- 77) There is a bona fide, actual, present practical need for a declaration of Plaintiff and Defendants' rights and duties as to the Lease.
- 78) Plaintiff needs a declaration of Defendants' right to insist upon Lease payments through the original term of the Lease.
- 79) Plaintiff also needs a declaration of the lack of enforceability of the Lease because of the illusory promises on the part of Defendants.
- 80) Plaintiff's legal rights and duties are dependent upon the law applicable to the facts alleged in this Complaint.
- 81) Plaintiff and Defendants have a present, antagonistic interest in these questions of law before the Court.
- 82) These antagonistic interests are all before the court by proper process.
- 83) Relief sought in this action is not merely giving legal advice or answering questions propounded from curiosity.
- 84) Pursuant to Florida Statue 86.011, Plaintiff is entitled to a declaration that the Lease is void due to illusory promises by Defendants plus costs of suit and attorney fees pursuant to Lease Paragraph 22 and Florida Statute 57.105(7), plus all other relief as this Court deems just and proper.

**COUNT II**  
**(DECLARATORY JUDGMENT – FRUSTRATION OF PURPOSE)**

- 85) Plaintiff repeats and realleges the facts set forth in the Factual Allegations above.
- 86) Plaintiff signed the Lease for housing for the purposes of attending UCF.
- 87) Defendants knew that Plaintiff was a UCF student at the time that they leased the apartment to him.
- 88) Defendants knew that Plaintiff needed housing for the purpose of studying at UCF.
- 89) Neither party foresaw that UCF would close, that in-person classes would be cancelled, or that Coronavirus would disrupt UCF.
- 90) Plaintiff has no reason to stay at the apartment that is the subject of the Lease.
- 91) Plaintiff's purpose of renting the apartment has been totally frustrated.
- 92) Plaintiff has, in fact, vacated the apartment and moved back home to Hillsborough County.
- 93) Plaintiff does not intend to return to Orange County until after the term of the Lease has expired.
- 94) Plaintiff is unsure of his legal obligation to pay rent, but has continued to make payments in order to preserve his credit and his cause of action.
- 95) There is a bona fide, actual, present practical need for a declaration of Plaintiff and Defendants' rights and duties as to the Lease.
- 96) Plaintiff needs a declaration of Defendants' right to insist upon Lease payments through the original term of the Lease.
- 97) Plaintiff also needs a declaration that the purpose of the Lease is frustrated and his duty to pay Defendants is excused, retroactive to the closure of UCF.
- 98) Plaintiff's legal rights and duties are dependent upon the law applicable to the facts

alleged in this Complaint.

99) Plaintiff and Defendants have a present, antagonistic interest in these questions of law before the Court.

100) These antagonistic interests are all before the court by proper process.

101) Relief sought in this action is not merely giving legal advice or answering questions propounded from curiosity.

102) Pursuant to Florida Statute 86.011, Plaintiff is entitled to a declaration that performance under the Lease was excused as of the March 13, 2020, closing of UCF due to frustration of purpose, plus costs of suit and attorney fees pursuant to Lease Paragraph 22 and Florida Statute 57.105(7), plus all other relief as this Court deems just and proper.

**COUNT III**  
**(FCCPA)**

103) Plaintiff repeats and realleges the facts set forth in the Factual Allegations above.

104) Plaintiff's Lease obligations, if any, are "consumer debts" under the definition in the Florida Consumer Collection Practices Act. ("FCCPA")

105) Defendants are persons for purposes of the FCCPA.

106) Defendants are putative creditors within the definitions in Florida Statute 559.55(5).

107) Plaintiff is a putative debtor within the definition in Florida Statute 559.55(8).

108) Defendants claimed the existence of a "debt," that is, Plaintiff's obligation to continue to pay rent under the Lease, when Defendants knew that the debt was not legitimate because:

- a. The Lease is illusory, as detailed in Count I, and/or
- b. The purpose of the Lease was frustrated, as detailed in Count II,

all in violation of the FCCPA, Florida Statute 559.72(9).

109) Plaintiff is entitled to statutory damages of \$1,000 per violation, pursuant to Florida

Statute 559.77(2).

110) Plaintiff is also entitled to attorney fees and costs currently conservatively estimated at \$5,000, pursuant to Florida Statute 559.72, plus all other relief as this Court deems just and proper.

**COUNT IV**  
**(Unjust Enrichment)**

111) Plaintiff repeats and realleges the facts set forth in the Factual Allegations above.

112) Plaintiff has paid rent for April, May, and March subsequent to UCF's closure on March 13, 2020.

113) Defendants have knowledge of these payments.

114) Defendants have cashed Plaintiff's checks and insist on further payments.

115) Defendants were not entitled to collect rent after the closure of UCF because the campus closure frustrated Plaintiff's purpose in renting his apartment under the Lease.

116) Plaintiff had no choice but to continue these payments to protect his credit and preserve his remedies.

117) Plaintiff had no choice but to continue these payments to protect his credit and preserve his remedies.

118) Plaintiff is entitled to a refund of \$1729.03 and any other payments made through date of judgement, plus costs of suit and attorney fees pursuant to the Lease Paragraph 22 and Florida Statute 57.105(7), plus all other relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

119 Plaintiff demand a jury trial as to all issues so triable.

Filed: May 6, 2020

Respectfully Submitted,

/s/Michael Paul Beltran  
Michael P. Beltran, Esq.  
Florida Bar No. 0093184  
michael.beltran@ansalaw.com  
Matthew J. Meyer, Esq.  
Florida Bar No.: 116653  
matthew.meyer@ansalaw.com  
**ANSA ASSUNCAO, LLP**  
100 South Ashley Drive, Suite 1740  
Tampa, Florida 33602  
813-221-5206 (phone)  
813-221-6206 (fax)  
*Counsel for Plaintiff*

# **EXHIBIT 1**

## RESIDENTIAL LEASE AGREEMENT

(Revised 10/02/2019)

