

Return to: Lazega & Johanson LLC
P.O. Box 250800
Atlanta, Georgia 30325
Attention: JJR

[Space Above Reserved for Recording Data]

STATE OF GEORGIA
COUNTY OF FULTON

Cross Reference: Deed Book 32527
Page 346

**AMENDMENT TO THE
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS
FOR BARRINGTON TRACE**

WHEREAS, the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Barrington Trace was recorded on June 7, 2002 in Deed Book 32527, Page 346, *et seq.*, Fulton County, Georgia records, as amended ("Declaration"); and

WHEREAS, Article 11, Section 11.6 of the Declaration allows for the amendment of the Declaration upon the affirmative vote, written consent, or any combination thereof, of Owners holding 2/3 of the total eligible Association vote; and

WHEREAS, Owners holding at least 2/3 of the total eligible Association vote have consented to this Amendment;

NOW, THEREFORE, the Declaration is hereby amended as follows:

1.

Article 7 of the Declaration is hereby amended by adding the following new Section 7.26 to the end thereto:

7.26 Leasing.

In order to protect the equity of the individual Owners in the Barrington Trace community, and to preserve the character of the Association as a residential community of owner-occupied homes, leasing of Lots shall be governed by the restrictions imposed by this Section. **Except as provided herein, leasing of Lots is prohibited.**

Owners may lease their Lots only if: (1) the Owner is a Grandfathered Owner (applicable only to the Grandfathered Lot); (2) the Owner is not a Grandfathered Owner but has received a Leasing Permit from the Board of Directors as provided below; or (3) the Owner is not a Grandfathered Owner but has received a Hardship Leasing Permit from the Board as provided below.

The intent of this provision is to generally limit leasing to fifteen percent (15%) of Lots, and to provide grandfathering to Owners who are lawfully leasing their Lots on the Effective Date, and to provide the Board of Directors flexibility to allow temporary leasing of Lots in certain undue hardship situations.

(a) Definitions.

- (i) **"Authorized Corporate Occupant"** means an Occupant of a Lot who is an officer, director, shareholder, member or employee of an Owner that is a corporation; a manager or member of an Owner that is a limited liability company; a partner of an Owner that is a partnership; or a trustee or beneficiary of an Owner that is a trust; provided that no rent is paid or consideration is paid to any person or entity for such occupancy, or by or on behalf of such Occupant. A person's designation as an Authorized Corporate Occupant shall

terminate automatically upon the termination of such person's relationship with the entity holding record title to the Lot.

- (ii) **"Authorized Family Member"** means a Lot Owner's spouse, former spouse, parent, child, brother, sister, grandparent or grandchild, which relationship shall be demonstrated to the Board of Directors on request by providing a copy of a birth certificate, marriage license or similar document satisfactory to the Board.
- (iii) **"Effective Date"** means the date that this Amendment is recorded in the Fulton County, Georgia land records.
- (iv) **"Grandfathered Owner"** means an Owner who: (1) is lawfully leasing his or her Lot on the Effective Date and has been lawfully leasing his or her Lot for the immediately preceding 60 days; and (2) within 30 days of the Effective Date, provides the Board with a copy of the Owner's lease agreement(s) which has/have been in effect during the 60 days immediately prior to the Effective Date.
- (v) **"Grandfathered Lot"** means the Lot owned and leased by a Grandfathered Owner on the Effective Date hereof, as defined in subsection (iv) above.
- (vi) **"Leasing"** means the occupancy of a Lot by any person(s) other than:
 - (A) the Lot Owner or an Authorized Family Member of the Lot Owner;
 - (B) an Authorized Corporate Occupant. However, the Authorized Corporate Occupant may not be changed more frequently than once every 24 months without the Board's written consent, and the name of each Authorized Corporate Occupant shall be designated in writing to the Board prior to any occupancy of the Lot by such person; or
 - (C) a roommate of any person identified above, which person identified above also occupies the Lot as his or her primary, full-time residence, provided the roommate pays no rent for such occupancy. Renting or leasing of rooms in a dwelling on a Lot is prohibited.

