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**Mar 18 2026**

**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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Appeal from  
The Public Service Commission of South Carolina

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Appellate Case No. 2024-000208  
PSC Docket No. 2022-84-WS

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Strata Audubon, LLC and Strata Veridian, LLC, Respondents,

v.

Sarah Zito, Alvaro Sarmiento, Jr., Mark Shinn, and Daniel Bermudez, Petitioners.

---

APPENDIX

---

F. Elliotte Quinn IV  
Rachel Igdal  
The Steinberg Law Firm, LLC  
3955 Faber Place Drive, Suite 300  
North Charleston, SC 29405

ATTORNEYS FOR PETITIONERS

Kevin Hall  
Bryant Caldwell  
Womble Bond Dickinson (US) LLP  
1221 Main Street, Ste. 1600  
Columbia, SC 29000

ATTORNEYS FOR RESPONDENTS

## **APPENDIX INDEX**

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**SPARTANBURG WATER SYSTEM**

This Material Contains Personal Private Identifying Info. Not Subject to Public Disclosure

200 Commerce Street, P.O. Box 251  
Spartanburg, SC 29304**Customer Service**

(864) 582-6375

Monday - Friday

8:00am - 5:30pm

|                        |                     |
|------------------------|---------------------|
| Customer Name          | STRATA VERIDIAN LLC |
| Service Address        | 315 BIRCH RUN DR    |
| Customer # / Account # |                     |
| Bill Date              | 11/27/2019          |

**ACCOUNT SUMMARY**

|                                 |                   |
|---------------------------------|-------------------|
| Previous Balance                | \$9,721.93        |
| Payments                        | \$(9,721.93)      |
| Adjustments / Fees              | \$0.00            |
| Past Due                        | \$0.00            |
| Current Charges                 | \$9,231.15        |
| <b>Total Amount Due</b>         | <b>\$9,231.15</b> |
| <b>Current Charges Due Date</b> | <b>12/22/2019</b> |

A late payment charge of \$1.50 plus 1.5%  
will apply after the due dateMake sure you receive phone, text, or email notifications about your  
Spartanburg Water service by providing us with your contact  
information on the back of the bill.**CURRENT CHARGES FOR SERVICE PERIOD 10/18/2019 TO 11/18/2019 (31 DAYS)**

| Meter #                | Previous<br>Read | Current<br>Read | Water<br>Usage | Itemized Charges    | Amount     |
|------------------------|------------------|-----------------|----------------|---------------------|------------|
| Water 70028442         | 396450           | 396750          | 300            | Base Charge - Water | \$482.38   |
| Water 70028442         | 748000           | 754470          | 6470           | Water Usage         | \$4,549.44 |
|                        |                  | Total Usage     | 6,770          | Base Charge - Sewer | \$209.40   |
|                        |                  |                 |                | Sewer Volume Charge | \$3,989.93 |
| Total Current Charges: |                  |                 |                |                     | \$9,231.15 |

Sewer Volume 5911

Each unit of usage is equal to 100 gallons

**PAYMENT OPTIONS**

- **BY MAIL** - Pay by check or money order in the enclosed envelope
- **ONLINE** at [spartanburgwater.org](http://spartanburgwater.org)
- **BANK DRAFT** Call (864) 582-6375 to enroll

- **BY PHONE** - (844) 223-3041
- **AT OUR OFFICE** - 200 Commerce Street - In the lobby, drive-through payment window or after-hours drop box

Rev. 0930p 683

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**SPARTANBURG WATER SYSTEM**

P.O. Box 251

Spartanburg, SC 29304

|                          |             |
|--------------------------|-------------|
| Customer # / Account #   |             |
| Past Due                 | \$0.00      |
| Current Charges          | \$9,231.15  |
| Total Amount Due         | \$ 9,231.15 |
| Current Charges Due Date | 12/22/2019  |

STRATA VERIDIAN LLC  
PO BOX 4697  
LOGAN UT 84323**SPARTANBURG WATER SYSTEM**P.O. Box 251  
Spartanburg, SC 29304

1494

Conservice Subpoena Response 001279

APP 001502

00000092311525750320012000049621661

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**SPARTANBURG WATER SYSTEM**

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200 Commerce Street P.O. Box 251  
Spartanburg, SC 29304**Customer Service**

(864) 582-6375

Monday - Friday

8:00am - 5:30pm

|                        |                  |
|------------------------|------------------|
| Customer Name          | STRATA VERIDIAN  |
| Service Address        | 315 BIRCH RUN DR |
| Customer # / Account # |                  |
| Bill Date              | 11/27/2019       |

| ACCOUNT SUMMARY                 |                   |
|---------------------------------|-------------------|
| Previous Balance                | \$25.67           |
| Payments                        | \$(25.67)         |
| Adjustments / Fees              | \$0.00            |
| Past Due                        | \$0.00            |
| Current Charges                 | \$49.19           |
| <b>Total Amount Due</b>         | <b>\$49.19</b>    |
| <b>Current Charges Due Date</b> | <b>12/22/2019</b> |

A late payment charge of \$1.50 plus 1.5%  
will apply after the due dateMake sure you receive phone, text, or email notifications about your  
Spartanburg Water service by providing us with your contact  
information on the back of the bill.

| CURRENT CHARGES FOR SERVICE PERIOD 10/18/2019 TO 11/18/2019 (31 DAYS) |                  |                 |                |                               |                |
|-----------------------------------------------------------------------|------------------|-----------------|----------------|-------------------------------|----------------|
| Meter #                                                               | Previous<br>Read | Current<br>Read | Water<br>Usage | Itemized Charges              | Amount         |
| Irrigation 44025403                                                   | 9767             | 9802            | 35             | Base Charge - Irrigation      | \$25.67        |
|                                                                       |                  | Total Usage     | 35             | Irrigation Usage              | \$23.52        |
|                                                                       |                  |                 |                | <b>Total Current Charges:</b> | <b>\$49.19</b> |

|              |   |
|--------------|---|
| Sewer Volume | 0 |
|--------------|---|

Each unit of usage is equal to 100 gallons

| PAYMENT OPTIONS                                                                   |                                                                                                                   |
|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| • <b>BY MAIL</b> - Pay by check or money order in the enclosed envelope           | • <b>BY PHONE</b> - (844) 223-3041                                                                                |
| • <b>ONLINE</b> at <a href="http://spartanburgwater.org">spartanburgwater.org</a> | • <b>AT OUR OFFICE</b> - 200 Commerce Street - In the lobby, drive-through payment window or after-hours drop box |
| • <b>BANK DRAFT</b> Call (864) 582-6375 to enroll                                 |                                                                                                                   |

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**SPARTANBURG WATER SYSTEM**

P.O. Box 251

Spartanburg, SC 29304

|                          |            |
|--------------------------|------------|
| Customer # / Account #   |            |
| Past Due                 | \$0.00     |
| Current Charges          | \$49.19    |
| Total Amount Due         | \$ 49.19   |
| Current Charges Due Date | 12/22/2019 |

STRATA VERIDIAN, LLC

PO BOX 4697

LOGAN UT 84323

**SPARTANBURG WATER SYSTEM**

P.O. Box 251

Spartanburg, SC 29304



1495

Conservice Subpoena Response 001280

APP 001503

00000000491925750520101100049621675

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200 Commerce Street, P.O. Box 251  
Spartanburg, SC 29304**Customer Service**

(864) 582-6375

Monday - Friday

8:00am - 5:30pm

|                        |                     |
|------------------------|---------------------|
| Customer Name          | STRATA VERIDIAN LLC |
| Service Address        | 315 BIRCH RUN DR    |
| Customer # / Account # |                     |
| Bill Date              | 11/30/2020          |

**ACCOUNT SUMMARY**

|                                 |                   |
|---------------------------------|-------------------|
| Previous Balance                | \$7,656.55        |
| Payments                        | \$(7,656.55)      |
| Adjustments / Fees              | \$0.00            |
| Past Due                        | \$0.00            |
| Current Charges                 | \$8,928.65        |
| <b>Total Amount Due</b>         | <b>\$8,928.65</b> |
| <b>Current Charges Due Date</b> | <b>12/25/2020</b> |

A late payment charge of \$1.50 plus 1.5%  
will apply after the due dateMake sure you receive phone, text, or email notifications about your  
Spartanburg Water service by providing us with your contact  
information on the back of the bill.**CURRENT CHARGES FOR SERVICE PERIOD 10/22/2020 TO 11/23/2020 (32 DAYS)**

| Meter #                | Previous<br>Read | Current<br>Read | Water<br>Usage | Itemized Charges    | Amount     |
|------------------------|------------------|-----------------|----------------|---------------------|------------|
| Water 70028442         | 442900           | 446450          | 3550           | Base Charge - Water | \$482.38   |
| Water 70028442         | 791230           | 794255          | 3025           | Water Usage         | \$4,418.40 |
|                        |                  | Total Usage     | 6,575          | Base Charge - Sewer | \$209.40   |
|                        |                  |                 |                | Sewer Volume Charge | \$3,818.47 |
| Total Current Charges: |                  |                 |                |                     | \$8,928.65 |

Sewer Volume 5657

Each unit of usage is equal to 100 gallons

**PAYMENT OPTIONS**

- **BY MAIL** - Pay by check or money order in the enclosed envelope
- **ONLINE** at [spartanburgwater.org](http://spartanburgwater.org)
- **BANK DRAFT** Call (864) 582-6375 to enroll

- **BY PHONE** - (844) 223-3041
- **AT OUR OFFICE** - 200 Commerce Street - In the lobby, drive-through payment window or after-hours drop box

Rev. 0930p 899

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**SPARTANBURG WATER SYSTEM**

P.O. Box 251

Spartanburg, SC 29304

|                          |             |
|--------------------------|-------------|
| Customer # / Account #   |             |
| Past Due                 | \$0.00      |
| Current Charges          | \$8,928.65  |
| Total Amount Due         | \$ 8,928.65 |
| Current Charges Due Date | 12/25/2020  |

STRATA VERIDIAN LLC  
PO BOX 4697  
LOGAN UT 84323**SPARTANBURG WATER SYSTEM**P.O. Box 251  
Spartanburg, SC 29304

1497

Conservice Subpoena Response 001282

APP 001505

00000089286525750320012000057118743

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**SPARTANBURG WATER SYSTEM**

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200 Commerce Street P.O. Box 251  
Spartanburg, SC 29304

**Customer Service**

(864) 582-6375

Monday - Friday

8:00am - 5:30pm

|                        |                  |
|------------------------|------------------|
| Customer Name          | STRATA VERIDIAN  |
| Service Address        | 315 BIRCH RUN DR |
| Customer # / Account # |                  |
| Bill Date              | 11/30/2020       |

| ACCOUNT SUMMARY                 |                   |
|---------------------------------|-------------------|
| Previous Balance                | \$803.17          |
| Payments                        | \$(803.17)        |
| Adjustments / Fees              | \$0.00            |
| Past Due                        | \$0.00            |
| Current Charges                 | \$831.40          |
| <b>Total Amount Due</b>         | <b>\$831.40</b>   |
| <b>Current Charges Due Date</b> | <b>12/25/2020</b> |

A late payment charge of \$1.50 plus 1.5%  
will apply after the due date

Make sure you receive phone, text, or email notifications about your Spartanburg Water service by providing us with your contact information on the back of the bill.

| CURRENT CHARGES FOR SERVICE PERIOD 10/22/2020 TO 11/23/2020 (32 DAYS) |               |              |             |                               |                 |
|-----------------------------------------------------------------------|---------------|--------------|-------------|-------------------------------|-----------------|
| Meter #                                                               | Previous Read | Current Read | Water Usage | Itemized Charges              | Amount          |
| Irrigation 44025403                                                   | 14819         | 16018        | 1199        | Base Charge - Irrigation      | \$25.67         |
|                                                                       |               | Total Usage  | 1,199       | Irrigation Usage              | \$805.73        |
|                                                                       |               |              |             | <b>Total Current Charges:</b> | <b>\$831.40</b> |

|              |   |
|--------------|---|
| Sewer Volume | 0 |
|--------------|---|

Each unit of usage is equal to 100 gallons

| PAYMENT OPTIONS                                                                   |                                                                                                                   |
|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| • <b>BY MAIL</b> - Pay by check or money order in the enclosed envelope           | • <b>BY PHONE</b> - (844) 223-3041                                                                                |
| • <b>ONLINE</b> at <a href="http://spartanburgwater.org">spartanburgwater.org</a> | • <b>AT OUR OFFICE</b> - 200 Commerce Street - In the lobby, drive-through payment window or after-hours drop box |
| • <b>BANK DRAFT</b> Call (864) 582-6375 to enroll                                 |                                                                                                                   |

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**SPARTANBURG WATER SYSTEM**

P.O. Box 251

Spartanburg, SC 29304

|                          |            |
|--------------------------|------------|
| Customer # / Account #   |            |
| Past Due                 | \$0.00     |
| Current Charges          | \$831.40   |
| Total Amount Due         | \$ 831.40  |
| Current Charges Due Date | 12/25/2020 |

STRATA VERIDIAN, LLC

PO BOX 4697

LOGAN UT 84323

**SPARTANBURG WATER SYSTEM**

P.O. Box 251

Spartanburg, SC 29304



1498

Conservice Subpoena Response 001283

APP 001506

00000008314025750520101100057121357

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200 Commerce Street P.O. Box 251  
Spartanburg, SC 29304**Customer Service**

(864) 582-6375

Monday - Friday

8:00am - 5:30pm

|                        |                     |
|------------------------|---------------------|
| Customer Name          | STRATA VERIDIAN LLC |
| Service Address        | 315 BIRCH RUN DR    |
| Customer # / Account # |                     |
| Bill Date              | 12/30/2019          |

**ACCOUNT SUMMARY**

|                                 |                    |
|---------------------------------|--------------------|
| Previous Balance                | \$9,231.15         |
| Payments                        | \$(9,231.15)       |
| Adjustments / Fees              | \$0.00             |
| Past Due                        | \$0.00             |
| Current Charges                 | \$10,093.84        |
| <b>Total Amount Due</b>         | <b>\$10,093.84</b> |
| <b>Current Charges Due Date</b> | <b>1/24/2020</b>   |

A late payment charge of \$1.50 plus 1.5%  
will apply after the due dateMake sure you receive phone, text, or email notifications about your  
Spartanburg Water service by providing us with your contact  
information on the back of the bill.**CURRENT CHARGES FOR SERVICE PERIOD 11/18/2019 TO 12/19/2019 (31 DAYS)**

| Meter #                | Previous<br>Read | Current<br>Read | Water<br>Usage    | Itemized Charges    | Amount      |
|------------------------|------------------|-----------------|-------------------|---------------------|-------------|
| Water 70028442         | 396750           | 398900          | 2150              | Base Charge - Water | \$482.38    |
| Water 70028442         | 754470           | 759300          | 4830              | Water Usage         | \$4,690.56  |
|                        |                  |                 | Total Usage 6,980 | Base Charge - Sewer | \$209.40    |
|                        |                  |                 |                   | Sewer Volume Charge | \$4,711.50  |
| Total Current Charges: |                  |                 |                   |                     | \$10,093.84 |

Sewer Volume

6980

Each unit of usage is equal to 100 gallons

**PAYMENT OPTIONS**

- **BY MAIL** - Pay by check or money order in the enclosed envelope
- **ONLINE** at [spartanburgwater.org](http://spartanburgwater.org)
- **BANK DRAFT** Call (864) 582-6375 to enroll

- **BY PHONE** - (844) 223-3041
- **AT OUR OFFICE** - 200 Commerce Street - In the lobby, drive-through payment window or after-hours drop box

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**SPARTANBURG WATER SYSTEM**

P.O. Box 251

Spartanburg, SC 29304

|                          |              |
|--------------------------|--------------|
| Customer # / Account #   |              |
| Past Due                 | \$0.00       |
| Current Charges          | \$10,093.84  |
| Total Amount Due         | \$ 10,093.84 |
| Current Charges Due Date | 1/24/2020    |

STRATA VERIDIAN LLC

PO BOX 4697

LOGAN UT 84323

**SPARTANBURG WATER SYSTEM**

P.O. Box 251

Spartanburg, SC 29304



1500

Conservice Subpoena Response 001285

APP 001508

00000100938425750320012000050215092

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200 Commerce Street P.O. Box 251  
Spartanburg, SC 29304**Customer Service**

(864) 582-6375

Monday - Friday

8:00am - 5:30pm

|                        |                  |
|------------------------|------------------|
| Customer Name          | STRATA VERIDIAN  |
| Service Address        | 315 BIRCH RUN DR |
| Customer # / Account # |                  |
| Bill Date              | 12/30/2019       |

| ACCOUNT SUMMARY                 |                  |
|---------------------------------|------------------|
| Previous Balance                | \$49.19          |
| Payments                        | \$(49.19)        |
| Adjustments / Fees              | \$0.00           |
| Past Due                        | \$0.00           |
| Current Charges                 | \$244.07         |
| <b>Total Amount Due</b>         | <b>\$244.07</b>  |
| <b>Current Charges Due Date</b> | <b>1/24/2020</b> |

A late payment charge of \$1.50 plus 1.5%  
will apply after the due dateMake sure you receive phone, text, or email notifications about your  
Spartanburg Water service by providing us with your contact  
information on the back of the bill.

| CURRENT CHARGES FOR SERVICE PERIOD 11/18/2019 TO 12/19/2019 (31 DAYS) |                  |                 |                |                               |                 |
|-----------------------------------------------------------------------|------------------|-----------------|----------------|-------------------------------|-----------------|
| Meter #                                                               | Previous<br>Read | Current<br>Read | Water<br>Usage | Itemized Charges              | Amount          |
| Irrigation 44025403                                                   | 9802             | 10127           | 325            | Base Charge - Irrigation      | \$25.67         |
|                                                                       |                  | Total Usage     | 325            | Irrigation Usage              | \$218.40        |
|                                                                       |                  |                 |                | <b>Total Current Charges:</b> | <b>\$244.07</b> |

|              |   |
|--------------|---|
| Sewer Volume | 0 |
|--------------|---|

Each unit of usage is equal to 100 gallons

| PAYMENT OPTIONS                                                                   |                                                                                                                   |
|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| • <b>BY MAIL</b> - Pay by check or money order in the enclosed envelope           | • <b>BY PHONE</b> - (844) 223-3041                                                                                |
| • <b>ONLINE</b> at <a href="http://spartanburgwater.org">spartanburgwater.org</a> | • <b>AT OUR OFFICE</b> - 200 Commerce Street - In the lobby, drive-through payment window or after-hours drop box |
| • <b>BANK DRAFT</b> Call (864) 582-6375 to enroll                                 |                                                                                                                   |

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**SPARTANBURG WATER SYSTEM**

P.O. Box 251

Spartanburg, SC 29304

|                          |           |
|--------------------------|-----------|
| Customer # / Account #   |           |
| Past Due                 | \$0.00    |
| Current Charges          | \$244.07  |
| Total Amount Due         | \$ 244.07 |
| Current Charges Due Date | 1/24/2020 |

STRATA VERIDIAN, LLC

PO BOX 4697

LOGAN UT 84323

**SPARTANBURG WATER SYSTEM**

P.O. Box 251

Spartanburg, SC 29304



1501

Conservice Subpoena Response 001286

APP 001509

00000002440725750520101100050215084

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200 Commerce Street P.O. Box 251  
Spartanburg, SC 29304**Customer Service**

(864) 582-6375

Monday - Friday

8:00am - 5:30pm

|                        |                     |
|------------------------|---------------------|
| Customer Name          | STRATA VERIDIAN LLC |
| Service Address        | 315 BIRCH RUN DR    |
| Customer # / Account # |                     |
| Bill Date              | 01/29/2021          |

**ACCOUNT SUMMARY**

|                                 |                   |
|---------------------------------|-------------------|
| Previous Balance                | \$9,763.83        |
| Payments                        | \$(9,763.83)      |
| Adjustments / Fees              | \$0.00            |
| Past Due                        | \$0.00            |
| Current Charges                 | \$8,059.87        |
| <b>Total Amount Due</b>         | <b>\$8,059.87</b> |
| <b>Current Charges Due Date</b> | <b>2/23/2021</b>  |

A late payment charge of \$1.50 plus 1.5%  
will apply after the due dateMake sure you receive phone, text, or email notifications about your  
Spartanburg Water service by providing us with your contact  
information on the back of the bill.**CURRENT CHARGES FOR SERVICE PERIOD 12/23/2020 TO 1/22/2021 (30 DAYS)**

| Meter #                | Previous<br>Read | Current<br>Read | Water<br>Usage | Itemized Charges    | Amount     |
|------------------------|------------------|-----------------|----------------|---------------------|------------|
| Water 70028442         | 450250           | 453000          | 2750           | Base Charge - Water | \$482.38   |
| Water 70028442         | 797190           | 799910          | 2720           | Water Usage         | \$3,675.84 |
|                        |                  | Total Usage     | 5,470          | Base Charge - Sewer | \$209.40   |
|                        |                  |                 |                | Sewer Volume Charge | \$3,692.25 |
| Total Current Charges: |                  |                 |                |                     | \$8,059.87 |

Sewer Volume 5470

Each unit of usage is equal to 100 gallons

**PAYMENT OPTIONS**

- **BY MAIL** - Pay by check or money order in the enclosed envelope
- **ONLINE** at [spartanburgwater.org](http://spartanburgwater.org)
- **BANK DRAFT** Call (864) 582-6375 to enroll

- **BY PHONE** - (844) 223-3041
- **AT OUR OFFICE** - 200 Commerce Street - In the lobby, drive-through payment window or after-hours drop box

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**SPARTANBURG WATER SYSTEM**

P.O. Box 251

Spartanburg, SC 29304

|                          |             |
|--------------------------|-------------|
| Customer # / Account #   |             |
| Past Due                 | \$0.00      |
| Current Charges          | \$8,059.87  |
| Total Amount Due         | \$ 8,059.87 |
| Current Charges Due Date | 2/23/2021   |

STRATA VERIDIAN LLC

PO BOX 4697

LOGAN UT 84323

**SPARTANBURG WATER SYSTEM**

P.O. Box 251

Spartanburg, SC 29304



1503

Conservice Subpoena Response 001288

APP 001511

P0000080598725750320012000058387081

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(864) 582-6375

Monday - Friday

8:00am - 5:30pm

|                        |                     |
|------------------------|---------------------|
| Customer Name          | STRATA VERIDIAN LLC |
| Service Address        | 315 BIRCH RUN DR    |
| Customer # / Account # |                     |
| Bill Date              | 12/30/2020          |

**ACCOUNT SUMMARY**

|                                 |                   |
|---------------------------------|-------------------|
| Previous Balance                | \$8,928.65        |
| Payments                        | \$(8,928.65)      |
| Adjustments / Fees              | \$0.00            |
| Past Due                        | \$0.00            |
| Current Charges                 | \$9,763.83        |
| <b>Total Amount Due</b>         | <b>\$9,763.83</b> |
| <b>Current Charges Due Date</b> | <b>1/24/2021</b>  |

A late payment charge of \$1.50 plus 1.5%  
will apply after the due dateMake sure you receive phone, text, or email notifications about your  
Spartanburg Water service by providing us with your contact  
information on the back of the bill.**CURRENT CHARGES FOR SERVICE PERIOD 11/23/2020 TO 12/23/2020 (30 DAYS)**

| Meter #                | Previous Read | Current Read | Water Usage | Itemized Charges    | Amount     |
|------------------------|---------------|--------------|-------------|---------------------|------------|
| Water 70028442         | 446450        | 450250       | 3800        | Base Charge - Water | \$482.38   |
| Water 70028442         | 794255        | 797190       | 2935        | Water Usage         | \$4,525.92 |
|                        |               | Total Usage  | 6,735       | Base Charge - Sewer | \$209.40   |
|                        |               |              |             | Sewer Volume Charge | \$4,546.13 |
| Total Current Charges: |               |              |             |                     | \$9,763.83 |

Sewer Volume

6735

Each unit of usage is equal to 100 gallons

**PAYMENT OPTIONS**

- **BY MAIL** - Pay by check or money order in the enclosed envelope
- **ONLINE** at [spartanburgwater.org](http://spartanburgwater.org)
- **BANK DRAFT** Call (864) 582-6375 to enroll

- **BY PHONE** - (844) 223-3041
- **AT OUR OFFICE** - 200 Commerce Street - In the lobby, drive-through payment window or after-hours drop box

Rev. 0930p 916

Please return this portion along with your payment

**SPARTANBURG WATER SYSTEM**

P.O. Box 251

Spartanburg, SC 29304

|                          |             |
|--------------------------|-------------|
| Customer # / Account #   |             |
| Past Due                 | \$0.00      |
| Current Charges          | \$9,763.83  |
| Total Amount Due         | \$ 9,763.83 |
| Current Charges Due Date | 1/24/2021   |

STRATA VERIDIAN LLC  
PO BOX 4697  
LOGAN UT 84323**SPARTANBURG WATER SYSTEM**P.O. Box 251  
Spartanburg, SC 293041505  
APP 001513Conservice Subpoena Response 001290  
00000097638325750320012000057776330

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**SPARTANBURG WATER SYSTEM**

This Material Contains Personal Private Identifying Info. Not Subject to Public Disclosure  
200 Commerce Street P.O. Box 251  
Spartanburg, SC 29304

**Customer Service**

(864) 582-6375

Monday - Friday

8:00am - 5:30pm

|                        |                  |
|------------------------|------------------|
| Customer Name          | STRATA VERIDIAN  |
| Service Address        | 315 BIRCH RUN DR |
| Customer # / Account # |                  |
| Bill Date              | 12/30/2020       |

| ACCOUNT SUMMARY                 |                  |
|---------------------------------|------------------|
| Previous Balance                | \$831.40         |
| Payments                        | \$(831.40)       |
| Adjustments / Fees              | \$0.00           |
| Past Due                        | \$0.00           |
| Current Charges                 | \$204.42         |
| <b>Total Amount Due</b>         | <b>\$204.42</b>  |
| <b>Current Charges Due Date</b> | <b>1/24/2021</b> |

A late payment charge of \$1.50 plus 1.5%  
will apply after the due date

Make sure you receive phone, text, or email notifications about your Spartanburg Water service by providing us with your contact information on the back of the bill.

| CURRENT CHARGES FOR SERVICE PERIOD 11/23/2020 TO 12/23/2020 (30 DAYS) |               |              |             |                               |                 |
|-----------------------------------------------------------------------|---------------|--------------|-------------|-------------------------------|-----------------|
| Meter #                                                               | Previous Read | Current Read | Water Usage | Itemized Charges              | Amount          |
| Irrigation 44025403                                                   | 16018         | 16284        | 266         | Base Charge - Irrigation      | \$25.67         |
|                                                                       |               | Total Usage  | 266         | Irrigation Usage              | \$178.75        |
|                                                                       |               |              |             | <b>Total Current Charges:</b> | <b>\$204.42</b> |

|              |   |
|--------------|---|
| Sewer Volume | 0 |
|--------------|---|

Each unit of usage is equal to 100 gallons

| PAYMENT OPTIONS                                                                   |                                                                                                                   |
|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| • <b>BY MAIL</b> - Pay by check or money order in the enclosed envelope           | • <b>BY PHONE</b> - (844) 223-3041                                                                                |
| • <b>ONLINE</b> at <a href="http://spartanburgwater.org">spartanburgwater.org</a> | • <b>AT OUR OFFICE</b> - 200 Commerce Street - In the lobby, drive-through payment window or after-hours drop box |
| • <b>BANK DRAFT</b> Call (864) 582-6375 to enroll                                 |                                                                                                                   |

Rev. 0930p 916

Please return this portion along with your payment

**SPARTANBURG WATER SYSTEM**

P.O. Box 251

Spartanburg, SC 29304

|                          |           |
|--------------------------|-----------|
| Customer # / Account #   |           |
| Past Due                 | \$0.00    |
| Current Charges          | \$204.42  |
| Total Amount Due         | \$ 204.42 |
| Current Charges Due Date | 1/24/2021 |

STRATA VERIDIAN, LLC

PO BOX 4697

LOGAN UT 84323

**SPARTANBURG WATER SYSTEM**

P.O. Box 251

Spartanburg, SC 29304



1506

Conservice Subpoena Response 001291

APP 001514 00000002044225750520101100057776888

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| Resident Code | Community Tenant Code | Unit Code | Community First Name | Community Last Name | Occupants |
|---------------|-----------------------|-----------|----------------------|---------------------|-----------|
| 27414903      | t0097438              |           | Earl                 | Eltzroth            | 2         |
| 30212843      | t0102539              |           | Milena               | Lopes               | 1         |
| 28989707      | t0097487              |           | Anderson             | Vieira Rios         | 2         |
| 31261974      | t0107641              |           | Ethan                | Cornelison          | 2         |
| 19336920      | t0097292              |           | Donald               | Meadows             | 2         |
| 31482924      | t0108167              |           | Breonna              | Mack                | 1         |
| 30703661      | t0105411              |           | Roxana               | Romero              | 2         |
| 17353339      | t0097265              |           | Kieran               | Oconnell            | 1         |
| 32142321      | t0109133              |           | Valmir               | De Sousa            | 1         |
| 17440947      | t0097285              |           | Hector               | Guerrero            | 1         |
| 22228093      | t0097323              |           | Xiao Lin             | Huang               | 1         |
| 27807270      | t0097453              |           | Nubia                | Alvarado            | 3         |
| 25410515      | t0097379              |           | Kadashia             | Maxwell             | 1         |
| 22001894      | t0097319              |           | Shady                | Moustafa            | 2         |
| 24038230      | t0097348              |           | William              | Rhiner              | 1         |
| 17353347      | t0097266              |           | Martha               | Scott               | 1         |
| 27623510      | t0097420              |           | adiyyah              | anderson            | 1         |
| 19868640      | t0097300              |           | MaryAnne             | Ratterree           | 1         |
| 27276167      | t0097433              |           | Crystal              | Davis               | 2         |
| 30776317      | t0105692              |           | Maria                | Hernandez           | 2         |
| 20107704      | t0097305              |           | Victor               | Roque               | 2         |
| 30368180      | t0103236              |           | Neider               | Suarez              | 3         |
| 20522189      | t0097311              |           | Vanete               | De Oliveira         | 1         |
| 32103815      | t0107447              |           | Mousa                | Abuhani             | 1         |
| 27191751      | t0097432              |           | Courtney             | Wagner              | 1         |
| 29268849      | t0097509              |           | Marcelo              | Oliveira            | 1         |
| 24241997      | t0097354              |           | Idelmar              | Gugel               | 1         |
| 29533798      | t0097516              |           | Edgar                | Rocha               | 1         |
| 27339439      | t0097425              |           | Evandro              | Santana             | 2         |
| 23634869      | t0097333              |           | Willian              | Bertti              | 2         |
| 19955086      | t0097301              |           | Aleci                | Silva Sardinha      | 2         |
| 25032293      | t0097369              |           | Matthew              | Homeier             | 2         |
| 27521087      | t0097442              |           | Yun                  | Ni                  | 1         |
| 29639710      | t0100230              |           | Gwendolyn            | Bliss               | 1         |
| 25102714      | t0097370              |           | Ingris               | De Leon Lopez       | 1         |
| 32204302      | t0107434              |           | Roseli               | Testa               | 1         |
| 27908340      | t0097459              |           | Williams             | Perdomo             | 2         |
| 18926038      | t0097289              |           | Greicy               | Aguiar Lobato       | 1         |
| 17353372      | t0097267              |           | Hazem                | Youssef             | 1         |
| 29816797      | t0100145              |           | Mayque               | Filho               | 1         |
| 30515422      | t0102692              |           | Neftali              | Diaz                | 4         |
| 27932956      | t0097451              |           | Eliete               | Alves               | 3         |
| 25438994      | t0097380              |           | Nelson               | De Souza            | 1         |
| 23068952      | t0097330              |           | Bryant               | Nelson              | 3         |
| 26728963      | t0097411              |           | Marisol              | Hernandez           | 2         |

|          |          |             |                |   |
|----------|----------|-------------|----------------|---|
| 29533800 | t0097511 | Rodolfo     | Diaz           | 3 |
| 17353382 | t0097268 | John        | Buffett        | 1 |
| 26717530 | t0097401 | Arielle     | Wessels        | 3 |
| 28989709 | t0097490 | Marcos      | Melo           | 2 |
| 28989710 | t0097484 | Walinson    | Mendonca       | 3 |
| 31396136 | t0107409 | Victor      | Lopez          | 1 |
| 17353390 | t0097269 | Amy         | Delpozo        | 2 |
| 23660788 | t0097336 | Lucimar     | Martins Santos | 3 |
| 27823546 | t0097454 | Ann         | Bailey         | 2 |
| 22005898 | t0097320 | Sinet       | Tang           | 4 |
| 29456361 | t0097496 | Michelle    | Linnen         | 1 |
| 27574099 | t0097445 | Jipsi       | Harris         | 5 |
| 30908610 | t0105903 | Olena       | Nedvania       | 2 |
| 29932635 | t0101348 | Jason       | Felder         | 1 |
| 30337740 | t0103093 | Luana       | Reis           | 2 |
| 28718442 | t0097483 | Gleice      | Freitas        | 2 |
| 28307747 | t0097463 | Yvonne      | Simmons        | 1 |
| 29387928 | t0097502 | Allan       | Brizola        | 1 |
| 26978109 | t0097417 | MARCO       | PEREDES        | 7 |
| 25907873 | t0097387 | Angela      | Stafford       | 1 |
| 28077449 | t0097450 | Jared       | Ball           | 1 |
| 30115458 | t0102534 | Mohamed     | Abdalla        | 1 |
| 20254086 | t0097310 | Anslem      | Fernandes      | 2 |
| 29480966 | t0100110 | Mariangelys | Bermudez       | 2 |
| 23803080 | t0097340 | Vivian      | Bee            | 1 |
| 29729209 | t0100234 | Tina        | Douan          | 2 |
| 24010944 | t0097342 | Jorge Luis  | Parra Rumbos   | 2 |
| 24570180 | t0097356 | Kelli       | Seward         | 2 |
| 23803081 | t0097339 | Miguel      | Amesty         | 1 |
| 28214151 | t0097471 | Vagner      | Bonfim         | 1 |
| 27535922 | t0097448 | John        | Haygood        | 2 |
| 30610219 | t0104816 | Breanna     | Steele         | 2 |
| 22222629 | t0097322 | Jaclyn      | Hannibal       | 1 |
| 25505534 | t0097375 | Darius      | Free           | 1 |
| 26815139 | t0097415 | Paul        | Bergevin       | 1 |
| 25234825 | t0097373 | Rose        | Dovell         | 1 |
| 30191154 | t0100537 | Imani       | Singleton      | 2 |
| 30757971 | t0102554 | Jessica     | Lee            | 1 |
| 30719344 | t0104501 | Alec        | Johnson        | 1 |
| 29584742 | t0100147 | William     | Ferreira       | 1 |
| 30191160 | t0097507 | Nubia       | Goncalves      | 2 |
| 30572759 | t0102552 | Adda        | Hoyos          | 1 |
| 31464866 | t0107501 | Brian       | Smith          | 1 |
| 29074964 | t0097497 | Sabrina     | Hyman          | 2 |
| 27996215 | t0097460 | Nicholas    | Carrington     | 2 |
| 27442974 | t0097423 | rose        | phelan         | 1 |
| 32159496 | t0109806 | Valney      | Joda           | 1 |

|          |          |             |                     |   |
|----------|----------|-------------|---------------------|---|
| 17353429 | t0097270 | Doretha     | Gilliard            | 1 |
| 26307498 | t0097395 | Larissa     | Silva               | 2 |
| 32054888 | t0110127 | Ashley      | Owens               | 2 |
| 28989711 | t0097480 | Christopher | Cortez              | 4 |
| 24510756 | t0097365 | Donna       | Bedenbaugh          | 1 |
| 26728964 | t0097410 | George      | Peters              | 1 |
| 31216866 | t0104538 | Jayla       | Ancrum              | 1 |
| 30671359 | t0104564 | Sebastian   | Chadwick            | 1 |
| 31979680 | t0109407 | Terry       | Baker               | 1 |
| 26780034 | t0097414 | Ethan       | Hackfeld            | 1 |
| 26050520 | t0097381 | Altor       | Smith               | 1 |
| 24942015 | t0097367 | Eduardo     | Ricardo             | 1 |
| 30572762 | t0104644 | Joel        | Romero              | 1 |
| 21750759 | t0097318 | NyJeana     | Belle               | 1 |
| 27494227 | t0097439 | Samuel      | Sheaffer            | 1 |
| 26893868 | t0097416 | Kyle        | Green               | 1 |
| 26096221 | t0097391 | Pamela      | Berger              | 1 |
| 25257358 | t0097358 | John        | Neumann             | 1 |
| 27208594 | t0097413 | Myles       | Jenkins             | 1 |
| 30955194 | t0105121 | Samuel      | Tomlinson           | 1 |
| 26170252 | t0097392 | Andressa    | Pereira             | 2 |
| 29480973 | t0097503 | Zabdiel     | Rivera              | 1 |
| 24826756 | t0097360 | Carlos      | Freitas             | 2 |
| 29729210 | t0100565 | Marco       | Rincon              | 2 |
| 27232929 | t0097437 | Richard     | Filipiak            | 1 |
| 17474053 | t0097286 | Joao        | Vicente Moreira Jui | 2 |
| 31381967 | t0107440 | Adailson    | Coelho              | 1 |
| 27035859 | t0097421 | Angie       | Stanfield           | 1 |
| 29533801 | t0100192 | Brittany    | Lesston             | 1 |
| 20103254 | t0097304 | Sau         | Chui                | 3 |
| 29729212 | t0100221 | Robert      | Haight              | 2 |
| 28196229 | t0097461 | BENIGNO     | CANELLES            | 2 |
| 20128776 | t0097306 | Edval       | Ferreira Dos Santos | 2 |
| 17353465 | t0097271 | Kalene      | Mcneal              | 1 |
| 27447978 | t0097430 | Daniel      | Middleton           | 1 |
| 27742353 | t0097452 | Gayle       | Grayson             | 1 |
| 17353468 | t0097272 | Herbert     | Allen               | 1 |
| 24758816 | t0097364 | Audio       | Rondon              | 3 |
| 23488469 | t0097334 | Leandro     | Dos Santos          | 1 |
| 29845113 | t0100441 | Michael     | Wise                | 1 |
| 17353472 | t0097273 | Amy         | Russell             | 1 |
| 29932642 | t0101941 | Tiffany     | Smalls              | 1 |
| 19440180 | t0097294 | Paul        | Chalker             | 1 |
| 29584744 | t0100527 | Willis      | White               | 1 |
| 29313683 | t0097489 | Eddie       | Coe                 | 1 |
| 30350132 | t0103209 | Ashley      | Butler              | 1 |
| 30319581 | t0103280 | Evan        | Wilson              | 1 |

|          |          |            |                  |   |
|----------|----------|------------|------------------|---|
| 29790516 | t0101036 | Alessandra | Allen            | 1 |
| 29890273 | t0100146 | Camila     | Fragoso          | 1 |
| 25135463 | t0097372 | Gerardo    | Polo             | 1 |
| 26947378 | t0097419 | Jessica    | Blitz            | 1 |
| 19834506 | t0097298 | HAROLD     | NIXON            | 1 |
| 17353484 | t0097274 | Hong       | Truong           | 1 |
| 28846719 | t0097482 | Amberly    | Robinson         | 1 |
| 30421116 | t0103159 | Liam       | McGovern         | 1 |
| 22854833 | t0097327 | Andrey     | Pereira          | 1 |
| 31979692 | t0109324 | Doretha    | Greer            | 4 |
| 24669777 | t0097355 | Kevin      | Posey            | 1 |
| 28989713 | t0097486 | Reginald   | Reed             | 3 |
| 29148527 | t0097495 | Erika      | Durao            | 2 |
| 24082474 | t0097344 | Russell    | Lugtu            | 3 |
| 27585025 | t0097443 | Derek      | Santos           | 1 |
| 28617603 | t0097481 | Miriam     | Rodriguez        | 1 |
| 24605804 | t0097362 | Nathanael  | Baker            | 1 |
| 20016300 | t0097303 | Claudiceia | Bueno            | 1 |
| 29044212 | t0097478 | Christie   | Coppin           | 2 |
| 17353498 | t0097275 | Jayuntay   | Williams         | 2 |
| 25365815 | t0097374 | Fernando   | Pitt             | 4 |
| 26588378 | t0097404 | Keegan     | Evanicki         | 1 |
| 23660791 | t0097337 | Raymond    | Gudex            | 1 |
| 29639715 | t0100208 | Jameil     | Brown            | 1 |
| 17353505 | t0097276 | John       | Reeder           | 2 |
| 31680004 | t0107689 | Katelyn    | Powell           | 2 |
| 27187369 | t0097424 | Timothy    | Regan            | 2 |
| 17353508 | t0097278 | Michael    | Gregory          | 1 |
| 22914706 | t0097326 | Jessica    | Taylor           | 1 |
| 30544551 | t0103161 | Yohan      | Bravo            | 2 |
| 31569771 | t0108609 | Erika      | Benites          | 1 |
| 28989714 | t0097456 | Liseth     | Santiago         | 1 |
| 30294700 | t0103125 | Megan      | Wilder           | 1 |
| 31246100 | t0107743 | Aquiles    | Arcia            | 1 |
| 28196230 | t0097458 | Flavio     | Moratto          | 2 |
| 29133043 | t0097493 | Camilo     | Abreu            | 2 |
| 30931812 | t0105545 | Sandro     | Pereira de Sousa | 4 |
| 21197239 | t0097314 | Amber      | Sugama           | 2 |
| 23807968 | t0097346 | Marcos     | Arlindo          | 1 |
| 26347244 | t0097397 | Juan       | Arenas           | 1 |
| 26569757 | t0097405 | Katherine  | Doumani          | 1 |
| 24057674 | t0097349 | Franklin   | Lester           | 1 |
| 30610220 | t0104822 | Melvin     | Moya             | 1 |
| 29480974 | t0100105 | Marciel    | Azevedo          | 1 |
| 17353529 | t0097279 | He         | Chen             | 2 |
| 27018306 | t0097418 | Pastor     | Garcia           | 2 |
| 30073946 | t0101308 | Benjamin   | James jr         | 1 |

|          |          |            |              |                    |   |
|----------|----------|------------|--------------|--------------------|---|
| 31066487 | t0107004 | [REDACTED] | Montria      | McMurray           | 1 |
| 26871157 | t0097408 | [REDACTED] | Marie        | Grayson            | 2 |
| 29133045 | t0097492 | [REDACTED] | Wereques     | Bonfim             | 1 |
| 27710340 | t0097440 | [REDACTED] | Luz          | Arriojas           | 2 |
| 23660792 | t0097331 | [REDACTED] | Jesus Alirio | Almao Salcedo      | 1 |
| 31522356 | t0108644 | [REDACTED] | Adair        | Williams           | 1 |
| 18583291 | t0097288 | [REDACTED] | Ruby         | Hannah             | 1 |
| 28617611 | t0097479 | [REDACTED] | Jussara      | Andrade            | 2 |
| 23718557 | t0097338 | [REDACTED] | Jorge        | Camacaro           | 1 |
| 25794456 | t0097382 | [REDACTED] | Elisha       | Scott              | 2 |
| 26550976 | t0097402 | [REDACTED] | melody       | bessinger          | 2 |
| 30212848 | t0103129 | [REDACTED] | Marquyole    | Faria              | 1 |
| 28244166 | t0097467 | [REDACTED] | Elijah       | Fulton             | 1 |
| 17353547 | t0097282 | [REDACTED] | Alan         | Johnson            | 2 |
| 17353548 | t0097283 | [REDACTED] | Violet       | D Souza            | 4 |
| 17353549 | t0097284 | [REDACTED] | Hanan        | Ahmed              | 4 |
| 29456592 | t0097315 | [REDACTED] | Jose         | Costa              | 1 |
| 18835285 | t0097291 | [REDACTED] | Thomas       | Morris             | 1 |
| 24362345 | t0097357 | [REDACTED] | Edson        | Batista            | 1 |
| 20989458 | t0097313 | [REDACTED] | Tan          | Luong              | 2 |
| 31741943 | t0109091 | [REDACTED] | Bruna        | Pereira Nascimento | 3 |
| 25208239 | t0097371 | [REDACTED] | Ian          | Pruitt             | 2 |
| 19328429 | t0097293 | [REDACTED] | Michelle     | Jones              | 2 |

| Resident Code | Community Tenant Code | Community Unit Code | Community First Name | Community Last Name | Community Occupants |
|---------------|-----------------------|---------------------|----------------------|---------------------|---------------------|
| 28904230      | t0083675              |                     | James                | Scruggs             | 2                   |
| 31216862      | t0106972              |                     | Hunter               | Roy                 | 3                   |
| 27114421      | t0083635              |                     | Rosalie              | Rodriguez           | 1                   |
| 24669977      | t0083573              |                     | Anthony              | Murphy              | 2                   |
| 30056543      | t0100496              |                     | Marquesha            | Miller              | 1                   |
| 29850971      | t0100773              |                     | Tatyana              | Rot                 | 2                   |
| 29440557      | t0083705              |                     | Freddy               | Ruehl               | 2                   |
| 20103319      | t0083536              |                     | Joshua               | Fritz               | 3                   |
| 24882845      | t0083579              |                     | Jeneva               | Shippy              | 1                   |
| 26642235      | t0083611              |                     | Jessica              | Owen                | 3                   |
| 31369647      | t0106835              |                     | Srujan               | Shetty              | 1                   |
| 26827447      | t0083619              |                     | Shamar               | Martin              | 1                   |
| 31791224      | t0108864              |                     | John                 | Wray                | 2                   |
| 27608603      | t0083652              |                     | Allen                | Taste               | 1                   |
| 28193762      | t0083662              |                     | Titus                | Hill                | 1                   |
| 26484910      | t0083603              |                     | Crystal              | Bennett             | 2                   |
| 30748331      | t0105501              |                     | Caleb                | Kemp                | 2                   |
| 30555555      | t0104374              |                     | Frank                | Charles             | 1                   |
| 19853260      | t0083526              |                     | Steven               | Paradis             | 2                   |
| 29544820      | t0100113              |                     | Joseph               | Jeanes              | 1                   |
| 29292493      | t0083699              |                     | Brittany             | Belin               | 1                   |
| 30789120      | t0105697              |                     | Disha                | Patel               | 3                   |
| 31508662      | t0108660              |                     | Michael              | Schilling           | 1                   |
| 31246092      | t0106629              |                     | Chel-c               | Sims                | 1                   |
| 32104842      | t0109760              |                     | Justin               | Mccary              | 1                   |
| 31575957      | t0106646              |                     | Ethan                | Phelps              | 1                   |
| 25397589      | t0083587              |                     | Matthew              | Harms               | 1                   |
| 27392851      | t0083643              |                     | Zicorian             | Legg                | 1                   |
| 19853270      | t0083527              |                     | Jeff                 | Mabry               | 1                   |
| 31695096      | t0107298              |                     | Jillian              | Sorrenti            | 2                   |
| 32043596      | t0110090              |                     | Keya                 | Patel               | 2                   |
| 31724522      | t0109414              |                     | Timothy              | Deese               | 1                   |
| 31738929      | t0109211              |                     | Francisco            | Molina Rizzo        | 4                   |
| 31738930      | t0109392              |                     | Demorea              | Mcknight            | 3                   |
| 31813728      | t0109486              |                     | Whitney              | Russell             | 2                   |
| 31670242      | t0109207              |                     | Sophia               | Hendy               | 4                   |
| 31738935      | t0109515              |                     | Jaylen               | Mcknight            | 2                   |
| 30719328      | t0105089              |                     | Casey                | Woodsby             | 1                   |
| 29880456      | t0100608              |                     | Arunaben             | Patel               | 2                   |
| 27829137      | t0083661              |                     | Vien                 | Huynh               | 1                   |
| 21971901      | t0083547              |                     | Devarshi             | Patel               | 2                   |
| 24348840      | t0083568              |                     | John                 | Barnwell            | 1                   |
| 26970055      | t0083631              |                     | John                 | Isaac               | 1                   |

|          |          |             |             |   |
|----------|----------|-------------|-------------|---|
| 26347713 | t0083599 | Bruce       | Poe         | 1 |
| 30789121 | t0104763 | Barbara     | Hall        | 1 |
| 30861305 | t0105024 | Ethan       | Griffin     | 1 |
| 30287807 | t0103319 | Stephen     | Johnson     | 1 |
| 21030092 | t0083544 | Shanda      | Jackson     | 1 |
| 32148086 | t0110119 | Michael     | Skinner     | 1 |
| 31261957 | t0107869 | Mitchell    | Davis       | 1 |
| 32104843 | t0105797 | Ritaben     | Sheth       | 1 |
| 27149467 | t0083632 | Tammie      | Sims        | 1 |
| 19853296 | t0083528 | Thomas      | Russell     | 2 |
| 30003793 | t0101691 | Andrew      | Tipton      | 2 |
| 28244628 | t0083664 | Karly       | Sanders     | 2 |
| 22584666 | t0083552 | Baker       | Harrison    | 2 |
| 27289733 | t0083640 | Tammy       | Smith       | 1 |
| 24250671 | t0083567 | Shantae     | Clarke      | 1 |
| 29585195 | t0083689 | Adam        | Brown       | 2 |
| 19853303 | t0083529 | Shirley     | Gwynn       | 2 |
| 20404252 | t0083538 | Navichandra | Patel       | 1 |
| 30976058 | t0106496 | Jonathan    | McPeters    | 2 |
| 30931806 | t0105291 | Arius       | Walker      | 1 |
| 29396678 | t0083700 | Jonathan    | Hano        | 1 |
| 27392852 | t0083638 | Tazha       | Rowe        | 2 |
| 29640078 | t0100384 | Kaylee      | Culler      | 1 |
| 29183247 | t0083692 | Animesh     | Srivastava  | 1 |
| 20668939 | t0083541 | Joe         | Johnson     | 1 |
| 24057771 | t0083565 | Tennille    | Woodard-Mit | 2 |
| 25306835 | t0083584 | Mya         | Landrum     | 2 |
| 31670243 | t0106194 | Michael     | Brennan     | 1 |
| 29481182 | t0083698 | Alexander   | Generett    | 1 |
| 31907284 | t0107045 | Jonathon    | Varner      | 2 |
| 32240324 | t0110539 | Jan         | Ingerson    | 1 |
| 31670244 | t0107090 | Austin      | Herbert     | 2 |
| 27024231 | t0083630 | Monica      | Farr        | 1 |
| 26851703 | t0083618 | Brandy      | Magee       | 2 |
| 26074891 | t0083595 | Katrina     | Grayson     | 2 |
| 30169989 | t0101112 | Ayanna      | Bobo        | 2 |
| 29850972 | t0100876 | Audrey      | Riembeau    | 1 |
| 22729695 | t0083553 | Mario       | Baez        | 2 |
| 24882851 | t0083582 | Deonte      | Tracy       | 1 |
| 31425048 | t0105642 | Shaunnitra  | Peak        | 1 |
| 26685865 | t0083610 | Eva         | Phillips    | 2 |
| 31496138 | t0106936 | Zachary     | Thebo       | 1 |
| 32043597 | t0107770 | Chad        | Hanna       | 2 |
| 30169991 | t0100938 | Denise      | Duchene     | 2 |
| 31280833 | t0105760 | Norbrisha   | Collins     | 2 |
| 30897287 | t0106167 | Danielle    | Fuller      | 2 |
| 20185257 | t0083537 | Miguel      | Perez       | 3 |

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|----------|----------|----------------------|---|
| 29183248 | t0083693 | JyQuentavius Johnson | 1 |
| 24775549 | t0083571 | Nyasia Gamble        | 2 |
| 22189668 | t0083550 | Kimberly Pressley    | 2 |
| 23344636 | t0083558 | Latoya Teamer        | 2 |
| 32127197 | t0109349 | Andrew Jacobs        | 1 |
| 25864239 | t0083590 | Sujan Devarakonda    | 2 |
| 31555629 | t0106301 | Olivia Enfinger      | 3 |
| 30287810 | t0102856 | Brenda Gaines        | 2 |
| 19853336 | t0083530 | Timothy Truong       | 2 |
| 30719332 | t0105060 | Ralan Wardlaw        | 1 |
| 29541070 | t0099997 | Abdiel Defendini     | 4 |
| 24912021 | t0083580 | Danielle Gunter      | 2 |
| 30797532 | t0105587 | Ashlyn Lowry         | 2 |
| 27938247 | t0083666 | Nathan Bowers        | 3 |
| 31124599 | t0105775 | Keena Hearst         | 2 |
| 31966489 | t0108316 | Andrew Lindsey       | 1 |
| 29640079 | t0100598 | Moneric Davis        | 1 |
| 31813729 | t0109262 | Jesse Brown          | 1 |
| 29440559 | t0083703 | Deborah Ruiz         | 1 |
| 30582418 | t0104795 | Tyrion Guider        | 1 |
| 30192228 | t0100992 | Akhirah Hare         | 2 |
| 31496142 | t0108770 | Bryson Turner        | 1 |
| 32205339 | t0110372 | Andrew Sharp         | 1 |
| 29780257 | t0100874 | Deonte Jones         | 1 |
| 27432597 | t0083644 | Steven Robinson      | 1 |
| 31396103 | t0108323 | Gregory Haley Jr     | 1 |
| 29932552 | t0101559 | Jacob Krawiec        | 1 |
| 26886367 | t0083623 | Jeremiah Johnson     | 1 |
| 28753356 | t0083672 | Durell Freeman       | 1 |
| 29075921 | t0083685 | Ethan Meetze         | 1 |
| 30342004 | t0103358 | Jackie Leija         | 1 |
| 26809175 | t0083617 | William Blackburn    | 1 |
| 19875406 | t0083535 | Melissa Wright       | 1 |
| 22556556 | t0083551 | Nyckole Delgado      | 1 |
| 23453957 | t0083561 | John Wright          | 1 |
| 30319808 | t0103058 | Adra Hanscomb        | 3 |
| 31569761 | t0106345 | Hillary Brodowski    | 1 |
| 27494774 | t0083646 | Chelsea Shepherd     | 2 |
| 29585196 | t0083704 | Lana Killian         | 2 |
| 29292494 | t0083695 | Jeremy Post          | 3 |
| 23774024 | t0083562 | Gwendolyn Dawkins    | 1 |
| 23567279 | t0083559 | Erich Brown          | 1 |
| 29388035 | t0083690 | Reece Thompson       | 2 |
| 29016308 | t0083684 | Jeffery Morley       | 2 |
| 26074892 | t0083596 | Andrew Reinhardt     | 2 |
| 27639207 | t0083648 | Kanavis Lambert      | 2 |
| 26827449 | t0083614 | JaWon Whaley         | 1 |

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| 19853367 | t0083532 | Calvin      | Rice       | 2 |
| 19853368 | t0083533 | Angelia     | Stanley    | 1 |
| 31907293 | t0109156 | Willie      | Wilkerson  | 4 |
| 31738939 | t0109060 | Moyse       | Romane     | 2 |
| 24602349 | t0083570 | Inaya       | Thompson   | 2 |
| 30169992 | t0101828 | Zakoria     | Bluford    | 2 |
| 22109676 | t0083549 | Binalben    | PATEL      | 1 |
| 29149154 | t0083687 | Demarkus    | Williams   | 1 |
| 27676323 | t0083649 | Leander     | Woodruff   | 1 |
| 29229948 | t0083691 | Zennita     | Chan       | 1 |
| 28937204 | t0083681 | Antravesha  | Smith      | 2 |
| 26642237 | t0083612 | Ricardo     | Norato     | 1 |
| 30636408 | t0104777 | Tejas       | Patel      | 2 |
| 30856198 | t0106040 | James       | Miller     | 1 |
| 26615485 | t0083606 | keldriana   | palmore    | 1 |
| 24560395 | t0083569 | Scott       | Moon       | 2 |
| 27608605 | t0083651 | Linda       | Lay        | 1 |
| 21503767 | t0083540 | Chaddy      | Gary       | 1 |
| 29388044 | t0083702 | Onyx        | Bynum      | 1 |
| 31280835 | t0105926 | Kachingwe   | Singoyi    | 2 |
| 31544930 | t0108903 | Timothy     | Moultrie   | 5 |
| 30671356 | t0104189 | Christina   | Maness     | 2 |
| 29744115 | t0100904 | Jose        | Baires     | 3 |
| 29872164 | t0101487 | Rebecca     | Kromoff    | 2 |
| 31508663 | t0108913 | Britany     | Phillips   | 2 |
| 28782928 | t0083673 | Christopher | Webb       | 1 |
| 30056544 | t0102062 | Darien      | Nichols    | 2 |
| 28019358 | t0083660 | Jairo       | Hernandez  | 1 |
| 30453247 | t0103618 | Stephanie   | Wise       | 2 |
| 25422701 | t0083588 | Jesse       | Stidham    | 3 |
| 26832164 | t0083616 | Crystal     | Weber      | 3 |
| 25440688 | t0083589 | Elexis      | Richardson | 2 |
| 25850762 | t0083593 | Shylo       | Ottosen    | 2 |

# Exhibit I

Exhibits to Complainants' Motion for Order Granting Complainants Relief and Memorandum in  
Opposition to Respondents' Request for an Order Dismissing on the Written Record

*Zito, et al. v. Strata Audubon, LLC, et al.*

Docket No. 2022-84-WS

1516

APP 001524

# **Black's Law Dictionary<sup>®</sup>**

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# Black's Law Dictionary<sup>®</sup>

Eighth Edition

Bryan A. Garner  
Editor in Chief



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610 Opperman Drive  
P.O. Box 64526  
St. Paul, MN 55164-0526  
1-800-328-9352

Printed in the United States of America

ISBN 0-314-15199-0

ISBN 0-314-15234-2—deluxe



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2nd Reprint —2007

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used, e.g., in equal-protection analysis when the disputed law requires strict scrutiny. See STRICT SCRUTINY. [Cases: Constitutional Law 213.1(2). C.J.S. Constitutional Law §§ 714, 716, 718.]