### SUMMARY OF LEASE TERMS:

Name of Apartment Community: **Campus Crossings on Alafaya** Date: **12/14/2019**  
Address of Apartment Community: **12024 Royal Wulff Lane Orlando, FL 32817**  
Resident Name(s): **Michael A Trevett** ("you" or "your")  
Landlord: **Campus - Alafaya, LLC** ("us", "we" or "our")  
Management: **Campus Apartments, LLC** ("Management")  
Management Office Address: **12024 Royal Wulff Lane Orlando, FL 32817**  
Lease Term: Starting Date: **01/03/2020** (beginning at 12:00pm) Ending Date: **07/31/2020** (expiring at 12:00pm)  
Lease Type: ☐ By the Unit (Joint and Several Lease) or ☒ By the Bed (Individual Lease)  
Unit Type: **4** Bed(s)/Bedroom(s) **3.5** Bath(s) **with Shared Bathroom**  
Premises: Apartment # **TBD**; Bedroom # **TBD** (if applicable)

### SUMMARY OF RENT, FEES & DEPOSITS:

Base Rent for the Lease Term: **\$4,445.00**, payable in equal monthly installments of **\$635.00**

#### Additional Monthly Fees / Additional Rent (If Applicable):

Monthly Parking Fee: **\$0**  
Monthly Pet Rent: **\$0.00**  
Premium Unit Fee: **\$0**  
Monthly Storage Fee: **\$0**  
Monthly Utility Fee: **\$0**  
Monthly Furniture Fee: **\$35.00**  
Double Occupancy Fee: **\$0**  
Building & Facilities Fee: **\$0**  
Valet Trash Service Fee: **\$0**  
Other (): **\$0**

Total Monthly Installment of Base Rent, Fees and Additional Rent: **\$670.00**

#### Initial Fees,\* Deposits, and/or Costs (If Applicable):

Applications Fee: **\$50.00**  
Admin Fee: **\$0**  
Security Deposit: **\$0.00**  
Early Move-In Fee: **\$0**  
Access Card Deposit: **\$0**  
Pet Deposit: **\$0**  
Activity Fee: **\$0**  
Amenity Fee: **\$0.00**  
Reservation Cost: **\$0**  
Redecorating Cost: **\$0**  
First Month's Rent: **\$0**  
Last Month's Rent: **\$0**  
Other (Short Term Lease Fee): **\$0**

\*All fees are per person

This Lease is made and entered into on **12/14/2019**, by and between Landlord and Resident, upon the terms and conditions stated below. Any capitalized terms used in this Lease, but not otherwise defined, will have the meaning set forth in the Summary of Lease Terms above.

#### 1. RENT.

a. You will pay to Landlord Base Rent for the Lease Term in the amount of **\$4,445.00**, payable in advance, in equal monthly installments of **\$635.00**. Base Rent and all incidental charges, fees, penalties or other amounts that may be due and payable from you under this Lease will together be referred to in this Lease as "Rent". Rent will not be prorated for partial months except as indicated for First Month's Rent and/or Last Month's Rent under Initial Fees above. You understand that the full amount of Rent is due even though the Lease Term is less than 365 days.

1 MAY 9 MAY



**Your Rent does NOT include the following utilities which you must pay separately to the utility provider as detailed herein:** ☐ Electricity; ☐ Gas; ☐ Heating Oil; ☐ Water; ☐ Sewer; ☐ Trash; ☐ Internet; ☐ Cable. You acknowledge that no portion of the rent is intended to pay for any portion of the checked utilities that are attributed to your Unit.

b. You will pay a full Monthly Installment of Rent before you move in to cover the part of Rent from the Starting Date through the last day of that month. Your next monthly installment of Rent will then be due on or before the 1<sup>st</sup> day of the second month of the Lease Term. For subsequent months, you will pay us the monthly installment of Rent on or before the 1<sup>st</sup> day of each month, in advance, and without us having to make demand for payment. However, we also reserve the right to collect the last monthly installment of Rent before you move in. Rent is payable at the Management Office Address listed above (or at such other place of which we notify you in writing). For your convenience, the bills sent to you by our third party billing provider will also list your rent and related charges. You have no right to withhold Rent for any purpose, even an Act of God, or to reduce any Rent payable to us by any of your costs or damages against us. At our option, we can require that all money payable to us is to be paid in cashier's check, money order, personal check or electronic payment but we are not obligated to accept personal checks after Rent is late. When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment, and you will not receive your check back from your financial institution. Cash will not be accepted under any circumstances. Your obligation to pay Rent is a promise by you, which is independent from all of our promises, duties and obligations. Rent is payable for the entire Lease Term, regardless of whether you vacate the Premises before the Ending Date for any reason including, but not limited to, withdrawal or transfer from school, loss of job, loss of co-residents or poor health.

c. Regardless of whether it is a holiday or weekend, all monies due but not received by close of business on the 3<sup>rd</sup> day of the month are considered late. If any portion of your monthly payment is not received by the above date, you will be assessed an initial late fee of ☒ \$35.00 plus \$5.00 per day or ☐ percent of outstanding balance beginning on the above date until the date paid, or ☐ percent of outstanding balance beginning on the above date plus \$ per day until the date paid. We will not charge late fees in excess of \$100.00 per month. You also agree to pay either ☒ [a service fee of \$25.00 for each NSF or returned check or rejected automated clearing house draft plus the above late fees] or ☐ [a fee equal to 1% of the face value of the check plus an additional fee equal to the fee charged by the bank to Management plus the above late charges until we receive acceptable payment].

d. At our option, we can accept a partial payment of Rent, but we do not waive our rights to collect and enforce the payment of the remainder, regardless of whether or not you have made notations on checks or money orders and regardless of when the obligation came about.

e. You are liable for all costs or charges associated with us providing special services to you or on your behalf and for all fees or fines as described in this Lease, all Addenda to this Lease and the Resident Handbook.

f. Rent may be increased due to the addition of any or all of the Additional Monthly Fees during the Lease term, or any other amendment to this Lease that requires a reoccurring monthly payment, which shall be treated as additional rent.

g. At our option, and without notice to you, any money that we receive from you can first be applied to any outstanding charges (including but not limited to late fees, damage or repair charges, returned check fees, fines, utility overages, etc.) that you owe us and then to the current monthly installment of Rent, regardless of whether or not you have made notations on checks or money orders and regardless of when the obligation came about. If the payment you make does not cover the total charges outstanding, then you will immediately pay the difference, plus any late fees.