A Lot may be considered to be leased hereunder even if no rent is paid to the Owner. For the purpose of this provision, any lease purchase arrangement, lease with an option to purchase, agreement for deed, or bond for title shall be considered a lease hereunder.
- (vii) **"Leasing Cap"** means the maximum combined total number of outstanding Leasing Permits, Hardship Leasing Permits and Grandfathered Lots that are permitted before additional Leasing Permits may be issued hereunder. **The Leasing Cap shall be fifteen percent (15%) of Lots.**

(b) **Grandfathered Lot Leasing.** Grandfathered Owners may lease their Grandfathered Lots, in accordance with this Article, without having to obtain a Leasing Permit. Grandfathering and Grandfathered status hereunder shall automatically expire at the earlier of: (1) the date the Grandfathered Owner conveys title to the Grandfathered Lot to any other person (other than the Owner's spouse, former spouse, parent, child, brother, sister, grandparent or grandchild); (2) the date that is two (2) years from the Effective Date; or (3) the assignment, termination, or expiration of the lease agreement in effect on the Effective Date. The Board of Directors, in its discretion, with written notice to the Lot Owner, also may terminate grandfathering and Grandfathered status of any Lot hereunder, after 30 days' written notice to the Owner, if:

- (i) the Grandfathered Owner becomes delinquent in the payment of any assessments or other charges owed to the Association hereunder;
- (ii) the Grandfathered Owner or any Occupant of the Lot violates any applicable law or ordinance; or
- (iii) the Grandfathered Owner or any Occupant of the Lot violates the Declaration, Bylaws, Association rules or regulations, and fails to fully cure that violation within the 30-day notice period.

(c) **Leasing Permits.** If an Owner is not a Grandfathered Owner and wishes to lease the Owner's Lot, then the Owner may apply in writing to the Board of Directors for a Leasing Permit. Owner requests for Leasing Permits must be in writing and provide such information as the Board may reasonably require.

The Board of Directors may approve an Owner's request for a Leasing Permit if: (i) the Owner has owned and occupied the Lot as his or her principal and primary residence for at least 12 consecutive months at any point of time prior to requesting a Leasing Permit; and (ii) the total combined number of current, outstanding Leasing Permits, Hardship Leasing Permits and Grandfathered Lots is less than the Leasing Cap.

Notwithstanding the above or anything to the contrary herein, the Board may deny a Leasing Permit to any Owner if the Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge or if the Owner or any Lot Occupant is otherwise in violation of the Declaration, By-Laws, any Association rules and regulations, or any applicable law or ordinance.

If the total combined number of current Leasing Permits, Hardship Leasing Permits and Grandfathered Lots equals or exceeds the Leasing Cap, then no additional Leasing Permits (except for Hardship Leasing Permits) shall be issued until that number falls below the applicable Leasing Cap.

Any Owner who has been denied a Leasing Permit because the Leasing Cap is satisfied shall be placed on a waiting list to be issued such a permit, if the Owner so desires. The issuance of a Hardship Leasing Permit to an Owner shall not cause the Owner to be removed from the waiting list for a Leasing Permit. All Leasing Permits are valid only as to a specific Owner and Lot and are not transferable between either Lots or Owners (including a subsequent Owner of a Lot where a permit was issued to the Owner's predecessor in title).

(d) **Hardship Leasing Permits.** If an Owner is not a Grandfathered Owner, is denied a Leasing Permit, and believes that leasing the Owner's Lot is necessary to eliminate or avoid a substantial undue hardship to the Owner, then the Owner may apply in writing to the Board of Directors for a Hardship Leasing Permit.

A written Hardship Leasing Permit will allow an Owner to temporarily lease his or her Lot, provided that such leasing is in strict accordance with the terms of the permit and this Article. The Board of Directors shall have the authority to establish conditions as to the issuance and use of such permits consistent with this Article. All Hardship Leasing Permits are valid only as to a specific Owner and Lot and are not transferable between either Lots or Owners (including a subsequent Owner of a Lot where a permit was issued to the Owner's predecessor in title).