**compensable** (kəm-pen-sə-bəl), *adj.* Able or entitled to be compensated for <a compensable injury>. — Also termed *recompensable*.

**compensable death.** See DEATH.

**compensable injury.** See INJURY.

**compensate** (kəm-pən-sayt), *vb.* 1. To pay (another) for services rendered <the lawyer was fairly compensated for her time and effort>. 2. To make an amendatory payment to; to recompense (for an injury) <the court ordered the defendant to compensate the injured plaintiff>.

**compensated surety.** See SURETY.

**compensating balance.** The amount of money that a borrower from a bank is required to keep on deposit as a condition for a loan or a line of credit.

**compensatio** (kom-pen-say-shee-oh), *n.* [Latin "weighing; balancing"] *Roman law.* A defendant's claim to have the plaintiff's demand reduced by the amount that the plaintiff owes the defendant. See SETOFF (2).

**compensatio criminis** (kom-pen-say-shee-oh krim-ə-nis). [Latin] *Eccles. law.* A defendant's plea in a divorce action, alleging that the complainant is guilty of the same conduct that the defendant is charged with, esp. adultery. See RECRIMINATION (1).

"The *compensatio criminis* is the standard canon law of England in questions of divorce, and it is founded on the principle that a man cannot be permitted to complain of the breach of a contract which he had first violated; and the same principle, it is to be presumed, prevails in the United States. So, if the injured party, subsequently to the adultery, cohabits with the other, or is otherwise reconciled to the other, after just grounds of belief in the fact, it is, in judgment of law, a remission of the offense, and a bar to the divorce." 4 James Kent, *Commentaries on American Law* \*100-01 (George Comstock ed., 11th ed. 1866).

**compensatio injuriarum** (kom-pen-say-shee-oh in-juur-ee-air-əm). [Latin "the compensation of wrongs"] *Scots law.* The setoff in a defamation action.

**compensation** (kom-pən-say-shən), *n.* 1. Remuneration and other benefits received in return for services rendered; esp., salary or wages. [Cases: Master and Servant 68-72.5. C.J.S. *Employer-Employee Relationship* §§ 132-133, 138-153, 155-156, 163-172, 174-176.]

"Compensation consists of wages and benefits in return for services. It is payment for work. If the work contracted for is not done, there is no obligation to pay. [Compensation] includes wages, stock option plans, profit-sharing, commissions, bonuses, golden parachutes, vacation, sick pay, medical benefits, disability, leaves of absence, and expense reimbursement." Kurt H. Decker & H. Thomas Felix II, *Drafting and Revising Employment Contracts* § 3.17, at 68 (1991).

2. Payment of damages, or any other act that a court orders to be done by a person who has caused injury to another. • In theory, compensation makes the injured person whole. [Cases: Damages 15. C.J.S. *Damages* §§ 21-22.] 3. SETOFF (2). — **compensatory**, (kəm-pen-sə-tor-ee), **compensational** (kom-pən-say-shə-nəl), *adj.*

**accrued compensation.** Remuneration that has been earned but not yet paid.

**adequate compensation.** See *just compensation*.

**deferred compensation.** 1. Payment for work performed, to be paid in the future or when some future event occurs. [Cases: Master and Servant 72. C.J.S. *Employer-Employee Relationship* §§ 146-152, 155, 175.] 2. An employee's earnings that are taxed when received or distributed rather than when earned, such as contributions to a qualified pension or profit-sharing plan.

**just compensation.** Under the Fifth Amendment, a payment by the government for property it has taken under eminent domain — usu. the property's fair market value, so that the owner is theoretically no worse off after the taking. — Also termed *adequate compensation*; *due compensation*; *land damages*. [Cases: Eminent Domain 122-150. C.J.S. *Eminent Domain* §§ 71-72, 86, 116-141, 144-146, 148, 151, 153, 155-156, 159-170, 172-177.]

**unemployment compensation.** Compensation paid at regular intervals by a state agency to an unemployed person, esp. one who has been laid off. [Cases: Social Security and Public Welfare 251. C.J.S. *Social Security and Public Welfare* §§ 146-150, 211.]

**unreasonable compensation.** Tax. Compensation that is not deductible as a business expense because the compensation is out of proportion to the services actually rendered or because it is in excess of statutorily defined limits. IRC (26 USCA) § 162. [Cases: Internal Revenue 3323. C.J.S. *Internal Revenue* § 162.]

**Compensation Clause.** The clause of the U.S. Constitution providing for federal judges to be paid. U.S. Const. art. III, § 1, cl. 2.

**compensation period.** The time fixed by unemployment or workers'-compensation law during which an unemployed or injured worker is entitled to receive compensation. [Cases: Social Security and Public Welfare 728; Workers' Compensation 836-868. C.J.S. *Social Security and Public Welfare* § 292; *Workmen's Compensation* §§ 545-574, 582.]

**compensatory damages.** See DAMAGES.

**compensatory payment.** *Family law.* A postmarital spousal payment made by the richer ex-spouse to the poorer one and treated as an entitlement rather than as a discretionary award. • Compensatory payments are set by statute and are based on a formula using the length of the marriage, differences in postdivorce income, role as primary caregiver, and other factors. The purpose is to compensate somewhat for disparate income levels after a failed marriage. Cf. ALIMONY.

**compensatory time.** See COMP TIME.

**comperendinatio** (kom-pər-en-də-nay-shee-oh), *n.* [Latin "to remand to the next day but one"] *Roman law.* An adjournment of an action, particularly one of the *actiones legis*, to hear the parties or their advocates a second time; a second hearing of the parties to a case. • The judge (judex) would decide the case at

**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. 2022-84-WS**

SARAH ZITO, ALVARO SARMIENTO,  
JR., MARK SHINN; AND DANIEL  
BERMUDEZ,

Tenants,

v.

STRATA AUDUBON, LLC AND STRATA  
VERIDIAN, LLC,

Respondents.

**RESPONDENTS' REQUEST FOR AN  
ORDER FINDING THAT NO  
TESTIMONIAL HEARING IS  
REQUIRED IN THIS CUSTOMER  
COMPLAINT PROCEEDING AND  
DISMISSING THE MATTER BASED ON  
THE WRITTEN RECORD BEFORE IT**

Respondents Strata Audubon, LLC and Strata Veridian, LLC, by and through counsel and pursuant to S.C. Code Regs. 103-829, hereby move for an order from the Public Service Commission of South Carolina (the "Commission") finding that no hearing is required in this customer complaint proceeding and dismissing the matter based on the written record before it.

**SUMMARY OF THE REQUEST**

This docket concerns a complaint by four tenants (the "Tenants") alleging that the Respondents' inclusion of pass-through charges for water and sewer service in monthly rental payments constitutes the unlawful provision of public utility service. This allegation is flatly contradicted by established Commission precedent consistently interpreting the term "public utility" not to include landlords who pass the costs of utility services to their tenants through rental charges. *In re Rule to Show Cause on Submeterers*, Docket No. 2001-485-WS, Order No. 2003-214 (2003); *In re Seahorse*, Docket No. 2008-192-WS, Order No. 2008-725; *In re Quail Pointe Apartments*, Docket No. 2007-228-G, Order No. 2008-853.

In this case, Respondents allocate water and sewer costs to their tenants in their two multi-family properties based in one case on the number of persons living in the unit, or in the other based on a combination of the number of persons and square footage of the units. The complaint acknowledges that the applicable formula is stated in a specific addendum to the Tenants' rental agreements. The complaint relies solely on the Commission Order Nos. 2003-214 and 2008-725 to claim that Respondents are acting as unauthorized public utilities (Complaint, ¶ 46) but these Orders declare instead that "submeterers of water and wastewater *do not* meet the statutory definition of a 'public utility'[".]” Order No. 2003-214, page 10, ¶ 2 (emphasis added).

This is not a contested case proceeding under the South Carolina Administrative Procedures Act, S.C. Code Ann. § 1-23-310 and no statutory right to an evidentiary hearing is involved. Respondents have filed an affidavit substantiating all relevant facts, which are not contested in the Tenants' complaint or otherwise. (*See Attached Affidavit of Andrew Gordon, Ex. 1*). For these reasons, it is entirely appropriate for the Commission to take this matter up on the written record before it and deny the complaint on the merits.

### **FACTUAL BACKGROUND**

The Tenants are former tenants of two properties owned by Respondents, the Grove Apartments and the Audubon Park Apartments (collectively, "the properties"). Pursuant to the terms of the lease agreement between the parties, the Tenants agreed to be responsible for the payment of water and sewer services pursuant to an allocation method, also known as a ratio utility billing system ("RUBS"), based on a combination of the square footage of the dwelling unit and the number of persons residing in the dwelling unit (Veridian property), or the number of persons residing in the dwelling unit (Audubon property). (*See Complaint, ¶ 15, 17, 33, 34, Exhibit A and B*). It is undisputed that "there are no meters on [Respondents'] properties determining the actual

water and sewerage usage of [Respondents'] tenants." (Complaint, ¶ 16). Indeed, the properties at issue were originally constructed in 1998 (the Grove Apartments) and 1991 (Audubon Park Apartments), and the water and sewer service is measured by a master meter, but there is no individual water or sewer submetering infrastructure in either of the buildings. (Affidavit of Andrew Gordon, ¶¶ 3, 4).

There are no claims that Respondents sought or obtained a profit through the billing of water and sewer services. To the contrary, Respondents contracted with a third-party billing company, Conservice, to provide the billing services, which Tenants agreed to in the lease. (Compl., Exhibit A, p. 11; Exhibit B, p. 11). Respondents did not contract directly with any utility providers, and did not bill tenants directly. (Affidavit of Andrew Gordon, ¶ 5, Ex. 1). Respondents do not have a monopoly over any service area; do not own any large, capital-intensive utility infrastructure; and did not seek a guaranteed rate of return. (Affidavit of Andrew Gordon, ¶ 7, Ex. 1). Since the properties do not have individual meters to measure actual usage of each tenant, Respondents' third-party billing company, Conservice, sought to recover the actual costs of water and sewer services to its tenants through an allocation method on a not-for-profit, pass-through basis. (Affidavit of Andrew Gordon, ¶ 6, Ex. 1). Respondents do not take possession of the water or sewer, and do not have ability to disconnect or shut off water to a tenant for failure to pay charges. (Affidavit of Andrew Gordon, ¶ 8, Ex. 1).

The sole issue before the Commission, is whether the allocation formula agreed to among the parties, subjects Respondents to public utility status.

Tenants have previously filed the same complaint in federal district court, which was dismissed for failure to exhaust administrative remedies. As the federal district court concluded: "Thus, all of [Tenants'] claims depend on whether [Respondents] are public utilities under South

Carolina’s utility law[.]” *Zito v. Strata*, Civil Action No. 2:20-cv-3808-BHH (2021). Having been dismissed by the federal district court, Tenants now bring their claims to the Commission.

The material facts relevant to the threshold issue of whether Respondents are a public utility merely by passing through costs of water and sewer services to its tenants are not in dispute and the Commission should dismiss this matter, consistent with the Commission’s prior precedent.

## **ARGUMENT**

### **I. Respondents Are Not a Public Utility**

The South Carolina Code of Laws defines “public utility” as every person “furnishing or supplying” water or sewer service to the public for compensation. S.C. Code Ann. § 58-5-10(4). The Commission has consistently interpreted the term “public utility” not to include submeterers. *In re Rule to Show Cause on Submeterers*, Docket No. 2001-485-WS, Order No. 2003-214 (2003); *In re Seahorse*, Docket No. 2008-192-WS, Order No. 2008-725; *In re Quail Pointe Apartments*, Docket No. 2007-228-G, Order No. 2008-853. Specifically, the activities of “measuring the commodity and providing billing functions” do not make submeterers “public utilities.” *Id.* Although Respondents do not utilize submetering infrastructure, they are similarly measuring the commodity and providing billing functions through an allocation formula implemented by a third-party billing company, which the Tenants call “the allocation version of submetering.” (Complaint, ¶ 46).

Tenants rely solely on the same orders cited above, Commission Order Nos. 2003-214 and 2008-725, to claim that Respondents are a public utility subject to the Commission’s jurisdiction and regulation. In doing so, Tenants erroneously claim that these Orders declare “that any entity that sells water or provides sewerage for compensation is a public utility *including entities that do so through submetering or the allocation version of submetering.*” (Complaint, ¶ 46

(emphasis added)). These Orders actually declare the opposite: “submeterers of water and wastewater **do not** meet the statutory definition of a ‘public utility’[.]” Order No. 2003-214, page 10, ¶ 2 (emphasis added). Tenants are misguided by their erroneous interpretation of the Commission’s Orders on submetering, and have no further legs to stand on.

There is no dispute among the parties that the allocation formula should be given similar treatment as submetering for the purposes of determining “public utility” status. Tenants refer to the allocation formula at issue as “the allocation version of submetering.” (Complaint, ¶ 46). Respondents agree. As the Utility Management & Conservation Association (“UMCA”) explains in their Letter of Protest filed in this docket on May 4, 2022:

A utility allocation method, also known as Ratio Utility Billing Systems (“RUBS”), is an alternative method of tenant billing of utilities, in contrast to sub-metering (a method used to measure actual utility usage), as a means of recovering the utility expense billed by a utility provider to a landlord for usage consumed by the tenants. RUBS is a common practice used by property owners nationwide that divides the utility expense proportionally between the tenants based on a mutually agreed-upon formula... Due to the nature of utilities and outdated building infrastructure, **RUBS is the most cost-efficient utility allocation mechanism for many buildings that lack a preexisting sub-meter infrastructure.** In such buildings, the addition of sub-meters is often cost-prohibitive, or simply infeasible. The use of RUBS does not provide a means for a landlord to profit from its utility billing to tenants, but simply a means of reimbursement of utility costs borne by tenants, yet assessed against landlords.

*Id.* (emphasis added). Since the properties at issue do not have water or sewer submeter infrastructure, the best alternative available to Respondents to pass-through the costs of providing the essential services of water and sewer to its tenants, is the allocation formula used and described in the lease agreements between the parties. Similar to submetering, the Respondents, through a third-party billing company, “merely measure the amount of flow of water or wastewater and provide billing functions.” Order No. 2003-214.

The Commission has also found the following factors persuasive in determining the public utility status of a submeterer:

- Billing on a not-for-profit, pass-through basis (Order Nos. 2003-214; 2008-853)
- Lacking the characteristics of a public utility (monopoly service area; owning large, capital-intensive utility infrastructure; guaranteed rate of return) (Order No. 2008-853)
- Ability to turn off water supply to individuals for failure to pay charges (Order No. 2008-725)
- The provision of “essential services” and available remedies under the South Carolina Landlord and Tenant Act (Order No. 2008-853)

Similar to these submetering cases, Respondents here bill tenants on a not-for-profit, pass-through basis, using a third-party billing company. There is no allegation in the Complaint, nor any evidence supporting, that Respondents are profiting from the allocation formula used under the terms of the lease agreement to recover costs of water and sewer services. Neither do Respondents have any other characteristic of a public utility: they have no monopoly over any service area, they do not own any utility infrastructure, and they do not seek a rate of return from the allocation formula used to recover the cost of water and sewer services. Respondents never take “possession” of the water or wastewater and have no ability to turn off water supply to individuals for failure to pay. There is no allegation or evidence to the contrary. And finally, the provision of water and sewer services is an “essential service” under the South Carolina Landlord and Tenant Act, which also provides appropriate protection and remedies for tenants regarding these services. S.C. Code. Ann. § 27-40-210(17).

The allocation formula used by the third-party billing company is the “allocation version of submetering” and should be treated similarly by the Commission. The justification behind the Commission’s conclusion that submeterers are not public utilities, is equally applicable to Respondents in this case who use an allocation formula to measure and provide billing functions, where submetering is unavailable due to the lack of infrastructure. Thus, Respondents are not a public utility merely by passing through the costs of water and sewer services to their tenants.

As stated by UMCA, RUBS is a common practice that provides an equitable method for a landlord to recover its utility expense and has even been found to reduce consumption and contribute towards water conservation.

### **CONCLUSION**

In conclusion, Respondents respectfully request the Commission find and conclude, consistent with prior Orders, that passing through the costs of water and sewer services to its tenants through an allocation formula does not subject an apartment owner to public utility status, and to issue an order on the merits ruling that Respondents are not public utilities subject to Commission jurisdiction and dismissing the Complaint.

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*Attorneys for Respondents*

April 12, 2023

# EXHIBIT 1

**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. 2022-84-WS**

SARAH ZITO, ALVARO SARMIENTO,  
JR., MARK SHINN; AND DANIEL  
BERMUDEZ,

Complainants,

v.

STRATA AUDUBON, LLC AND STRATA  
VERIDIAN, LLC,

Defendants.

**AFFIDAVIT OF ANDREW GORDON**

I, Andrew Gordon, after being duly sworn, state as follows:

1. I am over the age of 18 years old and give this affidavit based on my own personal knowledge of the facts stated herein.
2. I am the COO of Strata Equity Group, Inc. which is the parent company of Defendants Strata Audubon, LLC and Strata Veridian, LLC (collectively, the “Strata entities”) which own the Audubon Park Apartments and the Grove Apartments, respectively, (collectively, the “properties”).
3. The Audubon Park Apartment building was constructed in 1991. The building is served water and sewer through a master meter. There is no water or sewer submetering infrastructure in the building.
4. The Grove Apartment building was constructed in 1998. The building is served water and sewer through a master meter. There is no water or sewer submetering infrastructure in the building.
5. As the owner of the properties, the Strata entities contracted with a third-party billing provider, Conservice, to provide the billing functions for water and sewer service to resident units, and did not bill tenants directly. Nor did we contract directly with any utility providers for service to resident units.
6. The Strata entities contracted with the third-party billing company, Conservice, to recover the actual costs of water and sewer services to its tenants through an allocation formula method on a not-for-profit basis.

7. The Strata entities do not have any monopoly rights over any service area, we do not own any large, capital-intensive utility infrastructure, and we do not seek or obtain any guaranteed rate of return on the pass-through billing of water and sewer services.
8. The water and sewer services are provided to the properties by local utilities and the Strata entities never take possession of the water, and we do not have the ability to disconnect or turn off the water or sewer to an individual tenant for non-payment.
9. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment by contempt.

Respectfully submitted on April 10th, 2023

BY:



Andrew Gordon  
Strata Equity Group, Inc.

Sworn to and subscribed before me  
This the \_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Signature

My Commission expires:

**CALIFORNIA JURAT**

GOVERNMENT CODE § 8202

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

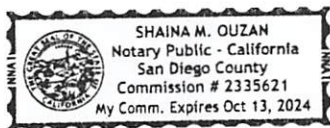
State of California

County of san diego

Subscribed and sworn to (or affirmed) before me on

this 10 day of April, 2023, by  
Date Month Year(1) Andrew Gordon(and (2) \_\_\_\_\_),  
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



Place Notary Seal and/or Stamp Above

Signature [Signature]  
Signature of Notary Public**OPTIONAL**

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**Description of Attached Document**Title or Type of Document: Affidavit of Andrew GordonDocument Date: \_\_\_\_\_ Number of Pages: 2

Signer(s) Other Than Named Above: \_\_\_\_\_

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

DOCKET NO. 2022-84-WS

IN RE:

|                               |   |                            |
|-------------------------------|---|----------------------------|
|                               | ) |                            |
| SARAH ZITO; ALVARO SARMIENTO, | ) |                            |
| JR.; MARK SHINN; AND DANIEL   | ) |                            |
| BERMUDEZ,                     | ) |                            |
|                               | ) |                            |
| Complainants,                 | ) |                            |
| v.                            | ) | <b>ANSWER TO COMPLAINT</b> |
|                               | ) |                            |
| STRATA AUDUBON, LLC AND       | ) |                            |
| STRATA VERIDIAN, LLC,         | ) |                            |
|                               | ) |                            |
| Defendants.                   | ) |                            |
| _____                         | ) |                            |

Defendants Strata Audubon, LLC and Strata Veridian, LLC (“Audubon,” “Veridian,” and collectively “Strata”) answer and respond to the Complainants’ Complaint as follows:

**Introduction**

This is an action in which Complainants assert that Strata, as the owner of two apartment complexes, operated a public utility without approval of this Commission because it allocated its water and sewer charges to its tenants using an allocation formula agreed by the parties in their lease. Based on these allegations of Strata being a public utility, Complainants seek a wide variety of monetary relief from actual and punitive damages to disgorgement of all payments by all of Strata’s current and former tenants for their share of the water and sewer charges.

Complainants first made the allegations now before the Commission in a class action complaint filed in the Court of Common Pleas for Charleston County in 2020. The complaint was removed to federal court and subsequently dismissed. In dismissing what were in substance the identical claims for monetary relief, the court noted the exclusive administrative remedies of this

Commission and the lack of a private right of action:

Thus, all of Plaintiff's claims depend on whether Defendants are public utilities under South Carolina utility law, and it appears Plaintiffs are merely attempting to disguise their claims for violation of South Carolina utility law as ordinary tort claim and claims under other South Carolina statutes. However, the Court agrees with Defendants that Plaintiffs may not do so, because South Carolina's utility law provides exclusive administrative remedies to Plaintiffs and does not provide for a private right of action.

Ex. A, *Zito v. Strata Equity Grp., Inc.*, No. 2:20-cv-3808-BHH, 2021 WL 4137553, at \*3 (D.S.C. Sept. 10, 2021) (citing *Wogan v. Kunze*, 366 S.C. 583, 623 S.E.2d 107 (2005)). Plaintiffs' complaint filed with this Commission, based on common law and statutory claims having no connection to utility regulation, seeks the same private cause of action money damages relief that the United States District Court of the District of South Carolina has already ruled does not exist or apply.

The only question raised by Complainants that is properly before this Commission is whether Strata was operating a public utility pursuant to the vacated Order No. 1999-37 in *In Re Rule to Show Cause on Submeterers* as urged by Complainants or whether Strata's allocations of utility charges to its tenants does not render it a public utility in keeping with the rational of the final orders entered in *Mill Creek Marina and Campground*, Docket No. 2011-479-E, and *Quail Pointe Apartments*, Docket No. 2007-228-G, and similar matters. Strata respectfully urges the Commission to find the latter dictates the conclusion that Strata was a landlord and was not engaged in the operation of a public utility.<sup>1</sup>

What follows are responses to the specific allegations in the Complaint.

**For a First Defense**

1. All allegations not specifically admitted are denied.
2. Paragraphs 1 and 2 are admitted.

3. Answering Paragraph 3, Strata admits that Complainants Zito and Sarmiento at one time leased an apartment at Audubon Park Apartments, admits that the Complainants resided at the apartment, and admits the address of the complex. Strata lacks information as to whether these Complainants still reside at Audubon Park Apartments.

4. Paragraph 4 is denied.

5. Answering Paragraph 5, Strata admits Complainant Shinn at one time leased an apartment at Grove Apartments, admits the Complainant resided at the apartment, and admits the address of the complex. Strata lacks information as to whether this Complainant still resides at the Grove Apartments.

6. Answering Paragraph 6, Strata admits Complainant Bermudez at one time leased an apartment at the Grove Apartments, admits that this Complainant resided at the apartment, and admits the address of the complex. Strata lacks information as to whether this Complainant still resides at the Grove Apartments.

7. Paragraph 7 is denied.

8. Paragraph 8 is an overview of Complainants' allegations to which no response is required.

9. Paragraph 9 is admitted with respect to the time period a Strata entity owned Audubon Park Apartments.

10. Paragraph 10 is admitted.

11. Answering Paragraph 11, Strata incorporates its response to Paragraph 3.

12. Paragraph 12 is admitted.

13. Answering Paragraph 13, Strata denies entering the same lease with other tenants.

14. Paragraph 14 is admitted.

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<sup>1</sup> Strata no longer owns the apartment complexes that are the subject of the complaint.

15. Paragraph 15 is admitted in substance, but Strata would refer the Commission to the lease documents for the precise terms and conditions.

16. Paragraph 16 is admitted for the time period a Strata entity owned the properties.

17. Paragraphs 17 and 18 are admitted in substance, but Strata would refer the Commission to the lease documents for the precise terms and conditions.

18. Answering Paragraph 19 and 20, Strata has no personal knowledge of the alleged facts beyond what was represented on the lease.

19. Answering Paragraph 21, 22, 23, 24, and 25, Strata has no personal knowledge of the alleged facts.

20. Paragraph 26 is admitted with respect to the time period a Strata entity owned the Grove Apartments.

21. Paragraph 27 is admitted.

22. Answering Paragraphs 28 and 29, Strata incorporates its responses to Paragraphs 5 and 6.

23. Paragraph 30 is admitted.

24. Answering Paragraph 31, Strata denies entering the same lease with other tenants.

25. Paragraph 32 is admitted.

26. Paragraphs 33, 34, and 35 are admitted in substance, but Strata would refer the Commission to the lease documents for the precise terms and conditions.

27. Answering Paragraph 36, Strata has no personal knowledge of the alleged facts.

28. Answering Paragraph 37, Strata as a nonresident owner admits it did not confirm persons residing in the apartments. Strata lacks personal knowledge of the actions of the onsite property managers.

29. Paragraphs 38 and 39 state conclusions of law to which no response is required.
30. Paragraph 40 is admitted.
31. Answering Paragraph 41, Strata admits the terms of its lease have not been approved by the Commission because they require no such approval.
32. Answering Paragraph 42, Strata admits its leases contain administrative fees but would refer the Commission to the lease documents for the precise terms and conditions.
33. Answering Paragraph 43, Strata admits the substance of the allegation with respect to common areas but would refer the Commission to the lease documents for the precise terms and conditions. Answering further, Strata admits the terms of its lease have not been approved by the Commission because they require no such approval.
34. Answering the incorporated allegations of Paragraph 44, Strata incorporates the preceding admissions and denials as if fully restated.
35. Paragraphs 45, 46, and 47 set forth legal conclusions to which no response is required.
36. Paragraph 48 is denied.
37. Paragraphs 49 and 50 are admitted to the extent they allege Strata does not measure flow on a unit by unit basis. Any remaining allegations are denied.
38. Answering Paragraph 51, Strata admits only that the water and sewer charges from the utilities are passed through to tenants in accordance with the contracts.
39. Answering Paragraph 52, Strata admits its lease agreements have certain administrative fees associated with services provided by Strata, but Strata denies those fees are tied solely to water and sewer in the manner alleged in the Complaint.
40. Paragraphs 53, 54, and 55 are denied as alleged.

41. Answering Paragraph 56, Strata denies Complainants are entitled to any relief as alleged.

42. Answering the incorporated allegations of Paragraph 57, Stata incorporates the preceding admissions and denials as if fully restated.

43. Paragraphs 58 and 59 are denied because Strata is not public utility.

44. Answering Paragraph 60, Strata denies Complainants are entitled to any relief as alleged.

45. Answering the incorporated allegations of Paragraph 61, Stata incorporates the preceding admissions and denials as if fully restated.

46. Paragraph 62 asserts conclusions of law to which no response is required.

47. Answering Paragraphs 63, 64, 65, 66, 67, 68, and 69, Strata denies the allocation methodology agreed to by Strata and Complainants is an unreasonable method for allocating costs to tenants. Answering further, these Paragraphs engage in impermissible argument that requires no response.

48. Strata denies Paragraphs 70, 71, 72, 73, and 74 because Strata is not a public utility.

49. Answering Paragraph 75, Strata denies Complainants are entitled to any relief as alleged.

50. Answering the incorporated allegations of Paragraph 76, Stata incorporates the preceding admissions and denials as if fully restated.

51. Paragraph 77 asserts conclusions of law to which no response is required.

52. Paragraphs 78, 79, and 80 are denied because Strata is not a public utility.

53. Answering Paragraph 81, Strata denies the Complainants are entitled to any relief

as alleged.

54. Answering the incorporated allegations of Paragraph 82, Stata incorporates the preceding admissions and denials as if fully restated.

55. Answering Paragraphs 83, 84, 85, 86, and 87, Strata would refer to the leases themselves for their actual terms and conditions.

56. Paragraphs 88 and 89 asserts conclusions of law to which no response is required.

57. Paragraphs 90, 91, 92, and 93 are admitted because Strata is not a public utility.

58. Paragraphs 94, 95, 96, 97, 98, 99, 100, and 101 are denied.

59. Answering the incorporated allegations of Paragraph 102, Stata incorporates the preceding admissions and denials as if fully restated.

60. Paragraph 103 asserts conclusions of law to which no response is required.

61. Paragraphs 104 and 105 are denied.

62. Answering the incorporated allegations of Paragraph 106, Stata incorporates the preceding admissions and denials as if fully restated.

63. Paragraph 107 asserts conclusions of law to which no response is required.

64. Paragraph 108 is denied because Strata is not a public utility.

65. Paragraphs 109 and 110 are denied.

66. Answering the incorporated allegations of Paragraph 111, Stata incorporates the preceding admissions and denials as if fully restated.

67. Paragraph 112 is denied because the Complaint fails to identify the purported statutory and common law duties.

68. Paragraphs 113, 114, 115, 116, 117, 118, 119, and 120 are denied.

69. Answering the incorporated allegations of Paragraph 121, Stata incorporates the

preceding admissions and denials as if fully restated.

70. Paragraphs 122, 123, 124, 125, and 126 are denied.

71. Answering the incorporated allegations of Paragraph 127, Stata incorporates the preceding admissions and denials as if fully restated.

72. Paragraphs 128, 129, and 130 are denied.

73. Paragraph 131 is admitted.

74. Paragraphs 132, 133, 134, 135, 136, 137, 138, 139, 140, and 141 are denied.

75. Answering the incorporated allegations of Paragraph 142, Stata incorporates the preceding admissions and denials as if fully restated.

76. Answering Paragraph 143, Strata denies Complainants are entitled to the requested declaratory relief.

77. Answering the incorporated allegations of Paragraph 144, Stata incorporates the preceding admissions and denials as if fully restated.

78. Answering Paragraphs 145 and any Paragraphs which follow but which are not included in the copy of the Complaint filed with the Commission, Strata denies Complainants are entitled to injunctive relief or any other relief in this action.

**For Second Defense—Rule 12(b)(6)**

79. Complainants' Fourth Claim seeking monetary damages in the form a refund of all charges and fees paid by all of Strata's current and former tenants fails to state a claim upon which relief can be granted by the Commission.

80. Complainants' Fifth Claim for breach of contract seeking monetary damages fails to state a claim for relief upon which relief can be granted by the Commission.

81. Complainants' Sixth Claim seeking monetary damages for purported violations of

the South Carolina Residential Landlord and Tenant Act fails to state a claim upon which relief can be granted by the Commission.

82. Complainants' Seventh Claim seeking to recover a portion of a fine to be levied on all payments by Complainants and other parties not before the Commission and prior to any conviction in court fails to state a claim upon which relief can be granted by the commission.

83. Complainants' Eighth Claim for negligence seeking actual and punitive damages fails to state a claim upon which relief can be granted by the Commission.

84. Complainants' Ninth Claim for unjust enrichment seeking monetary damages fails to state a claim upon which relief can be granted by the Commission.

85. Complainants' Tenth Claim seeking monetary damages for purported violations of the South Carolina Unfair Trade Practices Act fails to state a claim upon which relief can be granted.

86. Complainants' Twelfth Claim for injunctive relief fails to state a claim upon which relief can be granted.

**For a Third Defense—Strata is not a Public Utility**

87. Complainants' claims for administrative relief pursuant to S.C. Code Ann. § 58-5-10, *et seq.* are barred because Strata is not a public utility.

**For Fourth Defense—No Private Cause of Action for Monetary Damages**

88. Complainants' claims seeking to impose a private cause of action for monetary damages are barred because the pertinent provisions of S.C. Code Ann. § 58-5-10, *et seq.* creates exclusive administrative remedies and does not create any private cause of action for monetary damages.

**For a Fifth Defense—Compliance with Contract**

89. Complainants' claims are barred because Strata has acted in accordance with the contracts that were voluntarily agreed to by Complainants and that are not subject to S.C. Code Ann. § 58-5-10, *et seq.*

Dated this 4th day of May, 2022.

/s/Vordman Carlisle Traywick, III  
Kevin K. Bell  
Vordman Carlisle Traywick, III  
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*Counsel for Defendants Strata Audubon, LLC and  
Strata Veridian, LLC*

2021 WL 4137553

Only the Westlaw citation is currently available.  
United States District Court, D.  
South Carolina, Charleston Division.

Sarah ZITO; Alvaro Sarmiento, Jr.;  
[Mark Shinn](#); and Daniel Bermudez,  
on behalf of themselves and all  
others similarly situated, Plaintiff,

v.

STRATA EQUITY GROUP, INC. n/  
k/a Strata Equity Global, Inc.; Strata  
Audubon, LLC; Strata Veridian, LLC;  
Pinnacle Property Management Services,  
LLC; Wendi Dami-Vazquez; Jacinta  
Williams; and [Conservice, LLC](#), Defendants.

Civil Action No. 2:20-cv-3808-BHH

I

Signed 09/10/2021

#### Attorneys and Law Firms

[Frederick Elliott Quinn, IV](#), The Steinberg Law Firm LLP,  
Summerville, SC, [Steven E. Goldberg](#), Steinberg Law Firm,  
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Conservice LLC.

#### ORDER

[Bruce H. Hendricks](#), United States District Judge

\*1 Plaintiffs Sarah Zito (“Zito”), Alvaro Sarmiento, Jr. (“Sarmiento”), Mark Shinn (“Shinn”), and Daniel Bermudez (“Bermudez”) (collectively referred to as “Plaintiffs”) filed this proposed class action in the Berkeley County Court of Common Pleas against Defendants Strata Equity Group, Inc., now known as Strata Equity Global, Inc. (“Strata Equity”); Strata Audubon, LLC (“Strata Audubon”); Strata Veridian, LLC (“Strata Veridian”) (collectively referred to as “Strata Defendants”); Pinnacle Property Management Services, LLC (“Pinnacle”); Wendi Dami-Vazquez; Jacinta Williams; and Conservice, LLC (“Conservice”) (collectively referred to as “Defendants”).<sup>1</sup> In their proposed class action complaint, Plaintiffs allege that Defendants provide water and sewer services to their tenants, including Plaintiffs, through a patently unfair and illegal allocation formula, and that Defendants are liable because they act as a regulated public utility but charge rates not approved by the South Carolina Public Service Commission (“the Commission”). Plaintiffs’ complaint includes claims for (1) breach of contract; (2) violations of the South Carolina Residential Landlord and Tenant Act; (3) violation of [S.C. Code Ann. § 58-5-370](#); (4) negligence; (5) unjust enrichment/quantum meruit; (6) violation of the South Carolina Unfair Trade Practices Act (“SCUTPA”); (7) declaratory judgment; and (8) injunctive relief.

Defendant Pinnacle removed the case to this Court on October 29, 2020, and on November 30, 2020, Defendants filed a joint motion to dismiss Plaintiffs’ complaint pursuant to [Rule 12\(b\) \(6\) of the Federal Rules of Civil Procedure](#). (ECF No. 17.) The same day, Defendant Pinnacle also filed a separate motion to dismiss raising additional grounds for dismissal. (ECF No. 18.) Plaintiffs filed responses in opposition to Defendants’ motions, and Defendants filed replies. After review, and for the reasons set forth herein, the Court grants Defendants’ joint motion to dismiss (ECF No. 17) and dismisses this case without prejudice based on Plaintiffs’ failure to exhaust their available administrative remedies.

#### BACKGROUND

According to Plaintiffs’ complaint, Strata Audubon owns and leases the Audubon Park Apartments (“Audubon apartments”) in Berkeley County, South Carolina—a property consisting of 13 apartment buildings and more than 250

apartments—and Plaintiffs Zito and Sarmiento lease or leased an Audubon apartment. (ECF No. 1-1 ¶¶ 1-2, 13, 15.) Similarly, Strata Veridian owns and leases the “Grove Apartments” (“Veridian apartments”) in Spartanburg County, South Carolina—a property consisting of 13 buildings and more than 175 apartments—and Plaintiffs Shinn and Bermudez lease or leased a Veridian apartment. (*Id.* ¶¶ 3-5, 30, 32-33.) Plaintiffs assert that Strata Equity owns, controls, and directs Strata Audubon and Strata Veridian, and that Pinnacle manages the Audubon and Veridian apartments for the Strata Defendants. (*Id.* ¶¶ 6-7.) Plaintiffs further assert that Conserve, through a contract with the Strata Defendants, calculates and bills tenants at the Audubon and Veridian apartments for water and sewer services. (*Id.* ¶ 10.)

\*2 The lease entered into between Strata Audubon and Zito and Sarmiento (“the Audubon lease”) includes a “Utility and Services Addendum,” which provides that water and sewer utilities would be billed according to an allocation formula rate based on the number of persons residing in the apartment. (*Id.* ¶¶ 16-21; ECF No. 17-1 at 11-12; ECF No. 17-2 at 11-12.) Similarly, the leases entered into between Strata Veridian and Plaintiffs Shinn and Bermudez (“the Veridian leases”) include a “Utility and Services Addendum,” which provides that water and sewer utilities would be billed according to an allocation formula rate based on a combination of the square footage of the apartment unit and the number of persons residing in the apartment unit. (ECF No. 1-1 ¶¶ 32-39; ECF No. 17-2 at 11-12; ECF No. 17-3 at 11-12.)<sup>2</sup> Plaintiffs state that they “brought this action asserting Defendants are liable because they act as a regulated utility but charge rates and fees not approved by the Public Service Commission [ ], breached their duties to Plaintiffs and the tenants by charging an inaccurate and unfair rate, engaged in an unfair practice by charging an inaccurate and unfair rate, and were unjustly enriched by tenants’ payment of the rates and fees.” (ECF No. 29 at 2.)

### **STANDARD OF REVIEW**

A motion to dismiss pursuant to [Federal Rule of Civil Procedure 12\(b\)\(6\)](#) examines the legal sufficiency of the facts alleged on the face of a plaintiff’s complaint. *Edwards v. City of Goldsboro*, 178 F.3d 231, 243 (4th Cir. 1999). To survive a [Rule 12\(b\)\(6\)](#) motion, “[f]actual allegations must be enough to raise a right to relief above the speculative level.” *Twombly*, 550 U.S. at 555. The “complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that

is plausible on its face.’ ” *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 570). A claim is facially plausible when the factual content allows the court to reasonably infer that the defendant is liable for the misconduct alleged. *Id.* When considering a motion to dismiss, the court must accept as true all of the factual allegations contained in the complaint. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). The Supreme Court has explained that “the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions,” and “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Twombly*, 550 U.S. at 678.

### **DISCUSSION**

In their joint motion to dismiss, Defendants assert that Plaintiffs’ complaint “attempts to end-run the jurisdiction of the South Carolina Public Service Commission [ ], which regulates water and sewer utilities in South Carolina.” (ECF No. 17 at 1-2.) According to Defendants, Plaintiffs’ complaint is procedurally improper because Plaintiffs failed to exhaust their exclusive administrative remedies before the Commission. Additionally, Defendants assert that Plaintiffs’ complaint is substantively improper because the Commission previously rejected the argument that apartment complexes function as public utilities.

In response to Defendants’ joint motion, Plaintiffs admit that “the Commission has the exclusive jurisdiction, subject to judicial review, to determine the reasonable rates and standards of regulated utilities in South Carolina.” (ECF No. 29 at 14.) However, Plaintiffs assert that the Commission does not have “the exclusive jurisdiction to interpret South Carolina law on when an entity is a regulated activity.” (*Id.* at 15.) According to Plaintiffs, therefore, this Court can interpret the language of South Carolina’s utility law without the Commission first hearing the issue, although Plaintiffs also assert that the Commission has already determined that entities engaged in the allocation formula method of providing services to tenants—such as Defendants—qualify as public utilities under [S.C. Code § 58-5-10\(4\)](#). Additionally, Plaintiffs assert that even if the Commission needs to first hear any issues involved in this case, this Court should stay the case rather than dismiss it. With respect to Defendants’ assertion that Plaintiffs failed to exhaust their administrative remedies, Plaintiffs contend that there are no available administrative remedies and that, regardless, any administrative remedies are

not exclusive. Finally, Plaintiffs argue that even if Defendants are correct that they are not public utilities under South Carolina's utility law, dismissal of the complaint is not warranted because the complaint includes claims that do not depend on whether Defendants are public utilities.

\*3 After review, the Court is not convinced by any of Plaintiffs' arguments. As an initial matter, the Court notes that Plaintiffs' final argument (that the complaint includes claims that do not depend on whether Defendants are public utilities) is contrary to Plaintiffs' own assertion that "[t]he main thrust of Plaintiffs' claims is that by providing water and sewerage to tenants, charging for that water and sewerage using an allocation formula method, and then adding fees to the charge, Defendants became a regulated public utility who must receive a certificate from the South Carolina Public Service Commission ("Commission") and have the water and sewerage rates and any fees approved by the Commission." (ECF No. 19 at 7.) Stated differently, it is clear to the Court that the basis of all of Plaintiffs' claims, at least as they are currently pleaded, is the assertion that Defendants charged unauthorized and unreasonable rates as public utilities, in violation of South Carolina's utility law. Specifically: (1) Plaintiffs assert that Defendants breached the leases by charging unlawful water and sewer costs under South Carolina's utility law; (2) Plaintiffs allege that Defendants violated the South Carolina Residential Landlord and Tenant Act by charging water and sewer costs and fees in violation of South Carolina's utility law; (3) Plaintiffs specifically seek a penalty for unlawful water and sewer rates under South Carolina's utility law, namely, S.C. Code § 58-5-37; (4) Plaintiffs claim Defendants owed Plaintiffs a duty to provide water and sewer only at rates approved by the Commission, as required by South Carolina's utility law; (5) Plaintiffs contend that Defendants have been unjustly enriched by charging Plaintiffs water and sewer rates that were not approved by the Commission, in violation of South Carolina's utility law; (6) Plaintiffs assert that Defendants violated SCUTPA by charging water and sewer rates in violation of South Carolina's utility law, which Plaintiffs allege is an unfair trade practice; (7) Plaintiffs seek a declaratory judgment that Defendants charged Plaintiffs water and sewer rates in violation of South Carolina's utility law and that Defendants were required to submit such rates to the Commission before charging Plaintiffs; and (8) Plaintiffs request preliminary and permanent injunctive relief related to Defendants' alleged violation of South Carolina's utility law. Thus, all of Plaintiffs' claims depend on whether Defendants are public utilities under South Carolina's utility law, and it

appears that Plaintiffs are merely attempting to disguise their claims for violation of South Carolina's utility law as ordinary tort claims and claims under other South Carolina statutes. See *Wogan v. Kunze*, 366 S.C. 583, 623 S.E.2d 107, 117 (S.C. 2005). However, the Court agrees with Defendants that Plaintiffs may not do so, because South Carolina's utility law provides exclusive administrative remedies to Plaintiffs and does not provide for a private right of action.

Specifically, South Carolina's utility law vests the Commission "with power and jurisdiction to supervise and regulate the rates and service of every public utility<sup>3</sup> in this State and to fix just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, or observed, and followed by every public utility in this State." S.C. Code § 58-3-140. In addition, the law specifically vests the Commission "with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State, together with the power, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices and measurements of service to be furnished, imposed, observed and followed by every public utility in this State and the State hereby asserts its rights to regulate the rates and services of every 'public utility' as herein defined." S.C. Code 58-5-210. Also, the General Assembly created the South Carolina Office of Regulatory Staff ("ORS") as a separate agency to represent the public interest in proceedings before the Commission, and ORS has the power to investigate consumer complaints and initiate proceedings in its own name. See S.C. Code § 58-4-10, *et seq.*

As previously mentioned, even Plaintiffs agree that "the Commission has the exclusive jurisdiction, subject to judicial review, to determine the reasonable rates and standards of regulated utilities in South Carolina." (ECF No. 29 at 14.) Moreover, it is clear from the plain language of the statute and from the Commission's prior orders that the Commission's jurisdiction includes the ability to hear and adjudicate consumer complaints "regarding the reasonableness of any rates or charges," S.C. Code Ann. § 58-5-270, as well as the ability to determine whether an entity is operating as a public utility. See, e.g., *In re Rule to Show Cause on Submeterers*, Order No. 2003-214, 2003 WL 23325952 (S.C.P.C. April 15, 2003) (finding that "submeterers of water and wastewater services do not meet the statutory definition of a 'public utility' and should not therefore be regulated by this Commission as jurisdictional utilities").<sup>4</sup> Thus, contrary to Plaintiffs' assertion that there were no

administrative remedies available, it is clear that the General Assembly provided a comprehensive administrative process to handle grievances about alleged public utilities charging unauthorized or unfair rates.

\*4 Moreover, contrary to Plaintiffs' assertion that any administrative remedies would not be exclusive, there is nothing in the plain language of the statute or the legislative history to indicate that the General Assembly also intended to create a private right of action. Importantly, Plaintiffs do not challenge the validity of South Carolina's utility law; rather, they assert that Defendants' actions violate South Carolina's utility law, and the Court finds that the wrongs that Plaintiffs allege are precisely the types of claims that the available administrative remedies were designed to address. *See, e.g., S.C. Code Ann. § 58-5-270*. Although Plaintiffs may be dissatisfied with the available administrative remedies, their dissatisfaction does not excuse them from first exhausting the remedies. Thus, the Court agrees with Defendants that Plaintiffs' complaint is subject to dismissal for failure to exhaust available administrative remedies.<sup>5</sup>

*See, e.g., Pullman Co. v. Public Service Commission*, 234 S.C. 365, 368, 108 S.E.2d 571, 572 (S.C. 1959) (finding that the court properly exercised its discretion by dismissing a declaratory judgment claim and requiring appellant to exhaust its administrative remedies before the public service commission).

## CONCLUSION

Based on the foregoing, the Court hereby grants Defendants' joint motion to dismiss<sup>6</sup> (ECF No. 17) and dismisses this case *without prejudice* based on Plaintiffs' failure to exhaust the available administrative remedies.

## IT IS SO ORDERED.

## All Citations

Slip Copy, 2021 WL 4137553

## Footnotes

- 1 Plaintiffs voluntarily dismissed Wendi Dami-Vazquez and Jacinta Williams on December 8, 2020. (ECF No. 19.)
- 2 Although Plaintiffs do not attach copies of the leases to their complaint, Defendants submitted them as exhibits to their motions to dismiss, and the Court may properly consider them in connection with Defendants' motions to dismiss, as the leases are specifically referenced in and clearly integral to the complaint.
- 3 The law defines a "public utility" to include "every corporation and person furnishing or supplying in any manner ... water, sewerage collection, sewerage disposal ... to the public, or any portion thereof, for compensation ...." *S.C. Code § 58-3-10(4)*.
- 4 The parties disagree as to the meaning and effect of *In re Rule to Show Cause on Submeterers*, wherein the Commission vacated its prior Order No. 1999-37 "in which this Commission ordered a rulemaking to determine specific requirements for certification and regulation of submeterers." 2003 WL 23325952. In the prior Order No. 1999-37, the Commission stated "[w]e believe that landlords and companies that submeter and bill tenants for water and/or wastewater services are indeed public utilities, and should be certified by this Commission." *In re Generic Proceeding Related to Sub-Metering of Electric, Water and Wastewater Services*, Order No. 1999-307 (S.C.P.C. May 4, 1999), filed at ECF No. 17-5 at 5. Because the Commission specifically vacated Order No. 1999-37 in Order No. 2003-214, Defendants assert that the Commission has determined that apartment complexes are not public utilities. Plaintiffs disagree with Defendants' interpretation and assert that Order No. 2003-214 is more limited and that the Commission's prior finding that the allocation formula version of submetering makes an entity a regulated utility still stands.  
In the Court's opinion, this disagreement between the parties simply highlights why Plaintiffs' claims belong before the Commission in the first instance. Stated differently, where the General Assembly has specifically vested the Commission with the jurisdiction to hear and adjudicate complaints exactly like those presented in this case, Plaintiffs must first raise their claims before the Commission before presenting them elsewhere.
- 5 South Carolina's utility law specifically provides that "[a] decision of the commission may be reviewed by the Supreme Court or court of appeals as provided by statute and the South Carolina Appellate Court rules upon questions of both law and fact." *S.C. Code § 58-5-340*. Accordingly, the Court declines to stay (rather than dismiss) this case.
- 6 Having granted Defendants' joint motion to dismiss based on Plaintiffs' failure to exhaust the available administrative remedies, the Court need not reach the arguments raised by Defendant Pinnacle in its separate motion to dismiss. Nevertheless, the Court simply notes for the record that it agrees with Pinnacle that Plaintiffs' complaint, as currently

pleaded, lacks sufficient factual allegations *specific to Pinnacle* to state a plausible claim. See, e.g., [SD3, LLC v. Black & Decker \(U.S.\) Inc.](#), 801 F.3d 412, 422 (4th Cir. 2015) (holding that plaintiffs “cannot assemble some group of defendants and then make vague, non-specific allegations against all of them as a group”) (citations and internal quotations omitted).

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BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

DOCKET NO. 2022-84-WS

IN RE:

SARAH ZITO; ALVARO SARMIENTO,  
JR.; MARK SHINN; AND DANIEL  
BERMUDEZ,

## Complainants,

V.

STRATA AUDUBON, LLC AND STRATA  
VERIDIAN, LLC,

Defendants.

## DEFENDANTS' PARTIAL MOTION TO DISMISS

Pursuant to S.C. Code Ann. Regs. 103-829, Defendants Strata Audubon, LLC and Strata Veridian, LLC (the Strata Defendants) move the Public Service Commission of South Carolina to partially dismiss the complaint filed by Complainants Sarah Zito; Alvaro Sarmiento, Jr.; Mark Shinn; and Daniel Bermudez. For the reasons that follow, the Commission should dismiss the fifth, sixth, eighth, ninth, tenth, and twelfth causes of action for want of jurisdiction.

“A challenge to subject matter jurisdiction should be raised by a motion to dismiss . . . .” *Ballenger v. Bowen*, 313 S.C. 476, 478 n.2, 443 S.E.2d 379, 380 n.2 (1994). Subject matter jurisdiction “refers to a tribunal’s constitutional or statutory power to decide a case,” and it “is a question of law.” *Brown v. S.C. Dep’t of Health & Human Servs.*, 393 S.C. 11, 16, 709 S.E.2d 701, 704 (Ct. App. 2011) (quoting *Chew v. Newsome Chevrolet, Inc.*, 315 S.C. 102, 104, 431 S.E.2d 631, 631 (Ct. App. 1993)).

Under South Carolina utility law, the Commission has jurisdiction to decide consumer complaints against public utilities and to remedy situations in which a customer is overcharged

or improperly charged for water and sewer services. *See* S.C. Code Ann. § 58-5-270; S.C. Code Ann. Regs. §§ 103-533 & -733. But it is well settled that the Commission has “no jurisdiction to adjudicate tort claims or to award tort damages.” Order No. 2007-277, Docket No. 2006-294-C, at 3 (Apr. 23, 2007); *see also* Order No. 2002-752, Docket No. 2002-298-E, at 2 (Oct. 24, 2002) (recognizing “[t]he General Assembly has not granted this Commission the power to adjudicate” tort claims, and it “has no power to award actual and/or punitive damages”); S.C. Code Ann. § 58-3-140(A) (stating “the commission is vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State and to fix just and reasonable standards, classifications, regulations, practices, and measurements of service to be furnished, imposed, or observed, and followed by every public utility in this State”).

Here, the complaint—which mirrors the arguments advanced previously in the Court of Common Pleas and the United States District Court for the District of South Carolina—arises out of Complainants’ claims that the Strata Defendants are operating a public utility with unapproved rates because of the manner in which the Strata Defendants allocate the cost of water and sewer service to residents of two apartment communities. In addition to claims made related to Title 58, the complaint asserts causes of action sounding in breach of contract, violation of the Uniform Residential Landlord and Tenant Act, negligence, unjust enrichment, and violation of the South Carolina Unfair Trade Practices Act. *See* Compl. at ¶¶ 82–105, 111–41. Because Complainants are improperly attempting to bring tort and breach of contract claims, seeking actual and punitive damages even within their Title 58 claims, and requesting injunctive relief, the Commission should dismiss these claims and requests for relief for lack of subject matter jurisdiction.

Nor can Complainants raise these claims in another forum. After all, a review of the relevant statutes reveals the General Assembly unambiguously vested the Commission with

exclusive authority to handle utility issues and did not intend to create a private right of action. *See* S.C. Code Ann. § 58-3-140; S.C. Code Ann. § 58-5-210; S.C. Code Ann. §§ 58-4-10, -50, -51 & -80; S.C. Code Ann. § 58-5-270; *see also* *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) (“The cardinal rule of statutory construction is to ascertain and effectuate the intent of the [General Assembly].”); *Miller v. Doe*, 312 S.C. 444, 447, 441 S.E.2d 319, 321 (1994) (“If a statute’s language is plain and unambiguous and conveys a clear and definite meaning, there is no occasion for employing rules of statutory interpretation and the court has no right to look for or impose another meaning.”). As the district court already held,

all of Plaintiff’s claims depend on whether Defendants are public utilities under South Carolina utility law, and it appears Plaintiffs are merely attempting to disguise their claims for violation of South Carolina utility law as ordinary tort claim and claims under other South Carolina statutes. . . . Plaintiffs may not do so, because South Carolina’s utility law provides exclusive administrative remedies to Plaintiffs and does not provide for a private right of action.

*Zito v. Strata Equity Grp., Inc.*, No. 2:20-cv-3808-BHH, 2021 WL 4137553, at \*3 (D.S.C. Sept. 10, 2021) (citing *Wogan v. Kunze*, 366 S.C. 583, 623 S.E.2d 107 (2005)); *see also* *Petition of State ex. Rel. Hutchinson*, 182 S.C. 369, \_\_\_, 189 S.E. 475, 477 (1937) (stating “[w]hether a statutory remedy is exclusive” depends “on the intention of the [General Assembly], as shown by the express terms of the statute providing the remedy”).

In sum, the only question properly before the Commission is whether Strata was operating a public utility pursuant to the vacated Order No. 1999-37 in *In Re Rule to Show Cause on Submeterers* as urged by Complainants or whether Strata’s allocations of utility charges to its tenants does not render it a public utility in keeping with the rational of the final orders entered in *Mill Creek Marina and Campground*, Docket No. 2011-479-E, and *Quail Pointe Apartments*, Docket No. 2007-228-G, and similar matters. Strata respectfully urges the Commission to find the latter dictates the conclusion that Strata was a landlord and was not engaged in the operation

of a public utility. The rest is superfluous and not properly before the Commission.

Accordingly, the Commission should grant the Strata Defendants' partial motion to dismiss the fifth, sixth, eighth, ninth, tenth, and twelfth causes of action from the complaint and grant such other relief the Commission deems necessary and proper.

Dated this 4th day of May, 2022.

/s/Vordman Carlisle Traywick, III

Kevin K. Bell

Vordman Carlisle Traywick, III

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Strata Veridian, LLC*

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. \_\_\_\_\_

IN RE:

SARAH ZITO; ALVARO SARMIENTO,  
JR.; MARK SHINN; and DANIEL  
BERMUDEZ,

Complainants,

**COMPLAINT**

v.

STRATA AUDUBON, LLC and STRATA  
VERIDIAN, LLC,

Defendants.

Complainants Sarah Zito, Alvaro Sarmiento, Jr., Mark Shinn, and Daniel Bermudez (“Complainants”), by and through their undersigned counsel, complain of Defendants Strata Audubon, LLC (“Strata Audubon”) and Strata Veridian, LLC (“Strata Veridian”), (collectively, “Defendants”), as follows:

**PARTIES**

1. The address of Strata Audubon’s registered agent is CT Corporation System, 2 Office Park Court, Suite 103, Columbia, SC 29223.
2. The address of Strata Veridian’s registered agent is CT Corporation System, 2 Office Park Court, Suite 103, Columbia, SC 29223.
3. Complainants Zito and Sarmiento lease or leased an apartment in and reside or

resided at the “Audubon Park Apartments” located at 1700 Eagle Landing Boulevard in Hanahan in Berkley County, South Carolina.

4. Strata Audubon owns and leases apartments in the “Audubon Park Apartments” located at 1700 Eagle Landing Boulevard in Hanahan in Berkeley County, South Carolina (the “Audubon Property”).