2. **LEASE TERM.** The Lease Term starts on the Starting Date at noon and ends at noon on the Ending Date. You do not have any right to renew this Lease and this Lease automatically terminates on the Ending Date. You cannot occupy your Premises until we receive all Rent required to be paid before you move in and have completed and executed lease documents and the Guaranty, if required. Even if we cannot provide the Premises to you when we are supposed to, we will not be liable to you for damages because of the delay. However, no Rent will be due for the period in which you were unable to occupy the Premises. Until we can provide the Premises to you, we may relocate you to another Bedroom and/or Apartment, as the case may be, in the Apartment Community or another facility. If we cannot provide the Premises to you, or you are not relocated, within thirty (30) days of the Starting Date, then you will have the right to terminate this Lease by giving us written notice before we provide the Premises to you, and upon such termination we will refund any Security Deposit and any Rent previously paid by you. Except as set forth in this Section, no other remedy is available to you and you waive your right to any other remedy.

3. **PREMISES DESCRIPTION.** This Lease is between you and us. We agree to lease to you and you agree to lease from us, the "Premises". If "By the Bed" is the Lease Type checked in the Summary of Lease Terms and you are leasing a Bedroom as specifically identified in the Summary of Lease Terms, then the Premises is defined as including each of the following:

- Your sole use of the Bedroom and Bathroom (if the Apartment has separate bathrooms for each bedroom) in the Apartment;
- Together with the other residents of the Apartment, your joint use of the Common Areas in the Apartment and the Apartment Community (for purposes of this Lease, "Common Areas" are those areas within the Apartment to which you have access without going into another Bedroom, and, within the Apartment Community, those areas to which all residents have general access);
- Your sole use of the furniture within the Bedroom (if provided by us); and your joint use of all appliances and furniture within the Common Areas of the Apartment;
- Your joint use of the mailbox and your sole use of the Assigned Parking if one or both have been assigned to you. If the postmaster serving the Apartment Community has instituted or begins during this Lease "single drop delivery," we will place your mail in the mailbox, but assume no liability and you release us from liability for misdelivery, delays in delivery, failure of delivery or lost or damaged packages, envelopes or any other type of mail delivery. At the Ending Date, you will notify the U.S. Postal Service to forward your mail to such address as you may specify. We have no obligation to forward your mail.





If "By the Unit" is the Lease Type checked in the Summary of Lease Terms, then the Premises is defined as the entire Apartment and any references in this Lease to "Bedroom" means the entire "Apartment".

**4. BEDROOM AND UNIT ASSIGNMENT.**

a. At our option, we may not assign a rental space at the time of the execution of this Lease. You expressly understand and agree that our failure to assign a rental space at the time of the execution of this Lease will not relieve you of your responsibilities under this Lease. You agree that this Lease will remain effective so long as we are able, on or before the Starting Date, to assign a rental space similar to the one otherwise specified in this Lease to you. We have the right to assign a roommate to any unoccupied bedroom in the Apartment before or during the Lease Term without notice. While we will not act arbitrarily, we have the right to relocate you from one Bedroom in the Apartment to another or even to another Apartment in the same or another Apartment Community, upon fifteen (15) days' written notice to you.

b. If this Lease is signed by you, listing only the Unit Type and not an Apartment or Bedroom, we may at a time deemed appropriate by us, assign you an Apartment or Bedroom, as the case may be. To the extent practical in our sole judgment, we will try to honor requests for a specific Apartment or Bedroom. However, if we cannot accommodate your request this does not release you from your obligations under this Lease. You understand that your Rent may be increased or decreased from the Rent listed above due to premiums assessed for location, view or other value added or lost variations from the basic Unit Type requested. You understand that if this Lease is signed by you listing only the Unit Type and not an Apartment or Bedroom that the Lease is subject to availability. We cannot guarantee the availability of the Unit Type you have leased.

**5. USE/OCCUPANTS.** Only you can live in the Premises. It will be used only as a private residence and for no other purpose. The fact that you and your roommates may be in conflict with each other will not act as grounds to terminate this Lease. If your roommate or a potential roommate was not truthful on their roommate preference card, we are not liable, but that person could be in default under their lease. WE MAKE NO REPRESENTATIONS OR WARRANTIES AS TO THE COMPATIBILITY OR CONDUCT OF ANY ROOMMATES PLACED IN THE APARTMENT. IN NO EVENT ARE WE LIABLE FOR ANY DAMAGES WHETHER DIRECT OR INDIRECT, GENERAL OR SPECIFIC, ARISING OUT OF, OR RELATING TO, THE CONDUCT OF ANY OF YOUR ROOMMATES.

**6. GUARANTY.** At our option, the sponsor's guaranty (the "Guaranty") provided to you must be signed and returned to Management by the earlier of (i) fourteen (14) days after the date of this Lease or (ii) the Starting Date. At our option, we may terminate this Lease and your right to possession of the Premises if the Guaranty is not timely signed and returned to Management. If we choose not to terminate this Lease at such time, you are in no way released from any of your obligations under this Lease; however, we still have the right to terminate the Lease at any time before we receive the fully executed Guaranty. The fact is that regardless of whether there is or is not a Guaranty, you still have to pay us Rent and are bound by all the other obligations of this Lease. The Guaranty is just an additional assurance to us that the Rent gets paid and the other obligations under this Lease get performed.