To be considered for a Hardship Leasing Permit, the Owner must apply in writing to the Board of Directors and provide information and documentation sufficient to the Board of Directors to review and determine whether a Hardship Leasing Permit is necessary or appropriate. The Board shall have the authority to issue or deny requests for Hardship Leasing Permits in its discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship; (2) the harm, if any, which will result to the Property if the permit is approved; (3) the number of Hardship Leasing Permits which have been issued to other Owners; (4) the Owner's ability to cure the hardship; and (5) whether previous Hardship Leasing Permits have been issued to the Owner.

The Board has sole discretion whether to grant a Hardship Leasing Permit, and the existence of a hardship does not guaranty that an Owner is entitled to or will receive a Hardship Leasing Permit; such permit is discretionary. The Board shall have broad discretion in determining what constitutes an undue hardship.

Except as otherwise approved in writing by the Board, Hardship Leasing Permits expire one year after the date issued. Owners may apply for additional Hardship Leasing Permits at the expiration of a Hardship Leasing Permit, if the circumstances warrant.

(e) **Expiration and Revocation of Leasing Permits and Hardship Leasing Permits.** Leasing Permits and Hardship Leasing Permits are automatically revoked upon the sale or transfer of the Lot to a third party (excluding sales or transfers to an Owner's spouse, former spouse, parent, grandparent, child, grandchild, brother or sister). Hardship Leasing Permits also are automatically revoked upon the failure of an Owner to execute and commence an authorized lease of the Lot within 90 days of the issuance of the Hardship Leasing Permit.

Leasing Permits also automatically expire: (i) two years from the date issued; or (ii) if the Lot is not subject to an authorized and approved lease for more than 90 consecutive days.

The Board of Directors, in its discretion, also may terminate any Leasing Permit or Hardship Leasing Permit hereunder, **after 30 days' written notice to the Owner, if:**

- (i) the Owner becomes delinquent in the payment of any assessments or other charges owed to the Association hereunder;
- (ii) the Owner or any Occupant of the Lot violates any applicable law or ordinance; or
- (iii) the Owner or any Occupant of the Lot violates the Declaration, By-Laws or Association rules or regulations, and fails to fully cure that violation within the 30-day notice period.

If a Leasing Permit expires or is revoked, the Owner may request another Leasing Permit or, if such Leasing Permit is not available because the Leasing Cap is satisfied, the Owner may request to be placed on the leasing waiting list.

(f) **Leasing Administration Fee.** In addition to all other assessments and other charges provided for herein, an Owner who leases a Lot hereunder shall be assessed and required to pay to the Association a Leasing Administration Fee to offset time, resources and costs expended by the Association in administering leasing regulations hereunder.

The Leasing Administration Fee is due at the time any lease is executed or new occupancy relationship is created hereunder, and annually thereafter upon each renewal or extension of such lease or occupancy after the initial year's lease term, proportionately prorated for renewals or extensions less than one year in term. Unless increased by a vote of a majority of the eligible Association members voting in person or by proxy at a duly called Association meeting, or by ballot pursuant to the By-Laws, the Leasing Administration Fee shall be \$275.00 for the first year a new lease is executed or commenced, and \$225.00 for each year of renewal of such lease thereafter. The Leasing Administration Fee constitutes a specific assessment hereunder and is non-refundable.

(g) **Leasing Provisions.** When leasing is permitted under this Article, it shall be governed by the following provisions:

- (i) **General Leasing Provisions.** Except for authorized roommates of an Owner as provided above, Lots may be leased only in their entirety pursuant to a single lease. Leasing or renting of rooms on a Lot is prohibited. All leases must be for an initial term of not less than one year and not more than the remaining term of the Leasing Permit or Hardship Leasing Permit, except with written Board approval. There shall be no subleasing of Lots or assignment of leases, except with prior written Board approval. Lots may not be leased, rented or used for short-term hotel-type use, stay or occupancy.

All leases shall be in writing and shall contain provisions complying with the requirements of this Article. All leases executed, modified, renewed or extended after the Effective Date also must include a completed Lease Terms Exhibit attached hereto and incorporated herein by reference. The provisions of the Lease Terms Exhibit are incorporated into each lease of any Lot executed, modified, renewed or extended after the Effective Date, whether or not expressly stated therein, and into the terms of any tenancy or occupancy of a Lot even if no written lease or agreement exists between the Owner and the Occupant.