5. Complainant Shinn leases or leased an apartment in and resides or resided at the “Grove Apartments” located at 315 Birchrun Drive in Spartanburg in Spartanburg County, South Carolina.

6. Complainant Bermudez leases or leased an apartment in and resides or resided at the “Grove Apartments” located at 315 Birchrun Drive in Spartanburg County, South Carolina.

7. Strata Veridian owns and leases apartments in the “Grove Apartments” located 315 Birchrun Drive in Spartanburg in Spartanburg County, South Carolina (the “Veridian Property”).

8. The claims in this action arise from and relate to Defendants’ ownership, leasing, and operation of the Audubon Property and the Veridian Property, including providing tenants with water and sewerage utility services in exchange for compensation at rates other than the rates at which Defendants obtained water and sewerage from others.

### **FACTUAL BACKGROUND**

9. The Audubon Property consists of 13 apartment buildings and more than 250 apartment units.

10. Strata Audubon obtained ownership of the Audubon Property by way of deed dated September 28, 2016, recorded with the Berkeley County Register of Deeds at book 2289 and page 524.

11. Complainants Zito and Sarmiento leased and resided in an apartment unit at the Audubon Property.

12. Strata Audubon entered into leases with Zito and Sarmiento for the apartment unit at 1809 Audubon Drive in Hanahan (the “Audubon Lease”). See Exhibit A attached hereto.

13. Strata Audubon entered into the same Audubon Lease with the other current and former tenants at the Audubon Property.

14. The Audubon Lease includes a “Utility and Services Addendum.”

15. The Utility and Services Addendum to the Audubon Lease provides that water and sewerage utilities were and are billed to Zito, Sarmiento, and the other tenants according to an allocation formula rate, also known as a ratio utility billing system.

16. Defendants do not maintain any meter between the point of delivery/outflow of water and sewerage from the utility from which Defendants obtain such services and Defendants’ tenants. There are no meters on Defendants’ properties determining the actual water and sewerage usage of Defendants’ tenants.

17. In the Audubon Lease, the allocation formula rate specified in the Utility and Services Addendum for billing water and sewerage utilities is and was an allocation to the tenants in a particular apartment unit of a portion of the total water and sewerage usage of the entire Audubon Property according to the number of persons residing in that apartment unit as a percentage of the total tenants at the Audubon Property.

18. As set out in the Utility and Services Addendum to the Audubon Lease for each tenant, tenants at the Audubon Property represented that all persons residing in a particular apartment unit were accurately identified in the lease for that unit and that the tenants would

promptly notify Strata Audubon of any change in the number of persons residing in a unit.

19. Zito, Sarmiento, and their minor son were the only persons who resided in their apartment unit during the time in which Zito and Sarmiento leased an apartment unit at the Audubon Property.

20. Zito, Sarmiento, and their minor son were listed on the lease throughout the time in which Zito and Sarmiento leased an apartment unit at the Audubon Property.

21. Other tenants at the Audubon Property have or had additional persons residing in their apartment units who are not listed on their respective leases.

22. Zito informed Strata Audubon's agents on multiple occasions that additional persons were residing in apartments units at the Audubon Property.

23. In response, Strata Audubon's agents stated that they would determine whether any additional persons not listed on a lease were residing in an apartment unit and would issue lease violation notices for any additional persons.

24. Strata Audubon's agents took no action in response to Zito's information and requests.

25. Defendants have taken no action to verify how many persons are residing in each apartment unit at the Audubon Property, whether before or after Zito informed Strata Audubon's agents of additional persons residing in apartment units.

26. The Veridian Property consists of 13 buildings and more than 175 apartment units.

27. Strata Veridian obtained ownership of the Veridian Property by way of deed dated January 30, 2018, recorded with the Spartanburg County Register of Deeds at book 118M and page 347.

28. Complainant Shinn leased and resided in an apartment unit at the Veridian Property.
29. Complainant Bermudez leased and resided in an apartment unit at the Veridian Property.
30. Strata Veridian entered into leases with Shinn and Bermudez for apartment units at the Veridian Property (the "Veridian Lease"). See Exhibit B attached hereto.
31. Strata Veridian entered into the same Veridian Lease with the other current and former tenants at the Veridian Property.
32. The Veridian Lease includes a "Utility and Services Addendum."
33. The Utility and Services Addendum to the Veridian Lease provides that water and sewerage utilities were and are billed to Shinn, Bermudez, and the other tenants according to an allocation formula rate, also known as a ratio utility billing system.
34. In the Veridian Lease, the allocation formula rate specified in the Utility and Services Addendum for billing water and sewerage utilities is and was an allocation to the tenants in a particular apartment unit of a portion of the total water and sewerage usage of the entire Veridian Property according to a combination of the square footage of the apartment unit and the number of persons residing in that apartment unit as a percentage of the total for the Veridian Property.
35. As set out in the Utility and Services Addendum to the Veridian Lease for each tenant, tenants at the Veridian Property represented that all persons residing in a particular apartment unit were accurately identified in the lease for that unit and that the tenants would promptly notify Strata Veridian of any change in the number of persons residing in a unit.
36. Shinn, Bermudez, and persons listed on their respective leases were the only

persons who resided in their respective apartment units during the time in which Shinn and Bermudez leased apartment units at the Veridian Property.

37. Defendants have taken no action to verify how many persons are residing in each apartment unit at the Veridian Property during the time in which Shinn and Bermudez resided at the Veridian Property.

38. Pursuant to Section 58-5-240 of the South Carolina Code and Sections 103-503 and 103-703 of the South Carolina Code of Regulations, public utilities are not permitted to charge rates or fees for water or sewerage not approved by the Public Service Commission of South Carolina (the "Commission").

39. Any rate for water or sewerage charged by a public utility that was not approved by the Commission is an unlawful rate.

40. Defendants have not filed any rate for water or sewerage with the Commission.

41. The Commission has not approved the allocation rate used by Defendants to bill for water and sewerage.

42. Defendants charge new account fees, monthly administrative billing fees, and final bill fees not approved by the Commission.

43. Defendants included in the water and sewer allocation rate and charged Complainants and the other tenants for water and sewer usage in common areas of the Property (*i.e.*, usage not within any particular apartment unit) despite such charges not being approved by the Commission.

**FOR A FIRST CLAIM****Finding and Declaration that Defendants are Public Utilities Subject to the Jurisdiction and Regulation of the Commission**

44. Complainants reallege the allegations in the preceding paragraphs as if fully set forth herein.

45. Title 58 of the South Carolina Code provides that any entity that furnishes or supplies water or sewerage to the public or a portion of the public is a public utility subject to the jurisdiction and regulation of the Commission.

46. In multiple orders, including Order No. 2003-214 (Docket No. 2001-485-WS) and Order No. 2008-725 (Docket No. 2008-192-WS), the Commission declared that any entity that sells water or provides sewerage for compensation is a public utility including entities that do so through submetering or the allocation version of submetering.

47. The Commission has the power and jurisdiction to supervise and regulate the rates and service of every public utility in South Carolina.

48. Defendants do not charge tenants the actual water and sewerage charges that Defendants pay to a utility for water and sewerage for the properties.

49. Defendants do not merely measure the amount of flow of water and wastewater and provide billing functions.

50. Defendants do not measure the usage of water and sewerage by tenants.

51. Defendants charge tenants for water and sewerage usage using rates different from those Defendants pay to utilities providing water and sewerage to Defendants.

52. Defendants charge administrative fees for water and sewerage in addition to the allocation formula rates that Defendants charge for water and sewerage.

53. Defendants do not merely pass through the costs of water and sewerage to their tenants.

54. Defendants furnish and supply water and sewerage to tenants for compensation.

55. Because Defendants furnish and supply water and sewerage to a portion of the public for compensation, Defendants are public utilities subject to the jurisdiction and regulation of the Commission.

56. Complainants request a finding and declaration that Defendants furnish and supply water and sewerage to a portion of the public for compensation, are public utilities subject to the jurisdiction and regulation of the Commission, and are required to have any rates charged for water and sewerage approved by the Commission prior to charging such rates.

**FOR A SECOND CLAIM**

**Finding and Declaration that Rates Charged by Defendants for Water and Sewerage are Unlawful Because Not Approved by the Commission**

57. Complainants reallege the allegations in the preceding paragraphs as if fully set forth herein.

58. Pursuant to Section 58-5-240 of the South Carolina Code and Sections 103-503 and 103-703 of the South Carolina Code of Regulations, Defendants are not permitted to charge any rate for water or sewerage unless the rate was first approved by the Commission.

59. Defendants have neither requested nor received Commission approval of the rates Defendants charge for water and sewerage.

60. Complainants request a finding and declaration that the rates charged by Defendants for water and sewerage are unlawful because not approved by the Commission.

**FOR A THIRD CLAIM**

**Finding and Declaration that Rates Charged by Defendants are Unjust, Unreasonable, and in Violation of Law**

61. Complainants reallege the allegations in the preceding paragraphs as if fully set forth herein.

62. Pursuant to Section 58-5-290 of the South Carolina Code, the Commission has the power to find that rates charged by a public utility for water and sewerage are unjust, unreasonable, or in violation of law.

63. The rates charged by Defendants for water and sewerage do not reflect actual usage of water or sewerage.

64. The rates charged by Defendants for water and sewerage are based on an allocation formula using either the number of persons residing in an apartment or a combination of the square footage of an apartment and the number of persons residing in an apartment.

65. The allocation formulas used by Defendants are unjust and unreasonable because the allocation formulas do not accurately calculate, nor even approximate, the actual water and sewerage usage of Defendants' tenants.

66. Under either of Defendants' allocation formulas, a tenant who travels regularly for their occupation, such as a flight attendant or a military servicemember, would be billed the same amount for water and sewerage as a tenant who is present in the apartment using water and sewerage every day, assuming the same number of persons residing in each unit and the same square footage, per the respective allocation formulas.

67. Under either of Defendants' allocation formulas, a tenant who leaves the apartment for a two-week vacation would be billed the same amount for water and sewerage that month as a

tenant who was present in the apartment using water and sewerage every day, assuming the same number of persons residing in each unit and the same square footage, per the respective allocation formulas.

68. Under either of Defendants' allocation formulas, a tenant who has four guests stay with the tenant for a month would be billed the same amount for water and sewerage that month as a tenant who had no guests, assuming the same number of persons residing in each unit and the same square footage, per the respective allocation formulas.

69. Under either of Defendants' allocation formulas, a tenant who undertakes significant efforts to conserve water would be billed the same amount for water and sewerage as a tenant who fails to address leaky plumbing fixtures, takes two showers every day, runs the washing machine and dishwasher daily despite not being full, and engages in other wasteful uses of water and sewerage.

70. The allocation formulas used by Defendants are unjust and unreasonable because water is a limited resource to be conserved and used efficiently under South Carolina law and public policy, *see* S.C. Code Ann. § 48-9-20; S.C. Code Ann. §§ 49-3-40, *et seq.*; S.C. Code Ann. § 49-5-20; S.C. Code Ann. Regs. 103-772, and the allocation formulas used by Defendants cause the wasteful overuse of limited water resources.

71. The allocation formula rates charged by Defendants for water and sewerage are unjust and unreasonable because Defendants included in the water and sewerage allocation rate and charged Complainants and the other tenants for water and sewerage usage in common areas of the Property (*i.e.*, usage not within any particular apartment unit).

72. The allocation formula rates charged by Defendants for water and sewerage are

unjust and unreasonable because tenants cannot verify or determine the accuracy of Defendants' inputs into the allocation formula calculations each month—the total usage at the apartment complex, the total number of tenants, and the amount the landlord paid the area-wide utility for the total usage.

73. The allocation formula rates, including the administrative fees added to the rate determined by the allocation formula, charged by Defendants are in violation of South Carolina law because the rates were not approved by the Commission as required by Section 58-5-240 of the South Carolina Code and Sections 103-503 and 103-703 of the South Carolina Code of Regulations.

74. The allocation formula rates charged by Defendants are in violation of South Carolina law because Defendants' systems have no meters measuring service as required by Regulation 103-720 of the South Carolina Code of Regulations.

75. Complainants request a finding and declaration that the allocation formula rates charged by Defendants for water and sewerage are unjust, unreasonable, and in violation of law.

#### **FOR A FOURTH CLAIM**

##### **Refund of Water and Sewerage Charges Collected by Defendants**

76. Complainants reallege the allegations in the preceding paragraphs as if fully set forth herein.

77. The Commission has broad authority to correct any misconduct by a public utility, including as set forth in and as shown by Section 58-5-270 of the South Carolina Code and Sections 103-533 and 103-733 of the South Carolina Code of Regulations.

78. The allocation formula rates charged by Defendants are unlawful because not

approved by the Commission.

79. The allocation formula rates are unjust, unreasonable, and unlawful because the rates do not accurately calculate, nor even approximate, the actual water and sewerage usage of Defendants' tenants.

80. Because the rates charged by Defendants are unlawful, unjust, and unreasonable, the charges collected by Defendants for water and sewerage must be refunded to the tenants who paid those charges.

81. Complainants seek the refund to all of Defendants' current and former tenants at the Audubon Property and the Veridian Property of all water and sewerage charges and new account fees, monthly administrative billing fees, and final bill fees collected by Defendants.

**FOR A FIFTH CLAIM**  
**Breach of Contract**

82. Complainants reallege the allegations in the preceding paragraphs as if fully set forth herein.

83. Defendants entered into the Audubon Lease and Veridian Lease with Complainants and the other tenants at the Audubon Property and Veridian Property.

84. The Audubon Lease provides that water and sewerage are to be billed based on allocation by the number of persons residing in an apartment unit as a percentage of the total persons residing in apartments at the Audubon Property.

85. The Veridian Lease provides that water and sewerage are to be billed based on allocation by the square footage of an apartment unit and the number of persons residing in an apartment unit as a percentage of the total at the Veridian Property.

86. The leases provide that “no billing method, charge, or fee mentioned herein will be used in any jurisdiction where such use would be unlawful.”

87. The leases provide that Defendants will calculate the allocation of water and sewerage costs “in accordance with state and local statutes.”

88. Public utilities are not permitted to charge rates for water or sewerage not approved by the Commission.

89. Any rate for water or sewerage charged by a public utility that was not approved by the Commission is an unlawful rate.

90. Defendants have not filed any rate for water or sewerage with the Commission.

91. The Commission has not approved the allocation rate used by Defendants to bill for water and sewerage.

92. Defendants charge new account fees, monthly administrative billing fees, and final bill fees not approved by the Commission.

93. Defendants included in the water and sewerage allocation rate and charged Complainants and the other tenants for water and sewerage usage in common areas of the Property (*i.e.*, usage not within any particular apartment unit) despite such charges not being approved by the Commission.

94. The allocation rate charged by Defendants is an unlawful rate.

95. The allocation rate charged by Defendants was not charged in accordance with state statutes.

96. Even were the allocation rate a lawful rate, Defendants failed to allocate the water and sewerage based on the number of persons residing in each apartment unit at the respective

property as required by the respective lease terms.

97. Defendants had knowledge that the allocated water and sewerage did not accurately allocate the usages because additional persons not listed on leases resided in apartment units at the properties

98. Despite knowledge of the inaccuracy of the allocated water and sewerage, Defendants continued to bill water and sewerage using an inaccurate allocation rate.

99. Defendants took no action to ensure the accuracy of the allocation rate charged.

100. Defendants took no action to correct the inaccuracy of the allocation rate charged.

101. Complainants were damaged by the breaches of the leases in the amount of the unlawful allocation rate water and sewerage bills paid and the new account fees, monthly administrative billing fees, and final bill fees paid.

#### **FOR A SIXTH CLAIM**

#### **Violations of South Carolina Residential Landlord and Tenant Act**

102. Complainants reallege the allegations in the preceding paragraphs as if fully set forth herein.

103. The South Carolina Residential Landlord and Tenant Act provides that a landlord may not include in a rental agreement terms and conditions prohibited by law.

104. The allocation rate, new account fees, monthly administrative billing fees, and final bill fees provided in the leases for water and sewerage are prohibited by law as a public utility rate not approved by the Commission.

105. Complainants were damaged by the violations of the South Carolina Residential Landlord and Tenant Act in the amount of the unlawful allocation rate water and sewerage bills

paid and the new account fees, monthly administrative billing fees, and final bill fees paid.

**FOR A SEVENTH CLAIM**

**Penalty for Unlawful Water and Sewerage Rates – S.C. Code § 58-5-370**

106. Complainants reallege the allegations in the preceding paragraphs as if fully set forth herein.

107. Section 58-5-370 of the South Carolina Code provides that a person or corporation charging a rate for furnishing water to the public or a portion of the public that was not approved by the Commission shall be fined for each time a consumer was overcharged.

108. The allocation formula rate, new account fees, monthly administrative billing fees, and final bill fees charged by Defendants were not approved by the Commission and therefore are greater than any rate fixed by the Commission.

109. Each monthly bill to each tenant at the Audubon Property and the Veridian Property constitutes a separate overcharge of a consumer for water and sewerage.

110. Pursuant to Section 58-5-370 of the South Carolina Code, Defendants are to be fined, and one-half of such fine shall go to Defendants as the informers.

**FOR AN EIGHTH CLAIM**

**Negligence**

111. Complainants reallege the allegations in the preceding paragraphs as if fully set forth herein.

112. Defendants owe Complainants and the other current and former tenants at the Audubon Property and the Veridian Property statutory and common law duties.

113. Defendants owe Complainants and the other current and former tenants at the Audubon Property and the Veridian Property the duty to provide water and sewerage only at rates

approved by the Commission.

114. Defendants owe Complainants and the other current and former tenants at the Audubon Property and the Veridian Property the duty to provide water and sewerage at just and reasonable rates.

115. Defendants owe Complainants and the other current and former tenants at the Audubon Property and the Veridian Property the duty to conduct themselves in a reasonable manner as a prudent and reasonable public utility would conduct itself.

116. Defendants owe Complainants and the other current and former tenants at the Audubon Property and the Veridian Property the duty to follow and abide by all applicable statutes and regulations.

117. Defendants breached their statutory and common law duties to Complainants and the other current and former tenants by charging allocation rates, new account fees, monthly administrative billing fees, and final bill fees that were unlawful and that did not accurately and fairly allocate water and sewerage usage among tenants.

118. Defendants' breaches of their statutory and common law duties to Complainants and the other current and former tenants were conscious failures to exercise due care and reckless disregard of the rights of Complainants and the other current and former tenants at the properties.

119. Defendants breached their statutory and common law duties to Complainants and the other current and former tenants at the properties causing damages to Complainants and the other current and former tenants in the amount of the unlawful allocation rate water and sewerage bills paid and the new account fees, monthly administrative billing fees, and final bill fees paid.

120. Complainants are entitled to an award of actual and punitive damages.

**FOR A NINTH CLAIM**  
**Unjust Enrichment/Quantum Meruit**

121. Complainants reallege the allegations in the preceding paragraphs as if fully set forth herein.

122. Defendants received payments of water and sewerage rates and fees from Complainants and the other current and former tenants to which Defendants were not legally entitled.

123. The water and sewerage rates and fees were not approved by the Commission and therefore cannot be charged to Complainants and other tenants.

124. Complainants and the other current and former tenants at the properties conferred a benefit on Defendants in the form of the payments for water and sewerage rates and fees.

125. Defendants retained the water and sewerage rates and fees payments made by Complainants and the other current and former tenants at the properties.

126. The retention of the water and sewerage rates and fees payments by Defendants is unjust because the water and sewerage rates and fees were illegal rates and fees.

**FOR A TENTH CLAIM**  
**South Carolina Unfair Trade Practices Act**

127. Complainants reallege the allegations in the preceding paragraphs as if fully set forth herein.

128. Defendants engaged in unfair acts and practices in violation of the South Carolina Unfair Trade Practices Act, S.C. Code §§ 39-5-10, *et seq.*

129. The unfair acts and practices of Defendants include, but are not limited to:

- a. Entering into leases providing for illegal water and sewerage allocation

rates and fees;

b. Charging illegal water and sewerage allocation rates; and

c. Charging illegal water and sewerage fees.

130. Defendants' violations of the Unfair Trade Practices Act affect the public interest.

131. Defendants lease apartments to the general public.

132. Defendants' violations of the Unfair Trade Practices Act were repeated and will continue to be repeated.

133. Defendants engaged in a pattern of unfair acts and practices.

134. Defendants engaged in and continue to engage in substantially similar transactions with consumers.

135. Complainants suffered damages as a result of Defendants' unfair acts and practices including the water and sewerage usage fees calculated using the allocation rate, new account fees, monthly administrative billing fees, and final bill fees paid.

136. Defendants' unfair acts and practices proximately caused Complainants' damages.

137. Defendants knew, reasonably should have known, and could have ascertained through the exercise of reasonable efforts that the unfair acts and practices violated the Unfair Trade Practices Act.

138. Defendants' violations of the Unfair Trade Practices Act were knowing or willful.

139. Complainants seek relief under the South Carolina Unfair Trade Practices for themselves individually and not on behalf of a class.

140. Complainants are entitled to an award of treble damages.

141. Complainants are entitled to an award of attorneys' fees, expert fees, costs, and

expenses.

**FOR AN ELEVENTH CLAIM**  
**Declaratory Judgment**

142. Complainants reallege the allegations in the preceding paragraphs as if fully set forth herein.

143. Pursuant to the Uniform Declaratory Judgments Act, S.C. Code Ann. § 15-53-10, *et seq.*, Complainants are entitled to and request a declaratory judgment that:

- a. The allocation formula rate, new account fees, monthly administrative billing fees, and final bill fees charged by Defendants for water and sewerage was and is an unlawful rate not permitted by South Carolina law;
- b. Defendants are and were a public utility required to submit any rate and fees for water and sewerage to the Commission before charging such rate or fee;
- c. Defendants may not charge tenants for water or sewerage through an allocation formula rate or any other rate unless and until such rate is filed with and approved by the Commission; and
- d. Defendants may not charge tenants any new account fee, monthly administrative billing fee, final bill fee, or other fee for water or sewerage until such fee is filed with and approved by the Commission.

**FOR A TWELFTH CLAIM**  
**Injunctive Relief**

144. Complainants reallege the allegations in the preceding paragraphs as if fully set forth herein.

145. Complainants and the other current and former tenants at the Audubon Property

administrative billing fees, and final bill fees, and

m) such other and further relief as the Commission deems just and proper.

THE STEINBERG LAW FIRM, L.L.P.  
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(843) 871-6522 - office  
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By: \_\_\_\_\_

  
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*Attorneys for Complainants*

February 16, 2022

Summerville, South Carolina

# Exhibit A



# APARTMENT LEASE CONTRACT



Date of Lease Contract: May 8, 2019  
(when the lease contract is filled out)

*This is a binding document. Read carefully before signing.*

## Moving In — General Information

1. **PARTIES.** This Lease Contract (sometimes referred to as the "lease") is between you the resident(s) (list all people signing the Lease Contract):

Alvaro Sarmiento Jr, Sarah Zito

and us, the owner: Strata Audubon, LLC

(name of apartment community or title holder). You've agreed to rent Apartment No. 1809, at 1809  
Audubon Dr

(street address) in Hanahan  
(city), South Carolina, 29410  
(zip code) for use as a private residence only. The terms "you" and "your" refer to all residents listed above. The terms "we," "us," and "our" refer to the owner listed above (or any of owner's successors' in interest or assigns). Written notice to or from our managers constitutes notice to or from us. If anyone else has guaranteed performance of this Lease Contract, a separate Lease Contract Guaranty for each guarantor is attached.

2. **OCCUPANTS.** The apartment will be occupied only by you and (list all other occupants not signing the Lease Contract):

Carter Sarmiento

No one else may occupy the apartment. Persons not listed above must not stay in the apartment for more than 14 consecutive days without our prior written consent, and no more than twice that many days in any one month. If the previous space isn't filled in, two days per month is the limit.

3. **LEASE TERM.** The initial term of the Lease Contract begins on the 1st day of August, 2019, and ends at 11:59 p.m. the 31st day of July, 2020.

**Renewal.** This Lease Contract will automatically renew month-to-month unless either party gives at least 60 days written notice of termination or intent to move-out as required by paragraph 35 (Move-Out Notice), which in all cases shall be a minimum of thirty (30) days. If the number of days isn't filled in, at least 30 days notice is required.

4. **SECURITY DEPOSIT.** Unless modified by addenda, the total security deposit at the time of execution of this Lease Contract for all residents in the apartment is \$ 200.00, due on or before the date this Lease Contract is signed.

5. **KEYS AND FURNITURE.** You will be provided 2 apartment key(s), 2 mailbox key(s), and 0 other access devices for N/A. Your apartment will be [check one]: ☐ furnished or ☒ unfurnished.

6. **RENT AND CHARGES.** Unless modified by addenda, you will pay \$ 1167.00 per month for rent, payable in advance and without demand:

- ☐ at the on-site manager's office, or  
☒ at our online payment site, or  
☐ at \_\_\_\_\_

Prorated rent of \$ 1167.00 is due for the remainder of the [check one]: ☒ 1st month or ☐ 2nd month, on August 1, 2019

Otherwise, you must pay your rent on or before the 1st day of each month (due date) with no grace period. Cash is unacceptable without our prior written permission. You must not withhold or offset rent unless authorized by statute. We may, at our option, require at any time that you pay all rent and other sums in cash, certified or cashier's check, money order, or one monthly check rather than multiple checks. At our discretion, we may convert any and all checks via the Automated Clearing House (ACH) system for the purposes of collecting payment. Rent is not considered accepted, if the payment/ACH is rejected, does not clear, or is stopped for any reason. If you don't pay all rent on or before the 5th day of the month, you'll pay an initial late charge of \$ 100.00 plus a late charge of \$ 2.00 per day after that date until paid in full. Daily late charges will not exceed 15 days for any single month's rent. You'll also pay a charge of \$ 30.00 for each returned check or rejected electronic payment, plus initial and daily late charges from due date until we receive acceptable payment, which returned check charge shall not exceed \$25.00 for checks \$100.00 or less and \$30.00 for checks over \$100.00. If you don't pay rent on time, you'll be delinquent and all remedies under this Lease Contract will be authorized. We'll also have all other remedies for such violation.

7. **UTILITIES.** We'll pay for the following items, if checked:

- ☐ water ☐ gas ☐ electricity ☐ master antenna  
☐ wastewater ☐ trash ☐ cable TV  
☐ other \_\_\_\_\_

You'll pay for all other utilities, related deposits, and any charges, fees, or services on such utilities. You must not allow utilities to be disconnected—including disconnection for not paying your bills—until the lease term or renewal period ends. Cable channels that are provided may be changed during the lease term if the change applies to all residents. Utilities may be used only for normal household purposes and must not be wasted. If your electricity is ever interrupted, you must use only battery-operated lighting. If any utilities are submetered for the apartment, or prorated by an allocation formula, we will attach an addendum to this Lease Contract in compliance with state agency rules or city ordinance.

8. **INSURANCE.** We do not maintain insurance to cover your personal property or personal injury. We are not responsible to any resident, guest, or occupant for damage or loss of personal property or personal injury from (including but not limited to) fire, smoke, rain, flood, water and pipe leaks, hail, ice, snow, lightning, wind, explosions, earthquake, interruption of utilities, theft, hurricane, negligence of other residents, occupants, or invited/uninvited guests or vandalism unless otherwise required by law.

In addition, we urge all residents, and particularly those residing in coastal areas, areas near rivers, and areas prone to flooding, to obtain flood insurance. Renter's insurance may not cover damage to your property due to flooding. A flood insurance resource which may be available includes the National Flood Insurance Program managed by the Federal Emergency Management Agency (FEMA).

We urge you to get your own insurance for losses to your personal property or injuries due to theft, fire, water damage, pipe leaks and the like.

Additionally, you are [check one] ☒ required to purchase personal liability insurance ☐ not required to purchase personal liability insurance. If no box is checked, personal liability insurance is not required. If required, failure to maintain personal liability insurance throughout your tenancy, including any renewal periods and/or

lease extensions, may be an incurable breach of this Lease Contract and may result in the termination of tenancy and eviction and/or any other remedies as provided by this Lease Contract or state law.

You acknowledge that no portion of the rent paid by you under this agreement will be applied to the owner's structural fire insurance and that you are in no way a co-insured under any such policy, and that, in order to reduce the cost of insurance, the Owner has chosen to purchase fire and extended coverage insurance for the property for which the above rental agreement applies, with a deductible in the amount of \$ 25000.00. If you or any member of your household, guest or invitee causes damages to the premises in an amount that is less than the amount of this insurance deductible, you agree to indemnify and reimburse the Owner for the amount of such damages, and that you may be liable for costs in excess of the deductible under any subrogation clause of the said policy. It is recommended that you secure insurance to protect your interest in the event of such a loss.

#### Special Provisions and "What If" Clauses

**10. SPECIAL PROVISIONS.** The following special provisions and any addenda or written rules furnished to you at or before signing will become a part of this lease and will supersede any conflicting provisions of this printed lease form.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

See any additional special provisions.

**11. EARLY MOVE-OUT.** You'll be liable to us for a reletting charge of \$ 1167.00 (not to exceed 100% of the highest monthly rent during the lease term) if you:

- (1) fail to give written move-out notice as required in paragraphs 22 (Military Personnel Clause) or 35 (Move-Out Notice); or
- (2) move out without paying rent in full for the entire lease term or renewal period; or
- (3) move out at our demand because of your default; or
- (4) are judicially evicted.

The reletting charge represents our estimated actual damages we anticipate to be incurred as a result of any of these occurrences and is not a cancellation fee and does not release you from your obligations under this Lease Contract. See the next paragraph.

**Not a Release.** The reletting charge is not a lease cancellation fee or buyout fee. It is an agreed-to liquidated amount covering only part of our actual damages that we anticipate to be incurred as a result of the occurrence of any of the foregoing (1) through (4), that is, our time, effort, and expense in finding and processing a replacement. These damages are uncertain and difficult to ascertain—particularly those relating to inconvenience, paperwork, advertising, showing apartments, utilities for showing, checking prospects, office overhead, marketing costs, and locator-service fees. You agree that the reletting charge is a reasonable estimate of such damages and that the charge is due whether or not our reletting attempts succeed. If no amount is stipulated, you must pay our actual reletting costs so far as they can be determined. The reletting charge does not release you from continued liability for: future or past-due rent; charges for cleaning, repairing, repainting, or unreturned keys; or other sums due.

**12. REIMBURSEMENT.** You must promptly reimburse us for loss, damage, government fines, or cost of repairs or service in the apartment community due to a violation of the Lease Contract or rules, improper use, or negligence by you or your guests or occupants. Unless the damage or wastewater stoppage is due to our negligence, we're not liable for --and you must pay for--repairs, replacement costs, and damage to the following that result from you or your invitees, guests, or occupants' negligence or intentional acts: (1) damage to doors, windows or screens; (2) damage from windows or doors left open; and (3) damage from wastewater stoppages caused by improper objects in lines exclusively serving your apartment. We may require payment at any time, including advance payment of repairs for which you're liable. Delay in demanding sums you owe is not a waiver.

**9. LOCKS AND LATCHES.** Keyed lock(s) will be rekeyed after the prior resident moves out. The rekeying will be done before you move into your apartment.

You may at any time ask us to change or rekey locks or latches during the Lease Term. We must comply with those requests, but you must pay for them, unless otherwise provided by law.

**Payment for Rekeying, Repairs, Etc.** You must pay for all repairs or replacements arising from misuse or damage to devices by you or your occupants, or guests during your occupancy. You may be required to pay in advance if we notify you within a reasonable time after your request that you are more than 30 days delinquent in reimbursing us for repairing or replacing a device which was misused or damaged by you, your guest or an occupant; or if you have requested that we repair or change or rekey the same device during the 30 days preceding your request and we have complied with your request. Otherwise, you must pay immediately after the work is completed.

**13. FAILING TO PAY FIRST MONTH'S RENT.** If you don't pay the first month's rent when or before the Lease Contract begins, all future rent will be automatically accelerated without notice and immediately due, to the extent provided by law. We also may end your right of occupancy and recover actual damages, future rent, reletting charges, attorney's fees, court costs, and other lawful charges, to the extent provided by law. Our rights and remedies under paragraphs 11 (Early Move-Out) and 31 (Default by Resident) apply to acceleration under this paragraph.

**14. RENT INCREASES AND LEASE CONTRACT CHANGES.** No rent increases or Lease Contract changes are allowed before the initial Lease Contract term ends, except for changes allowed by any special provisions in paragraph 10 (Special Provisions), by a written addendum or amendment signed by you and us, or by reasonable changes of apartment rules allowed under paragraph 17 (Community Policies or Rules). If, at least 5 days before the advance notice deadline referred to in paragraph 3 (Lease Term), we give you written notice of rent increases or lease changes effective when the lease term or renewal period ends, this lease will automatically continue month-to-month with the increased rent or lease changes. The new modified Lease Contract will begin on the date stated in the notice (without necessity of your signature) unless you give us written move-out notice under paragraph 35 (Move-Out Notice).

**15. DELAY OF OCCUPANCY.** If occupancy is or will be delayed for construction, repairs, cleaning, or a previous resident's holding over, we're not responsible for the delay unless otherwise required by law. The Lease Contract will remain in force subject to: (1) abatement of rent on a daily basis during delay; and (2) your right to terminate as set forth below. Notice of intent to terminate must be in writing and must be received by us at least five (5) days prior to your termination. After termination, you are entitled only to refund of deposit(s) and any rent paid. Rent abatement or lease termination does not apply if delay is for cleaning or repairs that don't prevent you from occupying the apartment.

If there is a delay and we haven't given notice of delay as set forth immediately below, you may terminate up to the date when the apartment is ready for occupancy, upon at least five (5) days prior written notice to us, but not later.

- (1) If we give written notice to any of you when or after the initial term as set forth in Paragraph 3 (Lease Term)—and the notice states that occupancy has been delayed because of construction or a previous resident's holding over, and that the apartment will be ready on a specific date—you may submit to us a written notice to terminate the Lease Contract within 3 days of your receiving the notice, but not later.
- (2) If we give written notice to any of you before the initial term as set forth in Paragraph 3 (Lease Term) and the notice states that construction delay is expected and that the apartment will be ready for you to occupy on a specific date, you may submit to us written notice to terminate the Lease Contract within 7 days after any of you receives written notice, but not later. The readiness date is considered the new initial term as set forth in Paragraph 3 (Lease Term) for all purposes. This new date may not be moved to an earlier date unless we and you agree.

**16. DISCLOSURE RIGHTS.** If someone requests information on you or your rental history for law-enforcement, governmental, or business purposes, we may provide it.

## While You're Living in the Apartment

**17. COMMUNITY POLICIES OR RULES.** You and all guests and occupants must comply with any written apartment rules and community policies, including instructions for care of our property. Our rules are considered part of this Lease Contract. We may make reasonable changes to written rules, effective immediately, if they are distributed and applicable to all units in the apartment community and do not change dollar amounts on page 1 of this Lease Contract.

**18. LIMITATIONS ON CONDUCT.** The apartment and other areas reserved for your private use must be kept clean and free of trash, garbage, and other debris. Trash must be disposed of at least weekly in appropriate receptacles in accordance with local ordinances. Passageways may be used only for entry or exit. You agree to keep all passageways and common areas free of obstructions such as trash, storage items, and all forms of personal property. No person shall ride or allow bikes, skateboards, or other similar objects in the passageways. Any swimming pools, saunas, spas, tanning beds, exercise rooms, storerooms, laundry rooms, and similar areas must be used with care in accordance with apartment rules and posted signs. Glass containers are prohibited in all common areas. You, your occupants, or guests may not anywhere in the apartment community: use candles or use kerosene lamps or kerosene heaters without our prior written approval; cook on balconies or outside; or solicit business or contributions. Conducting any kind of business (including child care services) in your apartment or in the apartment community is prohibited—except that any lawful business conducted "at home" by computer, mail, or telephone is permissible if customers, clients, patients, or other business associates do not come to your apartment for business purposes. We may regulate: (1) the use of patios, balconies, and porches; (2) the conduct of furniture movers and delivery persons; and (3) recreational activities in common areas. You'll be liable to us for damage caused by you or any guests or occupants.

We may exclude from the apartment community guests or others who, in our judgment, have been violating the law, violating this Lease Contract or any apartment rules, or disturbing other residents, neighbors, visitors, or owner representatives. We may also exclude from any outside area or common area a person who refuses to show photo identification or refuses to identify himself or herself as a resident, occupant, or guest of a specific resident in the community.

You agree to notify us if you or any occupants are convicted of any felony, or misdemeanor involving a controlled substance, violence to another person or destruction of property. You also agree to notify us if you or any occupant registers as a sex offender in any state. Informing us of criminal convictions or sex offender registry does not waive our right to evict you.

**19. PROHIBITED CONDUCT.** You, your occupants or guests, or the guests of any occupants, may not engage in the following activities: behaving in a loud or obnoxious manner; disturbing or threatening the rights, comfort, health, safety, or convenience of others (including our agents and employees) in or near the apartment community; disrupting our business operations; manufacturing, delivering, possessing with intent to deliver, or otherwise possessing a controlled substance or drug paraphernalia; engaging in or threatening violence; possessing a weapon prohibited by state law; discharging a firearm in the apartment community; displaying or possessing a gun, knife, or other weapon in the common area in a way that may alarm others; storing anything in closets having gas appliances; tampering with utilities or telecommunications; bringing hazardous materials into the apartment community; or injuring our reputation by making bad faith allegations against us to others.

**20. PARKING.** We may regulate the time, manner, and place of parking cars, trucks, motorcycles, bicycles, boats, trailers, and recreational vehicles by anyone. Motorcycles or motorized bikes may not be parked inside an apartment unit or on sidewalks, under stairwells, or in handicapped parking areas. We may have unauthorized or illegally parked vehicles towed from the apartment community at your expense under the terms of this Lease Contract or by an appropriate statute. A vehicle is unauthorized or illegally parked in the apartment community if it:

- (1) has a flat tire or other condition rendering it inoperable; or
- (2) is on jacks, blocks or has wheel(s) missing; or
- (3) has no current license plate or no current registration and/or inspection sticker; or
- (4) takes up more than one parking space; or
- (5) belongs to a resident or occupant who has surrendered or abandoned the apartment; or

- (6) is parked in a marked handicap space without the legally required handicap insignia; or
- (7) is parked in a space marked for manager, staff, or guest at the office; or
- (8) blocks another vehicle from exiting; or
- (9) is parked in a fire lane or designated "no parking" area; or
- (10) is parked in a space marked for other resident(s) or unit(s); or
- (11) is parked on the grass, sidewalk, or patio; or
- (12) blocks garbage trucks from access to a dumpster; or
- (13) belongs to a resident and is parked in a visitor or retail parking space.

**21. RELEASE OF RESIDENT.** Unless you're entitled to terminate your tenancy under paragraphs 10 (Special Provisions), 15 (Delay of Occupancy), 22 (Military Personnel Clause), 30 (Responsibilities of Owner), or 35 (Move-Out Notice), you won't be released from this Lease Contract for any reason—including but not limited to voluntary or involuntary school withdrawal or transfer, voluntary or involuntary job transfer, marriage, separation, divorce, reconciliation, loss of co-residents, loss of employment, bad health, or death.

**22. MILITARY PERSONNEL CLAUSE.** You may terminate your tenancy if you enlist or are drafted or commissioned and on active duty in the U.S. Armed Forces. You also may terminate your tenancy if:

- (1) you are (i) a member of the U.S. Armed Forces or reserves on active duty or (ii) a member of the National Guard called to active duty for more than 30 days in response to a national emergency declared by the President; *and*
- (2) you (i) receive orders for permanent change-of-station, (ii) receive orders to deploy with a military unit or as an individual in support of a military operation for 90 days or more, or (iii) are relieved or released from active duty.

After you deliver to us your written termination notice, your tenancy will be terminated under this military clause 30 days after the date on which your next rental payment is due. You must furnish us a copy of your military orders, such as permanent change-of-station orders, call-up orders, or deployment orders or written notification from your commanding officer. Military permission for base housing does not constitute change-of-station order. After you move out, we'll return your security deposit, less lawful deductions. For the purposes of this Lease Contract, orders described in (2) above will only release the resident who qualifies under (1) and (2) above and receives the orders during the Lease Contract term and such resident's spouse or legal dependents living in the resident's household. A co-resident who is not your spouse or dependent cannot terminate under this military clause. Unless you state otherwise in paragraph 10 (Special Provisions), you represent when signing this Lease Contract that: (1) you do not already have deployment or change-of-station orders; (2) you will not be retiring from the military during the Lease Contract term; and (3) the term of your enlistment or obligation will not end before the Lease Contract term ends. Even if you are entitled to terminate your tenancy under this paragraph, liquidated damages for making a false representation of the above will be the amount of unpaid rent for the remainder of the lease term when and if you move out, less rents from others received in mitigation under paragraph 31 (Default by Resident). You must immediately notify us if you are called to active duty or receive deployment or permanent change-of-station orders.

**23. RESIDENT SAFETY AND PROPERTY LOSS.** You and all occupants and guests must exercise due care for your own and others' safety and security, especially in the use of smoke and carbon monoxide detectors, keyed deadbolt locks, keyless bolting devices, window latches, and access control devices.

**Smoke Detectors and Carbon Monoxide Detectors.** We'll furnish smoke detectors and carbon monoxide detectors only if required by statute, and we'll test them and provide working batteries when you first take possession. After that, you must test the smoke detectors and the carbon monoxide detectors on a regular basis, and you must pay for and replace batteries as needed, unless the law provides otherwise. We may replace dead or missing batteries at your expense, without prior notice to you. You must immediately report smoke-detector and carbon monoxide detector malfunctions to us. Neither you nor others may disable neither the smoke detectors nor the carbon monoxide detectors. If you damage or disable the smoke-detector or carbon monoxide detector or remove a battery without replacing it with a working battery, you may be liable to us under state statute for \$100 plus one month's rent, actual damages, and attorney's fees. If you disable or damage the smoke detector or carbon monoxide detector, or fail to replace a dead battery or report malfunctions to us, you will be liable to us and others for any loss, damage, or fines from fire, smoke, or water.

**Casualty Loss.** We're not liable to any resident, guest, or occupant for personal injury or damage or loss of personal property from any cause, including but not limited to: fire, smoke, rain, flood, water and pipe leaks, hail, ice, snow, lightning, wind, explosions, earthquake, interruption of utilities, theft, or vandalism unless otherwise required by law. We have no duty to remove any ice, sleet, or snow but may remove any amount with or without notice, except as may be required by law. During freezing weather, you must ensure that the temperature in the apartment is sufficient to make sure that the pipes do not freeze (we suggest at least 50 degrees). If the pipes freeze or any other damage is caused by your failure to properly maintain the heat in your apartment, you'll be liable for damage to our and other's property.

**Crime or Emergency.** Dial 911 or immediately call local medical emergency, fire, or police personnel in case of accident, fire, smoke, or suspected criminal activity or other emergency involving imminent harm. You should then contact our representative. Unless otherwise provided by law, we're not liable to you or any guests or occupants for injury, damage, or loss to person or property caused by criminal conduct of other persons, including theft, burglary, assault, vandalism, or other crimes. We're not obliged to furnish security personnel, security lighting, security gates or fences, or other forms of security. If we provide any access control devices or security measures upon the property, they are not a guarantee to prevent crime or to reduce the risk of crime on the property. You agree that no access control or security measures can eliminate all crime and that you will not rely upon any provided access control or security measures as a warranty or guarantee of any kind. We're not responsible for obtaining criminal-history checks on any residents, occupants, guests, or contractors in the apartment community. If you or any occupant or guest is affected by a crime, you must make a written report to our representative and to the appropriate local law-enforcement agency. You must also furnish us with the law-enforcement agency's incident report number upon request.

**24. CONDITION OF THE PREMISES AND ALTERATIONS.** You accept the apartment, fixtures, and furniture as is, except for conditions materially affecting the health or safety of ordinary persons. **WE DISCLAIM ALL IMPLIED WARRANTIES.** You'll be given an Inventory and Condition form on or before move-in. You must note on the form all defects or damage and return it to our representative. Otherwise, everything will be considered to be in a clean, safe, and good working condition.

You must use customary diligence in maintaining the apartment and not damaging or littering the common areas. Unless authorized by statute or by us in writing, you must not perform any repairs, painting, wallpapering, carpeting, electrical changes, or otherwise alter our property. No holes or stickers are allowed inside or outside the apartment. But we'll permit a reasonable number of small nail holes for hanging pictures on sheetrock walls and in grooves of wood-paneled walls, unless our rules state otherwise. No water furniture, washing machines, additional phone or TV-cable outlets, alarm systems, or lock changes, additions, or rekeying is permitted unless statutorily allowed or we've consented in writing. You may install a satellite dish or antenna provided you sign our satellite dish or antenna lease addendum which complies with reasonable restrictions allowed by federal law. You agree not to alter, damage, or remove our property, including alarm systems, smoke detectors and carbon monoxide detectors, furniture, telephone and cable TV wiring, screens, locks, and access control devices. When you move in, we'll supply light bulbs for fixtures we furnish, including exterior fixtures operated from inside the apartment; after that, you'll replace them at your expense with bulbs of the same type and wattage. Your improvements to the apartment (whether or not we consent) become ours unless we agree otherwise in writing.

**25. REQUESTS, REPAIRS, AND MALFUNCTIONS.** IF YOU OR ANY OCCUPANT NEEDS TO SEND A NOTICE OR REQUEST—FOR EXAMPLE, FOR REPAIRS, INSTALLATIONS, SERVICES, OR SECURITY-RELATED MATTERS—IT MUST BE SUBMITTED THROUGH EITHER THE ONLINE TENANT/MAINTENANCE PORTAL, OR SIGNED AND IN WRITING AND DELIVERED TO OUR DESIGNATED REPRESENTATIVE. (except in case of fire, smoke, gas, explosion, overflowing sewage, uncontrollable running water, electrical shorts, or crime in progress). Our written notes on your oral request do not constitute a written request from you.

Our complying with or responding to any oral request regarding security or non-security matters doesn't waive the strict requirement for written notices under this Lease Contract. You must promptly notify us in writing of: water leaks; electrical problems; malfunctioning lights; broken or missing locks or latches; and other conditions that pose a hazard to property, health, or safety. We may

change or install utility lines or equipment serving the apartment if the work is done reasonably without substantially increasing your utility costs. We may turn off equipment and interrupt utilities as needed to avoid property damage or to perform work. If utilities malfunction or are damaged by fire, water, or similar cause, you must notify our representative immediately. Air conditioning problems are not emergencies. If air conditioning or other equipment malfunctions, you must notify our representative as soon as possible on a business day. We'll act with customary diligence to make repairs and reconnections. Rent will not abate in whole or in part.

If we believe that fire or catastrophic damage is substantial, or that performance of needed repairs poses a danger to you, we may terminate your tenancy within a reasonable time by giving you written notice. If your tenancy is so terminated, we'll refund prorated rent and all deposits, less lawful deductions.

**26. ANIMALS.** No animals (including mammals, reptiles, birds, fish, rodents and insects) are allowed, even temporarily, anywhere in the apartment or apartment community unless we've so authorized in writing. If we allow an animal, you must sign a separate animal addendum, which may require additional deposits, rents, fees or other charges. An animal deposit is considered a general security deposit. You must remove an unauthorized animal within 24 hours of notice from us, or you will be considered in default of this Lease Contract. We will authorize support and/or service animals for you, your guests, and occupants pursuant to the parameters and guidelines established by the Fair Housing Act and the HUD regulatory guidelines. We may require a written statement from a qualified professional verifying the need for the support and/or service animal. You must not feed stray or wild animals.

If you or any guest or occupant violates animal restrictions (with or without your knowledge), you'll be subject to charges, damages, eviction, and other remedies provided in this Lease Contract. If an animal has been in the apartment at any time during your term of occupancy (with or without our consent), we'll charge you for defecating, deodorizing, and shampooing. Initial and daily animal-violation charges and animal-removal charges are liquidated damages for our time, inconvenience, and overhead (except for attorney's fees and litigation costs) in enforcing animal restrictions and rules. We may remove an unauthorized animal by (1) leaving, in a conspicuous place in the apartment, a 24-hour written notice of intent to remove the animal, and (2) following the procedures of paragraph 27 (When We May Enter). We may keep or kennel the animal or turn it over to a humane society or local authority. When keeping or kenneling an animal, we won't be liable for loss, harm, sickness, or death of the animal unless due to our negligence. We'll return the animal to you upon request if it has not already been turned over to a humane society or local authority. You must pay for the animal's reasonable care and kenneling charges. We have no lien on the animal for any purpose.

**27. WHEN WE MAY ENTER.** We (landlord and repairers, servicers, contractors, and other agents) must give you at least 24 hours notice of our intent to enter and may only enter at reasonable times, except in the event of the following:

- (1) at any time in case of emergency, including prospective changes in weather conditions which pose a likelihood of danger to the property;
- (2) between the hours of 9 AM to 6 PM for the purpose of providing regularly scheduled periodic services (provided that prior to entering, we announce our intent to enter), such services including: making repairs or replacements; estimating repair or refurbishing costs; performing pest control; doing preventive maintenance; changing filters; testing or replacing smoke-detector or carbon monoxide detector batteries; delivering, installing, reconnecting, or replacing appliances, furniture, equipment, or access control devices, and the like;
- (3) between the hours of 8 AM to 8 PM for the purpose of providing services you request (provided that, prior to entering, we announce our intent to enter to perform services);
- (4) pursuant to court order;
- (5) where you fail to maintain the premises in a condition materially affecting health and safety if such noncompliance can be remedied by repair and you fail to comply as promptly as conditions require in the case of emergency or within fourteen (14) days after written notice from us requesting you to remedy the breach within such time period;
- (6) when accompanied by a law enforcement officer at reasonable times for the purpose of service of process in ejectment proceedings; or
- (7) you have abandoned or surrendered the premises.

**28. JOINT AND SEVERAL RESPONSIBILITY.** Each resident is jointly and severally liable for all lease obligations. If you or any guest or occupant violates the Lease Contract or rules, all residents are considered to have violated the Lease Contract. Our requests and notices (including sale notices) to any resident constitute notice to all residents and occupants. Notices and requests from any resident or occupant (including notices of tenancy termination, repair

requests, and entry permissions) constitute notice from all residents. In eviction suits, each resident is considered the agent of all other residents in the apartment for service of process. Security-deposit refunds and any deduction itemizations of multiple residents will comply with paragraph 40 (Deposit Return, Surrender, and Abandonment).

### Replacements

**29. REPLACEMENTS AND SUBLETTING.** Replacing a resident, subletting, assignment, or granting a right or license to occupy is allowed only when we expressly consent in writing. If departing or remaining residents find a replacement resident acceptable to us before moving out and we expressly, in writing, consent to the replacement, subletting, assignment, or granting a right or any license to occupy, then:

- (1) a reletting charge *will not be due*;
- (2) a reasonable administrative (paperwork) and/or transfer fee *will be due*, and a rekeying fee *will be due* if rekeying is requested or required; and
- (3) the departing and remaining residents will remain liable for

all lease obligations for the rest of the original lease term.

**Procedures for Replacement.** If we approve a replacement resident, then, at our option: (1) the replacement resident must sign this Lease Contract with or without an increase in the total security deposit; or (2) the remaining and replacement residents must sign an entirely new Lease Contract. Unless we agree otherwise in writing, your security deposit will automatically transfer to the replacement resident as of the date we approve. The departing resident will no longer have a right to occupancy or a security deposit refund, but will remain liable for the remainder of the original lease term unless we agree otherwise in writing—even if a new Lease Contract is signed.

### Responsibilities of Owner and Resident

**30. RESPONSIBILITIES OF OWNER.** We'll act with customary diligence to:

- (1) keep common areas reasonably clean, subject to paragraph 24 (Conditions of the Premises and Alterations);
- (2) maintain fixtures, furniture, hot water, heating and A/C equipment;
- (3) comply with applicable federal, state, and local laws regarding safety, sanitation, and fair housing; and
- (4) make all reasonable repairs, subject to your obligation to pay for damages for which you are liable.

If we violate any of the above, you may terminate your tenancy and exercise other remedies under state statute only as follows:

- (a) you must make a written request for repair or remedy of the condition, and all rent must be current at the time;
- (b) after receiving the request, we have a reasonable time to repair, considering the nature of the problem and the reasonable availability of materials, labor, and utilities;
- (c) if we haven't diligently tried to repair within a reasonable time, you must then give us written notice of intent to terminate your tenancy unless the repair is made within 7 days; and
- (d) if repair hasn't been made within 14 days, you may terminate your tenancy and exercise other statutory remedies. Security deposits and prorated rent will be refunded as required by law.

**31. DEFAULT BY RESIDENT.** You'll be in default if you or any guest or occupant violates any terms of this Lease Contract including but not limited to the following violations: (1) you don't pay rent or other amounts that you owe when due; (2) you or any guest or occupant violates the apartment rules, or fire, safety, health, or criminal laws, regardless of whether or where arrest or conviction occurs; (3) you abandon the apartment; (4) you give incorrect or false answers in a rental application; (5) you or any occupant is arrested, convicted, or given deferred adjudication for a felony offense involving actual or potential physical harm to a person, or involving possession, manufacture, or delivery of a controlled substance, marijuana, or drug paraphernalia under state statute; (6) any illegal drugs or paraphernalia are found in your apartment; (7) you or any guest or occupant engages in any of the prohibited conduct described in Paragraph 19 (Prohibited Conduct); or (8) you or any occupant, in bad faith, makes an invalid complaint to an official or employee of a utility company or the government.

**Lease Renewal When A Breach or Default Has Occurred.** In the event that you enter into a subsequent Lease prior to the expiration of this Lease and you breach or otherwise commit a default under this Lease, We may, at our sole and absolute discretion, terminate the subsequent Lease, even if the subsequent Lease term has yet to commence. We may terminate said subsequent Lease by sending you written notice of our desire to terminate said subsequent Lease as permitted by law.

**Eviction.** If you default, we have the right to seek ejectment in accordance with applicable law.

**IF YOU DO NOT PAY YOUR RENT ON TIME WHEN REQUIRED BY THIS LEASE CONTRACT: This is your notice.** If you do not pay your rent within five days of the due date specified in this Lease Contract, we can start to have you evicted without further notice. You will not receive any further notice or warnings as long as you live in this rental unit, unless we decide to provide them to you as a gratuity, not as a right.

**Acceleration.** To the extent provided by law, all monthly rent for the rest of the lease term or renewal period will be accelerated automatically without notice or demand (before or after acceleration) and will be immediately due and delinquent if, without our written consent: (1) you move out, remove property in preparing to move out, or give oral or written notice (by you or any occupant) of intent to move out before the lease term or renewal period ends; and (2) you've not paid all rent for the entire lease term or renewal period. Such conduct is considered a default for which we need not give you notice. Remaining rent also will be accelerated if you're judicially evicted or move out when we demand because you've defaulted. Acceleration is subject to our mitigation obligations below.

**Holdover.** You or any occupant, invitee, or guest must not hold over beyond the date contained in your move-out notice or our notice to vacate (or beyond a different move-out date agreed to by the parties in writing). If a holdover occurs, then: (1) holdover rent is due in advance on a daily basis and may become delinquent without notice or demand; (2) rent for the holdover period will be increased by 25% over the then-existing rent, without notice; (3) you'll be liable to us for all rent for the full term of the previously signed Lease Contract of a new resident who can't occupy because of the holdover; and (4) at our option, we may extend the lease term—for up to one month from the date of notice of lease extension—by delivering written notice to you or your apartment while you continue to hold over.

**Remedies Cumulative.** Any remedies set forth herein shall be cumulative, in addition to, and not in limitation of, any other remedies available to Landlord under any applicable law.

**Other Remedies.** If your rent is delinquent and we give you 5 days' prior written notice, we may terminate your tenancy upon written notice to you of nonpayment and intent to terminate your tenancy. We may report unpaid amounts to credit agencies. If you default and move out early, you will pay us any amounts stated to be rental discounts in paragraph 10 (Special Provisions), in addition to other sums due. Upon your default, we have all other legal remedies, including termination of your tenancy and lockout fees, as provided under state statute, and attorneys' fees, to the extent allowable by law. Late charges are liquidated damages for our time, inconvenience, and overhead in collecting late rent (but are not for attorney's fees and litigation costs). You must pay all collection-agency fees if you fail to pay all sums due within 10 days after we mail you a letter demanding payment and stating that collection agency fees will be added if you don't pay all sums by that deadline.

**Mitigation of Damages.** If you move out early, you'll be subject to paragraph 11 (Early Move-Out) and all other remedies. We'll exercise customary diligence to relet and mitigate damages. We'll credit all subsequent rent that we actually receive from subsequent residents against your liability for past-due and future rent and other sums due.