**7. MOVE-IN.** A "Resident Move-In Form" will be provided to you at the time that you move into the Premises. By the end of the day on which you move-in, you need to tell us in writing of any defects or damages in your Premises; otherwise, the Premises, fixtures, appliances and furniture will be considered to be in a clean, safe and good working condition and you will be responsible for defects or damages that may have occurred before you moved in. Except for damages and defects included on your "Resident Move-In Form", you accept the Premises, fixtures, appliances and furniture "as is" and "with all faults". WE MAKE NO EXPRESS WARRANTIES AND DISCLAIM ANY AND ALL IMPLIED WARRANTIES WITH REGARD TO THE PREMISES, FIXTURES, APPLIANCES AND FURNITURE.

**8. MOVE-OUT.**

a. No move-out will release you from your remaining obligations under this Lease. When you leave, whether on or prior to the Ending Date, the Premises, including the windows, bathrooms, patios, balconies, kitchen appliances and furniture in the Bedrooms and Common Areas, must be clean and in good repair and condition. You must remove all trash and debris. You must follow any move-out instructions provided to you by us. If you do not or if the Premises or any furniture or appliances have been damaged, you will be liable for the charges listed in the Resident Handbook or any move-out notice or such other reasonable charges to complete such cleaning, repair or replacement. You have the option to be present at the move-out inspection; if you are not, you agree to accept our assessment of damages and charges when we inspect.

b. If you leave any of your property in the Premises after you leave or after the Ending Date, that property is deemed to be abandoned by you and we can take such action as we desire and charge you with costs incurred to keep, sell or dispose of such property without liability to us.

c. Damage to your Bedroom and its furnishings is your sole responsibility; damage to the Common Areas and its furnishings and appliances are the joint and several responsibility of all residents of the Apartment.

d. All keys must be returned to us. If all keys are not returned to us, you must pay all costs to re-key the Premises.

e. If you move out permanently prior to the Ending Date, you are not released from liability under this Lease and we can apply your Security Deposit to your account. You will be responsible for monthly installments of Rent through the Ending Date. There is no early termination clause in this Lease.

**9. HOLDOVER.** If you still occupy the Premises past the Ending Date, you will be in violation of this Lease and will owe us two times the total Monthly Installment of Rent for the extra time that you stay in the Premises (payable daily in advance) plus, all of our



damages, the damages of any contractor scheduled to perform work in the Premises and the damages of the person who could not move in because of your holdover.

**10. ASSIGNMENT, SUBLETTING AND RELETTING.**

a. You cannot assign or sublease any part of your Premises to another person without our prior written consent, but the giving of our consent is at our sole judgment. Even if we agree to an assignment or sublease, you will still be liable for all of the obligations under this Lease unless we specifically agree, in writing, to release you. Our consent to one or more assignment or sublease will not be a waiver of our rights of consent in the future. If the Apartment consists of more than one bedroom, we have the right, when any bedroom within the Apartment is unoccupied to place a new resident in the unoccupied bedroom.

b. A reletting charge will be due if you (1) fail to move in or (2) move out before the Ending Date, or (3) are judicially evicted. You will be liable for a reletting charge equal to 100% of the highest monthly installment of Rent during the Lease Term. In no event will we be required to relet your unit or bed space before leasing other available units or bed spaces in the community. No relet will be approved unless no monies are owed pursuant to this Lease. Additionally, you must complete a Relet and Release Acknowledgement, and you must abide by all provisions contained in that form. The reletting charge is not a cancellation or buyout fee and does not release you from your obligations under this Lease, including your obligation to pay Rent.

**11. SECURITY DEPOSIT AND FEES.**

a. Once you sign the Lease application, you may be required to deposit a Security Deposit, at our option, (this may be in the form of an application deposit which is transferred over as the Security Deposit) with Management as partial security for all of your obligations under this Lease (the Security Deposit will not be our limit of damages if you violate this Lease). Among other items, any damage to the Premises, the cost of labor and materials for cleaning and repairs, and the amount of delinquent payments, late charges and other amounts you owe us under this Lease may be deducted from the Security Deposit. If, prior to the date of your moving out, the Security Deposit is reduced because we applied all or part of it to your unpaid obligations, you agree that within three (3) days after receipt of written notice from us, you will deposit with Management the funds necessary to restore the Security Deposit to its full amount. You cannot use the Security Deposit to offset or pay in advance any month's Rent or any other charges under this Lease, but we can use, if we want to, all or any part of the Security Deposit, for any unpaid obligations. If you have notified us of your forwarding address, you agree that we have the maximum number of days allowed by law to return any unused portion of the Security Deposit to you after the expiration or termination of this Lease. Along with that return, and so long as you do not owe us Rent at the time of your surrender of the Premises, we will provide to you a description and itemized listing of deductions that we have taken from the Security Deposit. If we sell the Apartment Community, your Security Deposit will be transferred to the new owner, and we will not have any further liability to you for the return of all or any portion of the Security Deposit – you must look to the new owner. The Security Deposit will be deposited at Capital One in an ☐ [interest-bearing] ☒ [non-interest bearing] account. Any interest earned on the Security Deposit will accrue for the benefit of, and will be paid to us or as we direct, and such interest, if any, may be withdrawn by us or our agent from such account as it accrues as often as is permitted by the terms of the account.

b. You will be responsible for paying the following charges (if applicable): unpaid rent; unpaid costs and fees for utilities; costs of repairs, replacements for damages you or others in the Premises have caused; replacement costs for our missing property or appliances; new batteries for smoke detectors or alarms; costs of cleaning beyond normal; costs of utility service calls to remove equipment that you should have turned in; our trips to open the Premises if you don't have your keys; unreturned keys or the cost of rekeying the Premises if all keys are not turned in; missing or burned out light bulbs; removing or rekeying unauthorized security devices or alarm systems; removing and storing property remaining in the Premises after your move-out; removing illegally parked vehicles; false alarm charges; charges for unauthorized animals; fines and fees for violation of our rules or any code or law; late payment, returned check and refused ACM charges; costs of removal of any unauthorized animal; costs of eviction (including legal fees, bonds, and court costs); and other sums due under this Lease.

c. In addition to the Security Deposit, at our option, you may be required to pay certain other deposits and fees to Management including but not limited to reservation fees, parking fees, pet fees, storage fees, utility fees, application fees, administration fees, activity fees, redecorating fees and such other fees and deposits listed in the Summary of Rent, Fees and Deposits. The only purpose of the Reservation Fee is to place your name on a reservation list for an unspecified Apartment or Bedroom, as the case may be, in the Apartment Community, although this does not guarantee you any living arrangements. However, if we are unable to provide you an Apartment or a Bedroom, as the case may be, we will refund the Reservation Fee to you. If we can provide you with an Apartment or a Bedroom, as the case may be, the Reservation Fee is ours to keep. If we do not receive the Reservation Fee within fifteen (15) days after the date you sign this Lease, this Lease may be cancelled by us at our option.