- (A) **Notice Prior to Leasing.** At least 14 days before entering into a lease of any Lot, the Owner shall provide the Board of Directors with: (1) written notice of the Owner's intention to lease his or her Lot; (2) verification that the Owner has obtained a Leasing Permit or Hardship Leasing Permit or is authorized to lease as a Grandfathered Owner; (3) a copy of the proposed lease, which must include the Lease Terms Exhibit provided for herein; (4) the names, phone numbers and email addresses of all of the proposed Occupants of the Lot; (5) the Owner's Lot address, and the Owner's phone number, email address, work location, work phone number and physical street address to be occupied by the Owner when the Lot is leased; (6) confirmation of the Tenant Screening required hereunder; and (7) such other information required by the Board. The Owner must provide the lessee copies of the Declaration, By-Laws and Association rules and regulations. **Nothing herein shall**

be construed as giving the Association the right to approve or disapprove a proposed tenant.

- (B) **Notice After Lease Execution.** The Owner of a leased Lot shall provide the Board with a copy of the executed lease and Lease Terms Exhibit within 10 days after executing a lease for the Lot and within 10 days of request by the Board during the lease term. If any of the information regarding the Occupant required above, or other information regarding occupancy of the Lot, changes during the term of any leasing of the Lot, the Owner and Occupant shall update and notify the Board in writing of such changes within 30 days of the date of such change.
 - (C) **Sanctions for Unauthorized Leasing and/or Failure to Provide Notice.** If an Owner leases a Lot in violation of this Article, or fails to provide the Association a copy of the lease and notice of leasing as provided herein, the Association may fine the Owner an initial fine of up to \$1,000.00, plus additional daily fines for continued violation of these provisions, in addition to revoking Grandfathered status, Leasing Permits or Hardship Leasing Permits hereunder; requiring termination of leases and eviction of unauthorized Occupants and/or tenants; and all other remedies provided in the Declaration, By-Laws or Georgia law.
- (ii) **Tenant Screening.** Any Owner who is seeking to lease his or her Lot must engage a professional third-party service or services (“Tenant Screening Service” or “Service”) prior to entering into a lease agreement to obtain the information required below for each adult Occupant who will occupy the Lot pursuant to the lease. Prior to such occupancy, the Owner must complete and provide the Association confirmation of the Tenant Screening. The Tenant Screening Service must, at a minimum, take the following steps:
- (A) Provide a consumer credit report on the prospective Occupant(s);
 - (B) Provide a nationwide criminal background check on the prospective Occupant(s);
 - (C) Provide a review of the Georgia Sexual Offender Registry; and
 - (D) Report such information as is disclosed by its investigation to the Owner.

If the Tenant Screening report does not include a review of the Georgia Sexual Offender Registry, the Owner will separately verify this information and confirm such verification with the screening report provided to the Board. **The Owner is not required to provide the Board with the results of the Tenant Screening.** but the Owner must provide the Board with a receipt or other documentation evidencing that the Owner has performed the Tenant Screening required hereunder, which must include the name, address and telephone number of the Tenant Screening Service and the information identified above concerning the prospective tenant(s).

The Board will not evaluate the information or make any determination or recommendation as to the suitability of any prospective tenant. The selection of a suitable and appropriate tenant shall be the sole responsibility of the Lot Owner.

- (iii) **Compliance.** The Owner must provide the Occupant copies of the Association Legal Documents. Each Owner and Occupant shall comply with the Declaration, By-Laws, Association rules and regulations, and all applicable laws and ordinances. Owners and Occupants shall control the conduct of all other Occupants and guests of the leased Lot in order to ensure such compliance and indemnify and hold the Association harmless for their **and their Occupants’ and guests’ failure to comply.** The Owner shall cause all Occupants and guests of his or her Lot to comply with the Declaration, By-Laws and Association rules, and shall be responsible for all violations by such Occupants and guests, notwithstanding the fact that such Occupants and guests also are fully liable and may be sanctioned for any such violation.