## General Clauses

**32. MISCELLANEOUS.** Neither we nor any of our representatives have made any oral promises, representations, or agreements. This Lease Contract is the entire agreement between you and us. Our representatives (including management personnel, employees, and agents) have no authority to waive, amend, or terminate this Lease Contract or any part of it, unless in writing, and no authority to make promises, representations, or agreements that impose security duties or other obligations on us or our representatives unless in writing. No action or omission of our representative will be considered a waiver of any subsequent violation, default, or time or place of performance. Our not enforcing or belatedly enforcing written-notice requirements, rental due dates, acceleration, liens, or other rights isn't a waiver under any circumstances. Except when notice or demand is required by statute, you waive any notice and demand for performance from us if you default. Written notice to or from our managers constitutes notice to or from us. Any person giving a notice under this Lease Contract should retain a copy of the memo, letter or fax that was given. Fax signatures are binding. All notices must be signed.

Exercising one remedy won't constitute an election or waiver of other remedies. Unless prohibited by law or the respective insurance policies, insurance subrogation is waived by all parties. All remedies are cumulative. No employee, agent, or management company is personally liable for any of our contractual, statutory, or other obligations merely by virtue of acting on our behalf. This Lease Contract binds subsequent owners. Neither an invalid clause nor the omission of initials on any page invalidates this Lease Contract. All notices and documents may be in English and, at our option, in any language that you read or speak. All provisions regarding our non-liability and non-duty apply to our employees, agents, and management companies. This Lease Contract is subordinate or superior to existing and future recorded mortgages, at lender's option. All lease obligations must be performed in the county where the apartment is located.

**Cable.** Although the property may currently be providing cable on a bulk basis to the resident, the property may, with 30 days notice to the resident, cease providing cable and the resident will contract directly with the cable provider for such services.

**Affirmation that You are Not a Criminal Sex Offender.** You affirmatively state that you are not a criminal sex offender.

**WAIVER OF JURY TRIAL.** To minimize legal expenses and, to the extent allowed by law, you and we agree that a trial of any lawsuit based on statute common law, and/or related to this Lease Contract shall be to a judge and not a jury.

**Consent to Solicitation.** You hereby expressly authorize us, our representative(s), and any collection agency or debt collector

(hereinafter collectively referred to as the "Authorized Entities") to communicate with you. The communication may be made through any method for any reason related to amounts due and owing under this Lease. You authorize any and all of the communication methods even if you will incur a fee or a cost to receive such communications. You further promise to immediately notify the Authorized Entities if any telephone number or email address or other unique electronic identifier or mode that you provided to any Authorized Entity changes or is no longer used by you.

All discretionary rights reserved for us within this Lease Contract or any accompanying addenda are at our sole and absolute discretion.

**Obligation to Vacate.** If we provide you with a notice to vacate, or if you provide us with a written notice to vacate or intent to move-out in accordance with the Lease Terms paragraph, and we accept such written notice, then you are required to vacate the Apartment and remove all of your personal property therefrom at the expiration of the Lease term, or by the date set forth in the notice to vacate, whichever date is earlier, without further notice or demand from us.

**FORCE MAJEURE.** If we are prevented from completing performances of any obligations hereunder by an act of God, strikes, epidemics, war, acts of terrorism, riots, flood, fire, hurricane, tornado, sabotage, or other occurrence which is beyond the control of the parties, then we shall be excused from any further performance of obligations and undertakings hereunder, to the full extent allowed under applicable law.

Furthermore, if such an event damages the property to materially affect its habitability by some or all residents, we reserve the right to vacate any and all leases and you agree to excuse us from any further performance of obligations and undertakings hereunder, to the full extent allowed under applicable law.

**33. PAYMENTS.** Payment of all sums is an independent covenant. At our option and without notice, we may apply money received (other than utility payments subject to governmental regulations) first to any of your unpaid obligations, then to current rent—regardless of notations on checks or money orders and regardless of when the obligations arose. All sums other than rent are due upon our demand. After the due date, we do not have to accept the rent or any other payments.

**34. ASSOCIATION MEMBERSHIP.** We represent that either: (1) we or; (2) the management company that represents us, is at the time of signing this Lease Contract or a renewal of this Lease Contract, a member of both the National Apartment Association and any affiliated state and local apartment (multi-housing) associations for the area where the apartment is located.

## When Moving Out

**35. MOVE-OUT NOTICE.** Before moving out, either at the end of the lease term, any extension of the lease term, or prior to the end of the lease term, you must give our representative advance written notice of your intention to vacate as required by paragraph 3 (Lease Terms). If you move out prior to the end of the lease term, your notice does not act as a release of liability for the full term of the Lease Contract. Your move-out notice must not terminate the Lease Contract sooner than the end of the Lease Contract term or renewal period, and should you attempt to do so, you will still be liable for the entire Lease Contract term if you move out early under paragraph 21 (Release of Resident) except if you are able to terminate your tenancy under the statutory rights explained under paragraphs 11, 21, or 22 (Early Move-Out, Release of Resident, or the Military Personnel Clause). All notices to vacate must be in writing and must provide the date by which you intend to vacate. If the notice does not comply with the time requirements of paragraph 3 (Lease Term) even if you move by the last date in the lease term, you will be responsible for an additional month's rent. If you fail to vacate by the date set forth in your notice, you will automatically and immediately become a holdover tenant pursuant to state law, and we will have all remedies available under this Lease Contract and state law.

**36. MOVE-OUT PROCEDURES.** The move-out date can't be changed unless we and you both agree in writing. You won't move out before the lease term or renewal period ends unless all rent for the entire lease term or renewal period is paid in full. Early move-out may result in reletting charges and acceleration of future rent under paragraphs 11 (Early Move-Out) and 31 (Default by Resident), to the extent provided by law. You're prohibited by law from applying any security deposit to rent. You won't stay beyond the date you are supposed to move out. All residents, guests, and occupants must

vacate the apartment before the 30-day period for deposit refund begins. You must give us and the U.S. Postal Service, in writing, each resident's forwarding address.

**37. CLEANING.** You must thoroughly clean the apartment, including doors, windows, furniture, bathrooms, kitchen appliances, patios, balconies, garages, carports, and storage rooms. You must follow move-out cleaning instructions if they have been provided. If you don't clean adequately, you'll be liable for reasonable cleaning charges.

**38. MOVE-OUT INSPECTION.** You should meet with our representative for a move-out inspection. Our representative has no authority to bind or limit us regarding deductions for repairs, damages, or charges. Any statements or estimates by us or our representative are subject to our correction, modification, or disapproval before final refunding or accounting.

**39. SECURITY DEPOSIT DEDUCTIONS AND OTHER CHARGES.** You'll be liable for the following charges, including, but not limited to, and if applicable: unpaid rent; unpaid utilities; unreimbursed service charges; repairs or damages caused by negligence, carelessness, accident, or abuse, including stickers, scratches, tears, burns, stains, or unapproved holes; replacement cost of our property that was in or attached to the apartment and is missing; replacing dead or missing smoke-detector or carbon monoxide detector batteries; utilities for repairs or cleaning; trips to let in company representatives to remove your telephone or TV cable services or rental items (if you so request or have moved out); trips to open the apartment when you or any guest or occupant is missing a key; unreturned keys; missing or burned-out light bulbs; removing or rekeying unauthorized access control devices or alarm systems;

agreed reletting charges; packing, removing, or storing property removed or stored; removing illegally parked vehicles; special trips for trash removal caused by parked vehicles blocking dumpsters; false security-alarm charges unless due to our negligence; animal-related charges under paragraphs 6 (Rent and Charges) and 26 (Animals); government fees or fines against us for violation (by you, your occupants, or guests) of local ordinances relating to smoke detectors and carbon monoxide, false alarms, recycling, or other matters; late-payment and returned-check charges; a charge (not to exceed \$100) for owner/manager's time and inconvenience in our lawful removal of an animal or in any valid eviction proceeding against you, plus attorney's fees, court costs, and filing fees actually paid; and other sums due under this Lease Contract.

You'll be liable to us, to the extent provided by law, for: (1) charges for replacing all keys and access devices referenced in paragraph 5 (Keys and Furniture) if you fail to return them on or before your actual move-out date; (2) accelerated rent if you have violated paragraph 31 (Default by Resident); and (3) a reletting fee if you have violated paragraph 11 (Early Move-Out).

#### 40. DEPOSIT RETURN, SURRENDER, AND ABANDONMENT.

**Deposit Return and Forwarding Address.** You are required to provide us written notice of your forwarding address, on or before termination of this Lease Contract. We'll mail you, to the forwarding address you provide, your security deposit refund (less lawful deductions) and an itemized accounting of any deductions within the time frames and parameters set forth under state law. If you fail to provide us with your forwarding address in writing, as required above, we will process the unclaimed security deposit in accordance with state law.

**Surrender.** You have surrendered the apartment when: (1) the move-out date has passed and no one is living in the apartment in our reasonable judgment; or (2) all apartment keys and access devices listed in paragraph 5 (Keys and Furniture) have been turned in where rent is paid—whichever date occurs first.

**Abandonment.** You have abandoned the apartment when all of the following have occurred: (1) everyone appears to have moved out in our reasonable judgment; (2) clothes, furniture, and personal belongings have been substantially removed in our reasonable judgment; (3) you've been in default for non-payment of rent for 15 consecutive days or water, gas, or electric service for the apartment not connected in our name has been terminated; and (4) you've not responded for 2 days to our notice left on the inside of the main entry door, stating that we consider the apartment abandoned. An apartment is also "abandoned" 10 days after the death of a sole resident.

Surrender, abandonment and judicial eviction end your right of possession for all purposes and gives us the immediate right to: clean up, make repairs in, and relet the apartment; determine any security deposit deductions; and remove property left in the apartment, subject to and to the extent provided by law. Surrender, abandonment, and judicial eviction affect your rights to property left in the apartment, but do not affect our mitigation obligations (paragraph 31 (Default by Resident)).

### Severability, Originals and Attachments, and Signatures

**41. SEVERABILITY.** If any provision of this Lease Contract is invalid or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or unenforceability only without invalidating or otherwise affecting the remainder of this Lease Contract. The court shall interpret the lease and provisions herein in a manner such as to uphold the valid portions of this Lease Contract while preserving the intent of the parties.

**42. ORIGINALS AND ATTACHMENTS.** This Lease Contract has been executed in multiple originals, with original signatures. We will provide you with a copy of the Lease Contract. Your copy of the Lease Contract may be in paper format, in an electronic format at your request, or sent via e-mail if we have communicated by e-mail about this Lease. Our rules and community policies, if any, will be attached to the Lease Contract and provided to you at signing. When an Inventory and Condition form is completed, you should retain a copy, and we should retain a copy. Any addenda or amendments you sign as a part of executing this Lease Contract are binding and hereby incorporated into and made part of the Lease Contract between you and us. This lease is the entire agreement between you and us. You acknowledge that you are NOT relying on any oral representations.

**You are legally bound by this document.  
Read it carefully before signing.**

**Resident or Residents (all sign below)**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Owner or Owner's Representative (signing on behalf of owner)

**Address and phone number of owner's representative for notice purposes**

1700 Eagle Landing Blvd

**Hanahan, SC 29410**

**(843) 569-0055**

Name and address of locator service (if applicable)

Date form is filled out (same as on top of page 1)

05/08/2019

**SPECIAL PROVISIONS (CONTINUED FROM PAGE 2).**



# ANIMAL ADDENDUM

Becomes part of Lease Contract



Date May 8, 2019  
(when this Addendum is filled out)

**Please note: We consider animals a serious responsibility and a risk to each resident in the dwelling. If you do not properly control and care for your animal, you'll be held liable if it causes any damage or disturbs other residents.**

In this document, the terms "you" and "your" refer to all residents listed below and all occupants or guests; and the terms "we," "us," and "our" refer to the owner named in the Lease Contract (not to the property manager or anyone else).

## 1. DWELLING UNIT DESCRIPTION.

Unit No. 1809, 1809 Audubon  
Dr  
(street address) in  
Hanahan  
(city), South Carolina, 29410  
(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: May 8, 2019  
Owner's name: Strata Audubon, LLC

Residents (list all residents):

Alvaro Sarmiento Jr. Sarah Zito

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

**3. CONDITIONAL AUTHORIZATION FOR ANIMAL.** You may keep the animal that is described below in the dwelling until the Lease Contract expires. But we may terminate this authorization sooner if your right of occupancy is lawfully terminated or if in our judgment you and your animal, your guests, or any occupant violate any of the rules in this Addendum.

**4. SECURITY DEPOSIT.** An animal deposit of \$ 0.00 will be charged. We [check one] ☒ will consider, or ☐ will not consider this additional security deposit the general security deposit for all purposes. The security deposit amount in the Security Deposit paragraph of the Lease Contract [check one] ☐ does, or ☒ does not include this additional deposit amount. Refund of the animal deposit will be subject to the terms and conditions set forth in the Lease Contract regardless of whether it is considered part of the general security deposit.

**5. ADDITIONAL MONTHLY RENT.** Your total monthly rent (as stated in the Lease Contract) will be increased by \$ 20.00. The monthly rent amount in the Rent and Charges paragraph of the Lease Contract [check one] ☐ includes ☒ does not include this additional animal rent.

**6. ADDITIONAL FEE.** You must also pay a one-time, non-refundable fee of \$ 400.00 for having the animal in the dwelling unit. It is our policy to not charge a deposit for support animals.

**7. LIABILITY NOT LIMITED.** The additional monthly rent and additional security deposit under this Animal Addendum do not limit residents' liability for property damages, cleaning, deodorization, defleaving, replacements, or personal injuries.

**8. DESCRIPTION OF ANIMAL(S).** You may keep only the animal(s) described below. You may not substitute any other animal(s). Neither you nor your guests or occupants may bring any other animal(s)-mammal, reptile, bird, amphibian, fish, rodent, arachnid, or insect-into the dwelling or apartment community.

Animal's name: \_\_\_\_\_

Type: Dog

Breed: Dachshund

Color: \_\_\_\_\_

Weight: 14.00 Age: 8

City of license: \_\_\_\_\_

License no.: \_\_\_\_\_

Date of last rabies shot: \_\_\_\_\_

Housebroken? ☐

Animal owner's name: \_\_\_\_\_

Animal's name: \_\_\_\_\_

Type: Cat

Breed: \_\_\_\_\_

Color: tabby

Weight: 11.00 Age: 13

City of license: \_\_\_\_\_

License no.: \_\_\_\_\_

Date of last rabies shot: \_\_\_\_\_

Housebroken? ☐

Animal owner's name: \_\_\_\_\_

**9. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:  
ALL PETS MUST BE ON A LEASH. OWNERS ARE RESPONSIBLE FOR PICKING UP AFTER THERE PET. YOU WILL RECEIVE A \$25.00 FINE FOR NON-COMPLIANCE

**10. EMERGENCY.** In an emergency involving an accident or injury to your animal, we have the right, but not a duty, to take the animal to the following veterinarian for treatment, at your expense.

Doctor: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

**11. ANIMAL RULES.** You are responsible for the animal's actions at all times. You agree to abide by these rules:

- The animal must not disturb the neighbors or other residents, regardless of whether the animal is inside or outside the dwelling.
- Dogs, cats, and support animals must be housebroken. All other animals must be caged at all times. No animal offspring are allowed.
- Inside, the animal may urinate or defecate *only* in these designated areas: Litter Box
- Outside, the animal may urinate or defecate *only* in these designated areas: Designated Areas
- Animals may not be tied to any fixed object anywhere outside the dwelling units, except in fenced yards (if any) for your exclusive use.
- You must not let an animal other than support animals into swimming-pool areas, laundry rooms, offices, clubrooms, other recreational facilities, or other dwelling units.
- Your animal must be fed and watered inside the dwelling unit. Don't leave animal food or water outside the dwelling unit at any time, except in fenced yards (if any) for your exclusive use.
- You must keep the animal on a leash and under your supervision when outside the dwelling or any private fenced area. We or our representative may pick up unleashed animals and/or report them to the proper authorities. We may impose reasonable charges for picking up and/or keeping unleashed animals.
- Unless we have designated a particular area in your dwelling unit or on the grounds for animal defecation and urination, you are prohibited from letting an animal defecate or urinate *anywhere* on our property. You must take the animal off our property for that purpose. If we allow animal defecation inside the dwelling unit in this Addendum, you must ensure that it's done in a litter box with a kitty litter-type mix. If the animal defecates anywhere on our property (including in a fenced yard for your exclusive use), you'll be responsible for immediately removing the waste and repairing any damage. Despite anything this Addendum says, you must comply with all local ordinances regarding animal defecation.

**12. ADDITIONAL RULES.** We have the right to make reasonable changes to the animal rules from time to time if we distribute a written copy of any changes to every resident who is allowed to have animals.

**13. VIOLATION OF RULES.** If you, your guest, or any occupant violates any rule or provision of this Animal Addendum (based upon our judgment) and we give you written notice, you must permanently remove the animal from the premises within the time period specified in our notice. We also have all other rights and remedies set forth in the Lease Contract, including damages, eviction, and attorney's fees to the extent allowed by law.

**14. COMPLAINTS ABOUT ANIMAL.** You must immediately and permanently remove the animal from the premises if we receive a reasonable complaint from a neighbor or other resident or if we, in our sole discretion, determine that the animal has disturbed neighbors or other residents.

**15. LIABILITY FOR DAMAGES, INJURIES, CLEANING, ETC.** You and all co-residents will be jointly and severally liable for the entire amount of all damages caused by the animal, including all cleaning, defleaing, and deodorizing. This provision applies to all parts of the dwelling unit, including carpets, doors, walls, drapes, wallpaper, windows, screens, furniture, appliances, as well as landscaping and other outside improvements. If items cannot be satisfactorily cleaned or repaired, you must pay for us to replace them completely. Payment for damages, repairs, cleaning, replacements, etc. are due immediately upon demand.

As owner of the animal, you may be liable for the entire amount of any injury that the animal causes to a person or anyone's property. You'll indemnify us for all costs of litigation and attorney's fees resulting from any such damage, unless otherwise required by law.

**16. MOVE-OUT.** When you move out, you'll pay for defleaing, deodorizing, and shampooing to protect future residents from possible health hazards, regardless of how long the animal was there. We—not you—will arrange for these services.

**17. JOINT AND SEVERAL RESPONSIBILITY** Each resident who signed the Lease Contract must sign this Animal Addendum. You, your guests, and any occupants must follow all animal rules. Each resident is jointly and severally liable for damages and all other obligations set forth in this Animal Addendum, even if the resident does not own the animal.

**18. GENERAL.** You acknowledge that no other oral or written agreement exists regarding animals. Except for written rule changes under paragraph 9 above, our representative has no authority to modify this Animal Addendum or the animal rules except in writing. This Animal Addendum and the animal rules are considered part of the Lease Contract described above. It has been executed in multiple originals, one for you and one or more for us.

**This is a binding legal document. Read it carefully before signing.**

**Resident or Residents**  
(All residents must sign)

**Owner or Owner's Representative**  
(Signs below)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_





# UTILITY AND SERVICES ADDENDUM



This Utility Addendum is incorporated into the Lease Contract (referred to in this addendum as "Lease Contract" or "Lease") dated May 8, 2019 between Strata Audubon, LLC

("We" and/or "we" and/or "us") and Alvaro Sarmiento Jr, Sarah Zito

("You" and/or "you") of Unit No. 1809 located at 1809 Audubon Dr (street address) in Hanahan, SC 29410 and is in addition to all terms and conditions in the Lease. This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

1. Responsibility for payment of utilities, and the method of metering or otherwise measuring the cost of the utility, will be as indicated below.

a) Water service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☒ water bills will be billed by the service provider to us and then allocated to you based on the following formula: 5  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☒ 3rd party billing company if applicable Conservice

b) Sewer service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☒ sewer bills will be billed by the service provider to us and then allocated to you based on the following formula: 5  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☒ 3rd party billing company if applicable Conservice

c) Gas service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☐ gas bills will be billed by the service provider to us and then allocated to you based on the following formula: n/a  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable

d) Trash service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☒ trash bills will be billed by the service provider to us and then allocated to you based on the following formula: 4  
☐ If flat rate is selected, the current flat rate is \$ 12.00 per month.  
☒ 3rd party billing company if applicable Conservice

e) Electric service to your dwelling will be paid by you either:

- ☒ directly to the utility service provider; or  
☐ electric bills will be billed by the service provider to us and then allocated to you based on the following formula: \_\_\_\_\_  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable

f) Stormwater service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☐ stormwater bills will be billed by the service provider to us and then allocated to you based on the following formula: \_\_\_\_\_  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable

g) Cable TV service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☐ cable TV bills will be billed by the service provider to us and then allocated to you based on the following formula: \_\_\_\_\_  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable

h) Master Antenna service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☐ master antenna bills will be billed by the service provider to us and then allocated to you based on the following formula: \_\_\_\_\_  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable

i) Internet service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☐ internet bills will be billed by the service provider to us and then allocated to you based on the following formula: \_\_\_\_\_  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable

j) Pest Control service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☒ pest control bills will be billed by the service provider to us and then allocated to you based on the following formula: 4  
☐ If flat rate is selected, the current flat rate is \$ 3.00 per month.  
☐ 3rd party billing company if applicable

k) (Other) \_\_\_\_\_ service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☐ bills will be billed by the service provider to us and then allocated to you based on the following formula: \_\_\_\_\_  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable

1) (Other) \_\_\_\_\_ service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☐ bills will be billed by the service provider to us and then allocated to you based on the following formula: \_\_\_\_\_  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable \_\_\_\_\_

#### METERING/ALLOCATION METHOD KEY

- "1" - Sub-metering of all of your water/gas/electric use  
 "2" - Calculation of your total water use based on sub-metering of hot water  
 "3" - Calculation of your total water use based on sub-metering of cold water  
 "4" - Flat rate per month  
 "5" - Allocation based on the number of persons residing in your dwelling unit  
 "6" - Allocation based on the number of persons residing in your dwelling unit using a ratio occupancy formula  
 "7" - Allocation based on square footage of your dwelling unit  
 "8" - Allocation based on a combination of square footage of your dwelling unit and the number of persons residing in your dwelling unit  
 "9" - Allocation based on the number of bedrooms in your dwelling unit  
 "10" - Allocation based on a lawful formula not listed here

(Note: if method "10" is selected, a separate sheet will be attached describing the formula used)

2. If an allocation method is used, we or our billing company will calculate your allocated share of the utilities and services provided and all costs in accordance with state and local statutes. Under any allocation method, Resident may be paying for part of the utility usage in common areas or in other residential units as well as administrative fees. Both Resident and Owner agree that using a calculation or allocation formula as a basis for estimating total utility consumption is fair and reasonable, while recognizing that the allocation method may or may not accurately reflect actual total utility consumption for Resident. Where lawful, we may change the above methods of determining your allocated share of utilities and services and all other billing methods, in our sole discretion, and after providing written notice to you. More detailed descriptions of billing methods, calculations and allocation formulas will be provided upon request.

If a flat fee method for trash or other utility service is used, Resident and Owner agree that the charges indicated in this Agreement (as may be amended with written notice as specified above) represent a fair and reasonable amount for the service(s) provided and that the amount billed is not based on a monthly per unit cost.

3. When billed by us directly or through our billing company, you must pay utility bills within 30 days of the date when the utility bill is issued at the place indicated on your bill, or the payment will be late. If a payment is late, you will be responsible for a late fee as indicated below. The late payment of a bill or failure to pay any utility bill is a material and substantial breach of the Lease and we will exercise all remedies available under the Lease, up to and including eviction for nonpayment. To the extent there are any new account, monthly administrative, late or final bill fees, you shall pay such fees as indicated below.

|                                     |                 |                                  |
|-------------------------------------|-----------------|----------------------------------|
| New Account Fee:                    | \$ <u>20.00</u> | (not to exceed \$ _____)         |
| Monthly Administrative Billing Fee: | \$ <u>4.87</u>  | (not to exceed \$ <u>9.00</u> )  |
| Late Fee:                           | \$ <u>0.00</u>  | (not to exceed \$ <u>25.00</u> ) |
| Final Bill Fee:                     | \$ <u>5.00</u>  | (not to exceed \$ _____)         |

If allowed by state law, we at our sole discretion may amend these fees, with written notice to you.

4. You will be charged for the full period of time that you were living in, occupying, or responsible for payment of rent or utility charges on the dwelling. If you breach the Lease, you will be responsible for utility charges for the time period you were obliged to pay the charges under the Lease, subject to our mitigation of damages. In the event you fail to timely establish utility services, we may charge you for any utility service billed to us for your dwelling and may charge a reasonable administration fee for billing for the utility service in the amount of \$ 50.00.

5. When you move out, you will receive a final bill which may be estimated based on your prior utility usage. This bill must be paid at the time you move out or it will be deducted from the security deposit.

6. We are not liable for any losses or damages you incur as a result of outages, interruptions, or fluctuations in utility services provided to the dwelling unless such loss or damage was the direct result of negligence by us or our employees. You release us from any and all such claims and waive any claims for offset or reduction of rent or diminished rental value of the dwelling due to such outages, interruptions, or fluctuations.

7. You agree not to tamper with, adjust, or disconnect any utility sub-metering system or device. Violation of this provision is a material breach of your Lease and may subject you to eviction or other remedies available to us under your Lease, this Utility Addendum and at law.

8. Where lawful, all utilities, charges and fees of any kind under this lease shall be considered additional rent, and if partial payments are accepted by the Owner, they will be allocated first to non-rent charges and to rent last.

9. You represent that all occupants that will be residing in the Unit are accurately identified in the Lease. You agree to promptly notify Owner of any change in such number of occupants.

10. You agree that you may, upon thirty (30) days prior written notice from Owner to you, begin receiving a bill for additional utilities and services, at which time such additional utilities and services shall for all purposes be included in the term Utilities.

11. This Addendum is designed for use in multiple jurisdictions, and no billing method, charge, or fee mentioned herein will be used in any jurisdiction where such use would be unlawful. If any provision of this addendum or the Lease is invalid or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or unenforceability only without invalidating or otherwise affecting the remainder of this addendum or the Lease. Except as specifically stated herein, all other terms and conditions of the Lease shall remain unchanged. In the event of any conflict between the terms of this Addendum and the terms of the Lease, the terms of this Addendum shall control.

12. The following special provisions and any addenda or written rules furnished to you at or before signing will become a part of this Utility Addendum and will supersede any conflicting provisions of this printed Utility Addendum and/or the Lease Contract.

1. Trash service will be billed by the trash service provider to us and then allocated to you using a flat rate. 2. Fees may be increased during the lease term proportionate with increases in Owner's costs to provide the related utilities. 3. Utility billing methods and the existence or amount of any fees or flat rates may be changed at anytime with a 30 day notice to Residents. 4. Resident represents that all Occupants that will reside in the unit are properly and accurately reflected in the Lease. Resident hereby agrees to immediately notify Landlord of any change in the number of occupants in the apartment.

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|--------------------------|------------|
| Resident Signature _____ | Date _____ |
| Resident Signature _____ | Date _____ |
| Resident Signature _____ | Date _____ |
| Resident Signature _____ | Date _____ |
| Resident Signature _____ | Date _____ |
| Resident Signature _____ | Date _____ |
| Management _____         | Date _____ |





# BED BUG ADDENDUM

Date: May 8, 2019  
(when this Addendum is filled out)



Please note: It is our goal to maintain a quality living environment for our residents. To help achieve this goal, it is important to work together to minimize the potential for any bed bugs in your dwelling or surrounding dwellings. This addendum contains important information that outlines your responsibility and potential liability with regard to bed bugs.

## 1. DWELLING UNIT DESCRIPTION.

Unit No. 1809, 1809 Audubon  
Dr. \_\_\_\_\_  
\_\_\_\_\_ (street address) in  
Hanahan  
(city), South Carolina, 29410  
(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: May 8, 2019  
Owner's name: Strata Audubon, LLC

Residents (list all residents):

Alvaro Sarmiento Jr, Sarah Zito

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. **PURPOSE.** This Addendum modifies the Lease Contract and addresses situations related to bed bugs (*Cimex lectularius*) which may be discovered infesting the dwelling or personal property in the dwelling. You understand that we relied on your representations to us in this Addendum.

## 4. INSPECTION. You agree that you: (Check one)

- ☐ have inspected the dwelling prior to move-in and that you did not observe any evidence of bed bugs or bed bug infestation; OR
- ☒ will inspect the dwelling within 48 hours after move-in/ renewal and notify us of any bed bugs or bed bug infestation.

## 5. INFESTATIONS.

You agree that you have read all of the information on this addendum about bed bugs and:

(Check one)

- ☒ you are not aware of any infestation or presence of bed bugs in your current or previous apartments, home or dwelling. You agree that you are not aware of any bed bug infestation or presence in any of your furniture, clothing, personal property or possessions. You agree that you have not been subjected to conditions in which there was any bed bug infestation or presence. OR
- ☐ you agree that if you previously lived anywhere that had a bed bug infestation that all of your personal property (including furniture, clothing and other belongings) has been treated by a licensed pest control professional. You agree that such items are free of further infestation. If you disclose a previous experience of bed bug infestation, we can review documentation of the treatment and inspect your personal property and possessions to confirm the absence of bed bugs. You agree that any previous bed bug infestation which you may have experienced is disclosed here:

## 6. ACCESS FOR INSPECTION AND PEST TREATMENT.

You must allow us and our pest control agents access to the dwelling at reasonable times to inspect for or treat bed bugs as allowed by law. You and your family members, occupants, guests, and invitees must cooperate and will not interfere with inspections or treatments. We have the right to select any licensed pest control professional to treat the dwelling and building. We can select the method of treating the dwelling, building and common areas for bed bugs. We can also inspect and treat adjacent or neighboring dwellings to the infestation even if those dwellings are not the source or cause of the known infestation. You are responsible for and must, at your own expense, have your own personal property, furniture, clothing and possessions treated according to accepted treatment methods established by a licensed pest control firm that we approve. You must do so as close as possible to the time we treated the dwelling. If you fail to do so, you will be in default, and we will have the right to terminate your right of occupancy and exercise all rights and remedies under the Lease Contract. You agree not to treat the dwelling for a bed bug infestation on your own.

## 7. NOTIFICATION. You must promptly notify us:

- of any known or suspected bed bug infestation or presence in the dwelling, or in any of your clothing, furniture or personal property.
- of any recurring or unexplained bites, stings, irritations, or sores of the skin or body which you believe is caused by bed bugs, or by any condition or pest you believe is in the dwelling.
- if you discover any condition or evidence that might indicate the presence or infestation of bed bugs, or of any confirmation of bed bug presence by a licensed pest control professional or other authoritative source.

8. **COOPERATION.** If we confirm the presence or infestation of bed bugs, you must cooperate and coordinate with us and our pest control agents to treat and eliminate the bed bugs. You must follow all directions from us or our agents to clean and treat the dwelling and building that are infested. You must remove or destroy personal property that cannot be treated or cleaned as close as possible to the time we treated the dwelling. Any items you remove from the dwelling must be disposed of off-site and not in the property's trash receptacles. If we confirm the presence or infestation of bed bugs in your dwelling, we have the right to require you to temporarily vacate the dwelling and remove all furniture, clothing and personal belongings in order for us to perform pest control services. If you fail to cooperate with us, you will be in default, and we will have the right to terminate your right of occupancy and exercise all rights and remedies under the Lease Contract.

9. **RESPONSIBILITIES.** You may be required to pay all reasonable costs of cleaning and pest control treatments incurred by us to treat your dwelling unit for bed bugs. If we confirm the presence or infestation of bed bugs after you vacate your dwelling, you may be responsible for the cost of cleaning and pest control treatments. If we must move other residents in order to treat adjoining or neighboring dwellings to your dwelling unit, you may be liable for payment of any lost rental income and other expenses incurred by us to relocate the neighboring residents and to clean and perform pest control treatments to eradicate infestations in other dwellings. If you fail to pay us for any costs you are liable for, you will be in default, and we will have the right to terminate your right of occupancy and exercise all rights and remedies under the Lease Contract, and obtain immediate possession of the dwelling. If you fail to move out after your right of occupancy has been terminated, you will be liable for holdover rent under the Lease Contract.

**10. TRANSFERS.** If we allow you to transfer to another dwelling in the community because of the presence of bed bugs, you must have your personal property and possessions treated according to accepted treatment methods or procedures established by a licensed pest control professional. You must provide proof of such cleaning and treatment to our satisfaction.

**11. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

### BED BUGS — A Guide for Rental Housing Residents

Bed bugs, with a typical lifespan of 6 to 12 months, are wingless, flat, broadly oval-shaped insects. Capable of reaching the size of an apple seed at full growth, bed bugs are distinguishable by their reddish-brown color, although after feeding on the blood of humans and warm-blooded animals—their sole food source—the bugs assume a distinctly blood-red hue until digestion is complete.

#### Bed bugs don't discriminate

Bed bugs increased presence across the United States in recent decades can be attributed largely to a surge in international travel and trade. It's no surprise then that bed bugs have been found time and time again to have taken up residence in some of the fanciest hotels and apartment buildings in some of the nation's most expensive neighborhoods.

Nonetheless, false claims that associate bed bugs presence with poor hygiene and uncleanliness have caused rental housing residents, out of shame, to avoid notifying owners of their presence. This serves only to enable the spread of bed bugs.

While bed bugs are, by their very nature, more attracted to clutter, they're certainly not discouraged by cleanliness.

Bottom line: bed bugs know no social and economic bounds; claims to the contrary are false.

#### Bed bugs don't transmit disease

There exists no scientific evidence that bed bugs transmit disease. In fact, federal agencies tasked with addressing pest of public health concern, namely the U.S. Environmental Protection Agency and the Centers for Disease Control and Prevention, have refused to elevate bed bugs to the threat level posed by disease transmitting pests. Again, claims associating bed bugs with disease are false.

#### Identifying bed bugs

*Bed bugs can often be found in, around and between:*

- Bedding
- Bed frames
- Mattress seams
- Upholstered furniture, especially under cushions and along seams
- Around, behind and under wood furniture, especially along areas where drawers slide
- Curtains and draperies
- Along window and door frames
- Ceiling and wall junctions
- Crown moldings
- Behind and around wall hangings and loose wallpaper
- Between carpeting and walls (carpet can be pulled away from the wall and tack strip)
- Cracks and crevices in walls and floors
- Inside electronic devices, such as smoke and carbon monoxide detectors
- Because bed bugs leave some persons with itchy welts strikingly similar to those caused by fleas and mosquitoes, the origination of such markings often go misdiagnosed.

However, welts caused by bed bugs often times appear in succession and on exposed areas of skin, such as the face, neck and arms. In some cases, an individual may not experience any visible reaction resulting from direct contact with bed bugs.

- While bed bugs typically prefer to act at night, they often do not succeed in returning to their hiding spots without leaving traces of their presence through fecal markings of a red to dark brown color, visible on or near beds. Blood stains tend also to appear when the bugs have been squashed, usually by an unsuspecting host in their sleep. And, because they shed, it's not uncommon for skin casts to be left behind in areas typically frequented by bed bugs.

#### Preventing bed bug encounters when traveling

Because humans serve as bed bugs' main mode of transportation, it is extremely important to be mindful of bed bugs when away from home. Experts agree that the spread of bed bugs across all regions of the United States is largely attributed to an increase in international travel and trade. Travelers are therefore encouraged to take a few minutes upon arriving to their temporary destination to thoroughly inspect their accommodations, so as to ensure that any uninvited guests are detected before the decision is made to unpack.

Because bed bugs can easily travel from one room to another, it is also recommended that travelers thoroughly inspect their luggage and belongings for bed bugs before departing for home.

#### Bed bug do's and don'ts

- **Do not bring used furniture from unknown sources into your dwelling.** Countless bed bug infestations have stemmed directly from the introduction into a resident's unit of second-hand and abandoned furniture. Unless the determination can be made with absolute certainty that a piece of second-hand furniture is bed bug-free, residents should assume that the reason a seemingly nice looking leather couch, for example, is sitting curbside, waiting to be hauled off to the landfill, may very well be due to the fact that it's teeming with bed bugs.
- **Do address bed bug sightings immediately.** Rental housing residents who suspect the presence of bed bugs in their unit must immediately notify the owner.
- **Do not attempt to treat bed bug infestations.** Under no circumstance should you attempt to eradicate bed bugs. Health hazards associated with the misapplication of traditional and non-traditional, chemical-based insecticides and pesticides poses too great a risk to you and your neighbors.
- **Do comply with eradication protocol.** If the determination is made that your unit is indeed playing host to bed bugs, you must comply with the bed bug eradication protocol set forth by both your owner and their designated pest management company.

**You are legally bound by this document. Please read it carefully.**

**Resident or Residents**  
(All residents must sign)

**Owner or Owner's Representative**  
(Signs below)

**Date of Signing Addendum**

*You are entitled to receive an original of this Addendum after it is fully signed. Keep it in a safe place.*





## MOLD INFORMATION AND PREVENTION ADDENDUM



**Please note: It is our goal to maintain a quality living environment for our residents. To help achieve this goal, it is important to work together to minimize any mold growth in your dwelling. That is why this addendum contains important information for you, and responsibilities for both you and us.**

### 1. DWELLING UNIT DESCRIPTION.

Unit No. 1809, 1809 Audubon  
Dr  
 \_\_\_\_\_ (street address) in  
Hanahan  
 (city), South Carolina, 29410  
 (zip code).

### 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: May 8, 2019  
 Owner's name: Strata Audubon, LLC

Residents (list all residents):

Alvaro Sarmiento Jr, Sarah Zito

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

**3. ABOUT MOLD.** Mold is found virtually everywhere in our environment—both indoors and outdoors and in both new and old structures. Molds are naturally occurring microscopic organisms which reproduce by spores and have existed practically from the beginning of time. All of us have lived with mold spores all our lives. Without molds we would all be struggling with large amounts of dead organic matter.

Mold breaks down organic matter in the environment and uses the end product for its food. Mold spores (like plant pollen) spread through the air and are commonly transported by shoes, clothing and other materials. When excess moisture is present inside a dwelling, mold can grow. A 2004 Federal Centers for Disease Control and Prevention study found that there is currently no scientific evidence that the accumulation of mold causes any significant health risks for person with normally functioning immune systems. Nonetheless, appropriate precautions need to be taken.

**4. PREVENTING MOLD BEGINS WITH YOU.** In order to minimize the potential for mold growth in your dwelling, you must do the following:

- Keep your dwelling clean—particularly the kitchen, the bathroom(s), carpets and floors. Regular vacuuming, mopping and using a household cleaner to clean hard surfaces is important to remove the household dirt and debris that harbor mold or food for mold. Immediately throw away moldy food.
- Remove visible moisture accumulation on windows, walls, ceilings, floors and other surfaces as soon as reasonably possible. Look for leaks in washing machine hoses and discharge lines—especially if the leak is large enough for water to infiltrate nearby walls. Turn on any exhaust fans

in the bathroom and kitchen *before* you start showering or cooking with open pots. When showering, be sure to keep the shower curtain *inside* the tub or fully close the shower doors. Also, the experts recommend that after taking a shower or bath, you: (1) wipe moisture off of shower walls, shower doors, the bathtub and the bathroom floor; (2) leave the bathroom door open until all moisture on the mirrors and bathroom walls and tile surfaces has dissipated; and (3) hang up your towels and bath mats so they will completely dry out.

- Promptly notify us in writing about any air conditioning or heating system problems you discover. Follow our rules, if any, regarding replacement of air filters. Also, it is recommended that you periodically open windows and doors on days when the outdoor weather is dry (i.e., humidity is below 50 percent) to help humid areas of your dwelling dry out.
- Promptly notify us in writing about any signs of water leaks, water infiltration or mold. We will respond in accordance with state law and the Lease Contract to repair or remedy the situation, as necessary.
- Keep the thermostat set to automatically circulate air in the event temperatures rise to or above 80 degrees Fahrenheit.

**5. IN ORDER TO AVOID MOLD GROWTH,** it is important to prevent excessive moisture buildup in your dwelling. Failure to promptly pay attention to leaks and moisture that might accumulate on dwelling surfaces or that might get inside walls or ceilings can encourage mold growth. Prolonged moisture can result from a wide variety of sources, such as:

- rainwater leaking from roofs, windows, doors and outside walls, as well as flood waters rising above floor level;
- overflows from showers, bathtubs, toilets, lavatories, sinks, washing machines, dehumidifiers, refrigerator or A/C drip pans or clogged up A/C condensation lines;
- leaks from plumbing lines or fixtures, and leaks into walls from bad or missing grouting/caulking around showers, tubs or sinks;
- washing machine hose leaks, plant watering overflows, pet urine, cooking spills, beverage spills and steam from excessive open-pot cooking;
- leaks from clothes dryer discharge vents (which can put lots of moisture into the air); and
- insufficient drying of carpets, carpet pads, shower walls and bathroom floors.

**6. IF SMALL AREAS OF MOLD HAVE ALREADY OCCURRED ON NON-POROUS SURFACES** (such as ceramic tile, formica, vinyl flooring, metal, wood or plastic), the federal Environmental Protection Agency (EPA) recommends that you first clean the areas with soap (or detergent) and water, let the surface dry, and then within 24 hours apply a pre-mixed, spray-on-type household biocide, such as Lysol Disinfectant®, Pine-Sol Disinfectant® (original pine-scented), Tilex Mildew Remover® or Clorox Cleanup®. (Note: Only a few of the common household cleaners will actually kill mold). Tilex® and Clorox® contain bleach which can discolor or stain. **Be sure to follow the instructions on the container.** Applying biocides without first cleaning away the dirt and oils from the surface is like painting over old paint without first cleaning and preparing the surface.

Always clean and apply a biocide to an area 5 or 6 times larger than any visible mold because mold may be adjacent in quantities not yet visible to the naked eye. A vacuum cleaner

with a high-efficiency particulate air (HEPA) filter can be used to help remove non-visible mold products from *porous* items, such as fibers in sofas, chairs, drapes and carpets—provided the fibers are completely dry. Machine washing or dry cleaning will remove mold from clothes.

- 7. DO NOT CLEAN OR APPLY BIOCIDES TO:** (1) visible mold on *porous* surfaces, such as sheetrock walls or ceilings, or (2) *large areas* of visible mold on *non-porous* surfaces. Instead, notify us in writing, and we will take appropriate action.
- 8. COMPLIANCE.** Complying with this addendum will help prevent mold growth in your dwelling, and both you and we will be able to respond correctly if problems develop that could lead to mold growth. If you have questions regarding this addendum, please contact us at the management office or at the phone number shown in your Lease Contract.

**If you fail to comply with this Addendum, you can be held responsible for property damage to the dwelling and any health problems that may result. We can't fix problems in your dwelling unless we know about them.**

- 9. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

[illegible]

**Resident or Residents**  
(All residents must sign here)

[illegible]

**Owner or Owner's Representative**  
(signs here)

**Date of Lease Contract**

May 8, 2019



# LEASE CONTRACT BUY-OUT AGREEMENT



## 1. DWELLING UNIT DESCRIPTION.

Unit No. 1809, 1809 Audubon  
Dr \_\_\_\_\_  
(street address) in  
Hanahan  
(city), South Carolina, 29410  
(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: May 8, 2019  
Owner's name: Strata Audubon, LLC

Residents (list all residents):

Alvaro Sarmiento Jr., Sarah Zito

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. **PURPOSE OF ADDENDUM.** The purpose of this Buy-Out Agreement is to give you the right to buy out of your Lease Contract early—subject to any special provisions in paragraph 9 below. In order to buy out early, your notice must be signed by all residents listed in paragraph 1 of the Lease Contract and you must comply with all provisions of this Buy-Out Agreement.

4. **BUY-OUT PROCEDURES.** You may buy out of the Lease Contract prior to the end of the lease term and cut off all liability for paying rent for the remainder of the lease term if all of the following occur:

- you give us written notice of buy-out at least 60 days prior to the new termination date (i.e., your new move-out date), which (check one) ☐ must be the last day of a month or ☒ may be during a month;
- you specify the new termination date in the notice, i.e., the date by which you'll move out;
- you are not in default under the Lease Contract on the date you give us the notice of buy-out;
- you are not in default under the Lease Contract on the new termination date (move-out date);
- you move out on or before the new termination date and do not hold over;
- you pay us a buy-out fee (consideration) of \$ 1167.00
- you pay us the amount of any concessions you received when signing the Lease Contract; and
- you comply with any special provisions in paragraph 9 below.

5. **WHEN PAYABLE.** The buy-out fee in paragraph 4(f) is due and payable no later than 0 days after you give us

your buy-out notice. The total dollar amount of any concessions regarding rent or other monetary lease obligations for the entire lease term is \$ 1167.00 and is due payable on the same day as the buy-out fee, subject to any special provisions in paragraph 9 regarding the amount, calculation method, or payment date.

6. **SHOWING UNIT TO PROSPECTIVE RESIDENTS.** After you give us notice of buy-out, the Lease Contract gives us the right to begin showing your unit to prospective residents and telling them it will be available immediately after your new termination date.

7. **COMPLIANCE ESSENTIAL.** Our deposit of all amounts due under paragraphs 4(f) and 4(g) constitutes our approval of the new termination date stated in your notice of buy-out. If you fail to comply with any of the procedures or requirements in this agreement after we deposit such monies, your buy-out right and this agreement will be voided automatically; and (1) any amounts you have paid under this agreement will become part of your security deposit, and (2) the lease will continue without buy-out. Then, if you move out early, you are subject to all lease remedies, including reletting fees and liability for all rents for the remainder of the original lease term.

8. **MISCELLANEOUS.** If moving out by the new termination date becomes a problem for you, contact us. An extension may be possible if we have not already relet the dwelling unit to a successor resident. We and any successor residents who may be leasing your unit will be relying on your moving out on or before the new termination date. Therefore, you may not hold over beyond such date without our written consent—even if it means you have to make plans for temporary lodging elsewhere. "Default" as used in paragraphs 4(c) and 4(d) of this agreement means default as defined in the Lease Contract. You will continue to be liable for any damages and any sums accruing and unpaid prior to the new termination date.

9. **SPECIAL PROVISIONS.** Your right of buy-out (check one) ☐ is or ☒ is not limited to a particular fact situation. If limited, buy-out may be exercised only if the following facts (see below) occur and any described documents are furnished to us. Any special provisions below will supersede any conflicting provision of this printed agreement. Any false statements or documents presented to us regarding buy-out will automatically void your right to buy-out of the Lease Contract. The special provisions are:

Per section 4(f) the buy out fee for your lease is equal to the amount of one (1) month's rent.

Resident or Residents  
(All residents must sign)

Owner or Owner's Representative  
(signs below)

Date of Lease Contract

May 8, 2019





# LEASE CONTRACT ADDENDUM FOR SATELLITE DISH OR ANTENNA



Under a Federal Communications Commission (FCC) order, you as our resident have a right to install a transmitting or receiving satellite dish or antenna on the leased dwelling, subject to FCC limitations. We as a rental housing owner are allowed to impose reasonable restrictions relating to such installation. You are required to comply with these restrictions as a condition of installing such equipment. This addendum contains the restrictions that you and we agree to follow.

## 1. DWELLING UNIT DESCRIPTION.

Unit No. 1809, 1809 Audubon  
Dr  
Hanahan (street address) in  
(city), South Carolina, 29410  
(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: May 8, 2019  
Owner's name: Strata Audubon, LLC

Residents (list all residents):

Alvaro Sarmiento Jr, Sarah Zito

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. **NUMBER AND SIZE.** You may install 1 satellite dish(es) or antenna(s) on the leased premises. A satellite dish may not exceed one meter (3.3 feet) in diameter. Antennas that only transmit signals or that are not covered by 47 CFR § 1.4000 are prohibited.
4. **LOCATION.** Your satellite dish or antenna must be located: (1) inside your dwelling; or (2) in an area outside your dwelling such as a balcony, patio, yard, etc. of which you have exclusive use under your lease. Installation is not permitted on any parking area, roof, exterior wall, window, window sill, fence or common area, or in an area that other residents are allowed to use. A satellite dish or antenna may not protrude beyond the vertical and horizontal space that is leased to you for your exclusive use.
5. **SAFETY AND NON-INTERFERENCE.** Your installation: (1) must comply with all applicable ordinances and laws and all reasonable safety standards; (2) may not interfere with our cable, telephone or electrical systems or those of neighboring properties; (3) may not be connected to our telecommunication systems; and (4) may not be connected to our electrical system except by plugging into a 110-volt duplex receptacle. If the satellite dish or antenna is placed in a permitted outside area, it must be safely secured by one of three methods: (1) securely attaching it to a portable, heavy object such as a small slab of concrete; (2) clamping it to a part of the building's exterior that lies within your leased premises (such as a balcony or patio railing); or (3) any other method approved by us in writing. No other methods are allowed. We may require reasonable screening of the satellite dish or antenna by plants, etc., so long as it does not impair reception.

6. **SIGNAL TRANSMISSION FROM EXTERIOR DISH OR ANTENNA TO INTERIOR OF DWELLING.** You may not damage or alter the leased premises and may not drill holes through outside walls, door jams, window sills, etc. If your satellite dish or antenna is installed outside your dwelling (on a balcony, patio, etc.), the signals received by it may be transmitted to the interior of your dwelling only by the following methods: (1) running a "flat" cable under a door jam or window sill in a manner that does not physically alter the premises and does not interfere with proper operation of the door or window; (2) running a traditional or flat cable through a pre-existing hole in the wall (that will not need to be enlarged to accommodate the cable); (3) connecting cables "through a window pane," similar to how an external car antenna for a cellular phone can be connected to inside wiring by a device glued to either side of the window—without drilling a hole through the window; (4) wireless transmission of the signal from the satellite dish or antenna to a device inside the dwelling; or (5) any other method approved by us in writing.

7. **SAFETY IN INSTALLATION.** In order to assure safety, the strength and type of materials used for installation must be approved by us. Installation must be done by a qualified person or company approved by us. Our approval will not be unreasonably withheld. An installer provided by the seller of the satellite dish or antenna is presumed to be qualified.

8. **MAINTENANCE.** You will have the sole responsibility for maintaining your satellite dish, antenna and all related equipment.

9. **REMOVAL AND DAMAGES.** You must remove the satellite dish or antenna and all related equipment when you move out of the dwelling. In accordance with the Lease Contract, you must pay for any damages and for the cost of repairs or repainting caused by negligence, carelessness, accident or abuse which may be reasonably necessary to restore the leased premises to its condition prior to the installation of your satellite dish, antenna or related equipment. You will not be responsible for normal wear.

10. **LIABILITY INSURANCE.** You must take full responsibility for the satellite dish, antenna and related equipment. If the dish or antenna is installed at a height that could result in injury to others if it becomes unattached and falls, you must provide us with evidence of liability insurance (if available) to protect us against claims of personal injury and property damage to others, related to your satellite dish, antenna and related equipment. The insurance coverage must be \$ 100000.00, which is an amount reasonably determined by us to accomplish that purpose. Factors affecting the amount of insurance include height of installation above ground level, potential wind velocities, risk of the dish/antenna becoming unattached and falling on someone, etc.

11. **SECURITY DEPOSIT.** An additional security deposit of \$ 200.00 will be charged. We (check one) ☐ will consider or ☒ will not consider this additional security deposit a general security deposit for all purposes. The security deposit amount in the Security Deposit paragraph of the Lease Contract (check one) ☐ does or ☒ does not include this additional deposit amount. Refund of the additional security deposit will be subject to the terms and conditions set forth in the Lease Contract regardless of whether it is considered part of the general security deposit.

This additional security deposit is required to help protect us against possible repair costs, damages, or failure to remove the satellite dish, antenna and related equipment at time of move-out. Factors affecting any security deposit may vary, depending on: (1) how the dish or antenna is attached (nails, screws, lag bolts drilled into walls); (2) whether holes were permitted to be drilled through walls for the cable between the satellite dish and the TV; and (3) the difficulty and cost repair or restoration after removal, etc.

- 12. WHEN YOU MAY BEGIN INSTALLATION.** You may start installation of your satellite dish, antenna or related equipment only after you have: (1) signed this addendum; (2) provided us with written evidence of the liability insurance referred to in paragraph 10 of this addendum; (3) paid us the additional security deposit, if applicable, in paragraph 11; and (4) received our written approval of the installation materials and the person or company that will do the installation, which approval may not be unreasonably withheld.
- 13. MISCELLANEOUS.** If additional satellite dishes or antennas are desired, an additional lease addendum must be executed.

**14. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

[illegible]

**Resident or Residents**  
(All residents must sign here)

**Owner or Owner's Representative**  
(signs here)

[illegible]**Date of Lease Contract**

**May 8, 2019**





**LEASE CONTRACT ADDENDUM FOR  
ENCLOSED GARAGE, CARPORT, OR STORAGE UNIT**



### 1. DWELLING UNIT DESCRIPTION.

Unit No. 1809, 1809 Audubon  
Dr \_\_\_\_\_ (street address) in  
Hanahan  
(city), South Carolina, 29410  
(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: May 8, 2019  
Owner's name: Strata Audubon, LLC

**Residents (list all residents):**

Alvaro Sarmiento Jr, Sarah Zito

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

**3. GARAGE, CARPORT, OR STORAGE UNIT.** You are entitled to exclusive possession of: *(check as applicable)*

- ☐ garage or carport attached to the dwelling;
- ☒ garage space number(s) \_\_\_\_\_;
- ☐ carport space number(s) \_\_\_\_\_; and/or
- ☐ storage unit number(s) \_\_\_\_\_.

**All terms and conditions of the Lease Contract apply to the above areas unless modified by this addendum.**

**4. SECURITY DEPOSIT.** An additional security deposit of \$ 0.00 will be charged for the checked areas above.

We (*check one*) ☐ will consider or ☐ will not consider this additional security deposit a general security deposit for all rental purposes. The security deposit amount in the Security Deposit paragraph of the Lease Contract (*check one*) ☐ does or ☐ does not include this additional deposit amount. Refund of the additional security deposit will be subject to the terms and conditions set forth in the Lease Contract regardless of whether it is considered part of the general security deposit.

**5. ADDITIONAL MONTHLY RENT.** Your total monthly rent

(as stated in the Lease Contract) will be increased by \$ 55.00. The monthly rent amount in the Rent and Charges paragraph of the Lease Contract (check one) ☐ includes ☐ does not include this additional rent.

**6. USE RESTRICTIONS.** Garage or carport may be used only

for storage of operable motor vehicles unless otherwise stated in our rules or community policies. Storage units may be used only for storage of personal property. No one may sleep, cook, barbeque, or live in a garage, carport, or storage unit. Persons not listed as a resident or occupant in the Lease Contract may not use the areas covered by this addendum. No plants may be grown in such areas.

**7. NO DANGEROUS ITEMS.** Items that pose an environmental

hazard or a risk to the safety or health of other residents, occupants, or neighbors in our sole judgment or that violates any government regulation may not be stored. Prohibited items include fuel (other than in a properly capped fuel tank) of a vehicle or a closed briquette lighter fluid container).

**8. NO SMOKE, FIRE, OR CARBON MONOXIDE DETECTORS.**

**No smoke, fire, or carbon monoxide detectors will be furnished by us unless required by law.**

**9. GARAGE DOOR OPENER.** If an enclosed garage is furnished,

you ☐ will ☐ will not be provided with a ☐ garage door opener and/or ☐ garage key. You will be responsible for maintenance of any garage door opener, including battery replacement. Transmitter frequency settings may not be changed on the garage door or opener without our prior written consent.

**10. SECURITY.** Always remember to lock any door of a garage

or storage unit and any door between a garage and the dwelling. When leaving, be sure to lock all keyed deadbolt locks.

## 11. INSURANCE AND LOSS/DAMAGE TO YOUR PROPERTY.

**You will maintain liability and comprehensive insurance coverage for any vehicle parked or stored. We are not responsible for pest control in such areas.**

**12. COMPLIANCE.** As allowed by law, we may periodically

open and enter garages and storerooms to ensure compliance with this addendum. In the event we enter the garage or storerooms, we will comply with the notice provisions set forth in the Lease Contract.

**13. NO LOCK CHANGES, ALTERATIONS, OR IMPROVEMENTS.**

Without our prior written consent, locks on doors of garages and storage units may not be rekeyed, added, or changed, and improvements, alterations, or electrical extensions or changes to the interior or exterior of such areas are not allowed. You may not place nails, screws, bolts, or hooks into walls, ceilings, floors, or doors. Any damage not caused by us or our representatives to areas covered by this addendum will be paid for by you.

**14. MOVE-OUT AND REMEDIES.** Any items remaining after

you have vacated the dwelling will be removed, sold, or otherwise disposed of according to the Lease Contract, which addresses disposition or sale of property left in an abandoned or surrendered dwelling. All remedies in the Lease Contract apply to areas covered by this addendum.

**15. SPECIAL PROVISIONS.** The following special provisions

**control over conflicting provisions of this printed form:**

**Resident or Residents**  
*(All residents must sign here)*

**Owner or Owner's Representative**  
*(signs here)*

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**Date of Lease Contract**

**May 8, 2019**





**LEASE ADDENDUM REGARDING  
LIMITED WAIVER AND MODIFICATION OF RIGHTS UNDER  
U.S. SERVICEMEMBERS CIVIL RELIEF ACT**



**1. DWELLING UNIT DESCRIPTION.**

Unit No. 1809, 1809  
Audubon Dr  
Hanahan (street address) in  
(city), South Carolina, 29410  
(zip code).