**12. UTILITIES.** Utilities will be provided as set forth and in accordance with the terms and the limitations of the attached Utility Addendum. You and your roommates are jointly and severally liable for payment of utilities that are required to be paid by you and/or your roommates. All utilities may be used only for normal household purposes and must not be wasted. We will not be liable for any interruption, surge or failure of utility services (including internet access) to the Premises or any damage directly or indirectly caused by the interruption, surge or failure.

**13. APARTMENT COMMUNITY GUIDELINES.** You must comply with all written rules and policies, including those defined in the Resident Handbook for the Apartment Community. The Resident Handbook and the rules and policies are considered to be a part of this Lease and we can revise, amend, expand or discontinue the rules and policies at any time in our sole judgment by posting a notice on a bulletin board, website or other area that we designate for notices to residents. If you are a student at a College or University serviced by



the Apartment Community, then you must also comply with all such College or University rules and regulations and student codes of conduct.

**14. MAINTENANCE, ALTERATIONS AND REPAIRS.**

a. You are responsible for and will take good care of the Premises and the furniture in the Premises and Common Areas. You will maintain the Premises in a neat, clean and sanitary condition and free from pests and rodents. You will not remove any of our property, and you will not perform any repairs, painting, wall papering, electrical changes or other alterations (other than for small nail holes in the wall for hanging pictures) of the Premises without our prior written consent. We can require you to prepay or, if we elect, you agree to repay us within ten (10) days after we send you an invoice for the cost of all repairs made necessary by you or any other person's violation of this Lease or the negligent or careless use of the Premises or any part of the Apartment Community including without limitation damage from waste water or plumbing stoppages caused by foreign or improper objects in lines and facilities serving your bathroom, damage to furniture, appliances, doors, windows or screens, damage from windows or doors left open and repairs or replacements to security devices necessitated by misuse or damage by you (this includes damages that may have been caused to the Apartment by other residents of the Apartment if we cannot determine who did it). If you prepay, any over-payment will be applied against any amount that you owe us, and the remainder will be returned to you; if your prepayment was less than the cost incurred, you will pay us that amount within ten (10) days after we send you an invoice. Your obligations to pay the charges described in this Section will continue after the Ending Date. Our repair costs may include a fifteen percent (15%) overhead charge.

b. You must not remove, disconnect or intentionally damage a smoke detector or remove the battery without immediately replacing it with a working one. If you do not comply with this, you may be subject to damages, civil penalties and attorneys' fees under state law. After you move in you are responsible for keeping the smoke detector in working order. We can require that you pay in advance all costs relating to the replacement or repair of a security device if due to your misuse or damage.

c. Except in the event of an emergency, if you have a request for repairs or services to the Premises, or repairs or replacements of security devices or smoke detectors, or if a smoke detector is not properly functioning, the request to us must be in writing. In case of malfunction of utilities or damage by fire, water, or similar cause, or injuries, accidents or property damage occurring in the Apartment, you must notify us immediately. In case of malfunction of air conditioning or other equipment, you must notify us as soon as possible. Additionally, you are required to notify us in writing promptly of: water leaks, electrical problems, carpet holes, broken glass, and any condition which you reasonably believe poses a hazard to health or safety. Once we receive the notice we will act with reasonable diligence in making repairs and reconnections, but during that time you cannot stop payment of or reduce Rent.

d. We can temporarily turn off equipment and interrupt utilities to avoid property damage or to perform work requiring such interruption as determined in our sole judgment.

e. We are not liable to you for any inconvenience, discomfort, disruptions or interference with your use of the Premises when we are making repairs, alterations or improvements to the Premises, the Apartment or the Apartment Community. If you request any repairs that are required to be performed by us under this Lease, they will be done during our usual working hours.

**15. INSURANCE.**

a. We are not liable to you for personal injury or damage or loss of personal property from fire, smoke, rain, flood, water leaks, hail, ice, snow, lightning, wind, explosion, theft, vandalism, or surges or interruption of utilities: except to the extent that such injury, damage or loss is caused by our gross negligence. We have no duty to remove ice, sleet or snow, but we may do so in whole or in part, with or without notice to you.

b. We do not insure the contents of your Apartment.

c. ADDITIONALLY, YOU [check one] ☒ ARE REQUIRED TO PURCHASE PERSONAL LIABILITY INSURANCE IN THE MINIMUM AMOUNT OF \$100,000 ☐ ARE NOT REQUIRED TO PURCHASE PERSONAL LIABILITY INSURANCE. If required above, your insurance policy should include liability coverage and personal property coverage and you provide sufficient proof of such insurance coverage and maintain that coverage. If Resident Fails to maintain active personal liability coverage or to provide us with proof, in the form of a declaration page, of that coverage, Resident will be assessed a lease violation fee in the amount of \$50.00 per month for Failure to comply with this section. Even if personal liability insurance is not required, you are strongly encouraged to obtain personal property insurance.

d. You will look to your own insurance for recovery of any loss resulting from fire, smoke, rain, flood, water leaks, hail, ice, snow, lightning, wind, explosion, theft, vandalism, surges or interruption of utilities and/or other casualty. You release us from any and all such claims and you waive and release any right of recovery of insured claims by anyone claiming through you by way of subrogation or otherwise, including your insurer. You agree that your insurance carrier shall have no rights against us by way of subrogation or otherwise on account of any loss whatsoever. Your release and waiver remains effective even if you fail to obtain insurance. If you fail to obtain insurance, you bear the full risk of your own loss.