Any of the following shall constitute a default under the lease and authorizes the Association to declare the lease in default and to terminate the lease for any such violation and/or to compel the Owner to evict the Lot Occupant(s): (A) any violation of any provision of the Declaration, By-Laws, Association rules or applicable law or ordinance by

an Owner, Occupant, or any guest of an Owner or Occupant; (B) any felony arrest of or felony criminal charge against an Occupant; (C) any Amber alert issued on a vehicle registered or parked at the Property by an Occupant or guest of such Occupant; or (D) any conduct by an Occupant or guest of an Occupant that creates a reasonable risk to life and/or safety at the Property. The Association may bring an action against the Owner and/or Occupant(s) for damages and/or injunctive relief, or may impose fines and/or other sanctions under the Declaration, By-Laws or Georgia law, and/or may terminate Grandfathered status, Leasing Permits, Hardship Leasing Permits and/or leases, for any such violations.

Failure by the Association to enforce any of its rights shall not be deemed a waiver of the right to do so thereafter. Any costs associated with any enforcement action by the Association under this Article, including all reasonable attorneys' fees and/or collection fees or costs actually or contingently incurred, and court costs, shall be specially assessed against Owner's Lot and shall be a personal obligation of the Owner, being deemed as an expense which benefits the leased Lot and Owner. If any Occupant, or any guest, invitee, licensee or family member of the Occupant violates the Declaration, By-Laws or rules and regulations, for which a fine is imposed, such fine may be assessed against the Occupant and/or Owner, as provided in the Declaration and By-Laws.

When a Lot Owner who is leasing his or her Lot fails to pay any annual or special assessment or any other charge for a period of more than 30 days after it is due and payable, then, upon request by the Board, the lessee shall pay the Association all unpaid annual and special assessments and other charges owed and payable by the Owner during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

IN WITNESS WHEREOF, the undersigned officers of the Barrington Trace Homeowners Association, Inc. hereby certify that this Amendment to the Declaration was duly adopted by the Association's Owners in accordance with Article 11, Section 11.6 of the Declaration, with any required notices duly provided.

This 14 day of October, 2019.

Sworn to and subscribed to before me this 14 day of October, 2019

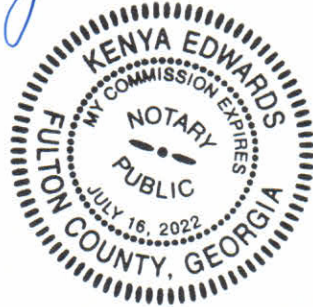
Joann E. Smith

Witness

Kenya Edwards

Notary Public

[Notary Seal]



BARRINGTON TRACE HOMEOWNERS ASSOCIATION, INC.

By: Virgil L. Smith (Seal)
President

Attest: D'Lovely Gibson (Seal)
Secretary
[Corporate Seal]

**EXHIBIT "A" - Declaration of Protective Covenants, Conditions, Restrictions and Easements for Barrington Trace
Lease Terms Exhibit - Addendum to Lease
[This Addendum is required with all leases of Lots at Barrington Trace]**

This Addendum is made and entered into this _____ day of _____, 20____ by and between the undersigned parties, and this Addendum hereby amends that Lease Agreement between the undersigned Landlord and Tenant dated _____, 20____, for the lease of Landlord's lot ("Lot") at Barrington Trace, by adding the following provisions thereto:

1. ASSOCIATION IS THIRD-PARTY BENEFICIARY; CONFLICTS. Tenant and Landlord acknowledge and agree that the Barrington Trace Homeowners' Association, Inc. (the "Association"), is a third-party beneficiary of the promises made in this Addendum to the Lease Agreement, and that the Association may enforce any of the provisions of this Addendum against Landlord and Tenant. Landlord and Tenant also acknowledge and agree that Landlord and Tenant have been provided copies of, have read, are fully aware of, fully understand, and will strictly comply with all provisions of this Addendum, and with the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Barrington Trace, the Association's Bylaws and rules and regulations, as may be amended. If there are any conflicts between the provisions of the Lease Agreement and this Addendum, then the provisions of this Addendum shall control. Except as expressly amended hereby, the Lease Agreement shall continue in full force and effect.