**2. LEASE CONTRACT DESCRIPTION.**

Lease Contract Date: May 8, 2019  
Owner's name: Strata Audubon, LLC

**Residents (list all residents):**

Alvaro Sarmiento Jr, Sarah Zito

For purposes of this addendum, "you" means a servicemember as defined by the "U.S. Servicemembers Civil Relief Act" (SCRA). This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

**3. REASON FOR ADDENDUM.** Congress has enacted into law the "U.S. Servicemembers Civil Relief Act" (SCRA). This law, among other things, modifies the rights of military personnel to terminate a lease in certain cases and provides that military personnel may waive their rights under the SCRA in certain circumstances. There are different interpretations of how the SCRA affects dependents' and occupants' rights to terminate a lease in the event of a deployment. This addendum clarifies your rights and our obligations in the event of a deployment. This addendum provides for a limited waiver of the terms of the SCRA. However, we agree to grant individuals covered by the SCRA and their spouses all of the rights described in this addendum.

**4. WAIVER AND MODIFICATION OF THE LEASE CONTRACT.** The language of the Military Personnel Clause of the Lease Contract is entirely replaced by the language of this addendum. A resident who is a servicemember on active military duty at the time of signing this Lease Contract and such resident's spouse waive for the purposes of this Lease Contract all rights under the SCRA, and shall instead have the rights and obligations set forth below.

**5. MILITARY PERSONNEL RIGHT TO TERMINATE.** Except as provided in paragraphs 6 or 12 below, you or your spouse may terminate the Lease Contract if you enlist or are drafted or commissioned in the U.S. Armed Forces during the original or renewal Lease Contract term. You or your spouse also may terminate the Lease Contract if:

- (1) you are (i) a member of the U.S. Armed Forces or reserves on active duty or (ii) a member of the National Guard called to active duty for more than 30 days in response to a national emergency declared by the President; and
- (2) you (i) receive orders for permanent change-of-station, (ii) receive orders to deploy with a military unit or as an individual in support of a military operation for 90 days or more, or (iii) are relieved or released from active duty.

If you or your spouse terminates under this addendum, we must be furnished with a copy of your military orders, such as permanent change-of-station orders, call-up orders, or deployment orders or letter. Military permission for base housing does not constitute permanent change-of-station orders.

**6. EXCEPTION FOR TERMINATION UPON DEPLOYMENT ORDERS.** If you or your spouse are terminating the Lease Contract due to deployment orders, you or your spouse may terminate the Lease Contract only on the condition that during the remainder of the original or renewal Lease Contract term neither you nor your spouse will accept an assignment for or move into base housing, or move into other housing located within 45 miles of the dwelling unit described above.

If you or your spouse terminate the Lease Contract and violate this paragraph, the Lease Contract shall be deemed to have not been legally terminated and you and your spouse shall be in default under the Lease Contract. In that event, we will have all legal remedies, including those described in the Lease Contract, such as charging a reletting fee and accelerating rent.

**7. EFFECT OF HOUSING ALLOWANCE CONTINUATION.** The fact that the servicemember continues to receive a housing allowance for the servicemember's spouse and/or dependents after deployment does not affect the right of the servicemember or the servicemember's spouse to terminate unless otherwise stated in paragraph 12 of this addendum.

**8. OTHER CO-RESIDENTS.** A co-resident who is not a spouse of a servicemember may not terminate under this addendum. Your and your spouse's right to terminate the Lease Contract under this addendum only affect the Lease Contract as it applies to you and your spouse—other residents' rights and obligations under the Lease Contract remain unchanged.

**9. TERMINATION DATE.** If you or your spouse terminates under this addendum, all rights and obligations of you and your spouse under the Lease Contract will be terminated 30 days after the date on which the next rental payment is due, with the exception of obligations arising before the termination date and lawful security deposit deductions.

**10. REPRESENTATIONS.** Unless you state otherwise in paragraph 12 of this addendum, you represent when signing this addendum that: (1) you have not already received deployment or change-of-station orders; (2) you will not be retiring from the military during the Lease Contract term; and (3) the term of your enlistment or obligation will not end before the Lease Contract term ends. Liquidated damages for making a false representation of the above will be the amount of unpaid rent for the remainder of

the lease term when and if you move out, less rents from others received in mitigation under the Lease Contract. You must immediately notify us if you are called to active duty or receive deployment or permanent change of station orders.

**11. OTHER RIGHTS UNCHANGED.** All other contractual rights and duties of both you and us under the Lease Contract remain unchanged.

**12. SPECIAL PROVISIONS.** The following provisions will supersede any conflicting provisions of the Lease Contract and this addendum.

[illegible]

**Resident or Residents**  
(All residents must sign here)

**Owner or Owner's Representative**  
(signs here)

[illegible]**Date of Lease Contract**

May 8, 2019



# COMMUNITY POLICIES, RULES AND REGULATIONS ADDENDUM



This addendum is incorporated into the Lease Contract (the "Lease") identified below and is in addition to all the terms and conditions contained in the Lease. If any terms of this Addendum conflict with the Lease, the terms of this Addendum shall be controlling:

Property Owner: Strata Audubon, LLC

Resident(s): Alvaro Sarmiento Jr, Sarah Zito

Unit No./Address: #1809, 1809 Audubon Dr

Lease Date: 05/08/2019

## I. GENERAL CONDITIONS FOR USE OF DWELLING PROPERTY AND RECREATIONAL FACILITIES.

Resident(s) permission for use of all common areas, Resident amenities, and recreational facilities (together, "Amenities") located at the Dwelling Community is a privilege and license granted by Owner, and not a contractual right except as otherwise provided for in the Lease. Such permission is expressly conditioned upon Resident's adherence to the terms of the Lease, this Addendum, and the Community rules and regulations ("Rules") in effect at any given time, and such permission may be revoked by Owner at any time for any lawful reason. In all cases, the most strict terms of either the Lease, this Addendum, or the Community Rules shall control. Owner reserves the right to set the days and hours of use for all Amenities and to change the character of or close any Amenity based upon the needs of Owner and in Owner's sole and absolute discretion, without notice, obligation or recompense of any nature to Resident. Owner and management may make changes to the Rules for use of any Amenity at any time.

Additionally, Resident(s) expressly agrees to assume all risks of every type, including but not limited to risks of personal injury or property damage, of whatever nature or severity, related to Resident's use of the amenities at the Community. Resident(s) agrees to hold Owner harmless and release and waive any and all claims, allegations, actions, damages, losses, or liabilities of every type, whether or not foreseeable, that Resident(s) may have against Owner and that are in any way related to or arise from such use. This provision shall be enforceable as permitted by law.

THE TERMS OF THIS ADDENDUM SHALL ALSO APPLY TO RESIDENT(S) OCCUPANTS, AGENTS AND INVITEES, TOGETHER WITH THE HEIRS, ASSIGNS, ESTATES AND LEGAL REPRESENTATIVES OF THEM ALL, AND RESIDENT(S) SHALL BE SOLELY RESPONSIBLE FOR THE COMPLIANCE OF SUCH PERSONS WITH THE LEASE, THIS ADDENDUM, AND COMMUNITY RULES AND REGULATIONS, AND RESIDENT(S) INTEND TO AND SHALL INDEMNIFY AND HOLD OWNER HARMLESS FROM ALL CLAIMS OF SUCH PERSONS AS DESCRIBED IN THE PRECEDING PARAGRAPH. The term "Owner" shall include the Management, officers, partners, employees, agents, assigns, Owners, subsidiaries and affiliates of Owner.

## II. POOL. This Community ☒ DOES; ☐ DOES NOT have a pool. When using the pool, Resident(s) agrees to the following:

- Residents and guests will adhere to the rules and regulations posted in the pool area and Management policies.
- All Swimmers swim at their own risk. Owner is not responsible for accidents or injuries.
- For their safety, Residents should not swim alone.
- Pool hours are posted at the pool.
- No glass, pets, or alcoholic beverages are permitted in the pool area. Use paper or plastic containers only.
- Proper swimming attire is required at all times and a swimsuit "cover up" should be worn to and from the pool.
- No running or rough activities are allowed in the pool area. Respect others by minimizing noise, covering pool furniture with a towel when using suntan oils, leaving pool furniture in pool areas, disposing of trash, and keeping pool gates closed.
- Resident(s) must accompany their guests.
- Resident(s) must notify Owner any time there is a problem or safety hazard at the pool.

### IN CASE OF EMERGENCY DIAL 911

## III. FITNESS CENTER. This Community ☒ DOES; ☐ DOES NOT have a fitness center. When using the fitness center, Resident agrees to the following:

- Residents and guests will adhere to the rules and regulations posted in the fitness center and Management policies.
- The Fitness Center is not supervised. Resident(s) are solely responsible for their own appropriate use of equipment.
- Resident(s) shall carefully inspect each piece of equipment prior to Resident's use and shall refrain from using any equipment that may be functioning improperly or that may be damaged or dangerous.
- Resident(s) shall immediately report to Management any equipment that is not functioning properly, is damaged or appears dangerous, as well as any other person's use that appears to be dangerous or in violation of Management Rules and Policies.
- Resident(s) shall consult a physician before using any equipment in the Fitness Center and before participating in any aerobic or exercise class, and will refrain from such use or participation unless approved by Resident's physician.
- Resident(s) will keep Fitness Center locked at all times during Resident's visit to the Fitness Center.
- Resident(s) will not admit any person to the Fitness Center who has not registered with the Management Office.
- Resident(s) must accompany guests, and no glass, smoking, eating, alcoholic beverages, pets, or black sole shoes are permitted in the Fitness Center.

Card # issued: (1) 2569 (3) \_\_\_\_\_ (5) \_\_\_\_\_  
(2) \_\_\_\_\_ (4) \_\_\_\_\_ (6) \_\_\_\_\_

## IV. PACKAGE RELEASE. This Community ☒ DOES; ☐ DOES NOT accept packages on behalf of Residents.

For communities that do accept packages on behalf of its Residents:

Resident(s) gives Owner permission to sign and accept any parcels or letters sent to Resident(s) through UPS, Federal Express, Airborne, United States Postal Service or the like. Resident agrees that Owner does not accept responsibility or liability for any lost, damaged, or unordered deliveries, and agrees to hold Owner harmless for the same.

- V. BUSINESS CENTER.** This Community ☒ DOES; ☐ DOES NOT have a business center. Resident(s) agrees to use the business center at Resident(s) sole risk and according to the Rules and Regulations posted in the business center and Management policies. Owner is not responsible for data, files, programs or any other information lost or damaged on Business Center computers or in the Business Center for any reason. No software may be loaded on Business Center computers without the written approval of Community Management. No inappropriate, offensive, or pornographic images or files (in the sole judgment of Owner) will be viewed or loaded onto the Business Center computers at any time. Residents will limit time on computers to 30 minutes if others are waiting to use them. Smoking, eating, alcoholic beverages, pets, and any disturbing behavior are prohibited in the business center.
- VI. AUTOMOBILES/BOATS/RECREATIONAL VEHICLES.** The following policies are in addition to those in the Lease, and may be modified by the additional rules in effect at the Community at any given time:
- Only 2 vehicle per licensed Resident is allowed.
  - All vehicles must be registered at the Management office.
  - Any vehicle(s) not registered, considered abandoned, or violating the Lease, this Addendum, or the Community Rules, in the sole judgment of Management, will be towed at the vehicle owner's expense after a 24 hour notice is placed on the vehicle.
  - Notwithstanding this, any vehicle illegally parked in a fire lane, designated no parking space or handicapped space, or blocking an entrance, exit, driveway, dumpster, or parked illegally in a designated parking space, will immediately be towed, without notice, at the vehicle owner's expense.
  - The washing of vehicles is not permitted on the property unless specifically allowed in designated area.
  - Any on property repairs and/or maintenance of any vehicle must be with the prior written permission of the Management.
  - Recreational vehicles, boats or trailers may only be parked on the property with Management's permission (in Management's sole discretion), and must be registered with the Management Office and parked in the area(s) designated by Management.
- VII. FIRE HAZARDS.** In order to minimize fire hazards and comply with city ordinances, Resident shall comply with the following:
- Residents and guests will adhere to the Community rules and regulations other Management policies concerning fire hazards, which may be revised from time to time.
  - No person shall knowingly maintain a fire hazard.
  - **Grills, Barbeques, and any other outdoor cooking or open flame devices will be used only on the ground level and will be placed a minimum of 20 feet from any building.** Such devices will not be used close to combustible materials, tall grass or weeds, on exterior walls or on roofs, indoors, on balconies or patios, or in other locations which may cause fires.
  - **Fireplaces:** Only firewood is permitted in the fireplace. No artificial substances, such as Duraflame® logs are permitted. Ashes must be disposed of in metal containers, after ensuring the ashes are cold.
  - Flammable or combustible liquids and fuels shall not be used or stored (including stock for sale) in dwellings, near exits, stairways breezeways, or areas normally used for the ingress and egress of people. This includes motorcycles and any apparatus or engine using flammable or combustible liquid as fuel.
  - No person shall block or obstruct any exit, aisle, passageway, hallway or stairway leading to or from any structure.
  - Resident(s) are solely responsible for fines or penalties caused by their actions in violation of local fire protection codes.
- VIII. EXTERMINATING.** Unless prohibited by statute or otherwise stated in the Lease, Owner may conduct extermination operations in Residents' dwelling several times a year and as needed to prevent insect infestation. Owner will notify Residents in advance of extermination in Residents' Dwelling, and give Resident instructions for the preparation of the Dwelling and safe contact with insecticides. Residents will be responsible to prepare the Dwelling for extermination in accordance with Owner's instructions. If Residents are unprepared for a scheduled treatment date Owner will prepare Residents' dwelling and charge Residents accordingly. Residents must request extermination treatments in addition to those regularly provided by Owner in writing. **Residents agree to perform the tasks required by Owner on the day of interior extermination to ensure the safety and effectiveness of the extermination. These tasks will include, but are not limited to, the following:**
- Clean in all cabinets, drawers and closets in kitchen and pantry.
  - If roaches have been seen in closets, remove contents from shelves and floor.
  - Remove infants and young children from the dwelling.
  - Remove pets or place them in bedrooms, and notify Owner of such placement.
  - Remove chain locks or other types of obstruction on day of service.
  - Cover fish tanks and turn off their air pumps.
  - Do not wipe out cabinets after treatment.
- In the case of suspected or confirmed bed bug infestation, resident will agree to the following:
- Resident will wash all clothing, bed sheets, draperies, towels, etc. in extremely hot water.
  - Resident will thoroughly clean, off premises, all luggage, handbags, shoes and clothes hanging containers.
  - Resident will cooperate with Owner's cleaning efforts for all mattresses and seat cushions or other upholstered furniture, and will dispose of same if requested.
- RESIDENTS ARE SOLELY RESPONSIBLE TO NOTIFY OWNER IN WRITING PRIOR TO EXTERMINATION OF ANY ANTICIPATED HEALTH OR SAFETY CONCERNS RELATED TO EXTERMINATION AND THE USE OF INSECTICIDES**
- IX. DRAPES AND SHADES.** Drapes or shades installed by Resident, when allowed, must be lined in white and present a uniform exterior appearance.
- X. WATER BEDS.** Resident shall not have water beds or other water furniture in the dwelling without prior written permission of Owner.
- XI. BALCONY or PATIO.** Balconies and patios shall be kept neat and clean at all times. No rugs, towels, laundry, clothing, appliances or other items shall be stored, hung or draped on railings or other portions of balconies or patios. No misuse of the space is permitted, including but not limited to, throwing, spilling or pouring liquids or other items, whether intentionally or negligently, over the balconies or patios.
- XII. SIGNS.** Resident shall not display any signs, exterior lights or markings on dwelling. No awnings or other projections shall be attached to the outside of the building of which dwelling is a part.

**XIII.SATELLITE DISHES/ANTENNAS.** You must complete a satellite addendum and abide by its terms prior to installation or use.

**XIV.WAIVER/SEVERABILITY CLAUSE.** No waiver of any provision herein, or in any Community rules and regulations, shall be effective unless granted by the Owner in a signed and dated writing. If any court of competent jurisdiction finds that any clause, phrase, or provision of this Part is invalid for any reason whatsoever, this finding shall not effect the validity of the remaining portions of this addendum, the Lease Contract or any other addenda to the Lease Contract.

**XV. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

Grilling is not allowed except for in property designated areas. Residents are not allowed to store any grill (charcoal, electric or gas) in their unit, on the patio/ balcony or in the breezeway areas.

I have read, understand and agree to comply with the preceding provisions.

|                            |            |                |            |
|----------------------------|------------|----------------|------------|
| Resident _____             | Date _____ | Resident _____ | Date _____ |
| Resident _____             | Date _____ | Resident _____ | Date _____ |
| Resident _____             | Date _____ | Resident _____ | Date _____ |
| Owner Representative _____ |            | Date _____     |            |





## LEASE ADDENDUM FOR RENT CONCESSION OR OTHER RENT DISCOUNT



### 1. DWELLING UNIT DESCRIPTION.

Unit No. 1809, 1809 Audubon Dr  
 \_\_\_\_\_ (street address) in  
Hanahan  
 (city), South Carolina, 29410 (zip code).

### 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: May 8, 2019  
 Owner's name: Strata Audubon, LLC

Residents (list all residents):

Alvaro Sarmiento Jr, Sarah Zito

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

**3. CONCESSION/DISCOUNT AGREEMENT.** As consideration for your agreement to remain in your dwelling and to fulfill your Lease obligations throughout the full term of your Lease, you will receive the following rent Concession and or Discount.

(Check all that apply)

☐ **One-Time Concession.** You will receive a One-Time Concession off the rent indicated in the Rent and Charges paragraph of the Lease Contract in the total amount of \$ \_\_\_\_\_. This Concession will be credited to your rent due for the month(s) of: \_\_\_\_\_

☐ **Monthly Discount/Concession.** The rent indicated in the Rent and Charges paragraph of the Lease Contract includes a Monthly Discount of \$ \_\_\_\_\_ per month off of the suggested rental rate for your dwelling.

☐ **Other Discount/Concession.** You will receive the following discount off the rent indicated in the Rent and Charges paragraph of the Lease Contract:

Resident or Residents  
(All residents must sign)

☐ **Non-Monetary Concession.** You will receive the following non-monetary concession during the term of the Lease.

**4. CONCESSION CANCELLATION AND CHARGE-BACK.** The concession and discounts indicated above are provided to you as an incentive and with the understanding that you will fulfill your obligations under the Lease Contract through the entire term of your Lease.

If your lease is terminated early due to your default (for example, if you abandon the premises without paying rent or are evicted), this Concession/Discount Agreement will be immediately terminated, and you will be required to immediately repay to the Owner the amounts of all (Check all that apply)

☐ Concessions  
☐ Discounts

that you have actually received for the months you resided in the Premises, and without further notice from us.

**5. MARKET RENT.** The market rent for this dwelling is the rent stated in the Lease Contract. You acknowledge that the market rent is a fair representation of what the specific dwelling would actually rent for at the time the Lease Contract was negotiated and executed, and is reflective of the rent for a similar dwelling at comparable properties.

**6. SPECIAL PROVISIONS.** The following special provisions control over any conflicting provisions of this printed Addendum form or the Lease Contract.

Owner or Owner's Representative  
(signs here)

Date of Lease Contract

May 8, 2019





# LEASE ADDENDUM FOR REMOTE CONTROL, CARD, OR CODE ACCESS GATE



## 1. DWELLING UNIT DESCRIPTION.

Unit No. 1809, 1809 Audubon  
Dr  
Hanahan (street address) in  
(city), South Carolina, 29410  
(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: May 8, 2019  
Owner's name: Strata Audubon, LLC

Residents (list all residents):

Alvaro Sarmiento Jr, Sarah Zito

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

## 3. REMOTE CONTROL/CARDS/CODE FOR GATE ACCESS.

- ☐ Remote control for gate access. Each person who is listed as a resident on the lease will be given a remote control at no cost to use during his or her residency. Each additional remote control for you or other occupants will require a \$ \_\_\_\_\_ non-refundable fee.
- ☐ Cards for gate access. Each person who is listed as a resident on the lease will be given a card at no cost to use during his or her residency. Each additional card for you or other occupants will require a \$ \_\_\_\_\_ non-refundable fee.
- ☐ Code for gate access. Each resident will be given, at no cost, an access code (keypad number) for the pedestrian or vehicular access gates. It is to be used only during your residency. We may change the access code at any time and will notify you of any such changes.

## 4. DAMAGED, LOST OR UNRETURNED REMOTE CONTROLS, CARDS OR CODE CHANGES.

- ☐ If a remote control is lost, stolen or damaged, a \$ \_\_\_\_\_ fee will be charged for a replacement. If a remote control is not returned or is returned damaged when you move out, there will be a \$ \_\_\_\_\_ deduction from the security deposit.
- ☐ If a card is lost, stolen or damaged, a \$ \_\_\_\_\_ fee will be charged for a replacement card. If a card is not returned or is returned damaged when you move out, there will be a \$ \_\_\_\_\_ deduction from the security deposit.
- ☐ We may change the code(s) at any time and notify you accordingly.

5. REPORT DAMAGE OR MALFUNCTIONS. Please immediately report to the office any malfunction or damage to gates, fencing, locks or related equipment.

6. FOLLOW WRITTEN INSTRUCTIONS. We ask that you and all other occupants read the written instructions that have been furnished to you regarding the access gates. This is important because if the gates are damaged by you or other occupants, guests or invitees through negligence or misuse, you are liable for the damages under your lease, and collection of damage amounts will be pursued.

7. PERSONAL INJURY AND/OR PERSONAL PROPERTY DAMAGE. Except as specifically required by law, we have no duty to maintain the gates and cannot guaranty against gate malfunctions. We make no representations or guarantees to you concerning security of the community. Any measures, devices, or activities taken by us are solely for the benefit of us and for the protection of our property and interests, and any benefit to you of the same is purely incidental. Anything mechanical or electronic is subject to malfunction. Fencing, gates or other devices will not prevent all crime. No security system or device is foolproof or 100 percent successful in deterring crime. Crime can still occur. Protecting residents, their families, occupants, guests and invitees from crime is the sole responsibility of residents, occupants and law enforcement agencies. You should first call 911 or other appropriate emergency police numbers if a crime occurs or is suspected. We may not be liable to any resident, family member, guest, occupant or invitee for personal injury, death or damage/loss of personal property from incidents related to perimeter fencing, automobile access gates and/or pedestrian access gates. We reserve the right to modify or eliminate security systems other than those statutorily required. You will be held responsible for the actions of any persons to whom you provide access to the community.

## 8. RULES IN USING VEHICLE GATES.

- Always approach entry and exit gates with caution and at a very slow rate of speed.
- Never stop your car where the gate can hit your vehicle as the gate opens or closes.
- Never follow another vehicle into an open gate. Always use your card to gain entry.
- Report to management the vehicle license plate number of any vehicle that piggybacks through the gate.
- Never force the gate open with your car.
- Never get out of your vehicle while the gates are opening or closing.
- If you are using the gates with a boat or trailer, please contact management for assistance. The length and width of the trailer may cause recognition problems with the safety loop detector and could cause damage.
- Do not operate the gate if there are small children nearby who might get caught in it as it opens or closes.
- If you lose your card, please contact the management office immediately.
- Do not give your card or code to anyone else.
- Do not tamper with gate or allow your occupants to tamper or play with gates.

**9. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

[illegible]

**Resident or Residents**  
(All residents must sign here)

[illegible]

**Owner or Owner's Representative**  
(signs here)

**Date of Lease Contract**

May 8, 2019



## NO-SMOKING ADDENDUM



Date: May 8, 2019

(when this Addendum is filled out)

All use of any tobacco product involving smoking, burning, or combustion of tobacco is prohibited in any portion of the apartment community. You are entitled to receive an original of this No-Smoking Addendum after it is fully signed. Keep it in a safe place.

### 1. DWELLING UNIT DESCRIPTION.

Unit No. 1809, 1809 Audubon  
Dr  
Hanahan (street address) in  
(city), South Carolina, 29410  
(zip code).

### 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: May 8, 2019  
Owner's name: Strata Audubon, LLC

Residents (list all residents):

Alvaro Sarmiento Jr, Sarah Zito

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

**3. DEFINITION OF SMOKING.** Smoking refers to any use or possession of a cigar, cigarette, e-cigarette, hookah, vaporizer, or pipe containing tobacco or a tobacco product while that tobacco or tobacco product is burning, lighted, vaporized, or ignited, regardless of whether the person using or possessing the product is inhaling or exhaling the smoke from such product. The term tobacco includes, but is not limited to any form, compound, or synthesis of the plant of the genus Nicotiana or the species N. tabacum which is cultivated for its leaves to be used in cigarettes, cigars, e-cigarettes, hookahs, vaporizers, or pipes. Smoking also refers to use or possession of burning, lighted, vaporized, or ignited non-tobacco products if they are noxious, offensive, unsafe, unhealthy, or irritating to other persons.

**4. SMOKING ANYWHERE INSIDE BUILDINGS OF THE APARTMENT COMMUNITY IS STRICTLY PROHIBITED.** All forms and use of burning, lighted, vaporized, or ignited tobacco products and smoking of tobacco products inside any dwelling, building, or interior of any portion of the apartment community is strictly prohibited. Any violation of the no-smoking policy is a material and substantial violation of this Addendum and the Lease Contract.

The prohibition on use of any burning, lighted, vaporized, or ignited tobacco products or smoking of any tobacco products extends to all residents, their occupants, guests, invitees and all others who are present on or in any portion of the apartment community. The no-smoking policy and rules extend to, but are not limited to, the management and leasing offices, building interiors and hallways, building common areas, dwellings, club house, exercise or spa facility, tennis courts, all interior areas of the apartment community, commercial shops, businesses, and spaces, work areas, and all other spaces whether in the interior of the apartment community or in the enclosed spaces on the surrounding community grounds.

Smoking of non-tobacco products which are harmful to the health, safety, and welfare of other residents inside any dwelling or building is also prohibited by this Addendum and other provisions of the Lease Contract.

**5. SMOKING OUTSIDE BUILDINGS OF THE APARTMENT COMMUNITY.** Smoking is permitted only in specially designated areas outside the buildings of the apartment community. Smoking must be at least \_\_\_\_\_ feet from the buildings in the apartment community, including administrative office buildings. If the previous field is not completed, smoking is only permitted at least 25 feet from the buildings in the apartment community, including administrative office buildings. The smoking-permissible areas are marked by signage.

Smoking on balconies, patios, and limited common areas attached to or outside of your dwelling ☐ is ☐ is not permitted.

The following outside areas of the community may be used for smoking: \_\_\_\_\_

Even though smoking may be permitted in certain limited outside areas, we reserve the right to direct that you and your occupants, family, guests, and invitees cease and desist from smoking in those areas if smoke is entering the dwellings or buildings or if it is interfering with the health, safety, or welfare or disturbing the quiet enjoyment, or business operations of us, other residents, or guests.

**6. YOUR RESPONSIBILITY FOR DAMAGES AND CLEANING.** You are responsible for payment of all costs and damages to your dwelling, other residents' dwellings, or any other portion of the apartment community for repair, replacement, or cleaning due to smoking or smoke related damage caused by you or your occupants, family, guests, or invitees, regardless of whether such use was a violation of this Addendum. Any costs or damages we incur related to repairs, replacement, and cleaning due to your smoking or due to your violation of the no-smoking provisions of the Lease Contract are in excess of normal wear and tear. Smoke related damage, including but not limited to, the smell of tobacco smoke which permeates sheetrock, carpeting, wood, insulation, or other components of the dwelling or building is in excess of normal wear and tear in our smoke free apartment community.

**7. YOUR RESPONSIBILITY FOR LOSS OF RENTAL INCOME AND ECONOMIC DAMAGES REGARDING OTHER RESIDENTS.** You are responsible for payment of all lost rental income or other economic and financial damages or loss to us due to smoking or smoke related damage caused by you or your occupants, family, guests, or invitees which results in or causes other residents to vacate their dwellings, results in disruption of other residents' quiet enjoyment, or adversely affects other residents' or occupants' health, safety, or welfare.

**8. LEASE CONTRACT TERMINATION FOR VIOLATION OF THIS ADDENDUM.** We have the right to terminate your Lease Contract or right of occupancy of the dwelling for any violation of this No-Smoking Addendum. Violation of the no-smoking provisions is a material and substantial default or violation of the Lease Contract. Despite the termination of the Lease Contract or your occupancy, you will remain liable for rent through the end of the Lease Contract term or the date on which the dwelling is re-rented to a new occupant, whichever comes first. Therefore, you may be responsible for payment of rent after you vacate the leased premises even though you are no longer living in the dwelling.

**9. EXTENT OF YOUR LIABILITY FOR LOSSES DUE TO SMOKING.** Your responsibility for damages, cleaning, loss of rental income, and loss of other economic damages under this No-Smoking Addendum are in addition to, and not in lieu of, your responsibility for any other damages or loss under the Lease Contract or any other addendum.

**10. YOUR RESPONSIBILITY FOR CONDUCT OF OCCUPANTS, FAMILY MEMBERS, AND GUESTS.** You are responsible for communicating this community's no-smoking policy and for ensuring compliance with this Addendum by your occupants, family, guests, and invitees.

**11. THERE IS NO WARRANTY OF A SMOKE FREE ENVIRONMENT.** Although we prohibit smoking in all interior parts of the apartment community, there is no warranty or guaranty of any kind that your dwelling or the apartment community is smoke free. Smoking in certain limited outside areas is allowed as provided above. Enforcement of our no-smoking policy is a joint responsibility which requires your cooperation in reporting incidents or suspected violations of smoking. You must report violations of our no-smoking policy before we are obligated to investigate and act, and you must thereafter cooperate with us in prosecution of such violations.

This is an important and binding legal document. By signing this Addendum you are agreeing to follow our no-smoking policy and you are acknowledging that a violation could lead to termination of your Lease Contract or right to continue living in the dwelling. If you or someone in your household is a smoker, you should carefully consider whether you will be able to abide by the terms of this Addendum.

**12. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**Resident or Residents**  
(All residents must sign here)

[illegible]

**Owner or Owner's Representative**  
(Sign here)



# CRIME/DRUG FREE HOUSING ADDENDUM



## 1. DWELLING UNIT DESCRIPTION.

Unit No. 1809, 1809 Audubon  
Dr  
 \_\_\_\_\_ (street address) in  
Hanahan  
 (city), South Carolina, 29410  
 (zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: May 8, 2019  
 Owner's name: Strata Audubon, LLC

Residents (list all residents):

Alvaro Sarmiento Jr, Sarah Zito

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

**3. ADDENDUM APPLICABILITY.** In the event any provision in this Addendum is inconsistent with any provision(s) contained in other portions of, or attachments to, the above-mentioned Lease Contract, then the provisions of this Addendum shall control. For purposes of this Addendum, the term "Premises" shall include the dwelling unit, all common areas, all other dwelling units on the property or any common areas or other dwelling units on or about other property owned by or managed by the Owner. The parties hereby amend and supplement the Lease Contract as follows:

**4. CRIME/DRUG FREE HOUSING.** Resident, members of the Resident's household, Resident's guests, and all other persons affiliated with the Resident:

A. Shall not engage in any illegal or criminal activity on or about the premises. The phrase, "illegal or criminal activity" shall include, but is not limited to, the following:

1. Engaging in any act intended to facilitate any type of criminal activity.
2. Permitting the Premises to be used for, or facilitating any type of criminal activity or drug related activity, regardless of whether the individual engaging such activity is a member of the household, or a guest.
3. The unlawful manufacturing, selling, using, storing, keeping, purchasing or giving of an illegal or controlled substance or paraphernalia as defined in city, county, state or federal laws, including but not limited to the State of South Carolina and/or the Federal Controlled Substances Act.

Resident or Residents (sign here)

Date of Signing Addendum

Owner or Owner's Representative (signs here)

Date of Signing Addendum



### **ADDENDUM PROHIBITING SHORT-TERM SUBLETTING OR RENTAL**



### 1. DWELLING UNIT DESCRIPTION.

Unit No. 1809, 1809 Audubon  
Dr \_\_\_\_\_ (street address) in \_\_\_\_\_  
Hanahan  
(city), South Carolina, 29410  
(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: May 8, 2019  
Owner's name: Strata Audubon, LLC

**Residents (list all residents):**

Alvaro Sarmiento Jr, Sarah Zito

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

**3. SHORT TERM SUBLEASE OR RENTING PROHIBITED.**

Without limiting the prohibition in the Lease on subletting, assignment, and licensing, and without limiting any of our rights or remedies, this Addendum to the Lease further supplements and defines the requirements and prohibitions contained in the Lease Contract between you and us. You are hereby strictly prohibited from subletting, licensing, or renting to any third party, or allowing occupancy by any third party, of all or any portion of the dwelling, whether for an overnight use or duration of any length, without our prior written consent in each instance. This prohibition applies to overnight stays or any other stays arranged on Airbnb.com or other similar internet sites.

**4. PROHIBITION ON LISTING OR ADVERTISING DWELLING ON OVERNIGHT SUBLETTING OR RENTING WEBSITES.**

You agree not to list or advertise the dwelling as being available for short term subletting or rental or occupancy by others on Airbnb.com or similar internet websites. You agree that listing or advertising the dwelling on Airbnb.com or similar internet websites shall be a violation of this Addendum and a breach of your Lease Contract.

## 5. VIOLATION OF LEASE AGREEMENT. Your Lease Contract

allows for use of your dwelling as a private residence only and strictly prohibits conducting any kind of business in, from, or involving your dwelling unless expressly permitted by law. Separately, your Lease Contract prohibits subletting

**Resident or Residents**  
*(All residents must sign)*

or occupancy by others of the dwelling for any period of time without our prior written consent. Permitting your dwelling to be used for any subletting or rental or occupancy by others (including, without limitation, for a short term), regardless of the value of consideration received or if no consideration is received, is a violation and breach of this Addendum and your Lease Contract.

**6. REMEDY FOR VIOLATION.** Any violation of this Addendum constitutes a material violation of the Lease Contract, and as such we may exercise any default remedies permitted in the Lease Contract, including termination of your tenancy, in accordance with local law. This clause shall not be interpreted to restrict our rights to terminate your tenancy for any lawful reason, or by any lawful method.

**7. RESIDENT LIABILITY.** You are responsible for and shall be held liable for any and all losses, damages, and/or fines that we incur as a result of your violations of the terms of this Addendum or the Lease Contract. Further, you agree you are responsible for and shall be held liable for any and all actions of any person(s) who occupy your dwelling in violation of the terms of this Addendum or the Lease Contract, including, but not limited to, property damage, disturbance of other residents, and violence or attempted violence to another person. In accordance with applicable law, without limiting your liability you agree we shall have the right to collect against any renter's or liability insurance policy maintained by you for any losses or damages that we incur as the result of any violation of the terms of this Addendum.

**8. SEVERABILITY.** If any provision of this Addendum or the Lease Contract is invalid or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or unenforceability only without invalidating or otherwise affecting the remainder of this Addendum or the Lease Contract. The court shall interpret the lease and provisions herein in a manner such as to uphold the valid portions of this Addendum while preserving the intent of the parties.

**9. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

**Owner or Owner's Representative**  
(Signs below)

**Date of Signing Addendum**



## PACKAGE ACCEPTANCE ADDENDUM



### 1. DWELLING UNIT DESCRIPTION.

Unit No. 1809, 1809 Audubon  
 DE

\_\_\_\_\_ (street address) in  
Hanahan

(city), South Carolina, 29410  
(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: May 8, 2019  
Owner's name: Strata Audubon, LLC

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**Residents (list all residents):**  
 Alvaro Sarmiento Jr. Sarah Zito

ALVARO SALMENDY 02, SUELO NICO

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises,**

and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this

**Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.**

**PURPOSE OF ADDENDUM.** By signing this Addendum, you

wish for us to sign for, and to accept, U.S. mail and privately-delivered packages or other items on your behalf, subject to

the terms and conditions set forth herein.

#### 4. PACKAGE ACCEPTANCE.

**A. Generally.** You hereby authorize us and our agent to accept, on your behalf, any package or item delivered to our on-site management office during disclosed business hours, including but not limited to any package delivered by the U.S. Postal Service or by any private courier service or individual. You also specifically authorize us to sign on your behalf if the person or entity delivering said package or item requires an adult signature prior to delivery, including but not limited to the delivery of certified or registered mail. A photo I.D. is required before any packages will be released. Packages will only be released to verified Residents or approved representatives.

**B. Limitations.** You understand and agree that we may refuse to accept any package for any reason or no reason at all.

**5. TIME LIMITATION.** Due to limited storage space, we must ask that you pick up your package as soon as possible. You also agree that we shall have no duty whatsoever to hold or store any package for more than 14 days after receipt (accordingly, you should notify the management office if you are going to be away from the apartment home and expect to be receiving a package(s)). After said time, you agree that any such package is deemed abandoned and you authorize us to return the package to its original sender.

**Resident or Residents**  
*(All residents must sign)*

## 6. DUTY OF CARE, INDEMNIFICATION, ASSUMPTION OF

**RISKS AND WAIVER.** As to any package for which we sign and/or receive on your behalf, you understand and agree that we have no duty to notify you of our receipt of such package, nor do we have any duty to maintain, protect, or deliver said package to you, nor do we have any duty to make said package available to you outside disclosed business hours. Any packages or personal property delivered to us or stored by us shall be at your sole risk, and you assume all risks whatsoever associated with any loss or damage to your packages and personal property. To the maximum extent permitted by law, you, your guests, family, invitees, and agents hereby waive any and all claims against us or our agents of any nature regarding or relating to any package or item received by us, including but not limited to, claims for theft, misplacing or damaging any such package, except in the event of our or our agent's gross negligence or willful misconduct. To the maximum extent permitted by law, you also agree to defend and indemnify us and our agents and hold us both harmless from any and all claims that may be brought by any third party relating to any injury sustained relating to or arising from any package that we received on your behalf. To the maximum extent permitted by law, you also agree to indemnify us and our agents and hold us harmless from any damage caused to us or our agents by any package received by us for you. You also authorize us to throw away or otherwise dispose of any package that we, in our sole discretion, deem to be dangerous, noxious, or in the case of packaged food, spoiled, and waive any claim whatsoever resulting from such disposal.

**7. SEVERABILITY.** If any provision of this Addendum or the Lease Contract is illegal, invalid or unenforceable under any applicable law, then it is the intention of the parties that (a) such provision shall be ineffective to the extent of such invalidity or unenforceability only without invalidating or otherwise affecting the remainder of this Addendum or the Lease, (b) the remainder of this Addendum shall not be affected thereby, and (c) it is also the intention of the parties to this Addendum that in lieu of each clause or provision that is illegal, invalid or unenforceable, there be added as a part of this Addendum a clause or provision similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

**8. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

**Owner or Owner's Representative**  
(Signs below)

**Date of Signing Addendum**

**PHOTO, VIDEO, AND STATEMENT RELEASE ADDENDUM**

### 1. DWELLING UNIT DESCRIPTION.

Unit No. 1809 1809 Audubon  
Dr \_\_\_\_\_ (street address) in \_\_\_\_\_  
Hanahan  
(city), South Carolina, 29410  
(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: May 8, 2019  
Owner's name: Strata Audubon, LLC

**Residents (list all residents):**

Alvaro Sarmiento Jr, Sarah Zito

Occupants (list all occupants):

Carter Sarmiento

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

**3. PURPOSE OF ADDENDUM.** By signing this Addendum, you, without payment or other consideration, agree to grant us permission to use your likeness in photographs, videos and/or other electronic and/or digital reproductions, including voice, in any and all of our publications, including, without limitation, any website entries, advertising websites, social media websites, and any other marketing materials. For purposes of this addendum, photographs, videos, written comments, statements, and other digital reproductions will hereinafter be collectively referred to as "media."

A. **Consent For Minor Occupants.** By signing this Addendum, if any minor occupants are named above, you further certify that you are the parent, or legal guardian of the minor occupant(s) named above, and you, without payment or other consideration, agree to grant us permission to use their likeness in photographs, videos and/ or other electronic and/or digital reproductions, including voice, in any and all of our publications, including, without limitation, any website entries, advertising websites, social media websites, and any other marketing materials. For purposes of this addendum, photographs, videos, written comments, statements, and other digital reproductions will hereinafter be collectively referred to as "media."

**4. PHOTO AND VIDEO RELEASE.** You hereby grant us and our agents and affiliates (collectively, the "Released Parties") permission and a license to take, use, reuse, and publish the likeness of you and any minor occupants in all photographs or other electronic and/or digital media in any and all of our publications, including, without limitation, any website entries, advertising websites, and any other marketing materials. You understand and agree that these materials will become the property of the Released Parties and will not be returned. You agree to irrevocably authorize the Released Parties to edit, alter, copy, exhibit, publish, or distribute this media for any lawful purpose whatsoever including, without limitation, promotional and advertising uses. You waive the right to inspect or approve the finished product, including any written or electronic copy, wherein your likeness appears now or in the future. In addition, you waive any right to payment, royalties, or any other compensation arising or related to the use of the media.

**5. CONSENT TO USE YOUR NAME, LIKENESS, WRITTEN COMMENTS, AND STATEMENTS.** You are expressly agreeing to allow us to post your name, picture, written comments, and statements, and/or the names, pictures, written comments, and statements of any minor occupants in any and all of our publications, including, without limitation, any website entries, advertising websites, social media websites, and any other marketing materials. You hereby grant the Released Parties permission and a license to use, reproduce, and publish any media on its website, social media platforms, or in other marketing-related materials, whether in electronic or print form.

**6. RELEASE OF LIABILITY.** To the extent provided by law, you hereby release, hold harmless, and forever discharge us from any claims or causes of actions including, without limitation, any and all claims for libel or violation of any right of publicity or privacy, related to our use of the media in any and all of our publications, including any website entries, advertising websites, social media websites, and any other marketing material so long as the claim or cause of action does not result from our intentional misconduct or gross negligence. This consent and release shall be binding upon you and your heirs, legal representatives and assigns.

**7. REVOCATION.** You have the right to revoke your consent to our use of your name, picture, video, voice, written comments, or statement, and/or the name, picture, video, voice, written comments, or statement of any minor occupants, by written notice to us.

**8. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

**Resident or Residents**  
*(All residents must sign)*

**Owner or Owner's Representative**  
*(signs below)*

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**Date of Signing Addendum**

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### Lease Indemnification Addendum<sup>®</sup>

This is an addendum to your Lease Contract for apartment number 1809 in the Audubon Park  
 \_\_\_\_\_ (Name of Community/Apartments) in  
Hanahan SC (City/State) (the "Apartment Community") between  
Strata Audubon, LLC  
 \_\_\_\_\_ ("Owner") and Alvaro Sarmiento Jr, Sarah Zito  
 \_\_\_\_\_ ("Resident").

**Indemnity Obligation.** You shall indemnify us and hold us harmless for accidental damages to your dwelling or the Apartment Community. ("Indemnity Obligation")

**Insurance Requirements.** During the Term of the Lease Contract and any subsequent renewal terms, you shall be required to maintain "Qualified Renter Liability Insurance" (as defined below) or to participate in the Community Indemnity Shield program for a monthly fee of \$9.00 (the "Fee"). (Fee is not pro-rated). **You will automatically be enrolled in the Community Indemnity Shield program for \$9 per month, unless and until evidence of Qualified Renter Liability Insurance is received and approved.** Qualified Renter Liability Insurance must be uploaded to the Community Indemnity Shield website through an account established by resident. Once your evidence of Qualified Renter Liability Insurance is received and approved from the insurance company of your choosing listed below that is licensed to do business in this state, charges for the Fees would end, and a pro-rata credit for the balance of the current month would be given. No credits of Fees are issued for any period of time in which Qualified Renters Liability Insurance was not submitted and approved. You will provide additional proof of insurance in the future at our request.

*(See Community Indemnity Shield brochure for additional details.)*

**Benefits of Community Indemnity Shield Program.** Residents who elect to stay in the Community Indemnity Shield program are responsible for the first \$200 in damages but will be released financially from their "Indemnity Obligation" set forth above, up to \$100,000, for accidental damage caused by you (the Resident) or your guests that exceeds \$200 and originates from fire, water or smoke. **The Community Indemnity Shield program is NOT insurance and DOES NOT provide insurance coverage or protection for your personal property, personal liability or any other claim or loss made by third parties, including by other residents.**

**Qualified Renter Liability Insurance Policy Requirements.** You are required to purchase and maintain personal liability insurance covering you, your occupants and guests, for personal injury and property damage any of you cause to third parties (including damage to our property), 1) in a minimum policy coverage amount of \$100,000, from a carrier with an AM Best rating of A-VII or better, licensed to do business in this state; 2) your name(s) (roommates must be listed as additional insured or provide separate policy); 3) Policy start and end dates; 4) Policy number; and 5) The following must be listed on the policy as an "additional interest", "interested party" or "certificate holder"; "Community Indemnity Shield (your Apartment Community name) 4370 La Jolla Village Drive, Suite 960 San Diego, CA 92122 and [NAME OF OWNER, ADDRESS]. The carrier is required to provide notice to us and Community Indemnity Shield, LLC within 30 days of any cancellation, non-renewal, or material change in your coverage. We retain the right to hold you responsible for any loss in excess of your insurance coverage.

**Acknowledgment Concerning Insurance or Damage Waiver.** You acknowledge that we do not maintain insurance to protect you against personal injury, loss or damage to your personal property or belongings, or to cover your own liability for injury, loss or damage you (or your occupants or guests) may cause others. We are not responsible to any resident, guest, or occupant for damage or loss of

personal property or personal injury from (including but not limited to) fire, smoke, rain, flood, water and pipe leaks, hail, ice, snow, lightning, wind, explosions, earthquake, interruption of utilities, theft, hurricane, negligence of other residents, occupants, or invited / uninvited guests or vandalism unless otherwise required by law. You also acknowledge that by not maintaining your own policy of personal liability insurance, you may be responsible to others (including us) for the full cost of any injury, loss or damage caused by your actions or the actions of your occupants or guests. You understand that paragraph 8 of the Lease Contract requires you to maintain a liability insurance policy which satisfies the Qualified Renter Liability Insurance Policy Requirements set forth above, which requirement may be satisfied by your participation and enrollment in the Community Indemnity Shield program. You understand and agree to maintain at all times during the Term of the Lease Contract and any renewal periods a policy of personal liability insurance satisfying the requirements of the Lease Contract and this Addendum, at your sole expense. All residents (including participants in the Community Indemnity Shield Program) are urged to get your own insurance for losses to your personal property or injuries due to theft, fire, water damage, pipe leaks and the like.

**Default.** Any default under the terms of this Addendum shall be deemed an immediate, material and incurable default under the terms of the Lease Contract, and we shall be entitled to exercise all rights and remedies under the law.

**Miscellaneous.** Except as specifically stated in this Addendum, all other terms and conditions of the Lease Contract shall remain unchanged. In the event of any conflict between the terms of this Addendum and the terms of the Lease Contract, the terms of this Addendum shall control.

**I acknowledge I have read and understand the information set forth in this form. I also acknowledge and understand the following:**

- The Community Indemnity Shield program is NOT insurance and DOES NOT provide insurance coverage or protection for your personal property, personal liability or any other claim or loss made by third parties, including by other residents.
- I am not a co-insured on the Owner's insurance policy. The Owner carries insurance for its own protection.
- You and we agree that subrogation is allowed by all parties and that this agreement supersedes any language to the contrary in the Lease Contract.

Dated and effective as of: 05/08/2019

\_\_\_\_\_  
Resident(s) signature

\_\_\_\_\_  
Resident(s) signature

\_\_\_\_\_  
Owner's Representative signature

The following information states that the identified document has been signed electronically by the parties detailed below:

| Signee Details                                            | Role     | Signature                  | Initials  | Date Signed |
|-----------------------------------------------------------|----------|----------------------------|-----------|-------------|
| Alvaro Sarmiento Jr<br>Email ID: asarmientojr90@gmail.com | Resident | <i>Alvaro Sarmiento Jr</i> | <i>AS</i> | 05/13/2019  |
| Sarah Zito<br>Email ID: sarahzito@ymail.com               | Resident | <i>Sarah B Zito</i>        | <i>SZ</i> | 07/17/2019  |
| Site Manager                                              | Manager  |                            |           |             |

# Exhibit B



# APARTMENT LEASE CONTRACT



Date of Lease Contract: November 20, 2019  
(when the lease contract is filled out)

*This is a binding document. Read carefully before signing.*

## Moving In — General Information

1. **PARTIES.** This Lease Contract (sometimes referred to as the "lease") is between you the resident(s) (list all people signing the Lease Contract):

Mark Shinn, Johanna Shinn

and us, the owner: Strata Veridian LLC

(name of apartment community or title holder). You've agreed to rent Apartment No. 445-0304, at 445  
Aspen Creek Drive Apt 0304

(street address) in Spartanburg  
(city), South Carolina, 29301  
(zip code) for use as a private residence only. The terms "you" and "your" refer to all residents listed above. The terms "we," "us," and "our" refer to the owner listed above (or any of owner's successors' in interest or assigns). Written notice to or from our managers constitutes notice to or from us. If anyone else has guaranteed performance of this Lease Contract, a separate Lease Contract Guaranty for each guarantor is attached.

2. **OCCUPANTS.** The apartment will be occupied only by you and (list all other occupants not signing the Lease Contract):

No one else may occupy the apartment. Persons not listed above must not stay in the apartment for more than 3 consecutive days without our prior written consent, and no more than twice that many days in any one month. If the previous space isn't filled in, two days per month is the limit.

3. **LEASE TERM.** The initial term of the Lease Contract begins on the 7th day of November, 2019, and ends at 11:59 p.m. the 6th day of November, 2020.

**Renewal.** This Lease Contract will automatically renew month-to-month unless either party gives at least 60 days written notice of termination or intent to move-out as required by paragraph 35 (Move-Out Notice), which in all cases shall be a minimum of thirty (30) days. If the number of days isn't filled in, at least 30 days notice is required.

4. **SECURITY DEPOSIT.** Unless modified by addenda, the total security deposit at the time of execution of this Lease Contract for all residents in the apartment is \$ 200.00, due on or before the date this Lease Contract is signed.

5. **KEYS AND FURNITURE.** You will be provided 2 apartment key(s), 2 mailbox key(s), and 1 other access devices for Amenities. Your apartment will be [check one]: ☐ furnished or ☒ unfurnished.

6. **RENT AND CHARGES.** Unless modified by addenda, you will pay \$ 907.00 per month for rent, payable in advance and without demand:

- ☐ at the on-site manager's office, or  
☒ at our online payment site, or  
☒ at Electronic Money Order Location

Prorated rent of \$ 725.60 is due for the remainder of the [check one]: ☒ 1st month or ☐ 2nd month, on

Otherwise, you must pay your rent on or before the 1st day of each month (due date) with no grace period. Cash is unacceptable without our prior written permission. You must not withhold or offset rent unless authorized by statute. We may, at our option, require at any time that you pay all rent and other sums in cash, certified or cashier's check, money order, or one monthly check rather than multiple checks. At our discretion, we may convert any and all checks via the Automated Clearing House (ACH) system for the purposes of collecting payment. Rent is not considered accepted, if the payment/ACH is rejected, does not clear, or is stopped for any reason. If you don't pay all rent on or before the 5th day of the month, you'll pay an initial late charge of \$ 100.00 plus a late charge of \$ \_\_\_\_\_ per day after that date until paid in full. Daily late charges will not exceed 15 days for any single month's rent. You'll also pay a charge of \$ 35.00 for each returned check or rejected electronic payment, plus initial and daily late charges from due date until we receive acceptable payment, which returned check charge shall not exceed \$25.00 for checks \$100.00 or less and \$30.00 for checks over \$100.00. If you don't pay rent on time, you'll be delinquent and all remedies under this Lease Contract will be authorized. We'll also have all other remedies for such violation.

7. **UTILITIES.** We'll pay for the following items, if checked:

- ☐ water ☐ gas ☐ electricity ☐ master antenna  
☐ wastewater ☐ trash ☐ cable TV  
☐ other

You'll pay for all other utilities, related deposits, and any charges, fees, or services on such utilities. You must not allow utilities to be disconnected—including disconnection for not paying your bills—until the lease term or renewal period ends. Cable channels that are provided may be changed during the lease term if the change applies to all residents. Utilities may be used only for normal household purposes and must not be wasted. If your electricity is ever interrupted, you must use only battery-operated lighting. If any utilities are submetered for the apartment, or prorated by an allocation formula, we will attach an addendum to this Lease Contract in compliance with state agency rules or city ordinance.

8. **INSURANCE.** We do not maintain insurance to cover your personal property or personal injury. We are not responsible to any resident, guest, or occupant for damage or loss of personal property or personal injury from (including but not limited to) fire, smoke, rain, flood, water and pipe leaks, hail, ice, snow, lightning, wind, explosions, earthquake, interruption of utilities, theft, hurricane, negligence of other residents, occupants, or invited/uninvited guests or vandalism unless otherwise required by law.

In addition, we urge all residents, and particularly those residing in coastal areas, areas near rivers, and areas prone to flooding, to obtain flood insurance. Renter's insurance may not cover damage to your property due to flooding. A flood insurance resource which may be available includes the National Flood Insurance Program managed by the Federal Emergency Management Agency (FEMA).

We urge you to get your own insurance for losses to your personal property or injuries due to theft, fire, water damage, pipe leaks and the like.

Additionally, you are [check one] ☒ required to purchase personal liability insurance ☐ not required to purchase personal liability insurance. If no box is checked, personal liability insurance is not required. If required, failure to maintain personal liability insurance throughout your tenancy, including any renewal periods and/or

lease extensions, may be an incurable breach of this Lease Contract and may result in the termination of tenancy and eviction and/or any other remedies as provided by this Lease Contract or state law.

You acknowledge that no portion of the rent paid by you under this agreement will be applied to the owner's structural fire insurance and that you are in no way a co-insured under any such policy, and that, in order to reduce the cost of insurance, the Owner has chosen to purchase fire and extended coverage insurance for the property for which the above rental agreement applies, with a deductible in the amount of \$ 100,000.00. If you or any member of your household, guest or invitee causes damages to the premises in an amount that is less than the amount of this insurance deductible, you agree to indemnify and reimburse the Owner for the amount of such damages, and that you may be liable for costs in excess of the deductible under any subrogation clause of the said policy. It is recommended that you secure insurance to protect your interest in the event of such a loss.

#### Special Provisions and "What If" Clauses

**10. SPECIAL PROVISIONS.** The following special provisions and any addenda or written rules furnished to you at or before signing will become a part of this lease and will supersede any conflicting provisions of this printed lease form.

If rent/utilities and applicable fees are not received by the 10th of each month a dispossession/eviction warrant will be filed and additional fees will apply.

See any additional special provisions.

**11. EARLY MOVE-OUT.** You'll be liable to us for a reletting charge of \$ 0.00 (not to exceed 100% of the highest monthly rent during the lease term) if you:

- (1) fail to give written move-out notice as required in paragraphs 22 (Military Personnel Clause) or 35 (Move-Out Notice); or
- (2) move out without paying rent in full for the entire lease term or renewal period; or
- (3) move out at our demand because of your default; or
- (4) are judicially evicted.

The reletting charge represents our estimated actual damages we anticipate to be incurred as a result of any of these occurrences and is not a cancellation fee and does not release you from your obligations under this Lease Contract. See the next paragraph.

**Not a Release.** The reletting charge is not a lease cancellation fee or buyout fee. It is an agreed-to liquidated amount covering only part of our actual damages that we anticipate to be incurred as a result of the occurrence of any of the foregoing (1) through (4), that is, our time, effort, and expense in finding and processing a replacement. These damages are uncertain and difficult to ascertain—particularly those relating to inconvenience, paperwork, advertising, showing apartments, utilities for showing, checking prospects, office overhead, marketing costs, and locator-service fees. You agree that the reletting charge is a reasonable estimate of such damages and that the charge is due whether or not our reletting attempts succeed. If no amount is stipulated, you must pay our actual reletting costs so far as they can be determined. The reletting charge does not release you from continued liability for: future or past-due rent; charges for cleaning, repairing, repainting, or unreturned keys; or other sums due.

**12. REIMBURSEMENT.** You must promptly reimburse us for loss, damage, government fines, or cost of repairs or service in the apartment community due to a violation of the Lease Contract or rules, improper use, or negligence by you or your guests or occupants. Unless the damage or wastewater stoppage is due to our negligence, we're not liable for --and you must pay for-- repairs, replacement costs, and damage to the following that result from you or your invitees, guests, or occupants' negligence or intentional acts: (1) damage to doors, windows, or screens; (2) damage from windows or doors left open; and (3) damage from wastewater stoppages caused by improper objects in lines exclusively serving your apartment. We may require payment at any time, including advance payment of repairs for which you're liable. Delay in demanding sums you owe is not a waiver.

**9. LOCKS AND LATCHES.** Keyed lock(s) will be rekeyed after the prior resident moves out. The rekeying will be done before you move into your apartment.

You may at any time ask us to change or rekey locks or latches during the Lease Term. We must comply with those requests, but you must pay for them, unless otherwise provided by law.