**16. LIABILITY.** TO THE FULLEST EXTENT ALLOWED BY LAW YOU, FOR YOURSELF AND ALL OTHER PARTIES, RELEASE US FROM ANY AND ALL CLAIMS, LOSSES, LIABILITIES AND/OR DAMAGES FOR (i) LOSS OR THEFT OF YOUR AND ANY OTHER PARTY'S PERSONAL PROPERTY, (ii) ACCIDENTS OR INJURIES TO YOU, OR ANY OTHER PARTY, IN OR ABOUT THE PREMISES OR THE APARTMENT COMMUNITY, AND/OR (iii) MOLD, MILDEW OR OTHER POTENTIALLY HEALTH AFFECTING SUBSTANCES OR CONDITIONS IN THE APARTMENT, EVEN IF CAUSED IN PART (BUT NOT IN WHOLE) BY OR RELATED TO OUR NEGLIGENCE. YOU ASSUME FOR YOURSELF AND ANY OTHER PARTIES, ANY AND ALL RISKS FROM ANY ACCIDENTS IN CONNECTION WITH USE OF THE APARTMENT COMMUNITY OR THE APARTMENT COMMUNITY'S RECREATIONAL FACILITIES OR AREAS, IT BEING UNDERSTOOD THAT ALL SUCH AREAS AND



FACILITIES ARE GRATUITOUSLY SUPPLIED FOR YOUR USE, AND AT THE USER'S SOLE RISK. WE ARE NOT OBLIGATED TO PROVIDE ANY HEALTH OR MEDICAL CARE TO YOU OR TAKE ANY ACTION WITH RESPECT TO ANY MEDICAL CONDITION, ALLERGY OR DIETARY PREFERENCES. YOU HEREBY AGREE TO DEFEND, INDEMNIFY AND HOLD US HARMLESS FROM AND AGAINST ANY AND ALL ACTIONS, CAUSES OF LOSS, CLAIMS, DEMANDS, LIABILITIES, LOSSES, DAMAGES, FINES, PENALTIES, REMEDIATION COSTS AND EXPENSES OF WHATSOEVER KIND, INCLUDING, BUT NOT LIMITED TO, LEGAL AND CONSULTING FEES, THAT WE MAY AT ANY TIME SUSTAIN OR INCUR BY REASON OF ANY AND ALL CLAIMS ASSERTED AGAINST US TO THE EXTENT THAT SUCH CLAIMS AROSE OUT OF OR AS A RESULT OF ANY BREACH OF THIS LEASE BY YOU OR BY OTHERS, OTHER THAN US.

17. **LOSS.** If in our sole judgment, the Premises, the Apartment Community or any part of the Apartment Community is materially damaged, we may terminate this Lease within a reasonable time after such determination by giving you written notice. If we terminate the Lease, and you did not cause the loss, we will refund prorated, prepaid Rent and deposit(s) less lawful deductions. If we determine not to terminate this Lease, we will, within a reasonable time, rebuild the damaged improvements. During such reconstruction, there may be a reasonable reduction of Rent for the unusable portion of the Premises unless you were the cause of the damage. Alternatively, we may choose to relocate you to another apartment or even another comparable facility.

18. **RIGHT OF ENTRY.** We, and our respective agents, employees, repairers, servicers and representatives may, without notice, at any time, enter the Premises for any reason that we deem to be reasonable, including without limitation our entry of the Apartment for the purpose of preparing any unoccupied bedroom in the Apartment for re-rental, to inspect the Apartment for the presence of mold or other conditions or to make repairs or remedy any violation of this Lease to the Apartment. Notwithstanding our rights, nothing in the preceding sentence or any undertaking by us under the preceding sentence (a) creates any obligation on us to perform any such inspections or any duty to act which otherwise would not be present or (b) releases you of your obligations to inspect, maintain, repair or report, or otherwise, under this Lease. The entry can be gained by use of a passkey or other means (to include disarming any intrusion alarm, if applicable, or by breaking a window or other means if locks have been changed in violation of this Lease, and you will be liable for any damage). We can also enter the Premises, upon giving you prior notice, to show a bedroom or the Apartment to government inspectors, lenders, prospective buyers, prospective residents, other tenants or insurance agents. You are not allowed to install additional or alternate locks on the doors of the Apartment. Changing locks is expressly prohibited.

19. **DEFAULT.** You are in violation of this Lease if:

- a. You fail to pay Rent or any other amount owed under this Lease when due;
- b. You violate this Lease or any Addenda to this Lease, the Resident Handbook, any other Apartment Community rules and policies or any laws, codes or ordinances;
- c. Any of the utilities, which are payable by you or the other residents of the Apartment are disconnected or shut off because of nonpayment;
- d. You fail to move into the Premises or, if you abandon the Premises (that is, you appear to have moved out before the end of the Lease, clothes and personal belongings have been substantially moved out and you have not been in the Bedroom for five (5) consecutive days);
- e. You or the Guarantor have made any false statement or misrepresentation on any information provided to us;
- f. You are arrested for any offense involving actual or potential physical harm to a person or property, or possession, use, manufacture or delivery of a controlled substance, marijuana, or illegal drug paraphernalia;
- g. You engage in or permit (i) any drug related criminal activity, (ii) any activity that endangers the health or safety of other residents, (iii) any activity that, in Landlord's sole judgment, is injurious or harmful to the Apartment Community or its reputation, (iv) the possession or use of any weapons in the Apartment or the Apartment Community, or (v) any act of violence in your Apartment;
- h. You fail to pay any fine within ten (10) days after it is levied in accordance with this Lease, any Addenda to this Lease or the Resident Handbook; or
- i. You allow a previously evicted resident or occupant to reside in your Apartment.