2. COMPLIANCE AND ENFORCEMENT BY ASSOCIATION. Tenant shall control the conduct of his or her family, guests, invitees and pets to assure compliance with the Association's legal documents and shall indemnify and hold Landlord and the Association harmless for any such person's failure to comply. Landlord and Tenant agree that the violation by Tenant, or any occupant or person living with Tenant, of any provision of this Addendum, the Declaration, Bylaws or Association rules and regulations shall constitute a default under this Lease, and that the Association is hereby granted the authority and power to declare the Lease in default and terminated for any such violation. The Association may bring an action against the Landlord and/or Tenant for damages and/or injunctive relief, or may impose fines and/or other sanctions under the Declaration, Bylaws or Georgia law, including all remedies available to a landlord upon breach or default of a lease (including eviction of Tenant), for violations of the Declaration, Bylaws, Association rules and regulations or this Lease. Failure by the Association to enforce any of its rights shall not be deemed a waiver of the right to do so thereafter. Landlord delegates and assigns to the Association, at the Board's discretion, the power to evict Tenant on behalf of and for the benefit of Landlord. If the Association proceeds to evict Tenant, any costs associated therewith, including attorneys' fees and court costs, shall be specially assessed against Landlord's Lot and shall be a personal obligation of Landlord, being deemed as an expense which benefits the leased Lot and Landlord. If Tenant, or any guest, invitee, licensee or family member of Tenant violates the Declaration, Bylaws or Association rules/regulations for which a fine is imposed, or damages the Barrington Trace property, such fine and/or repair costs may be assessed against Tenant and/or Landlord, as provided in the Declaration.

3. PAYMENT OF ASSESSMENTS. Upon request by the Association, Tenant shall pay to the Association all unpaid annual and special assessments, and other Association charges, which come due or are due during the term of the Lease and any other period of occupancy by Tenant. However, Tenant need not make such payments to the Association in excess of, or before the due dates for, Tenant's normal monthly rental payments to Landlord under the Lease. All such payments made under this Paragraph shall reduce, by the same amount, Tenant's obligation to make monthly rental payments to Landlord. If Tenant fails to comply with such request, Tenant shall be liable to the Association for all such sums, plus late or delinquent charges, interest, costs of collection and reasonable attorneys' fees actually incurred, to the same extent as if Tenant were the owner of the Lot during the term of this Lease and any other period of occupancy by Tenant.

4. MAINTENANCE AND INDEMNIFICATION. Tenant shall promptly advise the Landlord of any condition of the Lot which requires repair or maintenance by Landlord, and Tenant shall promptly advise the Association of any condition of the Common Property affecting the Lot which requires repair or maintenance by the Association. Tenant shall be liable for and shall indemnify, release and hold Landlord and the Association harmless from any damage or injury to the person or property of Tenant or any other person if such damage or injury is due, in whole or in part, to: (1) the act or negligence of the Tenant, Tenant's guests, family, licensees or invitees, or (2) any failure of Tenant to report in writing to Landlord and the Association any defective condition which Landlord or the Association would be required to repair under the terms of the Declaration and this Lease.

5. USE OF COMMON AREAS. Landlord transfers and assigns to Tenant for the term of this Lease all privileges that Landlord has to use any Association amenities. Landlord and Tenant agree that delinquency by Landlord in the payment of assessments or other charges to the Association authorizes the Association to suspend Common Property use privileges. Landlord and Tenant agree that the Association may notify the Tenant of any such suspension of privileges caused by the Landlord's delinquency.

6. SECURITY. Landlord and Tenant acknowledge and agree that the Association may, but shall not be required to, periodically provide measures or take actions which improve safety at the Barrington Trace community. However, Landlord and Tenant, for themselves and their guests, licensees and invitees, acknowledge and agree that the Association is not a provider of security and shall have no duty to provide security on or at the community. Landlord and Tenant shall be responsible to protect their person and property and to provide such security as they deem appropriate. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of safety measures undertaken.

IN WITNESS WHEREOF, the parties have executed this Addendum the day and year first above written.

TENANT: _____
(Signature)

LANDLORD: _____
(Signature)

TENANT: _____
(Signature)

Name: _____
(Please Print)

Name(s): _____
(Please Print)