**Payment for Rekeying, Repairs, Etc.** You must pay for all repairs or replacements arising from misuse or damage to devices by you or your occupants, or guests during your occupancy. You may be required to pay in advance if we notify you within a reasonable time after your request that you are more than 30 days delinquent in reimbursing us for repairing or replacing a device which was misused or damaged by you, your guest or an occupant; or if you have requested that we repair or change or rekey the same device during the 30 days preceding your request and we have complied with your request. Otherwise, you must pay immediately after the work is completed.

**13. FAILING TO PAY FIRST MONTH'S RENT.** If you don't pay the first month's rent when or before the Lease Contract begins, all future rent will be automatically accelerated without notice and immediately due, to the extent provided by law. We also may end your right of occupancy and recover actual damages, future rent, reletting charges, attorney's fees, court costs, and other lawful charges, to the extent provided by law. Our rights and remedies under paragraphs 11 (Early Move-Out) and 31 (Default by Resident) apply to acceleration under this paragraph.

**14. RENT INCREASES AND LEASE CONTRACT CHANGES.** No rent increases or Lease Contract changes are allowed before the initial Lease Contract term ends, except for changes allowed by any special provisions in paragraph 10 (Special Provisions), by a written addendum or amendment signed by you and us, or by reasonable changes of apartment rules allowed under paragraph 17 (Community Policies or Rules). If, at least 5 days before the advance notice deadline referred to in paragraph 3 (Lease Term), we give you written notice of rent increases or lease changes effective when the lease term or renewal period ends, this lease will automatically continue month-to-month with the increased rent or lease changes. The new modified Lease Contract will begin on the date stated in the notice (without necessity of your signature) unless you give us written move-out notice under paragraph 35 (Move-Out Notice).

**15. DELAY OF OCCUPANCY.** If occupancy is or will be delayed for construction, repairs, cleaning, or a previous resident's holding over, we're not responsible for the delay unless otherwise required by law. The Lease Contract will remain in force subject to: (1) abatement of rent on a daily basis during delay; and (2) your right to terminate as set forth below. Notice of intent to terminate must be in writing and must be received by us at least five (5) days prior to your termination. After termination, you are entitled only to refund of deposit(s) and any rent paid. Rent abatement or lease termination does not apply if delay is for cleaning or repairs that don't prevent you from occupying the apartment.

If there is a delay and we haven't given notice of delay as set forth immediately below, you may terminate up to the date when the apartment is ready for occupancy, upon at least five (5) days prior written notice to us, but not later.

- (1) If we give written notice to any of you when or after the initial term as set forth in Paragraph 3 (Lease Term)—and the notice states that occupancy has been delayed because of construction or a previous resident's holding over, and that the apartment will be ready on a specific date—you may submit to us a written notice to terminate the Lease Contract within 3 days of your receiving the notice, but not later.
- (2) If we give written notice to any of you before the initial term as set forth in Paragraph 3 (Lease Term) and the notice states that construction delay is expected and that the apartment will be ready for you to occupy on a specific date, you may submit to us written notice to terminate the Lease Contract within 7 days after any of you receives written notice, but not later. The readiness date is considered the new initial term as set forth in Paragraph 3 (Lease Term) for all purposes. This new date may not be moved to an earlier date unless we and you agree.

**16. DISCLOSURE RIGHTS.** If someone requests information on you or your rental history for law-enforcement, governmental, or business purposes, we may provide it.

## While You're Living in the Apartment

**17. COMMUNITY POLICIES OR RULES.** You and all guests and occupants must comply with any written apartment rules and community policies, including instructions for care of our property. Our rules are considered part of this Lease Contract. We may make reasonable changes to written rules, effective immediately, if they are distributed and applicable to all units in the apartment community and do not change dollar amounts on page 1 of this Lease Contract.

**18. LIMITATIONS ON CONDUCT.** The apartment and other areas reserved for your private use must be kept clean and free of trash, garbage, and other debris. Trash must be disposed of at least weekly in appropriate receptacles in accordance with local ordinances. Passageways may be used only for entry or exit. You agree to keep all passageways and common areas free of obstructions such as trash, storage items, and all forms of personal property. No person shall ride or allow bikes, skateboards, or other similar objects in the passageways. Any swimming pools, saunas, spas, tanning beds, exercise rooms, storerooms, laundry rooms, and similar areas must be used with care in accordance with apartment rules and posted signs. Glass containers are prohibited in all common areas. You, your occupants, or guests may not anywhere in the apartment community: use candles or use kerosene lamps or kerosene heaters without our prior written approval; cook on balconies or outside; or solicit business or contributions. Conducting any kind of business (including child care services) in your apartment or in the apartment community is prohibited—except that any lawful business conducted “at home” by computer, mail, or telephone is permissible if customers, clients, patients, or other business associates do not come to your apartment for business purposes. We may regulate: (1) the use of patios, balconies, and porches; (2) the conduct of furniture movers and delivery persons; and (3) recreational activities in common areas. You'll be liable to us for damage caused by you or any guests or occupants.

We may exclude from the apartment community guests or others who, in our judgment, have been violating the law, violating this Lease Contract or any apartment rules, or disturbing other residents, neighbors, visitors, or owner representatives. We may also exclude from any outside area or common area a person who refuses to show photo identification or refuses to identify himself or herself as a resident, occupant, or guest of a specific resident in the community.

You agree to notify us if you or any occupants are convicted of any felony, or misdemeanor involving a controlled substance, violence to another person or destruction of property. You also agree to notify us if you or any occupant registers as a sex offender in any state. Informing us of criminal convictions or sex offender registry does not waive our right to evict you.

**19. PROHIBITED CONDUCT.** You, your occupants or guests, or the guests of any occupants, may not engage in the following activities: behaving in a loud or obnoxious manner; disturbing or threatening the rights, comfort, health, safety, or convenience of others (including our agents and employees) in or near the apartment community; disrupting our business operations; manufacturing, delivering, possessing with intent to deliver, or otherwise possessing a controlled substance or drug paraphernalia; engaging in or threatening violence; possessing a weapon prohibited by state law; discharging a firearm in the apartment community; displaying or possessing a gun, knife, or other weapon in the common area in a way that may alarm others; storing anything in closets having gas appliances; tampering with utilities or telecommunications; bringing hazardous materials into the apartment community; or injuring our reputation by making bad faith allegations against us to others.

**20. PARKING.** We may regulate the time, manner, and place of parking cars, trucks, motorcycles, bicycles, boats, trailers, and recreational vehicles by anyone. Motorcycles or motorized bikes may not be parked inside an apartment unit or on sidewalks, under stairwells, or in handicapped parking areas. We may have unauthorized or illegally parked vehicles towed from the apartment community at your expense under the terms of this Lease Contract or by an appropriate statute. A vehicle is unauthorized or illegally parked in the apartment community if it:

- (1) has a flat tire or other condition rendering it inoperable; or
- (2) is on jacks, blocks or has wheel(s) missing; or
- (3) has no current license plate or no current registration and/or inspection sticker; or
- (4) takes up more than one parking space; or
- (5) belongs to a resident or occupant who has surrendered or abandoned the apartment; or

- (6) is parked in a marked handicap space without the legally required handicap insignia; or
- (7) is parked in a space marked for manager, staff, or guest at the office; or
- (8) blocks another vehicle from exiting; or
- (9) is parked in a fire lane or designated “no parking” area; or
- (10) is parked in a space marked for other resident(s) or unit(s); or
- (11) is parked on the grass, sidewalk, or patio; or
- (12) blocks garbage trucks from access to a dumpster; or
- (13) belongs to a resident and is parked in a visitor or retail parking space.

**21. RELEASE OF RESIDENT.** Unless you're entitled to terminate your tenancy under paragraphs 10 (Special Provisions), 15 (Delay of Occupancy), 22 (Military Personnel Clause), 30 (Responsibilities of Owner), or 35 (Move-Out Notice), you won't be released from this Lease Contract for any reason—including but not limited to voluntary or involuntary school withdrawal or transfer, voluntary or involuntary job transfer, marriage, separation, divorce, reconciliation, loss of co-residents, loss of employment, bad health, or death.

**22. MILITARY PERSONNEL CLAUSE.** You may terminate your tenancy if you enlist or are drafted or commissioned and on active duty in the U.S. Armed Forces. You also may terminate your tenancy if:

- (1) you are (i) a member of the U.S. Armed Forces or reserves on active duty or (ii) a member of the National Guard called to active duty for more than 30 days in response to a national emergency declared by the President; and
- (2) you (i) receive orders for permanent change-of-station, (ii) receive orders to deploy with a military unit or as an individual in support of a military operation for 90 days or more, or (iii) are relieved or released from active duty.

After you deliver to us your written termination notice, your tenancy will be terminated under this military clause 30 days after the date on which your next rental payment is due. You must furnish us a copy of your military orders, such as permanent change-of-station orders, call-up orders, or deployment orders or written notification from your commanding officer. Military permission for base housing does not constitute change-of-station order. After you move out, we'll return your security deposit, less lawful deductions. For the purposes of this Lease Contract, orders described in (2) above will only release the resident who qualifies under (1) and (2) above and receives the orders during the Lease Contract term and such resident's spouse or legal dependents living in the resident's household. A co-resident who is not your spouse or dependent cannot terminate under this military clause. Unless you state otherwise in paragraph 10 (Special Provisions), you represent when signing this Lease Contract that: (1) you do not already have deployment or change-of-station orders; (2) you will not be retiring from the military during the Lease Contract term; and (3) the term of your enlistment or obligation will not end before the Lease Contract term ends. Even if you are entitled to terminate your tenancy under this paragraph, liquidated damages for making a false representation of the above will be the amount of unpaid rent for the remainder of the lease term when and if you move out, less rents from others received in mitigation under paragraph 31 (Default by Resident). You must immediately notify us if you are called to active duty or receive deployment or permanent change-of-station orders.

**23. RESIDENT SAFETY AND PROPERTY LOSS.** You and all occupants and guests must exercise due care for your own and others' safety and security, especially in the use of smoke and carbon monoxide detectors, keyed deadbolt locks, keyless bolting devices, window latches, and access control devices.

**Smoke Detectors and Carbon Monoxide Detectors.** We'll furnish smoke detectors and carbon monoxide detectors only if required by statute, and we'll test them and provide working batteries when you first take possession. After that, you must test the smoke detectors and the carbon monoxide detectors on a regular basis, and you must pay for and replace batteries as needed, unless the law provides otherwise. We may replace dead or missing batteries at your expense, without prior notice to you. You must immediately report smoke-detector and carbon monoxide detector malfunctions to us. Neither you nor others may disable neither the smoke detectors nor the carbon monoxide detectors. If you damage or disable the smoke-detector or carbon monoxide detector or remove a battery without replacing it with a working battery, you may be liable to us under state statute for \$100 plus one month's rent, actual damages, and attorney's fees. If you disable or damage the smoke detector or carbon monoxide detector, or fail to replace a dead battery or report malfunctions to us, you will be liable to us and others for any loss, damage, or fines from fire, smoke, or water.

**Casualty Loss.** We're not liable to any resident, guest, or occupant for personal injury or damage or loss of personal property from any cause, including but not limited to: fire, smoke, rain, flood, water and pipe leaks, hail, ice, snow, lightning, wind, explosions, earthquake, interruption of utilities, theft, or vandalism unless otherwise required by law. We have no duty to remove any ice, sleet, or snow but may remove any amount with or without notice, except as may be required by law. During freezing weather, you must ensure that the temperature in the apartment is sufficient to make sure that the pipes do not freeze (we suggest at least 50 degrees). If the pipes freeze or any other damage is caused by your failure to properly maintain the heat in your apartment, you'll be liable for damage to our and other's property.

**Crime or Emergency.** Dial 911 or immediately call local medical emergency, fire, or police personnel in case of accident, fire, smoke, or suspected criminal activity or other emergency involving imminent harm. You should then contact our representative. Unless otherwise provided by law, we're not liable to you or any guests or occupants for injury, damage, or loss to person or property caused by criminal conduct of other persons, including theft, burglary, assault, vandalism, or other crimes. We're not obliged to furnish security personnel, security lighting, security gates or fences, or other forms of security. If we provide any access control devices or security measures upon the property, they are not a guarantee to prevent crime or to reduce the risk of crime on the property. You agree that no access control or security measures can eliminate all crime and that you will not rely upon any provided access control or security measures as a warranty or guarantee of any kind. We're not responsible for obtaining criminal-history checks on any residents, occupants, guests, or contractors in the apartment community. If you or any occupant or guest is affected by a crime, you must make a written report to our representative and to the appropriate local law-enforcement agency. You must also furnish us with the law-enforcement agency's incident report number upon request.

**24. CONDITION OF THE PREMISES AND ALTERATIONS.** You accept the apartment, fixtures, and furniture as is, except for conditions materially affecting the health or safety of ordinary persons. **WE DISCLAIM ALL IMPLIED WARRANTIES.** You'll be given an Inventory and Condition form on or before move-in. You must note on the form all defects or damage and return it to our representative. Otherwise, everything will be considered to be in a clean, safe, and good working condition.

You must use customary diligence in maintaining the apartment and not damaging or littering the common areas. Unless authorized by statute or by us in writing, you must not perform any repairs, painting, wallpapering, carpeting, electrical changes, or otherwise alter our property. No holes or stickers are allowed inside or outside the apartment. But we'll permit a reasonable number of small nail holes for hanging pictures on sheetrock walls and in grooves of wood-paneled walls, unless our rules state otherwise. No water furniture, washing machines, additional phone or TV-cable outlets, alarm systems, or lock changes, additions, or rekeying is permitted unless statutorily allowed or we've consented in writing. You may install a satellite dish or antenna provided you sign our satellite dish or antenna lease addendum which complies with reasonable restrictions allowed by federal law. You agree not to alter, damage, or remove our property, including alarm systems, smoke detectors and carbon monoxide detectors, furniture, telephone and cable TV wiring, screens, locks, and access control devices. When you move in, we'll supply light bulbs for fixtures we furnish, including exterior fixtures operated from inside the apartment; after that, you'll replace them at your expense with bulbs of the same type and wattage. Your improvements to the apartment (whether or not we consent) become ours unless we agree otherwise in writing.

**25. REQUESTS, REPAIRS, AND MALFUNCTIONS.** IF YOU OR ANY OCCUPANT NEEDS TO SEND A NOTICE OR REQUEST—FOR EXAMPLE, FOR REPAIRS, INSTALLATIONS, SERVICES, OR SECURITY-RELATED MATTERS—IT MUST BE SUBMITTED THROUGH EITHER THE ONLINE TENANT/MAINTENANCE PORTAL, OR SIGNED AND IN WRITING AND DELIVERED TO OUR DESIGNATED REPRESENTATIVE. (except in case of fire, smoke, gas, explosion, overflowing sewage, uncontrollable running water, electrical shorts, or crime in progress). Our written notes on your oral request do not constitute a written request from you.

Our complying with or responding to any oral request regarding security or non-security matters doesn't waive the strict requirement for written notices under this Lease Contract. You must promptly notify us in writing of: water leaks; electrical problems; malfunctioning lights; broken or missing locks or latches; and other conditions that pose a hazard to property, health, or safety. We may

change or install utility lines or equipment serving the apartment if the work is done reasonably without substantially increasing your utility costs. We may turn off equipment and interrupt utilities as needed to avoid property damage or to perform work. If utilities malfunction or are damaged by fire, water, or similar cause, you must notify our representative immediately. Air conditioning problems are not emergencies. If air conditioning or other equipment malfunctions, you must notify our representative as soon as possible on a business day. We'll act with customary diligence to make repairs and reconnections. Rent will not abate in whole or in part.

If we believe that fire or catastrophic damage is substantial, or that performance of needed repairs poses a danger to you, we may terminate your tenancy within a reasonable time by giving you written notice. If your tenancy is so terminated, we'll refund prorated rent and all deposits, less lawful deductions.

**26. ANIMALS.** No animals (including mammals, reptiles, birds, fish, rodents and insects) are allowed, even temporarily, anywhere in the apartment or apartment community unless we've so authorized in writing. If we allow an animal, you must sign a separate animal addendum, which may require additional deposits, rents, fees or other charges. An animal deposit is considered a general security deposit. You must remove an unauthorized animal within 24 hours of notice from us, or you will be considered in default of this Lease Contract. We will authorize support and/or service animals for you, your guests, and occupants pursuant to the parameters and guidelines established by the Fair Housing Act and the HUD regulatory guidelines. We may require a written statement from a qualified professional verifying the need for the support and/or service animal. You must not feed stray or wild animals.

If you or any guest or occupant violates animal restrictions (with or without your knowledge), you'll be subject to charges, damages, eviction, and other remedies provided in this Lease Contract. If an animal has been in the apartment at any time during your term of occupancy (with or without our consent), we'll charge you for defecating, deodorizing, and shampooing. Initial and daily animal-violation charges and animal-removal charges are liquidated damages for our time, inconvenience, and overhead (except for attorney's fees and litigation costs) in enforcing animal restrictions and rules. We may remove an unauthorized animal by (1) leaving, in a conspicuous place in the apartment, a 24-hour written notice of intent to remove the animal, and (2) following the procedures of paragraph 27 (When We May Enter). We may keep or kennel the animal or turn it over to a humane society or local authority. When keeping or kenneling an animal, we won't be liable for loss, harm, sickness, or death of the animal unless due to our negligence. We'll return the animal to you upon request if it has not already been turned over to a humane society or local authority. You must pay for the animal's reasonable care and kenneling charges. We have no lien on the animal for any purpose.

**27. WHEN WE MAY ENTER.** We (landlord and repairers, servicers, contractors, and other agents) must give you at least 24 hours notice of our intent to enter and may only enter at reasonable times, except in the event of the following:

- (1) at any time in case of emergency, including prospective changes in weather conditions which pose a likelihood of danger to the property;
- (2) between the hours of 9 AM to 6 PM for the purpose of providing regularly scheduled periodic services (provided that prior to entering, we announce our intent to enter), such services including: making repairs or replacements; estimating repair or refurbishing costs; performing pest control; doing preventive maintenance; changing filters; testing or replacing smoke-detector or carbon monoxide detector batteries; delivering, installing, reconnecting, or replacing appliances, furniture, equipment, or access control devices, and the like;
- (3) between the hours of 8 AM to 8 PM for the purpose of providing services you request (provided that, prior to entering, we announce our intent to enter to perform services);
- (4) pursuant to court order;
- (5) where you fail to maintain the premises in a condition materially affecting health and safety if such noncompliance can be remedied by repair and you fail to comply as promptly as conditions require in the case of emergency or within fourteen (14) days after written notice from us requesting you to remedy the breach within such time period;
- (6) when accompanied by a law enforcement officer at reasonable times for the purpose of service of process in ejectment proceedings; or
- (7) you have abandoned or surrendered the premises.

**28. JOINT AND SEVERAL RESPONSIBILITY.** Each resident is jointly and severally liable for all lease obligations. If you or any guest or occupant violates the Lease Contract or rules, all residents are considered to have violated the Lease Contract. Our requests and notices (including sale notices) to any resident constitute notice to all residents and occupants. Notices and requests from any resident or occupant (including notices of tenancy termination, repair

requests, and entry permissions) constitute notice from all residents. In eviction suits, each resident is considered the agent of all other residents in the apartment for service of process. Security-deposit refunds and any deduction itemizations of multiple residents will comply with paragraph 40 (Deposit Return, Surrender, and Abandonment).

### Replacements

**29. REPLACEMENTS AND SUBLETTING.** Replacing a resident, subletting, assignment, or granting a right or license to occupy is allowed only when we expressly consent in writing. If departing or remaining residents find a replacement resident acceptable to us before moving out and we expressly, in writing, consent to the replacement, subletting, assignment, or granting a right or any license to occupy, then:

- (1) a reletting charge *will not* be due;
- (2) a reasonable administrative (paperwork) and/or transfer fee *will* be due, and a rekeying fee *will* be due if rekeying is requested or required; and
- (3) the departing and remaining residents will remain liable for

all lease obligations for the rest of the original lease term.

**Procedures for Replacement.** If we approve a replacement resident, then, at our option: (1) the replacement resident must sign this Lease Contract with or without an increase in the total security deposit; or (2) the remaining and replacement residents must sign an entirely new Lease Contract. Unless we agree otherwise in writing, your security deposit will automatically transfer to the replacement resident as of the date we approve. The departing resident will no longer have a right to occupancy or a security deposit refund, but will remain liable for the remainder of the original lease term unless we agree otherwise in writing—even if a new Lease Contract is signed.

### Responsibilities of Owner and Resident

**30. RESPONSIBILITIES OF OWNER.** We'll act with customary diligence to:

- (1) keep common areas reasonably clean, subject to paragraph 24 (Conditions of the Premises and Alterations);
- (2) maintain fixtures, furniture, hot water, heating and A/C equipment;
- (3) comply with applicable federal, state, and local laws regarding safety, sanitation, and fair housing; and
- (4) make all reasonable repairs, subject to your obligation to pay for damages for which you are liable.

If we violate any of the above, you may terminate your tenancy and exercise other remedies under state statute only as follows:

- (a) you must make a written request for repair or remedy of the condition, and all rent must be current at the time;
- (b) after receiving the request, we have a reasonable time to repair, considering the nature of the problem and the reasonable availability of materials, labor, and utilities;
- (c) if we haven't diligently tried to repair within a reasonable time, you must then give us written notice of intent to terminate your tenancy unless the repair is made within 7 days; and
- (d) if repair hasn't been made within 14 days, you may terminate your tenancy and exercise other statutory remedies. Security deposits and prorated rent will be refunded as required by law.

**31. DEFAULT BY RESIDENT.** You'll be in default if you or any guest or occupant violates any terms of this Lease Contract including but not limited to the following violations: (1) you don't pay rent or other amounts that you owe when due; (2) you or any guest or occupant violates the apartment rules, or fire, safety, health, or criminal laws, regardless of whether or where arrest or conviction occurs; (3) you abandon the apartment; (4) you give incorrect or false answers in a rental application; (5) you or any occupant is arrested, convicted, or given deferred adjudication for a felony offense involving actual or potential physical harm to a person, or involving possession, manufacture, or delivery of a controlled substance, marijuana, or drug paraphernalia under state statute; (6) any illegal drugs or paraphernalia are found in your apartment; (7) you or any guest or occupant engages in any of the prohibited conduct described in Paragraph 19 (Prohibited Conduct); or (8) you or any occupant, in bad faith, makes an invalid complaint to an official or employee of a utility company or the government.

**Lease Renewal When A Breach or Default Has Occurred.** In the event that you enter into a subsequent Lease prior to the expiration of this Lease and you breach or otherwise commit a default under this Lease, We may, at our sole and absolute discretion, terminate the subsequent Lease, even if the subsequent Lease term has yet to commence. We may terminate said subsequent Lease by sending you written notice of our desire to terminate said subsequent Lease as permitted by law.

**Eviction.** If you default, we have the right to seek ejectment in accordance with applicable law.

**IF YOU DO NOT PAY YOUR RENT ON TIME WHEN REQUIRED BY THIS LEASE CONTRACT: This is your notice.** If you do not pay your rent within five days of the due date specified in this Lease Contract, we can start to have you evicted without further notice. You will not receive any further notice or warnings as long as you live in this rental unit, unless we decide to provide them to you as a gratuity, not as a right.

**Acceleration.** To the extent provided by law, all monthly rent for the rest of the lease term or renewal period will be accelerated automatically without notice or demand (before or after acceleration) and will be immediately due and delinquent if, without our written consent: (1) you move out, remove property in preparing to move out, or give oral or written notice (by you or any occupant) of intent to move out before the lease term or renewal period ends; and 2) you've not paid all rent for the entire lease term or renewal period. Such conduct is considered a default for which we need not give you notice. Remaining rent also will be accelerated if you're judicially evicted or move out when we demand because you've defaulted. Acceleration is subject to our mitigation obligations below.

**Holdover.** You or any occupant, invitee, or guest must not hold over beyond the date contained in your move-out notice or our notice to vacate (or beyond a different move-out date agreed to by the parties in writing). If a holdover occurs, then: (1) holdover rent is due in advance on a daily basis and may become delinquent without notice or demand; (2) rent for the holdover period will be increased by 25% over the then-existing rent, without notice; (3) you'll be liable to us for all rent for the full term of the previously signed Lease Contract of a new resident who can't occupy because of the holdover; and (4) at our option, we may extend the lease term—for up to one month from the date of notice of lease extension—by delivering written notice to you or your apartment while you continue to hold over.

**Remedies Cumulative.** Any remedies set forth herein shall be cumulative, in addition to, and not in limitation of, any other remedies available to Landlord under any applicable law.

**Other Remedies.** If your rent is delinquent and we give you 5 days' prior written notice, we may terminate your tenancy upon written notice to you of nonpayment and intent to terminate your tenancy. We may report unpaid amounts to credit agencies. If you default and move out early, you will pay us any amounts stated to be rental discounts in paragraph 10 (Special Provisions), in addition to other sums due. Upon your default, we have all other legal remedies, including termination of your tenancy and lockout fees, as provided under state statute, and attorneys' fees, to the extent allowable by law. Late charges are liquidated damages for our time, inconvenience, and overhead in collecting late rent (but are not for attorney's fees and litigation costs). You must pay all collection-agency fees if you fail to pay all sums due within 10 days after we mail you a letter demanding payment and stating that collection agency fees will be added if you don't pay all sums by that deadline.

**Mitigation of Damages.** If you move out early, you'll be subject to paragraph 11 (Early Move-Out) and all other remedies. We'll exercise customary diligence to relet and mitigate damages. We'll credit all subsequent rent that we actually receive from subsequent residents against your liability for past-due and future rent and other sums due.

## General Clauses

**32. MISCELLANEOUS.** Neither we nor any of our representatives have made any oral promises, representations, or agreements. This Lease Contract is the entire agreement between you and us. Our representatives (including management personnel, employees, and agents) have no authority to waive, amend, or terminate this Lease Contract or any part of it, unless in writing, and no authority to make promises, representations, or agreements that impose security duties or other obligations on us or our representatives unless in writing. No action or omission of our representative will be considered a waiver of any subsequent violation, default, or time or place of performance. Our not enforcing or belatedly enforcing written-notice requirements, rental due dates, acceleration, liens, or other rights isn't a waiver under any circumstances. Except when notice or demand is required by statute, you waive any notice and demand for performance from us if you default. Written notice to or from our managers constitutes notice to or from us. Any person giving a notice under this Lease Contract should retain a copy of the memo, letter or fax that was given. Fax signatures are binding. All notices must be signed.

Exercising one remedy won't constitute an election or waiver of other remedies. Unless prohibited by law or the respective insurance policies, insurance subrogation is waived by all parties. All remedies are cumulative. No employee, agent, or management company is personally liable for any of our contractual, statutory, or other obligations merely by virtue of acting on our behalf. This Lease Contract binds subsequent owners. Neither an invalid clause nor the omission of initials on any page invalidates this Lease Contract. All notices and documents may be in English and, at our option, in any language that you read or speak. All provisions regarding our non-liability and non-duty apply to our employees, agents, and management companies. This Lease Contract is subordinate or superior to existing and future recorded mortgages, at lender's option. All lease obligations must be performed in the county where the apartment is located.

**Cable.** Although the property may currently be providing cable on a bulk basis to the resident, the property may, with 30 days notice to the resident, cease providing cable and the resident will contract directly with the cable provider for such services.

**Affirmation that You are Not a Criminal Sex Offender.** You affirmatively state that you are not a criminal sex offender.

**WAIVER OF JURY TRIAL.** To minimize legal expenses and, to the extent allowed by law, you and we agree that a trial of any lawsuit based on statute common law, and/or related to this Lease Contract shall be to a judge and not a jury.

**Consent to Solicitation.** You hereby expressly authorize us, our representative(s), and any collection agency or debt collector

(hereinafter collectively referred to as the "Authorized Entities") to communicate with you. The communication may be made through any method for any reason related to amounts due and owing under this Lease. You authorize any and all of the communication methods even if you will incur a fee or a cost to receive such communications. You further promise to immediately notify the Authorized Entities if any telephone number or email address or other unique electronic identifier or mode that you provided to any Authorized Entity changes or is no longer used by you.

All discretionary rights reserved for us within this Lease Contract or any accompanying addenda are at our sole and absolute discretion.

**Obligation to Vacate.** If we provide you with a notice to vacate, or if you provide us with a written notice to vacate or intent to move-out in accordance with the Lease Terms paragraph, and we accept such written notice, then you are required to vacate the Apartment and remove all of your personal property therefrom at the expiration of the Lease term, or by the date set forth in the notice to vacate, whichever date is earlier, without further notice or demand from us.

**FORCE MAJEURE.** If we are prevented from completing performances of any obligations hereunder by an act of God, strikes, epidemics, war, acts of terrorism, riots, flood, fire, hurricane, tornado, sabotage, or other occurrence which is beyond the control of the parties, then we shall be excused from any further performance of obligations and undertakings hereunder, to the full extent allowed under applicable law.

Furthermore, if such an event damages the property to materially affect its habitability by some or all residents, we reserve the right to vacate any and all leases and you agree to excuse us from any further performance of obligations and undertakings hereunder, to the full extent allowed under applicable law.

**33. PAYMENTS.** Payment of all sums is an independent covenant. At our option and without notice, we may apply money received (other than utility payments subject to governmental regulations) first to any of your unpaid obligations, then to current rent—regardless of notations on checks or money orders and regardless of when the obligations arose. All sums other than rent are due upon our demand. After the due date, we do not have to accept the rent or any other payments.

**34. ASSOCIATION MEMBERSHIP.** We represent that either: (1) we or; (2) the management company that represents us, is at the time of signing this Lease Contract or a renewal of this Lease Contract, a member of both the National Apartment Association and any affiliated state and local apartment (multi-housing) associations for the area where the apartment is located.

## When Moving Out

**35. MOVE-OUT NOTICE.** Before moving out, either at the end of the lease term, any extension of the lease term, or prior to the end of the lease term, you must give our representative advance written notice of your intention to vacate as required by paragraph 3 (Lease Terms). If you move out prior to the end of the lease term, your notice does not act as a release of liability for the full term of the Lease Contract. Your move-out notice must not terminate the Lease Contract sooner than the end of the Lease Contract term or renewal period, and should you attempt to do so, you will still be liable for the entire Lease Contract term if you move out early under paragraph 21 (Release of Resident) except if you are able to terminate your tenancy under the statutory rights explained under paragraphs 11, 21, or 22 (Early Move-Out, Release of Resident, or the Military Personnel Clause). All notices to vacate must be in writing and must provide the date by which you intend to vacate. If the notice does not comply with the time requirements of paragraph 3 (Lease Term) even if you move by the last date in the lease term, you will be responsible for an additional month's rent. If you fail to vacate by the date set forth in your notice, you will automatically and immediately become a holdover tenant pursuant to state law, and we will have all remedies available under this Lease Contract and state law.

**36. MOVE-OUT PROCEDURES.** The move-out date can't be changed unless we and you both agree in writing. You won't move out before the lease term or renewal period ends unless all rent for the entire lease term or renewal period is paid in full. Early move-out may result in reletting charges and acceleration of future rent under paragraphs 11 (Early Move-Out) and 31 (Default by Resident), to the extent provided by law. You're prohibited by law from applying any security deposit to rent. You won't stay beyond the date you are supposed to move out. All residents, guests, and occupants must

vacate the apartment before the 30-day period for deposit refund begins. You must give us and the U.S. Postal Service, in writing, each resident's forwarding address.

**37. CLEANING.** You must thoroughly clean the apartment, including doors, windows, furniture, bathrooms, kitchen appliances, patios, balconies, garages, carports, and storage rooms. You must follow move-out cleaning instructions if they have been provided. If you don't clean adequately, you'll be liable for reasonable cleaning charges.

**38. MOVE-OUT INSPECTION.** You should meet with our representative for a move-out inspection. Our representative has no authority to bind or limit us regarding deductions for repairs, damages, or charges. Any statements or estimates by us or our representative are subject to our correction, modification, or disapproval before final refunding or accounting.

**39. SECURITY DEPOSIT DEDUCTIONS AND OTHER CHARGES.** You'll be liable for the following charges, including, but not limited to, and if applicable: unpaid rent; unpaid utilities; unreimbursed service charges; repairs or damages caused by negligence, carelessness, accident, or abuse, including stickers, scratches, tears, burns, stains, or unapproved holes; replacement cost of our property that was in or attached to the apartment and is missing; replacing dead or missing smoke-detector or carbon monoxide detector batteries; utilities for repairs or cleaning; trips to let in company representatives to remove your telephone or TV cable services or rental items (if you so request or have moved out); trips to open the apartment when you or any guest or occupant is missing a key; unreturned keys; missing or burned-out light bulbs; removing or rekeying unauthorized access control devices or alarm systems;

agreed reletting charges; packing, removing, or storing property removed or stored; removing illegally parked vehicles; special trips for trash removal caused by parked vehicles blocking dumpsters; false security-alarm charges unless due to our negligence; animal-related charges under paragraphs 6 (Rent and Charges) and 26 (Animals); government fees or fines against us for violation (by you, your occupants, or guests) of local ordinances relating to smoke detectors and carbon monoxide, false alarms, recycling, or other matters; late-payment and returned-check charges; a charge (not to exceed \$100) for owner/manager's time and inconvenience in our lawful removal of an animal or in any valid eviction proceeding against you, plus attorney's fees, court costs, and filing fees actually paid; and other sums due under this Lease Contract.

You'll be liable to us, to the extent provided by law, for: (1) charges for replacing all keys and access devices referenced in paragraph 5 (Keys and Furniture) if you fail to return them on or before your actual move-out date; (2) accelerated rent if you have violated paragraph 31 (Default by Resident); and (3) a reletting fee if you have violated paragraph 11 (Early Move-Out).

#### 40. DEPOSIT RETURN, SURRENDER, AND ABANDONMENT.

**Deposit Return and Forwarding Address.** You are required to provide us written notice of your forwarding address, on or before termination of this Lease Contract. We'll mail you, to the forwarding address you provide, your security deposit refund (less lawful deductions) and an itemized accounting of any deductions within the time frames and parameters set forth under state law. If you fail to provide us with your forwarding address in writing, as required above, we will process the unclaimed security deposit in accordance with state law.

**Surrender.** You have surrendered the apartment when: (1) the move-out date has passed and no one is living in the apartment in our reasonable judgment; or (2) all apartment keys and access devices listed in paragraph 5 (Keys and Furniture) have been turned in where rent is paid—whichever date occurs first.

**Abandonment.** You have abandoned the apartment when all of the following have occurred: (1) everyone appears to have moved out in our reasonable judgment; (2) clothes, furniture, and personal belongings have been substantially removed in our reasonable judgment; (3) you've been in default for non-payment of rent for 15 consecutive days or water, gas, or electric service for the apartment not connected in our name has been terminated; and (4) you've not responded for 2 days to our notice left on the inside of the main entry door, stating that we consider the apartment abandoned. An apartment is also "abandoned" 10 days after the death of a sole resident.

Surrender, abandonment and judicial eviction end your right of possession for all purposes and gives us the immediate right to: clean up, make repairs in, and relet the apartment; determine any security deposit deductions; and remove property left in the apartment, subject to and to the extent provided by law. Surrender, abandonment, and judicial eviction affect your rights to property left in the apartment, but do not affect our mitigation obligations (paragraph 31 (Default by Resident)).

### Severability, Originals and Attachments, and Signatures

**41. SEVERABILITY.** If any provision of this Lease Contract is invalid or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or unenforceability only without invalidating or otherwise affecting the remainder of this Lease Contract. The court shall interpret the lease and provisions herein in a manner such as to uphold the valid portions of this Lease Contract while preserving the intent of the parties.

**Resident or Residents (all sign below)**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Owner or Owner's Representative (signing on behalf of owner)

**Address and phone number of owner's representative for notice purposes**

315 Birchrun Drive

Spartanburg, SC 29301  
(864) 595-6216

Name and address of locator service (if applicable)

[illegible]

**Date form is filled out (same as on top of page 1)**

11/20/2019

**You are legally bound by this document.  
Read it carefully before signing.**

**SPECIAL PROVISIONS (CONTINUED FROM PAGE 2).**

*(The page contains faint horizontal lines, suggesting it was part of a lined notebook or document.)*



# ANIMAL ADDENDUM

Becomes part of Lease Contract



Date November 20, 2019  
(when this Addendum is filled out)

**Please note: We consider animals a serious responsibility and a risk to each resident in the dwelling. If you do not properly control and care for your animal, you'll be held liable if it causes any damage or disturbs other residents.**

In this document, the terms "you" and "your" refer to all residents listed below and all occupants or guests; and the terms "we," "us," and "our" refer to the owner named in the Lease Contract (not to the property manager or anyone else).

## 1. DWELLING UNIT DESCRIPTION.

Unit No. 445-0304, 445 Aspencreek  
Drive Apt 0304 (street address) in  
Spartanburg  
(city), South Carolina, 29301  
(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: November 20, 2019  
Owner's name: Strata Veridian LLC

Residents (list all residents):

Mark Shinn, Johanna Shinn

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

**3. CONDITIONAL AUTHORIZATION FOR ANIMAL.** You may keep the animal that is described below in the dwelling until the Lease Contract expires. But we may terminate this authorization sooner if your right of occupancy is lawfully terminated or if in our judgment you and your animal, your guests, or any occupant violate any of the rules in this Addendum.

**4. SECURITY DEPOSIT.** An animal deposit of \$ 0.00 will be charged. We ☒ will consider, or ☐ will not consider this additional security deposit the general security deposit for all purposes. The security deposit amount in the Security Deposit paragraph of the Lease Contract ☐ does, or ☒ does not include this additional deposit amount. Refund of the animal deposit will be subject to the terms and conditions set forth in the Lease Contract regardless of whether it is considered part of the general security deposit.

**5. ADDITIONAL MONTHLY RENT.** Your total monthly rent (as stated in the Lease Contract) will be increased by \$ 0.00. The monthly rent amount in the Rent and Charges paragraph of the Lease Contract ☐ includes ☒ does not include this additional animal rent.

**6. ADDITIONAL FEE.** You must also pay a one-time, non-refundable fee of \$ 0.00 for having the animal in the dwelling unit. It is our policy to not charge a deposit for support animals.

**7. LIABILITY NOT LIMITED.** The additional monthly rent and additional security deposit under this Animal Addendum do not limit residents' liability for property damages, cleaning, deodorization, defleaving, replacements, or personal injuries.

**8. DESCRIPTION OF ANIMAL(S).** You may keep only the animal(s) described below. You may not substitute any other animal(s). Neither you nor your guests or occupants may bring any other animal(s)-mammal, reptile, bird, amphibian, fish, rodent, arachnid, or insect-into the dwelling or apartment community.

Animal's name: \_\_\_\_\_  
Type: \_\_\_\_\_  
Breed: \_\_\_\_\_  
Color: \_\_\_\_\_  
Weight: \_\_\_\_\_ Age: \_\_\_\_\_  
City of license: \_\_\_\_\_  
License no.: \_\_\_\_\_  
Date of last rabies shot: \_\_\_\_\_  
Housebroken? \_\_\_\_\_  
Animal owner's name: \_\_\_\_\_  
  
Animal's name: \_\_\_\_\_  
Type: \_\_\_\_\_  
Breed: \_\_\_\_\_  
Color: \_\_\_\_\_  
Weight: \_\_\_\_\_ Age: \_\_\_\_\_  
City of license: \_\_\_\_\_  
License no.: \_\_\_\_\_  
Date of last rabies shot: \_\_\_\_\_  
Housebroken? \_\_\_\_\_  
Animal owner's name: \_\_\_\_\_

**9. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

**10. EMERGENCY.** In an emergency involving an accident or injury to your animal, we have the right, but not a duty, to take the animal to the following veterinarian for treatment, at your expense.

Doctor: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_

**11. ANIMAL RULES.** You are responsible for the animal's actions at all times. You agree to abide by these rules:

- The animal must not disturb the neighbors or other residents, regardless of whether the animal is inside or outside the dwelling.
- Dogs, cats, and support animals must be housebroken. All other animals must be caged at all times. No animal offspring are allowed.
- Inside, the animal may urinate or defecate *only* in these designated areas: Litter Box
- Outside, the animal may urinate or defecate *only* in these designated areas: Designated Areas
- Animals may not be tied to any fixed object anywhere outside the dwelling units, except in fenced yards (if any) for your exclusive use.
- You must not let an animal other than support animals into swimming-pool areas, laundry rooms, offices, clubrooms, other recreational facilities, or other dwelling units.
- Your animal must be fed and watered inside the dwelling unit. Don't leave animal food or water outside the dwelling unit at any time, except in fenced yards (if any) for your exclusive use.
- You must keep the animal on a leash and under your supervision when outside the dwelling or any private fenced area. We or our representative may pick up unleashed animals and/or report them to the proper authorities. We may impose reasonable charges for picking up and/or keeping unleashed animals.
- Unless we have designated a particular area in your dwelling unit or on the grounds for animal defecation and urination, you are prohibited from letting an animal defecate or urinate *anywhere* on our property. You must take the animal off our property for that purpose. If we allow animal defecation inside the dwelling unit in this Addendum, you must ensure that it's done in a litter box with a kitty litter-type mix. If the animal defecates anywhere on our property (including in a fenced yard for your exclusive use), you'll be responsible for immediately removing the waste and repairing any damage. Despite anything this Addendum says, you must comply with all local ordinances regarding animal defecation.

**12. ADDITIONAL RULES.** We have the right to make reasonable changes to the animal rules from time to time if we distribute a written copy of any changes to every resident who is allowed to have animals.

**13. VIOLATION OF RULES.** If you, your guest, or any occupant violates any rule or provision of this Animal Addendum (based upon our judgment) and we give you written notice, you must permanently remove the animal from the premises within the time period specified in our notice. We also have all other rights and remedies set forth in the Lease Contract, including damages, eviction, and attorney's fees to the extent allowed by law.

**14. COMPLAINTS ABOUT ANIMAL.** You must immediately and permanently remove the animal from the premises if we receive a reasonable complaint from a neighbor or other resident or if we, in our sole discretion, determine that the animal has disturbed neighbors or other residents.

**15. LIABILITY FOR DAMAGES, INJURIES, CLEANING, ETC.** You and all co-residents will be jointly and severally liable for the entire amount of all damages caused by the animal, including all cleaning, defleaing, and deodorizing. This provision applies to all parts of the dwelling unit, including carpets, doors, walls, drapes, wallpaper, windows, screens, furniture, appliances, as well as landscaping and other outside improvements. If items cannot be satisfactorily cleaned or repaired, you must pay for us to replace them completely. Payment for damages, repairs, cleaning, replacements, etc. are due immediately upon demand.

As owner of the animal, you may be liable for the entire amount of any injury that the animal causes to a person or anyone's property. You'll indemnify us for all costs of litigation and attorney's fees resulting from any such damage, unless otherwise required by law.

**16. MOVE-OUT.** When you move out, you'll pay for defleaing, deodorizing, and shampooing to protect future residents from possible health hazards, regardless of how long the animal was there. We—not you—will arrange for these services.

**17. JOINT AND SEVERAL RESPONSIBILITY** Each resident who signed the Lease Contract must sign this Animal Addendum. You, your guests, and any occupants must follow all animal rules. Each resident is jointly and severally liable for damages and all other obligations set forth in this Animal Addendum, even if the resident does not own the animal.

**18. GENERAL.** You acknowledge that no other oral or written agreement exists regarding animals. Except for written rule changes under paragraph 9 above, our representative has no authority to modify this Animal Addendum or the animal rules except in writing. This Animal Addendum and the animal rules are considered part of the Lease Contract described above. It has been executed in multiple originals, one for you and one or more for us.

**This is a binding legal document. Read it carefully before signing.**

**Resident or Residents**  
(All residents must sign)

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**Owner or Owner's Representative**  
(Signs below)

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# UTILITY AND SERVICES ADDENDUM



This Utility Addendum is incorporated into the Lease Contract (referred to in this addendum as "Lease Contract" or "Lease") dated November 20, 2019 between Strata Veridian LLC

("We" and/or "we" and/or "us") and Mark Shinn, Johanna Shinn

("You" and/or "you") of Unit No. 445-0304 located at 445 Aspencreek Drive Apt 0304 (street address) in Spartanburg, SC 29301 and is in addition to all terms and conditions in the Lease. This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

1. Responsibility for payment of utilities, and the method of metering or otherwise measuring the cost of the utility, will be as indicated below.

a) Water service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☒ water bills will be billed by the service provider to us and then allocated to you based on the following formula: 8  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☒ 3rd party billing company if applicable Conservice

b) Sewer service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☒ sewer bills will be billed by the service provider to us and then allocated to you based on the following formula: 8  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☒ 3rd party billing company if applicable Conservice

c) Gas service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☐ gas bills will be billed by the service provider to us and then allocated to you based on the following formula: \_\_\_\_\_  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable \_\_\_\_\_

d) Trash service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☒ trash bills will be billed by the service provider to us and then allocated to you based on the following formula: 10  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☒ 3rd party billing company if applicable Conservice

e) Electric service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☐ electric bills will be billed by the service provider to us and then allocated to you based on the following formula: \_\_\_\_\_  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable \_\_\_\_\_

f) Stormwater service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☐ stormwater bills will be billed by the service provider to us and then allocated to you based on the following formula: \_\_\_\_\_  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable \_\_\_\_\_

g) Cable TV service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☐ cable TV bills will be billed by the service provider to us and then allocated to you based on the following formula: \_\_\_\_\_  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable \_\_\_\_\_

h) Master Antenna service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☐ master antenna bills will be billed by the service provider to us and then allocated to you based on the following formula: \_\_\_\_\_  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable \_\_\_\_\_

i) Internet service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☐ internet bills will be billed by the service provider to us and then allocated to you based on the following formula: \_\_\_\_\_  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable \_\_\_\_\_

j) Pest Control service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☒ pest control bills will be billed by the service provider to us and then allocated to you based on the following formula: 4  
☒ If flat rate is selected, the current flat rate is \$ 3.00 per month.  
☒ 3rd party billing company if applicable Conservice

k) (Other) \_\_\_\_\_ service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☐ bills will be billed by the service provider to us and then allocated to you based on the following formula: \_\_\_\_\_  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable \_\_\_\_\_

1) (Other) \_\_\_\_\_ service to your dwelling will be paid by you either:

- ☐ directly to the utility service provider; or  
☐ bills will be billed by the service provider to us and then allocated to you based on the following formula: \_\_\_\_\_  
☐ If flat rate is selected, the current flat rate is \$ \_\_\_\_\_ per month.  
☐ 3rd party billing company if applicable \_\_\_\_\_

#### METERING/ALLOCATION METHOD KEY

- "1" - Sub-metering of all of your water/gas/electric use  
 "2" - Calculation of your total water use based on sub-metering of hot water  
 "3" - Calculation of your total water use based on sub-metering of cold water  
 "4" - Flat rate per month  
 "5" - Allocation based on the number of persons residing in your dwelling unit  
 "6" - Allocation based on the number of persons residing in your dwelling unit using a ratio occupancy formula  
 "7" - Allocation based on square footage of your dwelling unit  
 "8" - Allocation based on a combination of square footage of your dwelling unit and the number of persons residing in your dwelling unit  
 "9" - Allocation based on the number of bedrooms in your dwelling unit  
 "10" - Allocation based on a lawful formula not listed here

(Note: If method "10" is selected, a separate sheet will be attached describing the formula used)

2. If an allocation method is used, we or our billing company will calculate your allocated share of the utilities and services provided and all costs in accordance with state and local statutes. Under any allocation method, Resident may be paying for part of the utility usage in common areas or in other residential units as well as administrative fees. Both Resident and Owner agree that using a calculation or allocation formula as a basis for estimating total utility consumption is fair and reasonable, while recognizing that the allocation method may or may not accurately reflect actual total utility consumption for Resident. Where lawful, we may change the above methods of determining your allocated share of utilities and services and all other billing methods, in our sole discretion, and after providing written notice to you. More detailed descriptions of billing methods, calculations and allocation formulas will be provided upon request.

If a flat fee method for trash or other utility service is used, Resident and Owner agree that the charges indicated in this Agreement (as may be amended with written notice as specified above) represent a fair and reasonable amount for the service(s) provided and that the amount billed is not based on a monthly per unit cost.

3. When billed by us directly or through our billing company, you must pay utility bills within 5 days of the date when the utility bill is issued at the place indicated on your bill, or the payment will be late. If a payment is late, you will be responsible for a late fee as indicated below. The late payment of a bill or failure to pay any utility bill is a material and substantial breach of the Lease and we will exercise all remedies available under the Lease, up to and including eviction for nonpayment. To the extent there are any new account, monthly administrative, late or final bill fees, you shall pay such fees as indicated below.

|                                     |                 |                                  |
|-------------------------------------|-----------------|----------------------------------|
| New Account Fee:                    | \$ <u>20.00</u> | (not to exceed \$ <u>25.00</u> ) |
| Monthly Administrative Billing Fee: | \$ <u>4.99</u>  | (not to exceed \$ <u>6.00</u> )  |
| Late Fee:                           | \$ _____        | (not to exceed \$ _____)         |
| Final Bill Fee:                     | \$ <u>5.00</u>  | (not to exceed \$ <u>10.00</u> ) |

If allowed by state law, we at our sole discretion may amend these fees, with written notice to you.

4. You will be charged for the full period of time that you were living in, occupying, or responsible for payment of rent or utility charges on the dwelling. If you breach the Lease, you will be responsible for utility charges for the time period you were obliged to pay the charges under the Lease, subject to our mitigation of damages. In the event you fail to timely establish utility services, we may charge you for any utility service billed to us for your dwelling and may charge a reasonable administration fee for billing for the utility service in the amount of \$ 50.00.
5. When you move out, you will receive a final bill which may be estimated based on your prior utility usage. This bill must be paid at the time you move out or it will be deducted from the security deposit.
6. We are not liable for any losses or damages you incur as a result of outages, interruptions, or fluctuations in utility services provided to the dwelling unless such loss or damage was the direct result of negligence by us or our employees. You release us from any and all such claims and waive any claims for offset or reduction of rent or diminished rental value of the dwelling due to such outages, interruptions, or fluctuations.
7. You agree not to tamper with, adjust, or disconnect any utility sub-metering system or device. Violation of this provision is a material breach of your Lease and may subject you to eviction or other remedies available to us under your Lease, this Utility Addendum and at law.
8. Where lawful, all utilities, charges and fees of any kind under this lease shall be considered additional rent, and if partial payments are accepted by the Owner, they will be allocated first to non-rent charges and to rent last.
9. You represent that all occupants that will be residing in the Unit are accurately identified in the Lease. You agree to promptly notify Owner of any change in such number of occupants.
10. You agree that you may, upon thirty (30) days prior written notice from Owner to you, begin receiving a bill for additional utilities and services, at which time such additional utilities and services shall for all purposes be included in the term Utilities.
11. This Addendum is designed for use in multiple jurisdictions, and no billing method, charge, or fee mentioned herein will be used in any jurisdiction where such use would be unlawful. If any provision of this addendum or the Lease is invalid or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or unenforceability only without invalidating or otherwise affecting the remainder of this addendum or the Lease. Except as specifically stated herein, all other terms and conditions of the Lease shall remain unchanged. In the event of any conflict between the terms of this Addendum and the terms of the Lease, the terms of this Addendum shall control.
12. The following special provisions and any addenda or written rules furnished to you at or before signing will become a part of this Utility Addendum and will supersede any conflicting provisions of this printed Utility Addendum and/or the Lease Contract.

If utilities are not in lease holder's name, the move in will not be granted. When lease holders fail to pay utilities or establish an account, a \$50 admin. penalty will be added and the cost of utility usage. Trash is billed on RUBS per unit. The property's provider bills will be divided equally among rentable and occupied units to determine monthly per unit amounts.

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| Resident Signature _____ | Date _____ |
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| Resident Signature _____ | Date _____ |
| Resident Signature _____ | Date _____ |
| Resident Signature _____ | Date _____ |
| Management _____         | Date _____ |



## BED BUG ADDENDUM

Date: November 20, 2019  
(when this Addendum is filled out)



**Please note: It is our goal to maintain a quality living environment for our residents. To help achieve this goal, it is important to work together to minimize the potential for any bed bugs in your dwelling or surrounding dwellings. This addendum contains important information that outlines your responsibility and potential liability with regard to bed bugs.**

### 1. DWELLING UNIT DESCRIPTION.

Unit No. 445-0304, 445 Aspencreek  
Drive Apt 0304  
(street address) in  
Spartanburg  
(city), South Carolina, 29301  
(zip code).

### 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: November 20, 2019  
Owner's name: Strata Veridian LLC

Residents (list all residents):

Mark Shinn, Johanna Shinn

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. **PURPOSE.** This Addendum modifies the Lease Contract and addresses situations related to bed bugs (*cimex lectularius*) which may be discovered infesting the dwelling or personal property in the dwelling. You understand that we relied on your representations to us in this Addendum.

### 4. INSPECTION. You agree that you: (Check one)

- ☒ have inspected the dwelling prior to move-in and that you did not observe any evidence of bed bugs or bed bug infestation; OR  
☐ will inspect the dwelling within 48 hours after move-in/ renewal and notify us of any bed bugs or bed bug infestation.

### 5. INFESTATIONS.

You agree that you have read all of the information on this addendum about bed bugs and:  
(Check one)

- ☒ you are not aware of any infestation or presence of bed bugs in your current or previous apartments, home or dwelling. You agree that you are not aware of any bed bug infestation or presence in any of your furniture, clothing, personal property or possessions. You agree that you have not been subjected to conditions in which there was any bed bug infestation or presence. OR  
☐ you agree that if you previously lived anywhere that had a bed bug infestation that all of your personal property (including furniture, clothing and other belongings) has been treated by a licensed pest control professional. You agree that such items are free of further infestation. If you disclose a previous experience of bed bug infestation, we can review documentation of the treatment and inspect your personal property and possessions to confirm the absence of bed bugs. You agree that any previous bed bug infestation which you may have experienced is disclosed here:

### 6. ACCESS FOR INSPECTION AND PEST TREATMENT.

You must allow us and our pest control agents access to the dwelling at reasonable times to inspect for or treat bed bugs as allowed by law. You and your family members, occupants, guests, and invitees must cooperate and will not interfere with inspections or treatments. We have the right to select any licensed pest control professional to treat the dwelling and building. We can select the method of treating the dwelling, building and common areas for bed bugs. We can also inspect and treat adjacent or neighboring dwellings to the infestation even if those dwellings are not the source or cause of the known infestation. You are responsible for and must, at your own expense, have your own personal property, furniture, clothing and possessions treated according to accepted treatment methods established by a licensed pest control firm that we approve. You must do so as close as possible to the time we treated the dwelling. If you fail to do so, you will be in default, and we will have the right to terminate your right of occupancy and exercise all rights and remedies under the Lease Contract. You agree not to treat the dwelling for a bed bug infestation on your own.

### 7. NOTIFICATION. You must promptly notify us:

- of any known or suspected bed bug infestation or presence in the dwelling, or in any of your clothing, furniture or personal property.
- of any recurring or unexplained bites, stings, irritations, or sores of the skin or body which you believe is caused by bed bugs, or by any condition or pest you believe is in the dwelling.
- if you discover any condition or evidence that might indicate the presence or infestation of bed bugs, or of any confirmation of bed bug presence by a licensed pest control professional or other authoritative source.

8. **COOPERATION.** If we confirm the presence or infestation of bed bugs, you must cooperate and coordinate with us and our pest control agents to treat and eliminate the bed bugs. You must follow all directions from us or our agents to clean and treat the dwelling and building that are infested. You must remove or destroy personal property that cannot be treated or cleaned as close as possible to the time we treated the dwelling. Any items you remove from the dwelling must be disposed of off-site and not in the property's trash receptacles. If we confirm the presence or infestation of bed bugs in your dwelling, we have the right to require you to temporarily vacate the dwelling and remove all furniture, clothing and personal belongings in order for us to perform pest control services. If you fail to cooperate with us, you will be in default, and we will have the right to terminate your right of occupancy and exercise all rights and remedies under the Lease Contract.

9. **RESPONSIBILITIES.** You may be required to pay all reasonable costs of cleaning and pest control treatments incurred by us to treat your dwelling unit for bed bugs. If we confirm the presence or infestation of bed bugs after you vacate your dwelling, you may be responsible for the cost of cleaning and pest control treatments. If we must move other residents in order to treat adjoining or neighboring dwellings to your dwelling unit, you may be liable for payment of any lost rental income and other expenses incurred by us to relocate the neighboring residents and to clean and perform pest control treatments to eradicate infestations in other dwellings. If you fail to pay us for any costs you are liable for, you will be in default, and we will have the right to terminate your right of occupancy and exercise all rights and remedies under the Lease Contract, and obtain immediate possession of the dwelling. If you fail to move out after your right of occupancy has been terminated, you will be liable for holdover rent under the Lease Contract.

10. **TRANSFERS.** If we allow you to transfer to another dwelling in the community because of the presence of bed bugs, you must have your personal property and possessions treated according to accepted treatment methods or procedures established by a licensed pest control professional. You must provide proof of such cleaning and treatment to our satisfaction.