20. **REMEDIES.** If you are in violation of this Lease, we can, without demand or notice (other than as provided in this Section) in addition to other remedies allowed by law:

- a. Collect any fine imposed under this Lease, any Addenda to this Lease or the Resident Handbook;
- b. Sue to collect past due Rent and any other damages we have incurred because you violated the Lease;
- c. Sue to collect all unpaid Rent and other sums which would become due until the Ending Date or until another person that we approve and accept in writing takes occupancy (and then, we can still recover from you the difference between the Rent you were supposed to pay and the rent actually paid by the new resident together with any expense incurred to relet the Premises);
- d. Terminate your right to occupy the Premises but not terminate this Lease nor end your monetary obligation for the Premises;
- e. Terminate this Lease and your right to occupy the Premises and institute an action for eviction;
- f. Report all violations to credit reporting agencies as permitted by law; and,
- g. Do any combination of the above named remedies or any other remedies allowable at law or in equity.

In addition to the foregoing remedies, if you commit any violation of Section 19, paragraph f. or g. of this Lease, we can immediately require you to vacate the Premises within 24 hours after notice from us.

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The Landlord shall have the option to cancel this Lease in the event of any default for any prior lease period upon written notice to Tenant.

21. **CUMULATIVE REMEDIES.** The exercise of any remedy by us will not be taken to exclude or waive the right to exercise any other right or remedy which we might have. After we give you notice to vacate the Premises or if we file an eviction suit, even if we accept Rent or other sums due, such acceptance does not waive or diminish our continuing rights of eviction or any other contractual or statutory right unless we specifically agree to it in writing.

22. **COSTS AND FEES.** In the event we bring an action against you because you violated this Lease, we can recover all costs or fees we incur, including reasonable attorneys' fees, as part of any judgment (except in Arizona and Florida where the prevailing party may be awarded reasonable attorney's fees).

23. **SUBORDINATION AND RIGHT TO ENCUMBER.** The lien of any lender(s) on the Apartment Community will be superior to your rights as a tenant. Therefore, if we violate the loan and a lender takes over ownership of the Apartment Community, it can, at its discretion, end this Lease or elect to continue this Lease in which event you will recognize such Lender as your Landlord hereunder. Your rights under this Lease are therefore subject to the rights of the lender(s) on the Apartment Community. Upon written notice from a Lender, you will pay your Base Rent and other amounts payable under this Lease to such Lender.

24. **SALES.** Any sale of the Apartment Community will not affect this Lease or any of your obligations, but upon such sale we will be released from all of our obligations under this Lease and the new owner of the Apartment Community will be responsible for the performance of the duties of the landlord from and after the date of such sale.

25. **RESIDENT INFORMATION.** If you or the Guarantor have supplied information to us by means of a rental application or similar instrument, you represent that all such information is true and correct and was given by you and the Guarantor voluntarily and knowingly. If someone requests information about you or your rental history for law enforcement, governmental or business purposes, you agree that we are permitted to provide it.

26. **GENERAL.** Timing is very important in the performance of all matters under this Lease. Time is of the essence of this Lease. Your execution of this Lease confirms that neither we nor any of our representatives have made any representations or agreements. This Lease is the entire agreement between you and us. We make no representations or warranties that all residents of the Apartment Community will be students. All amenities at the Apartment Community are provided as a privilege and license granted by the Landlord and do not constitute a contractual right except as otherwise provided in the Lease. Landlord may change the character of, close or discontinue any amenity based upon the needs of the Landlord and at Landlord's sole and absolute discretion without notice, obligation, or recompense to Resident. Our representatives (including management and leasing personnel, employees, and other agents) have no authority to enter into, waive, amend or terminate this Lease or any part of it and no authority to make promises, representations or agreements which impose duties of security or other obligations on us. All Lease obligations are to be performed and enforced in the county where the Apartment Community is located, and the law of the State in which the Apartment Community is located will govern. Unless this Lease states otherwise, all sums owed by you are due upon demand. Our delay or non-enforcement of our rights will not be a waiver under any circumstances of our future right to enforce such rights. Omission of initials as indicated throughout the Lease does not invalidate all or any part of this Lease. If any part of this Lease is not valid or enforceable, it will not invalidate the remainder of this Lease. If more than one person signs this Lease, then the liability of all such persons to us will be joint and several and references to "Resident" or "you" in this Lease will be deemed to include all such persons that sign this Lease or may otherwise be accountable for and responsible for your actions or inactions. In addition, for the purposes of this Lease, the reference to "you" with respect to any defaults, violations or liabilities of the Resident or with respect to any disclaimers of liability, indemnities, waivers or releases from the Resident, will mean "you", "your guest(s)", "your family member(s)", "your invitee(s)", and "any other parties related to you or who are at the Apartment Community or the Premises because of you". For purposes of this Lease, all references to "we" in any disclaimers of liability, releases, waivers or any indemnities by you will mean, and be in favor of, us, Management, and any employees, officers, directors, members, affiliates, successors and assigns of us, Management and any of them. This Lease may be executed electronically, by facsimile or PDF and in counterparts.

27. **LIABILITY OF LANDLORD.** If we violate this Lease, you waive any right to damages (and those of anyone else) which exceed our equity in the Apartment Community, but before you bring any action against us, you first have to give us written notice of the nature of our violation and allow us thirty (30) days to cure it.