11. **SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

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### BED BUGS — A Guide for Rental Housing Residents

Bed bugs, with a typical lifespan of 6 to 12 months, are wingless, flat, broadly oval-shaped insects. Capable of reaching the size of an apple seed at full growth, bed bugs are distinguishable by their reddish-brown color, although after feeding on the blood of humans and warm-blooded animals—their sole food source—the bugs assume a distinctly blood-red hue until digestion is complete.

#### Bed bugs don't discriminate

Bed bugs increased presence across the United States in recent decades can be attributed largely to a surge in international travel and trade. It's no surprise then that bed bugs have been found time and time again to have taken up residence in some of the fanciest hotels and apartment buildings in some of the nation's most expensive neighborhoods.

Nonetheless, false claims that associate bed bugs presence with poor hygiene and uncleanness have caused rental housing residents, out of shame, to avoid notifying owners of their presence. This serves only to enable the spread of bed bugs.

While bed bugs are, by their very nature, more attracted to clutter, they're certainly not discouraged by cleanliness.

Bottom line: bed bugs know no social and economic bounds; claims to the contrary are false.

#### Bed bugs don't transmit disease

There exists no scientific evidence that bed bugs transmit disease. In fact, federal agencies tasked with addressing pest of public health concern, namely the U.S. Environmental Protection Agency and the Centers for Disease Control and Prevention, have refused to elevate bed bugs to the threat level posed by disease transmitting pests. Again, claims associating bed bugs with disease are false.

#### Identifying bed bugs

*Bed bugs can often be found in, around and between:*

- Bedding
- Bed frames
- Mattress seams
- Upholstered furniture, especially under cushions and along seams
- Around, behind and under wood furniture, especially along areas where drawers slide
- Curtains and draperies
- Along window and door frames
- Ceiling and wall junctions
- Crown moldings
- Behind and around wall hangings and loose wallpaper
- Between carpeting and walls (carpet can be pulled away from the wall and tack strip)
- Cracks and crevices in walls and floors
- Inside electronic devices, such as smoke and carbon monoxide detectors
- Because bed bugs leave some persons with itchy welts strikingly similar to those caused by fleas and mosquitoes, the origination of such markings often go misdiagnosed.

However, welts caused by bed bugs often times appear in succession and on exposed areas of skin, such as the face, neck and arms. In some cases, an individual may not experience any visible reaction resulting from direct contact with bed bugs.

- While bed bugs typically prefer to act at night, they often do not succeed in returning to their hiding spots without leaving traces of their presence through fecal markings of a red to dark brown color, visible on or near beds. Blood stains tend also to appear when the bugs have been squashed, usually by an unsuspecting host in their sleep. And, because they shed, it's not uncommon for skin casts to be left behind in areas typically frequented by bed bugs.

#### Preventing bed bug encounters when traveling

Because humans serve as bed bugs' main mode of transportation, it is extremely important to be mindful of bed bugs when away from home. Experts agree that the spread of bed bugs across all regions of the United States is largely attributed to an increase in international travel and trade. Travelers are therefore encouraged to take a few minutes upon arriving to their temporary destination to thoroughly inspect their accommodations, so as to ensure that any uninvited guests are detected before the decision is made to unpack.

Because bed bugs can easily travel from one room to another, it is also recommended that travelers thoroughly inspect their luggage and belongings for bed bugs before departing for home.

#### Bed bug do's and don'ts

- **Do not bring used furniture from unknown sources into your dwelling.** Countless bed bug infestations have stemmed directly from the introduction into a resident's unit of second-hand and abandoned furniture. Unless the determination can be made with absolute certainty that a piece of second-hand furniture is bed bug-free, residents should assume that the reason a seemingly nice looking leather couch, for example, is sitting curbside, waiting to be hauled off to the landfill, may very well be due to the fact that it's teeming with bed bugs.
- **Do address bed bug sightings immediately.** Rental housing residents who suspect the presence of bed bugs in their unit must immediately notify the owner.
- **Do not attempt to treat bed bug infestations.** Under no circumstance should you attempt to eradicate bed bugs. Health hazards associated with the misapplication of traditional and non-traditional, chemical-based insecticides and pesticides poses too great a risk to you and your neighbors.
- **Do comply with eradication protocol.** If the determination is made that your unit is indeed playing host to bed bugs, you must comply with the bed bug eradication protocol set forth by both your owner and their designated pest management company.

**You are legally bound by this document. Please read it carefully.**

**Resident or Residents**  
(All residents must sign)

**Owner or Owner's Representative**  
(Signs below)

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**Date of Signing Addendum**

*You are entitled to receive an original of this Addendum after it is fully signed. Keep it in a safe place.*





## MOLD INFORMATION AND PREVENTION ADDENDUM



**Please note: It is our goal to maintain a quality living environment for our residents. To help achieve this goal, it is important to work together to minimize any mold growth in your dwelling. That is why this addendum contains important information for you, and responsibilities for both you and us.**

### 1. DWELLING UNIT DESCRIPTION.

Unit No. 445-0304, 445 Aspen Creek  
Drive Apt 0304  
 \_\_\_\_\_ (street address) in  
Spartanburg  
 (city), South Carolina, 29301  
 (zip code).

### 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: November 20, 2019  
 Owner's name: Strata Veridian LLC

Residents (list all residents):

Mark Shinn, Johanna Shinn

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

### 3. ABOUT MOLD.

Mold is found virtually everywhere in our environment—both indoors and outdoors and in both new and old structures. Molds are naturally occurring microscopic organisms which reproduce by spores and have existed practically from the beginning of time. All of us have lived with mold spores all our lives. Without molds we would all be struggling with large amounts of dead organic matter.

Mold breaks down organic matter in the environment and uses the end product for its food. Mold spores (like plant pollen) spread through the air and are commonly transported by shoes, clothing and other materials. When excess moisture is present inside a dwelling, mold can grow. A 2004 Federal Centers for Disease Control and Prevention study found that there is currently no scientific evidence that the accumulation of mold causes any significant health risks for person with normally functioning immune systems. Nonetheless, appropriate precautions need to be taken.

### 4. PREVENTING MOLD BEGINS WITH YOU.

In order to minimize the potential for mold growth in your dwelling, you must do the following:

- Keep your dwelling clean—particularly the kitchen, the bathroom(s), carpets and floors. Regular vacuuming, mopping and using a household cleaner to clean hard surfaces is important to remove the household dirt and debris that harbor mold or food for mold. Immediately throw away moldy food.
- Remove visible moisture accumulation on windows, walls, ceilings, floors and other surfaces as soon as reasonably possible. Look for leaks in washing machine hoses and discharge lines—especially if the leak is large enough for water to infiltrate nearby walls. Turn on any exhaust fans

in the bathroom and kitchen *before* you start showering or cooking with open pots. When showering, be sure to keep the shower curtain *inside* the tub or fully close the shower doors. Also, the experts recommend that after taking a shower or bath, you: (1) wipe moisture off of shower walls, shower doors, the bathtub and the bathroom floor; (2) leave the bathroom door open until all moisture on the mirrors and bathroom walls and tile surfaces has dissipated; and (3) hang up your towels and bath mats so they will completely dry out.

- Promptly notify us in writing about any air conditioning or heating system problems you discover. Follow our rules, if any, regarding replacement of air filters. Also, it is recommended that you periodically open windows and doors on days when the outdoor weather is dry (i.e., humidity is below 50 percent) to help humid areas of your dwelling dry out.
- Promptly notify us in writing about any signs of water leaks, water infiltration or mold. We will respond in accordance with state law and the Lease Contract to repair or remedy the situation, as necessary.
- Keep the thermostat set to automatically circulate air in the event temperatures rise to or above 80 degrees Fahrenheit.

### 5. IN ORDER TO AVOID MOLD GROWTH,

it is important to prevent excessive moisture buildup in your dwelling. Failure to promptly pay attention to leaks and moisture that might accumulate on dwelling surfaces or that might get inside walls or ceilings can encourage mold growth. Prolonged moisture can result from a wide variety of sources, such as:

- rainwater leaking from roofs, windows, doors and outside walls, as well as flood waters rising above floor level;
- overflows from showers, bathtubs, toilets, lavatories, sinks, washing machines, dehumidifiers, refrigerator or A/C drip pans or clogged up A/C condensation lines;
- leaks from plumbing lines or fixtures, and leaks into walls from bad or missing grouting/caulking around showers, tubs or sinks;
- washing machine hose leaks, plant watering overflows, pet urine, cooking spills, beverage spills and steam from excessive open-pot cooking;
- leaks from clothes dryer discharge vents (which can put lots of moisture into the air); and
- insufficient drying of carpets, carpet pads, shower walls and bathroom floors.

### 6. IF SMALL AREAS OF MOLD HAVE ALREADY OCCURRED ON NON-POROUS SURFACES

(such as ceramic tile, formica, vinyl flooring, metal, wood or plastic), the federal Environmental Protection Agency (EPA) recommends that you first clean the areas with soap (or detergent) and water, let the surface dry, and then within 24 hours apply a pre-mixed, spray-on-type household biocide, such as Lysol Disinfectant®, Pine-Sol Disinfectant® (original pine-scented), Tilex Mildew Remover® or Clorox Cleanup®. (Note: Only a few of the common household cleaners will actually kill mold). Tilex® and Clorox® contain bleach which can discolor or stain. Be sure to follow the instructions on the container. Applying biocides without first cleaning away the dirt and oils from the surface is like painting over old paint without first cleaning and preparing the surface.

Always clean and apply a biocide to an area 5 or 6 times larger than any visible mold because mold may be adjacent in quantities not yet visible to the naked eye. A vacuum cleaner

with a high-efficiency particulate air (HEPA) filter can be used to help remove non-visible mold products from porous items, such as fibers in sofas, chairs, drapes and carpets—provided the fibers are completely dry. Machine washing or dry cleaning will remove mold from clothes.

- 7. DO NOT CLEAN OR APPLY BIOCIDES TO:** (1) visible mold on *porous* surfaces, such as sheetrock walls or ceilings, or (2) *large areas* of visible mold on *non-porous* surfaces. Instead, notify us in writing, and we will take appropriate action.
- 8. COMPLIANCE.** Complying with this addendum will help prevent mold growth in your dwelling, and both you and we will be able to respond correctly if problems develop that could lead to mold growth. If you have questions regarding this addendum, please contact us at the management office or at the phone number shown in your Lease Contract.

**If you fail to comply with this Addendum, you can be held responsible for property damage to the dwelling and any health problems that may result. We can't fix problems in your dwelling unless we know about them.**

**9. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

**Resident or Residents**  
(All residents must sign here)

**Owner or Owner's Representative**  
(signs here)

**Date of Lease Contract**

November 20, 2019



# LEASE CONTRACT BUY-OUT AGREEMENT



## 1. DWELLING UNIT DESCRIPTION.

Unit No. 445-0304, 445 Aspencreek  
Drive Apt 0304 (street address) in  
Spartanburg  
(city), South Carolina, 29301  
(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: November 20, 2019  
Owner's name: Strata Veridian LLC

Residents (list all residents):

Mark Shinn, Johanna Shinn

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

**3. PURPOSE OF ADDENDUM.** The purpose of this Buy-Out Agreement is to give you the right to buy out of your Lease Contract early—subject to any special provisions in paragraph 9 below. In order to buy out early, your notice must be signed by all residents listed in paragraph 1 of the Lease Contract and you must comply with all provisions of this Buy-Out Agreement.

**4. BUY-OUT PROCEDURES.** You may buy out of the Lease Contract prior to the end of the lease term and cut off all liability for paying rent for the remainder of the lease term if all of the following occur:

- you give us written notice of buy-out at least 60 days prior to the new termination date (i.e., your new move-out date), which (check one) ☐ must be the last day of a month or ☒ may be during a month;
- you specify the new termination date in the notice, i.e., the date by which you'll move out;
- you are not in default under the Lease Contract on the date you give us the notice of buy-out;
- you are not in default under the Lease Contract on the new termination date (move-out date);
- you move out on or before the new termination date and do not hold over;
- you pay us a buy-out fee (consideration) of \$ 1814.00
- you pay us the amount of any concessions you received when signing the Lease Contract; and
- you comply with any special provisions in paragraph 9 below.

**5. WHEN PAYABLE.** The buy-out fee in paragraph 4(f) is due and payable no later than 0 days after you give us

your buy-out notice. The total dollar amount of any concessions regarding rent or other monetary lease obligations for the entire lease term is \$ 1814.00 and is due payable on the same day as the buy-out fee, subject to any special provisions in paragraph 9 regarding the amount, calculation method, or payment date.

**6. SHOWING UNIT TO PROSPECTIVE RESIDENTS.** After you give us notice of buy-out, the Lease Contract gives us the right to begin showing your unit to prospective residents and telling them it will be available immediately after your new termination date.

**7. COMPLIANCE ESSENTIAL.** Our deposit of all amounts due under paragraphs 4(f) and 4(g) constitutes our approval of the new termination date stated in your notice of buy-out. If you fail to comply with any of the procedures or requirements in this agreement after we deposit such monies, your buy-out right and this agreement will be voided automatically; and (1) any amounts you have paid under this agreement will become part of your security deposit, and (2) the lease will continue without buy-out. Then, if you move out early, you are subject to all lease remedies, including reletting fees and liability for all rents for the remainder of the original lease term.

**8. MISCELLANEOUS.** If moving out by the new termination date becomes a problem for you, contact us. An extension may be possible if we have not already relet the dwelling unit to a successor resident. We and any successor residents who may be leasing your unit will be relying on your moving out on or before the new termination date. Therefore, you may not hold over beyond such date without our written consent—even if it means you have to make plans for temporary lodging elsewhere. "Default" as used in paragraphs 4(c) and 4(d) of this agreement means default as defined in the Lease Contract. You will continue to be liable for any damages and any sums accruing and unpaid prior to the new termination date.

**9. SPECIAL PROVISIONS.** Your right of buy-out (check one) ☐ is or ☒ is not limited to a particular fact situation. If limited, buy-out may be exercised only if the following facts (see below) occur and any described documents are furnished to us. Any special provisions below will supersede any conflicting provision of this printed agreement. Any false statements or documents presented to us regarding buy-out will automatically void your right to buy-out of the Lease Contract. The special provisions are:

Resident or Residents  
(All residents must sign)

Owner or Owner's Representative  
(signs below)

Date of Lease Contract

November 20, 2019



# LEASE CONTRACT ADDENDUM FOR SATELLITE DISH OR ANTENNA



Under a Federal Communications Commission (FCC) order, you as our resident have a right to install a transmitting or receiving satellite dish or antenna on the leased dwelling, subject to FCC limitations. We as a rental housing owner are allowed to impose reasonable restrictions relating to such installation. You are required to comply with these restrictions as a condition of installing such equipment. This addendum contains the restrictions that you and we agree to follow.

## 1. DWELLING UNIT DESCRIPTION.

Unit No. 445-0304, 445 Aspencreek  
Drive Apt 0304  
Spartanburg (street address) in  
(city), South Carolina, 29301  
(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: November 20, 2019  
Owner's name: Strata Veridian LLC

Residents (list all residents):

Mark Shinn, Johanna Shinn

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. **NUMBER AND SIZE.** You may install 1 satellite dish(es) or antenna(s) on the leased premises. A satellite dish may not exceed one meter (3.3 feet) in diameter. Antennas that only transmit signals or that are not covered by 47 CFR § 1.4000 are prohibited.
4. **LOCATION.** Your satellite dish or antenna must be located: (1) inside your dwelling; or (2) in an area outside your dwelling such as a balcony, patio, yard, etc. of which you have exclusive use under your lease. Installation is not permitted on any parking area, roof, exterior wall, window, window sill, fence or common area, or in an area that other residents are allowed to use. A satellite dish or antenna may not protrude beyond the vertical and horizontal space that is leased to you for your exclusive use.
5. **SAFETY AND NON-INTERFERENCE.** Your installation: (1) must comply with all applicable ordinances and laws and all reasonable safety standards; (2) may not interfere with our cable, telephone or electrical systems or those of neighboring properties; (3) may not be connected to our telecommunication systems; and (4) may not be connected to our electrical system except by plugging into a 110-volt duplex receptacle. If the satellite dish or antenna is placed in a permitted outside area, it must be safely secured by one of three methods: (1) securely attaching it to a portable, heavy object such as a small slab of concrete; (2) clamping it to a part of the building's exterior that lies within your leased premises (such as a balcony or patio railing); or (3) any other method approved by us in writing. No other methods are allowed. We may require reasonable screening of the satellite dish or antenna by plants, etc., so long as it does not impair reception.

## 6. SIGNAL TRANSMISSION FROM EXTERIOR DISH OR ANTENNA TO INTERIOR OF DWELLING.

You may not damage or alter the leased premises and may not drill holes through outside walls, door jams, window sills, etc. If your satellite dish or antenna is installed outside your dwelling (on a balcony, patio, etc.), the signals received by it may be transmitted to the interior of your dwelling only by the following methods: (1) running a "flat" cable under a door jam or window sill in a manner that does not physically alter the premises and does not interfere with proper operation of the door or window; (2) running a traditional or flat cable through a pre-existing hole in the wall (that will not need to be enlarged to accommodate the cable); (3) connecting cables "through a window pane," similar to how an external car antenna for a cellular phone can be connected to inside wiring by a device glued to either side of the window—without drilling a hole through the window; (4) wireless transmission of the signal from the satellite dish or antenna to a device inside the dwelling; or (5) any other method approved by us in writing.

7. **SAFETY IN INSTALLATION.** In order to assure safety, the strength and type of materials used for installation must be approved by us. Installation must be done by a qualified person or company approved by us. Our approval will not be unreasonably withheld. An installer provided by the seller of the satellite dish or antenna is presumed to be qualified.

8. **MAINTENANCE.** You will have the sole responsibility for maintaining your satellite dish, antenna and all related equipment.

9. **REMOVAL AND DAMAGES.** You must remove the satellite dish or antenna and all related equipment when you move out of the dwelling. In accordance with the Lease Contract, you must pay for any damages and for the cost of repairs or repainting caused by negligence, carelessness, accident or abuse which may be reasonably necessary to restore the leased premises to its condition prior to the installation of your satellite dish, antenna or related equipment. You will not be responsible for normal wear.

10. **LIABILITY INSURANCE.** You must take full responsibility for the satellite dish, antenna and related equipment. If the dish or antenna is installed at a height that could result in injury to others if it becomes unattached and falls, you must provide us with evidence of liability insurance (if available) to protect us against claims of personal injury and property damage to others, related to your satellite dish, antenna and related equipment. The insurance coverage must be \$ 100000.00, which is an amount reasonably determined by us to accomplish that purpose. Factors affecting the amount of insurance include height of installation above ground level, potential wind velocities, risk of the dish/antenna becoming unattached and falling on someone, etc.

11. **SECURITY DEPOSIT.** An additional security deposit of \$ 150.00 will be charged. We (check one) ☒ will consider or ☐ will not consider this additional security deposit a general security deposit for all purposes. The security deposit amount in the Security Deposit paragraph of the Lease Contract (check one) ☐ does or ☒ does not include this additional deposit amount. Refund of the additional security deposit will be subject to the terms and conditions set forth in the Lease Contract regardless of whether it is considered part of the general security deposit.

This additional security deposit is required to help protect us against possible repair costs, damages, or failure to remove the satellite dish, antenna and related equipment at time of move-out. Factors affecting any security deposit may vary, depending on: (1) how the dish or antenna is attached (nails, screws, lag bolts drilled into walls); (2) whether holes were permitted to be drilled through walls for the cable between the satellite dish and the TV; and (3) the difficulty and cost repair or restoration after removal, etc.

- 12. WHEN YOU MAY BEGIN INSTALLATION.** You may start installation of your satellite dish, antenna or related equipment only after you have: (1) signed this addendum; (2) provided us with written evidence of the liability insurance referred to in paragraph 10 of this addendum; (3) paid us the additional security deposit, if applicable, in paragraph 11; and (4) received our written approval of the installation materials and the person or company that will do the installation, which approval may not be unreasonably withheld.
- 13. MISCELLANEOUS.** If additional satellite dishes or antennas are desired, an additional lease addendum must be executed.

**14. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

**Resident or Residents**  
(All residents must sign here)

**Owner or Owner's Representative**  
(signs here)

**Date of Lease Contract**

November 20, 2019





# COMMUNITY POLICIES, RULES AND REGULATIONS ADDENDUM



This addendum is incorporated into the Lease Contract (the "Lease") identified below and is in addition to all the terms and conditions contained in the Lease. If any terms of this Addendum conflict with the Lease, the terms of this Addendum shall be controlling:

Property Owner: Strata Veridian LLC

Resident(s): Mark Shinn, Johanna Shinn

Unit No./Address: #445-0304, 445 Aspen Creek Drive Apt 0304

Lease Date: 11/20/2019

## I. GENERAL CONDITIONS FOR USE OF DWELLING PROPERTY AND RECREATIONAL FACILITIES.

Resident(s) permission for use of all common areas, Resident amenities, and recreational facilities (together, "Amenities") located at the Dwelling Community is a privilege and license granted by Owner, and not a contractual right except as otherwise provided for in the Lease. Such permission is expressly conditioned upon Resident's adherence to the terms of the Lease, this Addendum, and the Community rules and regulations ("Rules") in effect at any given time, and such permission may be revoked by Owner at any time for any lawful reason. In all cases, the most strict terms of either the Lease, this Addendum, or the Community Rules shall control. Owner reserves the right to set the days and hours of use for all Amenities and to change the character of or close any Amenity based upon the needs of Owner and in Owner's sole and absolute discretion, without notice, obligation or recompense of any nature to Resident. Owner and management may make changes to the Rules for use of any Amenity at any time.

Additionally, Resident(s) expressly agrees to assume all risks of every type, including but not limited to risks of personal injury or property damage, of whatever nature or severity, related to Resident's use of the amenities at the Community. Resident(s) agrees to hold Owner harmless and release and waive any and all claims, allegations, actions, damages, losses, or liabilities of every type, whether or not foreseeable, that Resident(s) may have against Owner and that are in any way related to or arise from such use. This provision shall be enforceable as permitted by law.

THE TERMS OF THIS ADDENDUM SHALL ALSO APPLY TO RESIDENT(S)' OCCUPANTS, AGENTS AND INVITEES, TOGETHER WITH THE HEIRS, ASSIGNS, ESTATES AND LEGAL REPRESENTATIVES OF THEM ALL, AND RESIDENT(S) SHALL BE SOLELY RESPONSIBLE FOR THE COMPLIANCE OF SUCH PERSONS WITH THE LEASE, THIS ADDENDUM, AND COMMUNITY RULES AND REGULATIONS, AND RESIDENT(S) INTEND TO AND SHALL INDEMNIFY AND HOLD OWNER HARMLESS FROM ALL CLAIMS OF SUCH PERSONS AS DESCRIBED IN THE PRECEDING PARAGRAPH. The term "Owner" shall include the Management, officers, partners, employees, agents, assigns, Owners, subsidiaries and affiliates of Owner.

## II. POOL. This Community ☒ DOES; ☐ DOES NOT have a pool. When using the pool, Resident(s) agrees to the following:

- Residents and guests will adhere to the rules and regulations posted in the pool area and Management policies.
- All Swimmers swim at their own risk. Owner is not responsible for accidents or injuries.
- For their safety, Residents should not swim alone.
- Pool hours are posted at the pool.
- No glass, pets, or alcoholic beverages are permitted in the pool area. Use paper or plastic containers only.
- Proper swimming attire is required at all times and a swimsuit "cover up" should be worn to and from the pool.
- No running or rough activities are allowed in the pool area. Respect others by minimizing noise, covering pool furniture with a towel when using suntan oils, leaving pool furniture in pool areas, disposing of trash, and keeping pool gates closed.
- Resident(s) must accompany their guests.
- Resident(s) must notify Owner any time there is a problem or safety hazard at the pool.

• IN CASE OF EMERGENCY DIAL 911

## III. FITNESS CENTER. This Community ☒ DOES; ☐ DOES NOT have a fitness center. When using the fitness center, Resident agrees to the following:

- Residents and guests will adhere to the rules and regulations posted in the fitness center and Management policies.
- The Fitness Center is not supervised. Resident(s) are solely responsible for their own appropriate use of equipment.
- Resident(s) shall carefully inspect each piece of equipment prior to Resident's use and shall refrain from using any equipment that may be functioning improperly or that may be damaged or dangerous.
- Resident(s) shall immediately report to Management any equipment that is not functioning properly, is damaged or appears dangerous, as well as any other person's use that appears to be dangerous or in violation of Management Rules and Policies.
- Resident(s) shall consult a physician before using any equipment in the Fitness Center and before participating in any aerobics or exercise class, and will refrain from such use or participation unless approved by Resident's physician.
- Resident(s) will keep Fitness Center locked at all times during Resident's visit to the Fitness Center.
- Resident(s) will not admit any person to the Fitness Center who has not registered with the Management Office.
- Resident(s) must accompany guests, and no glass, smoking, eating, alcoholic beverages, pets, or black sole shoes are permitted in the Fitness Center.

Card # issued: (1) \_\_\_\_\_ (3) \_\_\_\_\_ (5) \_\_\_\_\_  
(2) \_\_\_\_\_ (4) \_\_\_\_\_ (6) \_\_\_\_\_

## IV. PACKAGE RELEASE. This Community ☒ DOES; ☐ DOES NOT accept packages on behalf of Residents.

For communities that do accept packages on behalf of its Residents:

Resident(s) gives Owner permission to sign and accept any parcels or letters sent to Resident(s) through UPS, Federal Express, Airborne, United States Postal Service or the like. Resident agrees that Owner does not accept responsibility or liability for any lost, damaged, or unordered deliveries, and agrees to hold Owner harmless for the same.

- V. BUSINESS CENTER.** This Community ☒ DOES; ☐ DOES NOT have a business center. Resident(s) agrees to use the business center at Resident(s) sole risk and according to the Rules and Regulations posted in the business center and Management policies. Owner is not responsible for data, files, programs or any other information lost or damaged on Business Center computers or in the Business Center for any reason. No software may be loaded on Business Center computers without the written approval of Community Management. No inappropriate, offensive, or pornographic images or files (in the sole judgment of Owner) will be viewed or loaded onto the Business Center computers at any time. Residents will limit time on computers to 30 minutes if others are waiting to use them. Smoking, eating, alcoholic beverages, pets, and any disturbing behavior are prohibited in the business center.
- VI. AUTOMOBILES/BOATS/RECREATIONAL VEHICLES.** The following policies are in addition to those in the Lease, and may be modified by the additional rules in effect at the Community at any given time:
- Only 1 vehicle per licensed Resident is allowed.
  - All vehicles must be registered at the Management office.
  - Any vehicle(s) not registered, considered abandoned, or violating the Lease, this Addendum, or the Community Rules, in the sole judgment of Management, will be towed at the vehicle owner's expense after a 24 hour notice is placed on the vehicle.
  - Notwithstanding this, any vehicle illegally parked in a fire lane, designated no parking space or handicapped space, or blocking an entrance, exit, driveway, dumpster, or parked illegally in a designated parking space, will immediately be towed, without notice, at the vehicle owner's expense.
  - The washing of vehicles is not permitted on the property unless specifically allowed in designated area.
  - Any on property repairs and/or maintenance of any vehicle must be with the prior written permission of the Management.
  - Recreational vehicles, boats or trailers may only be parked on the property with Management's permission (in Management's sole discretion), and must be registered with the Management Office and parked in the area(s) designated by Management.
- VII. FIRE HAZARDS.** In order to minimize fire hazards and comply with city ordinances, Resident shall comply with the following:
- Residents and guests will adhere to the Community rules and regulations other Management policies concerning fire hazards, which may be revised from time to time.
  - No person shall knowingly maintain a fire hazard.
  - Grills, Barbeques, and any other outdoor cooking or open flame devices will be used only on the ground level and will be placed a minimum of 15 feet from any building. Such devices will not be used close to combustible materials, tall grass or weeds, on exterior walls or on roofs, indoors, on balconies or patios, or in other locations which may cause fires.
  - Fireplaces: Only firewood is permitted in the fireplace. No artificial substances, such as Duraflame® logs are permitted. Ashes must be disposed of in metal containers, after ensuring the ashes are cold.
  - Flammable or combustible liquids and fuels shall not be used or stored (including stock for sale) in dwellings, near exits, stairways breezeways, or areas normally used for the ingress and egress of people. This includes motorcycles and any apparatus or engine using flammable or combustible liquid as fuel.
  - No person shall block or obstruct any exit, aisle, passageway, hallway or stairway leading to or from any structure.
  - Resident(s) are solely responsible for fines or penalties caused by their actions in violation of local fire protection codes.
- VIII. EXTERMINATING.** Unless prohibited by statute or otherwise stated in the Lease, Owner may conduct extermination operations in Residents' dwelling several times a year and as needed to prevent insect infestation. Owner will notify Residents in advance of extermination in Residents' Dwelling, and give Resident instructions for the preparation of the Dwelling and safe contact with insecticides. Residents will be responsible to prepare the Dwelling for extermination in accordance with Owner's instructions. If Residents are unprepared for a scheduled treatment date Owner will prepare Residents' dwelling and charge Residents accordingly. Residents must request extermination treatments in addition to those regularly provided by Owner in writing. Residents agree to perform the tasks required by Owner on the day of interior extermination to ensure the safety and effectiveness of the extermination. These tasks will include, but are not limited to, the following:
- Clean in all cabinets, drawers and closets in kitchen and pantry.
  - If roaches have been seen in closets, remove contents from shelves and floor.
  - Remove infants and young children from the dwelling.
  - Remove pets or place them in bedrooms, and notify Owner of such placement.
  - Remove chain locks or other types of obstruction on day of service.
  - Cover fish tanks and turn off their air pumps.
  - Do not wipe out cabinets after treatment.
- In the case of suspected or confirmed bed bug infestation, resident will agree to the following:
- Resident will wash all clothing, bed sheets, draperies, towels, etc. in extremely hot water.
  - Resident will thoroughly clean, off premises, all luggage, handbags, shoes and clothes hanging containers.
  - Resident will cooperate with Owner's cleaning efforts for all mattresses and seat cushions or other upholstered furniture, and will dispose of same if requested.
- RESIDENTS ARE SOLELY RESPONSIBLE TO NOTIFY OWNER IN WRITING PRIOR TO EXTERMINATION OF ANY ANTICIPATED HEALTH OR SAFETY CONCERNS RELATED TO EXTERMINATION AND THE USE OF INSECTICIDES**
- IX. DRAPES AND SHADES.** Drapes or shades installed by Resident, when allowed, must be lined in white and present a uniform exterior appearance.
- X. WATER BEDS.** Resident shall not have water beds or other water furniture in the dwelling without prior written permission of Owner.
- XI. BALCONY or PATIO.** Balconies and patios shall be kept neat and clean at all times. No rugs, towels, laundry, clothing, appliances or other items shall be stored, hung or draped on railings or other portions of balconies or patios. No misuse of the space is permitted, including but not limited to, throwing, spilling or pouring liquids or other items, whether intentionally or negligently, over the balconies or patios.
- XII. SIGNS.** Resident shall not display any signs, exterior lights or markings on dwelling. No awnings or other projections shall be attached to the outside of the building of which dwelling is a part.

**XIII.SATELLITE DISHES/ANTENNAS.** You must complete a satellite addendum and abide by its terms prior to installation or use.

**XIV.WAIVER/SEVERABILITY CLAUSE.** No waiver of any provision herein, or in any Community rules and regulations, shall be effective unless granted by the Owner in a signed and dated writing. If any court of competent jurisdiction finds that any clause, phrase, or provision of this Part is invalid for any reason whatsoever, this finding shall not effect the validity of the remaining portions of this addendum, the Lease Contract or any other addenda to the Lease Contract.

**XV. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

No grilling allowed on property, except for designated areas.

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I have read, understand and agree to comply with the preceding provisions.

|                      |      |          |      |
|----------------------|------|----------|------|
| Resident             | Date | Resident | Date |
| Resident             | Date | Resident | Date |
| Resident             | Date | Resident | Date |
| Owner Representative |      | Date     |      |





# LEASE ADDENDUM FOR RENT CONCESSION OR OTHER RENT DISCOUNT



## 1. DWELLING UNIT DESCRIPTION.

Unit No. 445-0304, 445 Aspencreek  
Drive Apt 0304  
(street address) in  
Spartanburg  
(city), South Carolina, 29301 (zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: November 20, 2019  
Owner's name: Strata Veridian LLC

Residents (list all residents):

Mark Shinn, Johanna Shinn

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

## 3. CONCESSION/DISCOUNT AGREEMENT. As consideration for your agreement to remain in your dwelling and to fulfill your Lease obligations throughout the full term of your Lease, you will receive the following rent Concession and or Discount.

(Check all that apply)

☐ **One-Time Concession.** You will receive a One-Time Concession off the rent indicated in the Rent and Charges paragraph of the Lease Contract in the total amount of \$ \_\_\_\_\_. This Concession will be credited to your rent due for the month(s) of: \_\_\_\_\_

☐ **Monthly Discount/Concession.** The rent indicated in the Rent and Charges paragraph of the Lease Contract includes a Monthly Discount of \$ \_\_\_\_\_ per month off of the suggested rental rate for your dwelling.

☐ **Other Discount/Concession.** You will receive the following discount off the rent indicated in the Rent and Charges paragraph of the Lease Contract:

Resident or Residents  
(All residents must sign)

☐ **Non-Monetary Concession.** You will receive the following non-monetary concession during the term of the Lease.

## 4. CONCESSION CANCELLATION AND CHARGE-BACK. The concession and discounts indicated above are provided to you as an incentive and with the understanding that you will fulfill your obligations under the Lease Contract through the entire term of your Lease.

If your lease is terminated early due to your default (for example, if you abandon the premises without paying rent or are evicted), this Concession/Discount Agreement will be immediately terminated, and you will be required to immediately repay to the Owner the amounts of all (Check all that apply)

☒ Concessions  
☒ Discounts

that you have actually received for the months you resided in the Premises, and without further notice from us.

## 5. MARKET RENT. The market rent for this dwelling is the rent stated in the Lease Contract. You acknowledge that the market rent is a fair representation of what the specific dwelling would actually rent for at the time the Lease Contract was negotiated and executed, and is reflective of the rent for a similar dwelling at comparable properties.

## 6. SPECIAL PROVISIONS. The following special provisions control over any conflicting provisions of this printed Addendum form or the Lease Contract.

IF FIELDS ABOVE ARE LEFT BLANK, NO  
CONCESSION OR DISCOUNT HAS BEEN ADDED TO  
THE LEASE AT THIS TIME.

Owner or Owner's Representative  
(signs here)

Date of Lease Contract

November 20, 2019



# LEASE ADDENDUM LIABILITY INSURANCE REQUIRED OF RESIDENT



## 1. DWELLING UNIT DESCRIPTION.

Unit No. 445-0304, 445 Aspencreek  
Drive Apt 0304  
Spartanburg (street address) in  
(city), South Carolina, 29301  
(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: November 20, 2019  
Owner's name: Strata Veridian LLC

Residents (list all residents):

Mark Shinn, Johanna Shinn

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

## 3. ACKNOWLEDGMENT CONCERNING INSURANCE OR DAMAGE WAIVER.

You acknowledge that we do not maintain insurance to protect you against personal injury, loss or damage to your personal property or belongings, or to cover your own liability for injury, loss or damage you (or your occupants or guests) may cause others. You also acknowledge that by not maintaining your own policy of personal liability insurance, you may be responsible to others (including us) for the full cost of any injury, loss or damage caused by your actions or the actions of your occupants or guests. You understand that the Insurance paragraph of the Lease Contract requires you to maintain a liability insurance policy, which provides limits of liability to third parties in an amount not less than \$ 100000.00 per occurrence. You understand and agree to maintain at all times during the Term of the Lease Contract and any renewal periods a policy of personal liability insurance satisfying the requirements listed below, at your sole expense.

## 4. REQUIRED POLICY.

You are required to purchase and maintain personal liability insurance covering you, your occupants and guests, for personal injury and property damage any of you cause to third parties (including damage to our property), in a minimum policy coverage amount of

\$ 100000.00, from a carrier with an AM Best rating of A-VII or better, licensed to do business in South Carolina. The carrier is required to provide notice to us within 30 days of any cancellation, non-renewal, or material change in your coverage. We retain the right to hold you responsible for any loss in excess of your insurance coverage.

## 5. We may provide you with information of an insurance program that we make available to residents, which provides you with an opportunity to buy renter's insurance from a preferred company. However, you are free to contract for the required insurance with a provider of your choosing.

## 6. SUBROGATION ALLOWED.

You and we agree that subrogation is allowed by all parties and that this agreement supersedes any language to the contrary in the Lease Contract.

## 7. YOUR INSURANCE COVERAGE.

You have purchased the required personal liability insurance from the insurance company of your choosing listed below that is licensed to do business in this state, and have provided us with written proof of this insurance prior to the execution and commencement of the Lease Contract. You will provide additional proof of insurance in the future at our request.

Insurance Company: \_\_\_\_\_

## 8. DEFAULT.

Any default under the terms of this Addendum shall be deemed an immediate, material and incurable default under the terms of the Lease Contract, and we shall be entitled to exercise all rights and remedies under the law.

## 9. MISCELLANEOUS.

Except as specifically stated in this Addendum, all other terms and conditions of the Lease Contract shall remain unchanged. In the event of any conflict between the terms of this Addendum and the terms of the Lease Contract, the terms of this Addendum shall control.

## 10. SPECIAL PROVISIONS.

Residents may choose their own insurance provider or use Pinnacle's preferred company. Please refer to the Additional Special Provisions Addendum for important information regarding required Personal Liability Insurance

I have read, understand and agree to comply with the preceding provisions.

Resident or Residents  
(All residents must sign here)

Owner or Owner's Representative  
(signs here)

Date of Lease Contract

November 20, 2019





# LEASE ADDENDUM FOR REMOTE CONTROL, CARD, OR CODE ACCESS GATE



## 1. DWELLING UNIT DESCRIPTION.

Unit No. 445-0304, 445 Aspencreek Drive Apt 0304  
(street address) in  
Spartanburg  
(city), South Carolina, 29301  
(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: November 20, 2019  
Owner's name: Strata Veridian LLC

Residents (list all residents):

Mark Shinn, Johanna Shinn

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

## 3. REMOTE CONTROL/CARDS/CODE FOR GATE ACCESS.

- ☐ Remote control for gate access. Each person who is listed as a resident on the lease will be given a remote control at no cost to use during his or her residency. Each additional remote control for you or other occupants will require a \$ \_\_\_\_\_ non-refundable fee.
- ☒ Cards for gate access. Each person who is listed as a resident on the lease will be given a card at no cost to use during his or her residency. Each additional card for you or other occupants will require a \$ 50.00 non-refundable fee.
- ☐ Code for gate access. Each resident will be given, at no cost, an access code (keypad number) for the pedestrian or vehicular access gates. It is to be used only during your residency. We may change the access code at any time and will notify you of any such changes.

## 4. DAMAGED, LOST OR UNRETURNED REMOTE CONTROLS, CARDS OR CODE CHANGES.

- ☐ If a remote control is lost, stolen or damaged, a \$ \_\_\_\_\_ fee will be charged for a replacement. If a remote control is not returned or is returned damaged when you move out, there will be a \$ \_\_\_\_\_ deduction from the security deposit.
- ☒ If a card is lost, stolen or damaged, a \$ 50.00 fee will be charged for a replacement card. If a card is not returned or is returned damaged when you move out, there will be a \$ 50.00 deduction from the security deposit.
- ☐ We may change the code(s) at any time and notify you accordingly.

5. REPORT DAMAGE OR MALFUNCTIONS. Please immediately report to the office any malfunction or damage to gates, fencing, locks or related equipment.

6. FOLLOW WRITTEN INSTRUCTIONS. We ask that you and all other occupants read the written instructions that have been furnished to you regarding the access gates. This is important because if the gates are damaged by you or other occupants, guests or invitees through negligence or misuse, you are liable for the damages under your lease, and collection of damage amounts will be pursued.

7. PERSONAL INJURY AND/OR PERSONAL PROPERTY DAMAGE. Except as specifically required by law, we have no duty to maintain the gates and cannot guaranty against gate malfunctions. We make no representations or guarantees to you concerning security of the community. Any measures, devices, or activities taken by us are solely for the benefit of us and for the protection of our property and interests, and any benefit to you of the same is purely incidental. Anything mechanical or electronic is subject to malfunction. Fencing, gates or other devices will not prevent all crime. No security system or device is foolproof or 100 percent successful in deterring crime. Crime can still occur. Protecting residents, their families, occupants, guests and invitees from crime is the sole responsibility of residents, occupants and law enforcement agencies. You should first call 911 or other appropriate emergency police numbers if a crime occurs or is suspected. We may not be liable to any resident, family member, guest, occupant or invitee for personal injury, death or damage/loss of personal property from incidents related to perimeter fencing, automobile access gates and/or pedestrian access gates. We reserve the right to modify or eliminate security systems other than those statutorily required. You will be held responsible for the actions of any persons to whom you provide access to the community.

## 8. RULES IN USING VEHICLE GATES.

- Always approach entry and exit gates with caution and at a very slow rate of speed.
- Never stop your car where the gate can hit your vehicle as the gate opens or closes.
- Never follow another vehicle into an open gate. Always use your card to gain entry.
- Report to management the vehicle license plate number of any vehicle that piggybacks through the gate.
- Never force the gate open with your car.
- Never get out of your vehicle while the gates are opening or closing.
- If you are using the gates with a boat or trailer, please contact management for assistance. The length and width of the trailer may cause recognition problems with the safety loop detector and could cause damage.
- Do not operate the gate if there are small children nearby who might get caught in it as it opens or closes.
- If you lose your card, please contact the management office immediately.
- Do not give your card or code to anyone else.
- Do not tamper with gate or allow your occupants to tamper or play with gates.

**9. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

[illegible]

**Resident or Residents**  
(All residents must sign here)

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**Owner or Owner's Representative**  
(signs here)

**Date of Lease Contract**

November 20, 2019





## LEASE ADDENDUM FOR INTRUSION ALARM



### 1. DWELLING UNIT DESCRIPTION.

Unit No. 445-0304, 445 Aspencreek Drive Apt 0304  
(street address) in  
Spartanburg  
(city), South Carolina, 29301  
(zip code).

### 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: November 20, 2019  
Owner's name: Strata Veridian LLC

Residents (list all residents):

Mark Shinn, Johanna Shinn

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. **INTRUSION ALARM.** Your dwelling is equipped with an intrusion alarm. It must not be considered a guaranty of safety or security. You should at all times take precautions as if the intrusion alarm were malfunctioning. You acknowledge that the security of you and your family, occupants, and guests are your responsibility alone. Your use of the alarm system is (check one) ☐ required or ☒ optional. You are responsible for all false alarm charges for your dwelling.

4. **PERMIT FROM CITY.** You (check one) ☐ do or ☒ do not have to obtain a city permit for activation and use of the intrusion alarm. If you do, the phone number to call is \_\_\_\_\_, and it is your responsibility to obtain the permit. You also will be responsible for any fines due to excessive false alarms.

5. **FOLLOW INSTRUCTIONS.** You agree to use reasonable care in operating the alarm and to follow the written instructions, rules and procedures furnished to you by us. Instructions ☐ are attached or ☐ will be provided to you when you move in.

6. **ALARM COMPANY.** You (check one) ☒ will or ☐ will not have to make arrangements with an independent alarm company to activate and maintain the alarm system. You (check one) ☒ may choose your own alarm company or ☐ are required to use \_\_\_\_\_ as your alarm company. The alarm system is repaired and maintained by Resident/Alarm Co

Resident or Residents  
(All residents must sign here)

7. **ENTRY BY OWNER.** Upon activation of the alarm system, you must immediately provide us (management) with your security code and any special alarm system instructions for lawful entry into the unit when no one is there, as authorized in your Lease Contract. You must reimburse us for any expenses we incur in entering your dwelling, when those expenses are due to your failure to provide the foregoing information.

8. **REPAIRS OR MALFUNCTIONS.** If the intrusion alarm malfunctions, you agree to (check one) ☒ contact your intrusion alarm company immediately for repair or ☐ contact us immediately for repair. The cost of repair will be paid by (check one) ☒ you or ☐ us.

9. **NO WARRANTY. WE MAKE NO GUARANTEES OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE ALARM SYSTEM. ALL GUARANTEES AND WARRANTIES ARE EXPRESSLY DISCLAIMED. Crime can and does occur despite the best security measures. Anything electronic or mechanical in nature will malfunction from time to time. WE ARE ABSOLUTELY NOT RESPONSIBLE FOR MALFUNCTION OF THE ALARM, UNLESS CAUSED BY OUR NEGLIGENCE OR MISCONDUCT.**

10. **LIABILITY.** Unless otherwise required by law, we are not liable to you, your guests or other occupants for any injury, damage or loss resulting from the alarm or any malfunction of the alarm. It is recommended that you purchase insurance to cover casualty loss of your property, including loss by theft.

11. **EMERGENCIES.** Always call 911 or law enforcement authorities or emergency medical services in the event of a crime or emergency. Then contact us. We are not required to answer the alarm, but we do have the right to enter and cut off the alarm to minimize annoyance to neighbors when it malfunctions or is not timely cut off.

12. **ENTIRE AGREEMENT.** We've made no promises or representations regarding the alarm system except those in this addendum.

13. **SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

If property does not provide pre-installed alarm systems, the resident may choose to utilize a wireless alarm system. Resident is not permitted to drill or cut into wall at any time. Please contact the City office for permit requirements.

Owner or Owner's Representative  
(signs here)

Date of Lease Contract

November 20, 2019



**Resident or Residents**  
*(All residents must sign)*

**Owner or Owner's Representative**  
*(signs below)*

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**Date of Signing Addendum**

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# CRIME/DRUG FREE HOUSING ADDENDUM



## 1. DWELLING UNIT DESCRIPTION.

Unit No. 445-0304, 445 Aspencreek  
Drive Apt 0304

(street address) in

Spartanburg

(city), South Carolina, 29301

(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: November 20, 2019

Owner's name: Strata Veridian LLC

Residents (list all residents):

Mark Shinn, Johanna Shinn

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

**3. ADDENDUM APPLICABILITY.** In the event any provision in this Addendum is inconsistent with any provision(s) contained in other portions of, or attachments to, the above-mentioned Lease Contract, then the provisions of this Addendum shall control. For purposes of this Addendum, the term "Premises" shall include the dwelling unit, all common areas, all other dwelling units on the property or any common areas or other dwelling units on or about other property owned by or managed by the Owner. The parties hereby amend and supplement the Lease Contract as follows:

**4. CRIME/DRUG FREE HOUSING.** Resident, members of the Resident's household, Resident's guests, and all other persons affiliated with the Resident:

A. Shall not engage in any illegal or criminal activity on or about the premises. The phrase, "illegal or criminal activity" shall include, but is not limited to, the following:

1. Engaging in any act intended to facilitate any type of criminal activity.
2. Permitting the Premises to be used for, or facilitating any type of criminal activity or drug related activity, regardless of whether the individual engaging such activity is a member of the household, or a guest.
3. The unlawful manufacturing, selling, using, storing, keeping, purchasing or giving of an illegal or controlled substance or paraphernalia as defined in city, county, state or federal laws, including but not limited to the State of South Carolina and/or the Federal Controlled Substances Act.

Resident or Residents (sign here)

Date of Signing Addendum

Owner or Owner's Representative (signs here)

Date of Signing Addendum

4. Violation of any federal drug laws governing the use, possession, sale, manufacturing and distribution of marijuana, regardless of state or local laws. (So long as the use, possession, sale, manufacturing and distribution of marijuana remains a violation of federal law, violation of any such federal law shall constitute a material violation of this rental agreement.)
5. Engaging in, or allowing, any behavior that is associated with drug activity, including but not limited to having excessive vehicle or foot traffic associated with his or her unit.
6. Any breach of the Lease Contract that otherwise jeopardizes the health, safety, and welfare of the Owner, Owner's agents, or other Residents, or involving imminent, actual or substantial property damage.
7. Engaging in or committing any act that would be a violation of the Owner's screening criteria for criminal conduct or which would have provided Owner with a basis for denying Resident's application due to criminal conduct.
8. Engaging in any activity that constitutes waste, nuisance, or unlawful use.

**B. AGREE THAT ANY VIOLATION OF THE ABOVE PROVISIONS CONSTITUTES A MATERIAL VIOLATION OF THE PARTIES' LEASE CONTRACT AND GOOD CAUSE FOR TERMINATION OF TENANCY.** A single violation of any of the provisions of this Addendum shall be deemed a serious violation, and a material default, of the parties' Lease Contract. It is understood that a single violation shall be good cause for termination of the Lease Contract. Notwithstanding the foregoing comments, Owner may terminate Resident's tenancy for any lawful reason, and by any lawful method, with or without good cause.

**5. CRIMINAL CONVICTION NOT REQUIRED.** Unless otherwise provided by law, proof of violation of any criminal law shall not require a criminal conviction.

**6. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:



# **ADDENDUM PROHIBITING SHORT-TERM SUBLETTING OR RENTAL**



**1. DWELLING UNIT DESCRIPTION.**

Unit No. 445-0304, 445 Aspencreek Drive Apt 0304  
 \_\_\_\_\_ (street address) in  
Spartanburg  
 \_\_\_\_\_ (city), South Carolina, 29301  
 \_\_\_\_\_ (zip code).

**2. LEASE CONTRACT DESCRIPTION.**

Lease Contract Date: November 20, 2019  
 Owner's name: Strata Veridian LLC

Residents (list all residents):

Mark Shinn, Johanna Shinn

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

**3. SHORT TERM SUBLEASE OR RENTING PROHIBITED.**

Without limiting the prohibition in the Lease on subletting, assignment, and licensing, and without limiting any of our rights or remedies, this Addendum to the Lease further supplements and defines the requirements and prohibitions contained in the Lease Contract between you and us. You are hereby strictly prohibited from subletting, licensing, or renting to any third party, or allowing occupancy by any third party, of all or any portion of the dwelling, whether for an overnight use or duration of any length, without our prior written consent in each instance. This prohibition applies to overnight stays or any other stays arranged on Airbnb.com or other similar internet sites.

**4. PROHIBITION ON LISTING OR ADVERTISING DWELLING ON OVERNIGHT SUBLETTING OR RENTING WEBSITES.**

You agree not to list or advertise the dwelling as being available for short term subletting or rental or occupancy by others on Airbnb.com or similar internet websites. You agree that listing or advertising the dwelling on Airbnb.com or similar internet websites shall be a violation of this Addendum and a breach of your Lease Contract.

**5. VIOLATION OF LEASE AGREEMENT.** Your Lease Contract allows for use of your dwelling as a private residence only and strictly prohibits conducting any kind of business in, from, or involving your dwelling unless expressly permitted by law. Separately, your Lease Contract prohibits subletting

or occupancy by others of the dwelling for any period of time without our prior written consent. Permitting your dwelling to be used for any subletting or rental or occupancy by others (including, without limitation, for a short term), regardless of the value of consideration received or if no consideration is received, is a violation and breach of this Addendum and your Lease Contract.

**6. REMEDY FOR VIOLATION.** Any violation of this Addendum constitutes a material violation of the Lease Contract, and as such we may exercise any default remedies permitted in the Lease Contract, including termination of your tenancy, in accordance with local law. This clause shall not be interpreted to restrict our rights to terminate your tenancy for any lawful reason, or by any lawful method.

**7. RESIDENT LIABILITY.** You are responsible for and shall be held liable for any and all losses, damages, and/or fines that we incur as a result of your violations of the terms of this Addendum or the Lease Contract. Further, you agree you are responsible for and shall be held liable for any and all actions of any person(s) who occupy your dwelling in violation of the terms of this Addendum or the Lease Contract, including, but not limited to, property damage, disturbance of other residents, and violence or attempted violence to another person. In accordance with applicable law, without limiting your liability you agree we shall have the right to collect against any renter's or liability insurance policy maintained by you for any losses or damages that we incur as the result of any violation of the terms of this Addendum.

**8. SEVERABILITY.** If any provision of this Addendum or the Lease Contract is invalid or unenforceable under applicable law, such provision shall be ineffective to the extent of such invalidity or unenforceability only without invalidating or otherwise affecting the remainder of this Addendum or the Lease Contract. The court shall interpret the lease and provisions herein in a manner such as to uphold the valid portions of this Addendum while preserving the intent of the parties.

**9. SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

No subletting allowed.

**Resident or Residents**  
 (All residents must sign)

**Owner or Owner's Representative**  
 (Signs below)

**Date of Signing Addendum**







# PHOTO, VIDEO, AND STATEMENT RELEASE ADDENDUM



## 1. DWELLING UNIT DESCRIPTION.

Unit No. 445-0304, 445 Aspencreek  
Drive Apt 0304 (street address) in  
Spartanburg  
(city), South Carolina, 29301  
(zip code).

## 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: November 20, 2019  
Owner's name: Strata Veridian LLC

Residents (list all residents):

Mark Shinn, Johanna Shinn

Occupants (list all occupants):

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. **PURPOSE OF ADDENDUM.** By signing this Addendum, you, without payment or other consideration, agree to grant us permission to use your likeness in photographs, videos and/or other electronic and/or digital reproductions, including voice, in any and all of our publications, including, without limitation, any website entries, advertising websites, social media websites, and any other marketing materials. For purposes of this addendum, photographs, videos, written comments, statements, and other digital reproductions will hereinafter be collectively referred to as "media."

A. **Consent For Minor Occupants.** By signing this Addendum, if any minor occupants are named above, you further certify that you are the parent, or legal guardian of the minor occupant(s) named above, and you, without payment or other consideration, agree to grant us permission to use their likeness in photographs, videos and/or other electronic and/or digital reproductions, including voice, in any and all of our publications, including, without limitation, any website entries, advertising websites, social media websites, and any other marketing materials. For purposes of this addendum, photographs, videos, written comments, statements, and other digital reproductions will hereinafter be collectively referred to as "media."

4. **PHOTO AND VIDEO RELEASE.** You hereby grant us and our agents and affiliates (collectively, the "Released Parties") permission and a license to take, use, reuse, and publish the likeness of you and any minor occupants in all photographs or other electronic and/or digital media in any and all of our publications, including, without limitation, any website entries, advertising websites, and any other marketing materials. You understand and agree that these materials will become the property of the Released Parties and will not be returned. You agree to irrevocably authorize the Released Parties to edit, alter, copy, exhibit, publish, or distribute this media for any lawful purpose whatsoever including, without limitation, promotional and advertising uses. You waive the right to inspect or approve the finished product, including any written or electronic copy, wherein your likeness appears now or in the future. In addition, you waive any right to payment, royalties, or any other compensation arising or related to the use of the media.

5. **CONSENT TO USE YOUR NAME, LIKENESS, WRITTEN COMMENTS, AND STATEMENTS.** You are expressly agreeing to allow us to post your name, picture, written comments, and statements, and/or the names, pictures, written comments, and statements of any minor occupants in any and all of our publications, including, without limitation, any website entries, advertising websites, social media websites, and any other marketing materials. You hereby grant the Released Parties permission and a license to use, reproduce, and publish any media on its website, social media platforms, or in other marketing-related materials, whether in electronic or print form.

6. **RELEASE OF LIABILITY.** To the extent provided by law, you hereby release, hold harmless, and forever discharge us from any claims or causes of actions including, without limitation, any and all claims for libel or violation of any right of publicity or privacy, related to our use of the media in any and all of our publications, including any website entries, advertising websites, social media websites, and any other marketing material so long as the claim or cause of action does not result from our intentional misconduct or gross negligence. This consent and release shall be binding upon you and your heirs, legal representatives and assigns.

7. **REVOCATION.** You have the right to revoke your consent to our use of your name, picture, video, voice, written comments, or statement, and/or the name, picture, video, voice, written comments, or statement of any minor occupants, by written notice to us.

8. **SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

**Resident or Residents**  
*(All residents must sign)*

**Owner or Owner's Representative**  
*(signs below)*

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**Date of Signing Addendum**

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## REASONABLE MODIFICATIONS AND ACCOMMODATIONS POLICY



### 1. DWELLING UNIT DESCRIPTION.

Unit No. 445-0304, 445 Aspencreek  
Drive Apt 0304  
\_\_\_\_\_  
\_\_\_\_\_  
(street address) in  
Spartanburg  
(city), South Carolina, 29301  
(zip code).

### 2. LEASE CONTRACT DESCRIPTION.

Lease Contract Date: November 20, 2019  
Owner's name: Strata Veridian LLC

Residents (list all residents):

Mark Shinn, Johanna Shinn

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

**3. EQUAL HOUSING OPPORTUNITY POLICY.** We provide rental housing on an equal opportunity basis. Consistent with this policy, we welcome persons with disabilities to our community and will not discriminate against any person because of his or her disability, or his or her association with anyone with a disability. In addition, we know that it may sometimes be necessary for persons with disabilities to be able to make modifications to their dwelling or to have accommodations made in our practices or procedures to enable them to fully enjoy and use their residences, and we have created the policy described in this Addendum to meet that need.