28. **SAFETY.** YOU MUST EXERCISE DUE CARE FOR YOUR AND OTHERS' SAFETY AND SECURITY. READ THE SAFETY GUIDELINES CONTAINED IN THE RESIDENT HANDBOOK. NONE OF OUR SAFETY MEASURES ARE AN EXPRESS OR IMPLIED WARRANTY OF SECURITY OR ARE A GUARANTEE AGAINST CRIME OR OF A REDUCED RISK OF CRIME. WE ARE NOT LIABLE TO YOU FOR INJURY, DAMAGE, OR LOSS TO PERSON OR PROPERTY CAUSED BY CRIMINAL CONDUCT OF OTHER PERSONS INCLUDING THEFT, BURGLARY, ASSAULT, VANDALISM, OR OTHER CRIMES OR YOUR PERSONAL CONFLICT WITH YOUR ROOMMATES, OR ANY OTHER REASON. WE ARE NOT OBLIGATED TO FURNISH SECURITY PERSONNEL, SECURITY LIGHTING, SECURITY GATES OR FENCES, OR OTHER FORMS OF SECURITY AND WE CAN DISCONTINUE ANY OF SUCH ITEMS PROVIDED AT ANY TIME WITHOUT NOTICE. YOU UNDERSTAND THAT WE HAVE NOT MADE ANY REPRESENTATIONS, EITHER WRITTEN OR ORAL, TO YOU CONCERNING THE SAFETY OF THE APARTMENT COMMUNITY OR THE PREMISES OR THE EFFECTIVENESS OR OPERABILITY OF ANY

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SECURITY DEVICES OR SECURITY MEASURES AT THE APARTMENT COMMUNITY OR THE PREMISES. YOU UNDERSTAND THAT WE DO NOT WARRANT NOR GUARANTEE THE SAFETY OR SECURITY OF YOU AGAINST ANY CRIMINAL, TORTIOUS OR WRONGFUL ACTS OF ANY PERSON. YOU UNDERSTAND THAT SECURITY DEVICES OR MEASURES MAY FAIL OR BE THWARTED BY CRIMINALS OR BY ELECTRICAL OR MECHANICAL MALFUNCTIONS. THEREFORE, YOU UNDERSTAND THAT YOU SHOULD NOT RELY ON SUCH DEVICES OR MEASURES AND SHOULD TAKE STEPS TO PROTECT YOU AND YOUR EXISTING PROPERTY AS IF THESE DEVICES OR MEASURES DID NOT EXIST. YOU AGREE TO IMMEDIATELY NOTIFY US OF ANY MALFUNCTIONS INVOLVING LOCKS, DOORS, PROTECTIVE DEVICES OR WINDOWS IN WRITING. YOU, FOR YOURSELF AND ALL OTHER PARTIES, HEREBY RELEASE ALL, AND COVENANT NOT TO SUE US, AND WAIVE ANY AND ALL LIABILITY OF, AND ALL CLAIMS, SUITS, ACTIONS AND CAUSES OF ACTION AGAINST US WITH RESPECT TO ANY AND ALL PERSONAL INJURY, DEATH, PROPERTY DAMAGE AND ANY AND ALL OTHER OCCURRENCES SUFFERED BY YOU OR ANY RELATED OR UNRELATED PARTY AS A RESULT OF ANY CRIMINAL, TORTIOUS OR WRONGFUL ACT BY ANY PERSON, INCLUDING, WITHOUT LIMITATION, ANOTHER RESIDENT OF THE APARTMENT COMMUNITY, BUT EXCLUDING GROSS NEGLIGENCE AND WILLFUL MISCONDUCT BY US TO THE EXTENT PERMITTED BY LAW.

29. **MOLD.** Whether or not you experience mold growth in the Premises depends largely on how you manage and maintain your Apartment, and on your prompt notice to us of mold conditions. We will not be responsible for any injuries or damages to you or any other person relating to mold caused, in whole or in part, by your failure to clean and maintain the Premises as herein required, or to promptly notify us of conditions in need of repair or maintenance. You understand that the Apartment is subject to mold or mildew growth if not properly maintained or if excessive moisture is present. You agree to maintain the Apartment in a manner that prevents excessive moisture and the occurrence of mold or mildew growth in the Apartment. As part of your compliance with this general obligation, you agree to do the following:

- a. Keep the Apartment, including without limitation the kitchen and bathroom areas, clean and dry.
- b. Remove all moisture accumulation on windows, walls, ceilings, floors and other surfaces as soon as possible and within 24 hours.
- c. Use fans in the bathroom and/or open bathroom windows while showering or bathing and after the shower or bath until all moisture on the mirrors, bathroom walls and tile surfaces has dissipated. After taking a shower or bath, all moisture should be wiped off the shower walls and doors, the bathtub and the bathroom floor. Hang up all towels and bath mats so they will completely dry.
- d. Use reasonable care to prevent outdoor water from penetrating into the interior of the Apartment via windows or otherwise.
- e. Use exhaust fans or open windows whenever cooking, dishwashing or cleaning to allow moisture to escape from the Apartment.
- f. Take all reasonable measures to control the moisture level in the Apartment.
- g. On a routine basis, and at least once per month, visually inspect all areas of the Apartment for mold growth or signs of water damage and wetness.
- h. Immediately report to Management orally and in writing any water leaks or water intrusions into the Apartment, or any excess water in or in the vicinity of the Apartment (walls, floor, ceiling, etc.) or in the building, such as plumbing leaks, roof leaks, foundation leaks, drips, sweating pipes, flooding or puddling of water.
- i. Immediately report to Management orally and in writing any mold growth you find, identifying the location where found inside the Apartment.
- j. Immediately report to Management orally and in writing any problems you become aware of relating to fans, heating, air conditioning or other ventilation systems.

30. If this is a renewal of your current lease, then in that event, the terms and conditions of your current Lease will remain in full force and effect until the Starting Date of this renewal Lease.

31. **ADDENDA.** All Addenda to this Lease including, but not limited to, Utility Addendum, Internet Addendum, Parking Rules, Storage Addendum, Guaranty Agreement Addendum and Pet Addendum, are all considered to be a part of this Lease and are incorporated herein.

BY SIGNING THIS LEASE, YOU UNDERSTAND AND AGREE THAT WE MAY GIVE YOUR PERSONAL INFORMATION (SUCH AS YOUR EMAIL ADDRESS) TO SERVICE PROVIDERS FOR THE PURPOSE OF PROVIDING ON-SITE SERVICES TO YOU INCLUDING BUT NOT LIMITED TO PACKAGE DELIVERIES AND UTILITY SERVICES.

<sup>8</sup> Michael A Trevett

<sup>16</sup> Michael A Trevett

<sup>17</sup> Erin Mills  
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