**4. PURPOSE OF ADDENDUM.** A resident or applicant may be entitled under state and federal fair housing laws to a reasonable accommodation and/or reasonable modification when needed because of a disability of the resident, the applicant, and/or a person associated with a resident or applicant, such as a member of the household or frequent guest. The reasonable accommodation and/or reasonable modification must be necessary for the individual with the disability to have an equal opportunity to fully use and/or enjoy housing services offered to other residents and/or the individual dwelling unit. We will grant requests for accommodations or modifications that are reasonable and necessary because of a disability, would not impose an undue financial or administrative burden on our operations, and do not fundamentally alter the nature of services or resources we provide as part of our housing program.

### 5. DEFINITIONS.

**A. Disability.** The Federal Fair Housing Act defines a person with a disability to include: (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; or (3) individuals with a record of such an impairment.

**B. Reasonable Modifications.** A reasonable modification is a structural change made to existing premises, occupied or to be occupied, by a person with a disability, in order to afford such person full enjoyment of the premises. These are typically structural changes to interiors and exteriors of dwellings and to common and public use areas, which are necessary to accommodate a person with a disability. Depending on the nature of the request, reasonable modifications are typically granted at the expense of the person requesting them.

**C. Reasonable Accommodation.** A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common areas.

### 6. REQUESTS FOR REASONABLE MODIFICATIONS.

**A. Generally.** If you are a resident or an applicant (i) with a disability, or (ii) with someone associated with you who has a disability, you have the right to request a reasonable modification to your dwelling or the common areas, in accordance with fair housing laws, if such modifications may be necessary to allow you to have an equal opportunity to fully use and/or enjoy your dwelling.

**B. Reasonable Modification Expenses.** Expenses for reasonable modifications, and restoration expenses, if applicable, of such modifications, shall be allocated in accordance with state and federal fair housing laws.

**C. Permission Required, Evaluation of Disability.** If you would like to request a reasonable modification to your dwelling or the common areas of the community that is necessary because of a disability, you must first obtain permission from us. We prefer that you use the attached "Reasonable Accommodation and/or Modification to Rental Unit" form, but you are not required to use this form. If you would like or need assistance in completing this form, please let us know, and we will be glad to provide assistance. Whether you use our form or your own form of request, we will need to know what specific modification is being sought. In addition, if the disability or the disability-related need for the modification is not obvious, we may ask for information that is reasonably necessary to evaluate the disability-related need for the modification; however, we will only request information necessary to evaluate your request, and all information will be kept confidential.

**D. Reasonable Assurances.** Depending on the modification requested, we may require you to provide reasonable assurances that the modification will be done in a workmanlike manner and that any required building permits will be obtained. In some cases, any third-party retained to perform the modification may also have to be approved in writing by us, and be properly licensed and insured. During and upon completion of the modification, we may inspect the work in connection with our overall property management responsibilities. We will not increase your security deposit as a result of a modification request. However, when applicable, if you fail to restore the interior of the dwelling to its original condition, excluding normal wear and tear, at the end of the tenancy, we may assess the cost of restoration against your security deposit and/or final account upon move-out.

**E. Restoration Reimbursement.** At the end of your tenancy, you may be responsible to restore the interior of your dwelling to its pre-modification condition at your expense, depending on the nature of the modification. Again, depending on the modification, we may request that you deposit sufficient funds for that restoration in an interest bearing escrow account to ensure any required restoration

can be completed. Regardless of modification, you will remain responsible to pay for damage to your dwelling in excess of ordinary wear and tear.

**F. Alternative Modification.** Depending on the circumstances, we may not be able to grant the exact modification you have requested and we may ask to discuss other alternatives with you.

**7. REQUESTS FOR REASONABLE ACCOMMODATIONS.**

**A. Generally.** We will make reasonable accommodations in our rules, policies, practices, and/or services, to the extent that such accommodations may be reasonably necessary to give you, as a disabled person, an equal opportunity to fully use and enjoy your dwelling, and the public and common areas of the premises, and as otherwise required by law.

**B. Request for Accommodation, Evaluation of Disability.** If you would like a reasonable accommodation that is necessary because of a disability, please submit a request to us, preferably using the attached "Reasonable Accommodation and/or Modification to Rental Unit" form, but you are not required to use this form. If you would like or need assistance completing this form please let us know and we will be glad to provide assistance. Whether you use our form or your own form of request, we will need to know what accommodation is being sought. In addition, if the disability is not obvious, we may ask for information that is reasonably necessary to evaluate the disability-related need for the accommodation. We will only request information that is reasonably necessary for us to evaluate your request, and we will keep all information you provide confidential.

**C. Alternative Accommodation.** Depending on the circumstances, we may not be able to grant the exact accommodation you have requested and we may ask to discuss other alternatives with you.

**8. OWNER RESPONSIBILITY.** We will respond to all requests for a reasonable accommodation and/or modification in a timely manner. If we deny your request for a reasonable modification and/or accommodation, we will explain the reason for our denial and we will discuss with you whether there are alternative accommodations and/or modifications that we could provide that would meet your needs. We also are committed to entering into an interactive dialogue with you in relation to any request, and therefore agree to speak with you in relation to any request so that you have sufficient opportunity to provide us with any information you believe is relevant to our evaluation of your request for the modification(s) and/or accommodation(s).

**9. AMENDMENT TO POLICY.** This policy may be amended and updated at any time upon written notice to you. In addition, in the event of any conflict between this policy and/or state, local or federal law, the provisions of such law shall control.

If you have any questions about this policy, you should contact:

Strata Veridian LLC  
by writing or calling:  
315 Birchrun Drive, Spartanburg, SC 29301  
(864) 595-6216

**Resident or Residents**  
*(All residents must sign)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Owner or Owner's Representative**  
*(Signs below)*

\_\_\_\_\_  
**Date of Signing Addendum**  
\_\_\_\_\_





**ADDENDUM REGARDING MEDICAL MARIJUANA USE  
and LANDLORD'S COMMITMENT TO ENFORCEMENT  
OF CRIME/DRUG FREE ADDENDUM**



**1. DWELLING UNIT DESCRIPTION.**

Unit No. 445-0304 445 Aspencreek  
Drive Apt 0304  
\_\_\_\_\_  
\_\_\_\_\_  
Spartanburg  
(city), South Carolina, 29301 (zip code).

**2. LEASE CONTRACT DESCRIPTION.**

Lease Contract dated November 20, 2019  
Owner's name Strata Veridian LLC

Residents (list all residents):

Mark Shinn, Johanna Shinn

4. The Premises listed above follow and complies with the law regarding marijuana use and is, and will continue to be a drug free community. Possession, use, manufacture or sale of any illegal substance, including marijuana, or any use of marijuana by the tenant and/or guests will result in immediate termination. If you have any questions or concerns about this policy, please speak to management.

5. By signing below, the resident acknowledges his understanding of the terms and conditions as stated above and his or her agreement to comply with those terms and conditions.

6. **SPECIAL PROVISIONS.** The following special provisions control over conflicting provisions of this printed form:

This Addendum constitutes an Addendum to the above described Lease Contract for the above described premises, and is hereby incorporated into and made a part of such Lease Contract. Where the terms or conditions found in this Addendum vary or contradict any terms or conditions found in the Lease Contract, this Addendum shall control.

3. The Julian's Law, Medical Cannabis Therapeutic Treatment Research Act (2014) permits the limited use of medical marijuana in specific and limited circumstances. However, this is not the case under federal law. Under federal law, specifically the Controlled Substances Act (CSA), marijuana is still categorized as a Schedule I substance. This means that under federal law, the manufacture, distribution, or possession of marijuana is strictly prohibited. Because the U.S. Department of Housing and Urban Development is controlled by the federal government, it agrees that the use of marijuana, whether prescribed for medical reasons or not, is a criminal offense and will not be protected under the fair housing laws. Therefore, apartment complexes are not required to accommodate the use of marijuana by a tenant who is a current medical marijuana user. Disabled tenants who are registered medical marijuana users, however, should not feel discouraged to request reasonable accommodations if the need arises.

**Resident or Residents (sign here)**

**Date of Signing Addendum**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Owner or Owner's Representative (signs here)**

**Date of Signing Addendum**

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_



### Lease Indemnification Addendum<sup>®</sup>

This is an addendum to your Lease Contract for apartment number 445-0304 in the Veridian  
Spartanburg (Name of Community/Apartments) in  
Spartanburg SC (City/State) (the "Apartment Community") between  
Strata Veridian LLC  
 ("Owner") and Mark Shinn, Johanna Shinn  
 ("Resident").

**Indemnity Obligation.** You shall indemnify us and hold us harmless for accidental damages to your dwelling or the Apartment Community. ("Indemnity Obligation")

**Insurance Requirements.** During the Term of the Lease Contract and any subsequent renewal terms, you shall be required to maintain "Qualified Renter Liability Insurance" (as defined below) or to participate in the Community Indemnity Shield program for a monthly fee of \$9.00 (the "Fee"). (Fee is not pro-rated). **You will automatically be enrolled in the Community Indemnity Shield program for \$9 per month, unless and until evidence of Qualified Renter Liability Insurance is received and approved.** Qualified Renter Liability Insurance must be uploaded to the Community Indemnity Shield website through an account established by resident. Once your evidence of Qualified Renter Liability Insurance is received and approved from the insurance company of your choosing listed below that is licensed to do business in this state, charges for the Fees would end, and a pro-rata credit for the balance of the current month would be given. No credits of Fees are issued for any period of time in which Qualified Renters Liability Insurance was not submitted and approved. You will provide additional proof of insurance in the future at our request.

*(See Community Indemnity Shield brochure for additional details.)*

**Benefits of Community Indemnity Shield Program.** Residents who elect to stay in the Community Indemnity Shield program are responsible for the first \$200 in damages but will be released financially from their "Indemnity Obligation" set forth above, up to \$100,000, for accidental damage caused by you (the Resident) or your guests that exceeds \$200 and originates from fire, water or smoke. **The Community Indemnity Shield program is NOT insurance and DOES NOT provide insurance coverage or protection for your personal property, personal liability or any other claim or loss made by third parties, including by other residents.**

**Qualified Renter Liability Insurance Policy Requirements.** You are required to purchase and maintain personal liability insurance covering you, your occupants and guests, for personal injury and property damage any of you cause to third parties (including damage to our property), 1) in a minimum policy coverage amount of \$100,000, from a carrier with an AM Best rating of A-VII or better, licensed to do business in this state; 2) your name(s) (roommates must be listed as additional insured or provide separate policy); 3) Policy start and end dates; 4) Policy number; and 5) The following must be listed on the policy as an "additional interest", "interested party" or "certificate holder"; "Community Indemnity Shield (your Apartment Community name) 4370 La Jolla Village Drive, Suite 960 San Diego, CA 92122 and [NAME OF OWNER, ADDRESS]. The carrier is required to provide notice to us and Community Indemnity Shield, LLC within 30 days of any cancellation, non-renewal, or material change in your coverage. We retain the right to hold you responsible for any loss in excess of your insurance coverage.

**Acknowledgment Concerning Insurance or Damage Waiver.** You acknowledge that we do not maintain insurance to protect you against personal injury, loss or damage to your personal property or belongings, or to cover your own liability for injury, loss or damage you (or your occupants or guests) may cause others. We are not responsible to any resident, guest, or occupant for damage or loss of

personal property or personal injury from (including but not limited to) fire, smoke, rain, flood, water and pipe leaks, hail, ice, snow, lightning, wind, explosions, earthquake, interruption of utilities, theft, hurricane, negligence of other residents, occupants, or invited / uninvited guests or vandalism unless otherwise required by law. You also acknowledge that by not maintaining your own policy of personal liability insurance, you may be responsible to others (including us) for the full cost of any injury, loss or damage caused by your actions or the actions of your occupants or guests. You understand that paragraph 8 of the Lease Contract requires you to maintain a liability insurance policy which satisfies the Qualified Renter Liability Insurance Policy Requirements set forth above, which requirement may be satisfied by your participation and enrollment in the Community Indemnity Shield program. You understand and agree to maintain at all times during the Term of the Lease Contract and any renewal periods a policy of personal liability insurance satisfying the requirements of the Lease Contract and this Addendum, at your sole expense. All residents (including participants in the Community Indemnity Shield Program) are urged to get your own insurance for losses to your personal property or injuries due to theft, fire, water damage, pipe leaks and the like.

**Default.** Any default under the terms of this Addendum shall be deemed an immediate, material and incurable default under the terms of the Lease Contract, and we shall be entitled to exercise all rights and remedies under the law.

**Miscellaneous.** Except as specifically stated in this Addendum, all other terms and conditions of the Lease Contract shall remain unchanged. In the event of any conflict between the terms of this Addendum and the terms of the Lease Contract, the terms of this Addendum shall control.

**I acknowledge I have read and understand the information set forth in this form. I also acknowledge and understand the following:**

- The Community Indemnity Shield program is NOT insurance and DOES NOT provide insurance coverage or protection for your personal property, personal liability or any other claim or loss made by third parties, including by other residents.
- I am not a co-insured on the Owner's insurance policy. The Owner carries insurance for its own protection.
- You and we agree that subrogation is allowed by all parties and that this agreement supersedes any language to the contrary in the Lease Contract.

Dated and effective as of: 11/20/2019

\_\_\_\_\_  
Resident(s) signature

\_\_\_\_\_  
Resident(s) signature

\_\_\_\_\_  
Owner's Representative signature

The following information states that the identified document has been signed electronically by the parties detailed below:

| Signee Details                                    | Role     | Signature | Initials | Date Signed |
|---------------------------------------------------|----------|-----------|----------|-------------|
| Mark Shinn<br>Email ID: propilot0808@yahoo.com    | Resident |           |          |             |
| Johanna Shinn<br>Email ID: propilot0808@yahoo.com | Resident |           |          |             |
| Jacinta Williams                                  | Manager  |           |          |             |

**October 3, 2022**  
**Sent via E-mail**

Elliott Quinn  
Steinberg Law Firm, LLP  
P.O. Box 2670  
Summerville, SC 29483  
Phone: (834) 871-6522  
Email: equinn@steinberglawfirm.com

Womble Bond Dickinson (US) LLP

1221 Main Street  
Suite 1600  
Columbia, SC 29201

t: 803.454.6504

Kevin Hall  
Partner  
Direct Dial: 803-454-7710  
Direct Fax: 803-381-9110  
E-mail: [Kevin.Hall@wbd-us.com](mailto:Kevin.Hall@wbd-us.com)

**Re: Subpoena Duces Tecum**  
**Zito, et al. v. Strata Audubon, LLC, et al.**  
**Docket No.: 2022-84-WS**  
**SLF File No.: 202019013**

Dear Elliott:

As you are aware, we represent Conservice, LLC. We have been asked to assist them in responding to the Subpoena Duces Tecum which you served on them in the above-referenced matter.

First, there are twenty-three document requests, which in and of itself is burdensome since Conservice is not a party to this matter. Second, it is our understanding that the four named parties only resided at the relevant apartment complexes between August 1, 2019 and December 31, 2020. As such, your request for information outside that time period is burdensome as well as irrelevant. Accordingly, we are limiting our responses to that time period. Finally, to the extent there are other more specific objections to each request, they will be contained in the responses below.

The following is a response to each of your requests, which I have taken the liberty of numbering:

1. Monthly bills, invoices, or statements sent to Complainants for water or sewerage at the Audubon Property or Veridian Property or associated new account fees, monthly administrative billing fees, or final bill fees.

**RESPONSE: Monthly bills for the time period August 1, 2019 through December 31, 2020 will be produced.**

2. Documents showing the allocation formula rate calculation for water and sewerage charges billed to Complainants.



**RESPONSE: A “worksheet” showing the allocation formula rate calculation for the period August 1, 2019 through December 31, 2020 will be produced.**

3. Documents identifying the data inputs used to apply the allocation formula rate to determine charges to Complainants for water and sewerage at the Audubon Property or Veridian Property at any time from September 28, 2016, to February 22, 2022.

**RESPONSE: A QC report identifying the data inputs for the period August 1, 2019 to December 31, 2020 will be produced.**

4. Records of the total water and sewerage usage of the Audubon Property each month from September 28, 2016, to February 22, 2022.

**RESPONSE: Responsive documents for the time period August 1, 2019 through December 31, 2020 will be produced.**

5. Records of the total water and sewerage usage of the Veridian Property each month from January 30, 2018, to February 22, 2022.

**RESPONSE: Responsive documents for the time period August 1, 2019 through December 31, 2020 will be produced.**

6. Records of the number of persons residing in each apartment unit at the Audubon Property each month from September 28, 2016, to February 22, 2022.

**RESPONSE: Responsive documents for the time period August 1, 2019 through December 31, 2020 will be produced.**

7. Records of the number of persons residing in each apartment unit at the Veridian Property each month from January 30, 2018, to February 22, 2022.

**RESPONSE: Responsive documents for the time period August 1, 2019 through December 31, 2020 will be produced.**

8. Notifications You received at any time from September 28, 2016, to February 22, 2022, of a change in the number of persons residing in a particular apartment unit at the Audubon Property.

**RESPONSE: This request is also unclear, vague, and ambiguous because we cannot determine what you mean by the term “notifications” or from whom you are requesting if Conservice received such notifications. Without waiving these objections but express relying upon them, Conservice did not receive any such notifications between August 1, 2019 and December 31, 2020.**



9. Notifications You received at any time from January 30, 2018, to February 22, 2022, of a change in the number of persons residing in a particular apartment unit at the Veridian Property.

**RESPONSE: This request is also unclear, vague, and ambiguous because we cannot determine what you mean by the term “notifications” or from whom you are requesting if Conservice received such notifications. Without waiving these objections but express relying upon them, Conservice did not receive any such notifications between August 1, 2019 and December 31, 2020.**

10. Bills, invoices, or statements from any off-site provider of water or sewerage to the Audubon Property for water or sewerage provided at any time from September 28, 2016, to February 22, 2022.

**RESPONSE: The requested documents can be obtained from Defendant Strata Audubon, LLC.**

11. Bills, invoices, or statements from any off-site provider of water or sewerage to the Veridian Property for water or sewerage provided at any time from January 30, 2018, to February 22, 2022.

**RESPONSE: The requested documents can be obtained from Defendant Strata Veridian, LLC.**

12. Contracts between You and Strata Audubon, LLC applicable to billing for water or sewerage at the Audubon Property at any time from September 28, 2016, to February 22, 2022.

**RESPONSE: Objection. This request seeks information which is confidential and proprietary. In addition, you can obtain the contracts from Defendant Strata Audubon, LLC.**

13. Contracts between You and Strata Veridian, LLC applicable to billing for water or sewerage at the Veridian Property at any time from January 30, 2018, to February 22, 2022.

**RESPONSE: Objection. This request seeks information which is confidential and proprietary. In addition, you can obtain the contracts from Defendant Strata Veridian, LLC.**

14. Communications between You and Strata Audubon, LLC the subject of which is or which mentions the number of persons residing in each apartment unit at the Audubon Property at any time from September 28, 2016, to February 22, 2022.

**RESPONSE: There were no such communications.**

15. Communications between You and Strata Veridian, LLC the subject of which is or which mentions the number of persons residing in each apartment unit at the Veridian Property at any time from January 30, 2018, to February 22, 2022

**RESPONSE: There were no such communications.**



16. Documents You received from Strata Audubon, LLC at any time from September 28, 2016, to February 22, 2022, stating the number of persons residing in each apartment unit at the Audubon Property.

**RESPONSE: None.**

17. Documents You received from Strata Veridian, LLC at any time from January 30, 2018, to February 22, 2022, stating the number of persons residing in each apartment unit at the Veridian Property.

**RESPONSE: None.**

18. Communications between You and Strata Audubon, LLC the subject of which is or which mentions the rate charged by an off-site provider for water or sewerage to the Audubon Property at any time from September 28, 2016, to February 22, 2022.

**RESPONSE: None.**

19. Communications between You and Strata Veridian, LLC the subject of which is or which mentions the rate charged by an off-site provider for water or sewerage to the Veridian Property at any time from January 30, 2018, to February 22, 2022.

**RESPONSE: None.**

20. Documents You received from Strata Audubon, LLC at any time from September 28, 2016, to February 22, 2022, stating the rate charged by an off-site provider for water or sewerage to the Audubon Property.

**RESPONSE: None.**

21. Documents You received from Strata Veridian, LLC at any time from January 30, 2018, to February 22, 2022, stating the rate charged by an off-site provider for water or sewerage to the Veridian Property.

**RESPONSE: None.**

22. Communications between You and Strata Veridian, LLC the subject of which is or which mentions the square footage of the apartment units at the Veridian Property and sent or received at any time from January 30, 2018, to February 22, 2022.

**RESPONSE: Responsive documents can be found in the QC report which is being produced.**

23. Documents You received from Strata Veridian, LLC at any time from January 30, 2018, to February 22, 2022, stating the square footage of apartments units at the Veridian Property.

**RESPONSE: Responsive documents can be found in the QC report which is being produced.**



Sincerely,

**Womble Bond Dickinson (US) LLP**

Kevin Hall  
Partner

CC: Andrew M. Bateman  
David Stark  
Kimberly Godsey  
Roger P. Hall  
Kevin K. Bell & Vordman Carlisle Traywick III  
Public Service Commission of South Carolina Legal Filings



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103 Grandview Drive | P.O. Box 2670 | Summerville | SC | 29483 | (843) 871-6522 | (843) 871-8565 fax | [www.steinberglawfirm.com](http://www.steinberglawfirm.com)

August 24, 2022

**VIA CERTIFIED MAIL (RESTRICTED DELIVERY AND RETURN RECEIPT REQUESTED)**

Conservice, LLC  
C/O Reg. Agent: Liberty Corporate Services, Inc.  
317 Ruth Vista  
Lexington, SC 29073

Re: Subpoena Duces Tecum  
Zito, et al. v. Strata Audubon, LLC, et al.  
Docket No.: 2022-84-WS  
SLF File No.: 202019013

To whom it may concern:

I represent Complainants in the above-referenced proceeding before the Public Service Commission of South Carolina. Please find enclosed a subpoena for documents related to the proceeding. Please respond with the responsive documents by September 19, 2022. In lieu of appearing with the documents at the date and time stated, you may send copies of the documents to my paralegal, Monica Correa, at [mcorrea@steinberglawfirm.com](mailto:mcorrea@steinberglawfirm.com) or to her attention at The Steinberg Law Firm, 103 Grandview Drive, Summerville, SC 29484.

In the event that the costs of producing the requested materials will exceed \$250.00, please notify me in advance of incurring such costs.

If you have any questions or need assistance, please contact Monica Correa at [mcorrea@steinberglawfirm.com](mailto:mcorrea@steinberglawfirm.com) or 843-871-6522. Thank you in advance for your prompt attention to and compliance with this subpoena.

August 24, 2022

Page 2

Regards,



Elliotte Quinn  
equinn@steinberglawfirm.com  
843-871-6522

Cc: (via e-mail and e-filing on SCPSC DMS)

Andrew M. Bateman  
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abateman@ors.sc.gov

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Kevin K. Bell & Vordman Carlisle Traywick III  
Robinson Gray Stepp & Laffitte, LLC  
kbell@robinsongray.com  
ltraywick@robinsongray.com

STATE OF SOUTH CAROLINA  
ISSUED BY THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

IN RE:

SARAH ZITO; ALVARO SARMIENTO, JR.;  
MARK SHINN; and DANIEL BERMUDEZ,

Complainants,

v.

STRATA AUDUBON, LLC and STRATA  
VERIDIAN, LLC,

SUBPOENA IN PROCEEDING BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

Docket Number: 2022-84-WS

TO: **Conservice, LLC**  
**C/O Reg. Agent: Liberty Corporate**  
**Services, Inc.**  
**317 Ruth Vista**  
**Lexington, SC 29073**

☐ YOU ARE COMMANDED to appear in the above named court at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

The terms "You" and "Your" as used herein refers to the person or entity to which this subpoena is addressed and any agents, employees, consultants, other representatives, and parent, successor, or affiliated entities.

The term "communications" as used herein refers to paper documents, emails, text messages, social media messages, or any other form of written communication.

The term "Complainants" means Sarah Zito; Alvaro Sarmiento, Jr.; Mark Shinn; and Daniel Bermudez. Sarah Zito and Alvaro Sarmiento, Jr. were tenants of Strata Audubon, LLC leasing 1809 Audubon Drive in Hanahan, South Carolina. Mark Shinn and Daniel Bermudez were tenants of Strata Veridian, LLC with Shinn leasing Apartment 0304 at 445 Aspencreek Drive in Spartanburg, South Carolina, and Bermudez leasing Apartment 107 at 302 Birchrun Drive in Spartanburg, South Carolina.

The term "Audubon Property" means the apartment complex owned by Strata Audubon, LLC, known as the "Audubon Park Apartments," and located at 1700 Eagle Landing Boulevard in Hanahan in Berkeley County, South Carolina.

The term "Veridian Property" means the apartment complex owned by Strata Veridian, LLC, known as the "Grove Apartments," and located at 31 Birchrun Drive in Spartanburg in Spartanburg County, South Carolina.

- Monthly bills, invoices, or statements sent to Complainants for water or sewerage at the Audubon Property or Veridian Property or associated new account fees, monthly administrative billing fees, or final bill fees;
- Documents showing the allocation formula rate calculation for water and sewerage charges billed to Complainants;
- Documents identifying the data inputs used to apply the allocation formula rate to determine charges to Complainants for water and sewerage at the Audubon Property or Veridian Property at any time from September 28, 2016, to February 22, 2022;
- Records of the total water and sewerage usage of the Audubon Property each month from September 28, 2016, to February 22, 2022;
- Records of the total water and sewerage usage of the Veridian Property each month from January 30, 2018, to February 22, 2022;
- Records of the number of persons residing in each apartment unit at the Audubon Property each month from September 28, 2016, to February 22, 2022;
- Records of the number of persons residing in each apartment unit at the Veridian Property each month from January 30, 2018, to February 22, 2022;
- Notifications You received at any time from September 28, 2016, to February 22, 2022, of a change in the number of persons residing in a particular apartment unit at the Audubon Property;
- Notifications You received at any time from January 30, 2018, to February 22, 2022, of a change in the number of persons residing in a particular apartment unit at the Veridian Property;
- Bills, invoices, or statements from any off-site provider of water or sewerage to the Audubon Property for water or sewerage provided at any time from September 28, 2016, to February 22, 2022;
- Bills, invoices, or statements from any off-site provider of water or sewerage to the Veridian Property for water or sewerage provided at any time from January 30, 2018, to February 22, 2022;
- Contracts between You and Strata Audubon, LLC applicable to billing for water or sewerage at the Audubon Property at any time from September 28, 2016, to February 22, 2022;
- Contracts between You and Strata Veridian, LLC applicable to billing for water or sewerage at the Veridian Property at any time from January 30, 2018, to February 22, 2022;
- Communications between You and Strata Audubon, LLC the subject of which is or which mentions the number of persons residing in each apartment unit at the Audubon Property at any time from September 28, 2016, to February 22, 2022;

- Communications between You and Strata Veridian, LLC the subject of which is or which mentions the number of persons residing in each apartment unit at the Veridian Property at any time from January 30, 2018, to February 22, 2022;
- Documents You received from Strata Audubon, LLC at any time from September 28, 2016, to February 22, 2022, stating the number of persons residing in each apartment unit at the Audubon Property;
- Documents You received from Strata Veridian, LLC at any time from January 30, 2018, to February 22, 2022, stating the number of persons residing in each apartment unit at the Veridian Property;
- Communications between You and Strata Audubon, LLC the subject of which is or which mentions the rate charged by an off-site provider for water or sewerage to the Audubon Property at any time from September 28, 2016, to February 22, 2022;
- Communications between You and Strata Veridian, LLC the subject of which is or which mentions the rate charged by an off-site provider for water or sewerage to the Veridian Property at any time from January 30, 2018, to February 22, 2022;
- Documents You received from Strata Audubon, LLC at any time from September 28, 2016, to February 22, 2022, stating the rate charged by an off-site provider for water or sewerage to the Audubon Property;
- Documents You received from Strata Veridian, LLC at any time from January 30, 2018, to February 22, 2022, stating the rate charged by an off-site provider for water or sewerage to the Veridian Property;
- Communications between You and Strata Veridian, LLC the subject of which is or which mentions the square footage of the apartment units at the Veridian Property and sent or received at any time from January 30, 2018, to February 22, 2022; and
- Documents You received from Strata Veridian, LLC at any time from January 30, 2018, to February 22, 2022, stating the square footage of apartments units at the Veridian Property.

|                                                                                                                                 |                                                          |
|---------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| PLACE<br><b>The Steinberg Law Firm, LLC</b><br><b>103 Grandview Drive</b><br><b>Summerville, SC 29483</b>                       | DATE AND TIME<br><b>September 19, 2022 4:00 P.M. EST</b> |
| <input type="checkbox"/> YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below. |                                                          |
| PREMISES                                                                                                                        | DATE AND TIME                                            |

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS SUIT IS HEREBY DIRECTED PURSUANT TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, AND SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

F. Elliotte Quinn IV, P.O. Box 2670, Summerville, SC 29484, (843) 871-6522,  
equinn@steinberglawfirm.com

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1) AND THAT  
NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY  
FOR PLAINTIFF OR DEFENDANT)



Attorney for Complainants

8/24/22

DATE



**STEINBERG**

L A W F I R M | L L P

*Get The Firm Behind You*

103 Grandview Drive | P.O. Box 2670 | Summerville | SC | 29483 | (843) 871-6522 | (843) 871-8565 fax | [www.steinberglawfirm.com](http://www.steinberglawfirm.com)

August 24, 2022

**VIA CERTIFIED MAIL (RESTRICTED DELIVERY AND RETURN RECEIPT REQUESTED) AND ELECTRONIC MAIL**

Charleston Water System  
C/O Chief Executive Officer Kin Hill  
103 St. Philip Street  
Charleston, SC 29403  
[jeffersont@charlestoncpw.com](mailto:jeffersont@charlestoncpw.com)

Charleston Water System  
C/O Haley Doty Vaden, Records Manager  
P.O. Box B  
Charleston, SC 29402  
[dotyvadenhc@charlestoncpw.com](mailto:dotyvadenhc@charlestoncpw.com)

Re: Subpoena Duces Tecum  
Zito, et al. v. Strata Audubon, LLC, et al.  
Docket No.: 2022-84-WS  
SLF File No.: 202019013

Dear Mr. Hill and Ms. Vaden:

I represent Complainants in the above-referenced proceeding before the Public Service Commission of South Carolina. Please find enclosed a subpoena for documents related to the proceeding. Please respond with the responsive documents by September 19, 2022. In lieu of appearing with the documents at the date and time stated, you may send copies of the documents to my paralegal, Monica Correa, at [mcorrea@steinberglawfirm.com](mailto:mcorrea@steinberglawfirm.com) or to her attention at The Steinberg Law Firm, 103 Grandview Drive, Summerville, SC 29484.

In the event that the costs of producing the requested materials will exceed \$250.00, please notify me in advance of incurring such costs.

DOWNTOWN | 61 Broad Street | P.O. Box 9 | Charleston | SC | 29402-0009 | 843.720.2800 | 843.722.1190 fax  
NORTH AREA | 118 Goose Creek Boulevard South | P.O. Box 1028 | Goose Creek | SC | 29445 | 843.572.0700 | 843.572.1871 fax

August 24, 2022

Page 2

If you have any questions or need assistance, please contact Monica Correa at mcorrea@steinberglawfirm.com or 843-871-6522. Thank you in advance for your prompt attention to and compliance with this subpoena.

Regards,



Elliotte Quinn  
equinn@steinberglawfirm.com  
843-871-6522

Cc: (via e-mail and e-filing on SCPSC DMS)

Andrew M. Bateman  
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Office of Regulatory Staff  
abateman@ors.sc.gov

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Robinson Gray Stepp & Laffitte, LLC  
kbell@robinsongray.com  
ltraywick@robinsongray.com

STATE OF SOUTH CAROLINA  
ISSUED BY THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

IN RE:

SARAH ZITO; ALVARO SARMIENTO, JR.;  
MARK SHINN; and DANIEL BERMUDEZ,

Complainants,

v.

STRATA AUDUBON, LLC and STRATA  
VERIDIAN, LLC,

SUBPOENA IN PROCEEDING BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

Docket Number: 2022-84-WS

TO: **Charleston Water System**  
**C/O Chief Executive Officer Kin Hill**  
**103 St. Philip Street**  
**Charleston, SC 29403**  
**jeffersont@charlestoncpw.com**

and

**Charleston Water System**  
**C/O Haley Doty Vaden, Records Manager**  
**P.O. Box B**  
**Charleston, SC 29402**  
**dotyvadenhc@charlestoncpw.com**

☐ YOU ARE COMMANDED to appear in the above named court at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

The terms "You" and "Your" as used herein refers to the person or entity to which this subpoena is addressed and any agents, employees, consultants, other representatives, and parent, successor, or affiliated entities.

The term "Audubon Property" means the apartment complex owned by Strata Audubon, LLC, known as the "Audubon Park Apartments," and located at 1700 Eagle Landing Boulevard in Hanahan in Berkeley County, South Carolina.

- Documents stating the rates You charged for water and sewer services to the Audubon Property at any time during the period from September 28, 2016, to February 22, 2022;

- Documents stating the monthly water or sewer usage of the Audubon Property at any time during the period from September 28, 2016, to February 22, 2022; and
- Your monthly bills for water and sewerage for the Audubon Property from September 28, 2016, to February 22, 2022.

PLACE

**The Steinberg Law Firm, LLC**  
**103 Grandview Drive**  
**Summerville, SC 29483**

DATE AND TIME

**September 19, 2022 4:00 P.M. EST**

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS SUIT IS HEREBY DIRECTED PURSUANT TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, AND SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

F. Elliotte Quinn IV, P.O. Box 2670, Summerville, SC 29484, (843) 871-6522,  
 equinn@steinberglawfirm.com

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1) AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

  
 Attorney for Complainants

8/24/22

DATE



Save as PDF file and Email form  
to: [contact@psc.sc.gov](mailto:contact@psc.sc.gov)

\* Required Fields

Date: \* 05/04/2022

**Letter of Protest**  
**Docket No. 2022-84-WS**

**Protestant Information:**

Name \* Kimberly Godsey, on behalf of the Utility Management & Conservation Association  
Mailing Address \* 15280 Addison Road, Ste 100  
City, State Zip \* Addison, Texas 75001 Phone \* (214) 364-9598  
E-mail kgodsey@minolusa.com

**1. What is your connection or interest in this case? \* For example, are you a customer of the Company that is the subject of this pending proceeding? (This section must be completed. Attach additional information if necessary.)**

The Utility Management & Conservation Association ("UMCA") is a national trade association promoting energy conservation and tenant utility consumption accountability by supporting sub-metering, billing, and utility expense management programs for electricity, gas, trash, water, and sewer services. UMCA has over 40 members who provide utility expense management and billing services to multi-family property owners and condominium associations, many of which operate in South Carolina. The UMCA is an interested party in this docket and welcomes the opportunity to distinguish its members' business practices from the Respondent in this Docket No. 2022-87-WS. (Additional information attached).

**2. Please give a concise statement of your protest. \* (This section must be completed. Attach additional information if necessary.)**

Please see attached "UMCA'S LETTER OF PROTEST IN OPPOSITION TO COMPLAINANTS".

**3. Do you wish to make an appearance at a hearing in this proceeding , if scheduled, and offer sworn testimony? \***

Yes, the UMCA wishes to make an appearance at a hearing through one of its members.

Signature Required:

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

**IN RE: )**  
**SARAH ZITO; ALVARO SARMIENTO, )**  
**JR.; MARK SHINN; AND DANIEL )**  
**BERMUDEZ, )**  
**Complainants, )**  
**v. )**  
**STRATA AUDUBON, LLC AND )**  
**STRATA VERIDIAN, LLC, )**  
**Defendants. )**

**DOCKET NO. 2022-84-WS**

## UMCA'S LETTER OF PROTEST IN OPPOSITION TO COMPLAINANTS

Pursuant to S.C. Code Ann. Regs. 103-827(A), the Utility Management & Conservation Association (“UMCA”) hereby submits this Letter of Protest as intended to advise the Public Service Commission of South Carolina (“Commission”) and all parties to a proceeding before the Commission of the fact and character of the UMCA’s objection to part or all of the subject matter of the proceeding.

## I. Background

The UMCA is a national trade association promoting energy conservation and tenant utility consumption accountability by supporting sub-metering, billing, and utility expense management programs for electricity, gas, trash, water, and sewer services. UMCA has over 40 members who provide utility expense management and billing services to multi-family property owners and condominium associations, many of which operate in South Carolina. The UMCA is an interested party in this docket and welcomes the opportunity to distinguish its members' business practices from the Respondent in this Docket No. 2022-87-WS, whose activities prompted the Complainants

to file the Complaint alleging unlawful practices related to the tenant billing of water and sewer services.<sup>1</sup>

The allegations brought forth by the Complainants claim that (a) the lack of actual measurement of water and sewer through the use of a submeter, (b) the use of rates assessed to tenants that differ from the rates charged by a utility provider to a landlord and/or property owner, and (c) assessment of administrative fees for water and sewer allocation rates, subject a landlord and/or property owner to the jurisdiction and regulation of the Commission by meeting the statutory definition of a “public utility”, as defined under S.C. Code Ann. Section 58-5-10 (3), as an entity or person furnishing or supplying water, sewerage collection, and sewerage disposal to the public for compensation. The UMCA presents its arguments as follows to provide the Commission with a distinction of the common practices of water and sewer allocation billing by the UMCA members from the allegations brought forth by the Complainant as a means to request the Commission include such distinction in its final Order to ensure that no prohibition, nor inclusion within the definition of “public utility”, of the common practice of water and sewer allocation tenant billing is inferred by incident of the Commission’s Order.

## **II. Arguments**

### **A. Explanation of Water and Sewer Allocation Methodology**

A utility allocation method, also known as Ratio Utility Billing System (“RUBS”), is an alternative method of tenant billing of utilities, in contrast to sub-metering (a method used to measure actual utility usage), as a means of recovering the utility expense billed by the utility provider to a landlord for usage consumed by tenants. RUBS is a common practice used by

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<sup>1</sup> UMCA is the successor to NSUAA. NSUAA’s testimony was favorably cited and relied upon by the Commission in Docket No. 2001-485-W/S, Order No. 2003-214, *In Re: Rule to Show Cause on Submeters*, where the Commission ruled that the activities of measuring water usage by use of submeters and the provision of related utility billing functions did not make submeterers “public utilities” for purposes of regulation by the Commission.

property owners nationwide that divides the utility expense proportionally between the tenants based on a mutually agreed-upon formula. Commonly used and regulated in many jurisdictions, such as Arizona<sup>2</sup>, Indiana<sup>3</sup>, Texas<sup>4</sup>, Virginia<sup>5</sup>, along with several others, RUBS provides an equitable method for a landlord to recover its utility expense, while also promoting conservation through the transparency of utility costs billed directly to tenants in lieu of inclusion within rent. These jurisdictions expressly include methods most commonly used as a form of RUBS to include (1) by number of tenants, (2) by livable square footage, (3) by unit or bedroom type, (4) by proportionate sub-metered hot water use, or (5) any other fair allocation of charges as provided within the terms of the lease agreement. Such methods have been utilized in these jurisdictions for many years without any violation of consumer protection laws or public utility regulations, while also significantly contributing towards water conservation. A 1999 study conducted by Industrial Economics of Cambridge, Massachusetts, analyzed water billing practices at properties in Texas, Florida, and California that had implemented RUBS and discovered that RUBS properties used between 6 and 27 percent less water than properties that included water costs within the rent.<sup>6</sup> These findings seem logical as tenants are less likely to allow a running toilet or dripping faucet if they know they must pay for it. Accordingly, a shift in Commission policy that discourages RUBS will result in waste which depletes the state's limited natural resources and increased occupancy costs for affected tenants.

Due to the nature of utilities and outdated building infrastructure, RUBS is the most cost-efficient utility allocation mechanism for many buildings that lack a preexisting sub-meter

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<sup>2</sup> Arizona Revised Statutes §33-1314.01(F).

<sup>3</sup> 170 Indiana Administrative Code §15-2-2(a)(1)(B).

<sup>4</sup> Public Utility Commission of Texas Subst. R. §24.281(e).

<sup>5</sup> Code of Virginia §55.1-1212(D).

<sup>6</sup> Koplow, D. and A. Lownie. 1999. "Submetering, RUBS, and Water Conservation". Industrial Economics, Inc. Cambridge, MA.

infrastructure.<sup>7</sup> In such buildings, the addition of sub-meters is often cost-prohibitive, or simply infeasible. The use of RUBS does not provide a means for a landlord to profit from its utility billing to tenants, but simply a means of reimbursement of utility costs borne by tenants, yet assessed against landlords. In Commission Orders 2003-214 (Docket No. 2001-485-W/S) and 2008-725 (Docket No. 2008-192-W/S), the Commission determined that submetering does “not meet the statutory definition of a ‘public utility’” as “submeters do not actually ‘furnish or supply’ the commodity, but merely measure the amount of flow”; by extension, RUBS, as a measuring method would also not be considered to be furnishing or supplying the commodity that would subject a landlord to status as a ‘public utility.’<sup>8</sup> In sum, RUBS, even with the absence of measurement of actual use, is not a method that would cause an entity or person to meet the definition of a “public utility” as defined under S.C. Code Ann. Section 58-5-10 (3) (Supp. 2002).

### **B. Calculation of Rates Using the Occupancy Method**

The most commonly used rate calculation method for RUBS is to take the utility provider bill that is sent to the landlord, subtract any late penalties, deposits, disconnect or reconnect fees, and any applicable common area deductions, and divide the remainder by the selected RUBS method and the number of days in the usage cycle to determine a per day consumption rate. Using the per tenant, or as most commonly known as the “occupancy method”, the landlord takes the utility provider bill, less any penalties and common area deductions, and divides the remaining amount by the total number of occupants in the apartment building to determine a per occupant rate. This method provides the landlord the ability to equitably distribute the utility cost based on the number of occupants in each unit. While the per occupant rate will not equal the utility

<sup>7</sup> HUD.Loans. 2022, “RUBS: Ratio Utility Billing System”, <https://www.hud.loans/hud-loans-blog/2022/1/26/rubs-ratio-utility-billing-system>.

<sup>8</sup> *In Re: Rule to Show Cause on Submeters*, Docket No. 2001-485-W/S, Order No. 2003-214, Public Service Commission of South Carolina, April 15, 2003 and *In re: Petition for a Declaratory Order*, Docket No. 2008-192-W/S, Public Service Commission of South Carolina, October 28, 2008.

provider's posted rate schedule, as the latter is a rate per gallon and not a rate per occupant, this method nevertheless ensures that the total billed to the occupants does not exceed the total billed by the utility provider, thus allowing reimbursement while avoiding compensation in excess of the utility provider bill.

### **C. Use of Occupancy Method is Reasonable**

As mentioned above, several states, and even some cities and counties, have enacted laws and regulations permitting RUBS as a means for a landlord to recover its utility expense, and such laws and regulations expressly include the occupancy method that forms the basis of this Complaint. Montgomery County Department of Housing and Community Affairs (“MCDHCA”) plainly states that “RUBS provides a comprehensive regulatory system to assure that practices used by landlords to allocate water and sewer (wastewater) costs to tenants are just and reasonable.”<sup>9</sup> MCDHCA went even further on to provide formulas to use for RUBS, to include the occupancy method as its #1 formula.<sup>10</sup> The Public Utility Commission of Texas provides the same within its Tenant Guide and lists the first option for calculating tenant water and sewer by an allocation method by use of the occupancy method.<sup>11</sup> Even more so, Indiana’s Administrative Code clearly states that reasonable allocations may be based on an estimated volume of water distributed to each tenant.<sup>12</sup>

Given that the occupancy method has been deemed reasonable by several state and local legislative officials, the Complainants’ argument that such method is unjust and unreasonable based simply on the absence of meters measuring actual usage is without merit. The long-standing practice of using the actual charges billed by the utility provider to the landlord and passing such

<sup>9</sup> Montgomery County Department of Housing and Community Affairs, February 2017, “*Multi-Family Apartment Complex Ratio Utility Billing System*,” [https://montgomerycountymd.gov/DHCA/Resources/Files/housing/licensing/form\\_rubs\\_survey\\_update.pdf](https://montgomerycountymd.gov/DHCA/Resources/Files/housing/licensing/form_rubs_survey_update.pdf)

<sup>10</sup> *Id.*

<sup>11</sup> Public Utility Commission of Texas, “*Utili-Facts – Allocated utility Service for Property Owners*,” <https://www.puc.texas.gov/consumer/facts/factsheets/waterfacts/TenantGuideAllocatedService.pdf>

<sup>12</sup> 170 Indiana Administrative Code §15-2-2(a)(1)(B).

costs along to the tenants in an equitable manner, such as the occupancy RUBS method, provides more transparency to tenants as to their actual utility costs than inclusion of utilities within rent. Utility-inclusive rent offers no clear guidelines as to the determination of tenants' utility use and could be greatly exceeding the actual utility costs billed by the utility provider to the landlord. The Complainants are asking for an order well outside the Commission's jurisdiction by requesting it to adjudicate issues relating to contract law, the Residential Landlord Tenant Act, and common law negligence claims.

#### **D. Administrative Fees Do Not Automatically Classify a Landlord as a "Public Utility"**

Similar to the practice of RUBS, assessment of administrative fees as part of the utility billing expense recovery by landlords has been a common practice for years. As with any provision of service to tenants, a cost is borne by the landlord to provide tenant utility billing and the practice of passing such costs on to the tenants in lieu of increasing base rent should not cause a landlord to become a "public utility". As summarized by the Commission in Docket No. 2001-485-W/S, *In Re: Rule to Show Cause on Submeters*, the activities of landlords passing through utility costs and providing billing functions to its tenants do not cause such landlords to be classified as "public utilities" for purposes of regulation by the Commission.<sup>13</sup> Administrative fees combined with utility costs billed to tenants using the RUBS method that do not exceed the total utility provider bill as billed directly to the landlord by the utility provider do not violate the law or any Commission rules. In the multiple jurisdictions mentioned hereinabove, tenants may request that landlords provide copies of the utility provider bills, along with an explanation of the RUBS method used, to give the tenant the ability to confirm that the total billed to the tenants did not exceed costs billed directly to the landlord.<sup>14</sup> This requirement allows a tenant to confirm the

<sup>13</sup> *In Re: Rule to Show Cause on Submeters*, Docket No. 2001-485-W/S, Order No. 2003-214, Public Service Commission of South Carolina, April 15, 2003.

<sup>14</sup> Public Utility Commission of Texas Subst. R. §24.277(e); Code of Virginia §55.1-1212(E); MD County Code §29.00.01.05.

accuracy of the landlord's utility billing and provides confirmation that the landlord does not provide utility service for compensation.

### III. Conclusion

Pursuant to the Commission's past rulings, landlords whom pass through utility costs to its tenants without compensation do not fall within the definition of a "public utility" and thereby are not subject to the jurisdiction of the Commission.<sup>15</sup> The Commission has stated further that the activities of measuring the commodity and providing billing functions do not cause an entity to fall within the definition of a "public utility", and therefore, in the same, would not cause an entity that is merely allocating the commodity to fall within such definition.<sup>16</sup> If the Commission adopts a policy classifying an entity using RUBS as a "public utility", South Carolina may see an increase in overall rental housing costs. Following the significant financial impact to landlords who must now pay for utilities out of pocket, landlords will most likely need to be increase rent to offset this cost. The increase could be significant as landlords will need to factor in future rate increases and the expected jump in usage as tenants fail to conserve. In short, by setting a policy to cause an entity that neither furnishes or supplies a commodity, nor receives compensation for such act, to subject itself to significant and costly regulations by the Commission if deemed a "public utility", the Commission may inadvertently contribute to a decrease in affordable housing and an increase in water and sewer usage.

If the Commission seeks to address possible consumer protection issues in this matter should the facts prove the Respondent did receive compensation for its acts against the Complainants, we respectfully ask the Commission to distinguish in its Order the practices of landlords utilizing RUBS without compensation as activities that do not fall within the definition

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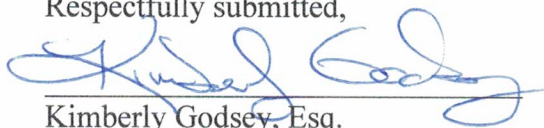
<sup>15</sup> *In re: Petition for a Declaratory Order*, Docket No. 2008-192-W/S, Public Service Commission of South Carolina, October 28, 2008.

<sup>16</sup> *Id.*

of a "public utility" for purposes of regulation by the Commission. Should the Commission schedule a hearing in this matter, the UMCA wishes to make an appearance and offer sworn testimony.

Dated: May 04, 2022

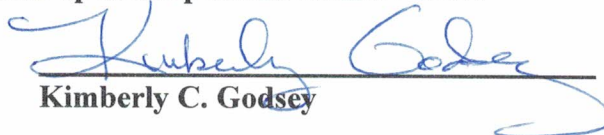
Respectfully submitted,



Kimberly Godsey, Esq.  
UMCA Board Member, Vice-Chair  
General Counsel, Minol, Inc.  
(UMCA Member)  
15280 Addison Road, Ste. 100  
Addison, Texas 75001  
Tel: (214) 364-9598  
Fax: (469) 791-4765  
Email: [kgodsey@minolusa.com](mailto:kgodsey@minolusa.com)

# CERTIFICATE OF SERVICE

This is to certify that on this 4<sup>th</sup> day of May, 2022, a true and correct copy of the foregoing document was served by electronic mail upon the persons named below.

  
Kimberly C. Godsey

Andrew M. Bateman, Counsel  
Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, SC 29201  
Email: [abateman@ors.sc.gov](mailto:abateman@ors.sc.gov)

David Stark, Staff Counsel  
Public Service Commission of South  
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Email: [david.stark@psc.sc.gov](mailto:david.stark@psc.sc.gov)

F. Elliotte Quinn IV, Counsel  
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Summerville, SC 29843  
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Rachel Igdal, Counsel  
Steinberg Law Firm  
The Steinberg Law Firm  
103 Grandview Drive  
Summerville, SC 29843  
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Roger P. Hall, Counsel  
South Carolina Department of Consumer  
Affairs  
\*\*For Notice Purposes\*\*  
Post Office Box 5757  
Columbia, SC 29250  
Email: [rhall@scconsumer.gov](mailto:rhall@scconsumer.gov)

Vordman C. Traywick III, Counsel  
Robinson Gray Stepp & Laffitte, LLC  
Post Office Box 11449, Columbia SC 29201  
1310 Gadsden Street  
Columbia, SC 29201  
Email: [ltraywick@robinsongray.com](mailto:ltraywick@robinsongray.com)

**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. 2022-84-WS**

SARAH ZITO, ALVARO SARMIENTO,  
JR., MARK SHINN; AND DANIEL  
BERMUDEZ,

Tenants,

v.

STRATA AUDUBON, LLC AND STRATA  
VERIDIAN, LLC,

Respondents.

**RESPONDENTS' REPLY TO TENANTS'  
MEMORANDUM IN OPPOSITION AND  
MOTION FOR ORDER**

Respondents Strata Audubon, LLC and Strata Veridian, LLC (the “Landlords” or “Respondents”), by and through counsel and pursuant to S.C. Code Regs. 103-829, submit this reply to the Memorandum in Opposition to Respondents’ Request for an Order Finding That No Testimonial Hearing is Required in this Proceeding and Dismissing the Matter Based on the Written Record Before It and Motion for Order Granting Complainants’ Relief (the “Memorandum in Opposition”) submitted by Sarah Zito, Alvaro Sarmiento, Jr., Mark Shinn, and Daniel Bermudez (collectively, the “Tenants”).

**ARGUMENT**

The Public Service Commission of South Carolina (the “Commission”) is simply not the proper venue for the complaints and allegations brought here by the Tenants, which involve a Landlord/Tenant dispute. As an initial matter, the Commission must make a threshold decision as to whether the Landlords are public utilities subject to its jurisdiction. Prior Commission orders make it clear that they are not. This being the case, the only action the Commission can properly take here is to dismiss the Complaint. Parties have the right to a contested case hearing under the

South Carolina Administrative Procedures Act only where they can show that a specific statute gives them the right to a hearing. S.C. Code Ann. § 1-23-310(3). In this case, the statutes administered by the Commission do not regulate this activity, and so there can be no statutory right to a hearing before the Commission on this matter. The absence of jurisdiction is fatal to any claim by Tenants of the right to a contested case hearing.

The Tenants simply have no legal argument, and no Commission orders or South Carolina law that support their position that a Ratio Utility Billing System (“RUBS”) method, an off-shoot of submetering, for passing through water and sewer costs is regulated by the Commission. Rather, the Tenants appear to argue that use of an actual submeter is the *preferred* method over RUBS (which Respondents do not dispute) but Tenants are effectively asking the Commission to *require* Landlords to install submeters where there is no preexisting infrastructure, a request that the Commission is without authority to grant. In arguing for the *preferred* method of submetering, the Tenants present testimony from a resident of Ohio, Ashley Brown, to urge the Commission that the RUBS method *should* be regulated. (*See* Memorandum in Opposition, Exhibit F at 14 (“regulatory oversight is long overdue.”)). However, that question has previously been asked and answered by the Commission through the *In Re Submetering* docket, and the Commission’s prior orders conclusively establish that submetering, including the allocation version of submetering, is not regulated by the Commission.

Most importantly, Tenants completely ignore the prior decisions of this Commission which thoroughly evaluated the policy arguments over whether submetering activities of landlords should be regulated by the Commission. In these Orders, the Commission already considered all the policy arguments Tenants now propose, and determined that submeterers “do not meet the statutory definition of a public utility.” *In Re Submeterers*, Docket No. 2001-485-W/S, Order No.

2003-214. In Order No. 2003-214, the Commission found persuasive the evidence that Landlords are not permitted under the Landlord-Tenant Act to disconnect water service for non-payment, which is inconsistent with regulation as a public utility and should the Commission regulate a Landlord as a public utility, a Landlord would be permitted to disconnect a tenant's service for non-payment, running afoul of the Landlord-Tenant Act. Among other policy arguments presented, the Commission declined to regulate submeterers.

Instead, Tenants' filings in this proceeding repeatedly show their misunderstanding of the Commission's prior orders on this subject matter. In their original complaint, Tenants claim that the Commission "declared that any entity that sells water or provides sewerage for compensation is a public utility including entities that do so through submetering or the allocation version of submetering." (Complaint, para 46 (citing Order No. 2003-214 and Order No. 2008-725)). As pointed out in Respondents' Request for an Order, the Orders of the Commission say the exact opposite. (Respondents' Request for an Order, at 4-5). Realizing their mistake, Tenants now claim an allocation method is "fundamentally different" from submetering, and state that they only referred to it as the "allocation version of submetering" because the Commission referred to it that way in Order No. 1999-307. (Memorandum in Opposition, at 21, fn 2). But this attempt to clarify their prior statement cuts against their own argument by pointing out that the Commission has already considered and ruled that submetering *includes the use of an allocation formula*. See Order No. 1999-307 (defining submetering and including an "offshoot of this practice" which is "a master-meter... allocating ... charges... by means of a calculated formula."). Further, Tenants attempt to distinguish RUBS from submetering by arguing that the RUBS method does not measure the "actual water and sewer usage" of each individual *tenant*. (Memorandum in Opposition, at 7, 27). This is not disputed. Without submeters installed in each unit, there is no

way to measure the *actual* usage of each tenant, which is why the RUBS method was invented--to be used where there is no existing, or functioning submeterers and the cost to install, repair or replace, are cost prohibitive. However, RUBS is still a method to “measure” the usage of each tenant, albeit imprecise, to recover the cost of providing water or sewer services. Tenants’ attempts to distinguish RUBS from submetering simply fails, and they can cite to no prior Commission orders to support their position. Instead, the Commission’s prior orders clearly show that RUBS is a version of submetering used where actual submetering infrastructure does not exist or does not function properly.

Further, the arguments and evidence presented by the Tenants in their Complaint and Motion in Opposition do not go to whether a RUBS, in and of itself, subjects a landlord to public utility status. Instead, the Tenants’ repeated complaints and proffered evidence surround the *application* of the RUBS method used by the Landlords to pass through the cost of certain services. For example, Tenants allege that the Landlords had a duty to validate the number of persons residing in each unit to confirm the RUBS method was being implemented correctly. (Memorandum in Opposition, at 8). Just because the services complained of happen to be “water and sewer” services does not give the Commission jurisdiction. Neither does a complaint over the *implementation* of a RUBS method convert an otherwise non-regulated activity by the Commission into a regulated one, nor raise Respondents’ status to that of a public utility.

The facts and issues presented by Tenants amount to nothing more than a Landlord/Tenant dispute over which the Commission does not have jurisdiction, but the Tenants here are not without a remedy, which may be pursued under the Landlord-Tenant Act. As such, Respondents do not here attempt to respond to the evidence or additional claims presented by Tenants alleging the allocation method was improperly implemented or exceeded any authorized or agreed upon

methodology as those issues are not relevant to the jurisdictional issue before the Commission—whether Landlords who use a RUBS method are a public utility. Respondents reserve the right to raise objections and address those allegations and issues when and if they are raised in a proper venue.

### **CONCLUSION**

In conclusion, Respondents respectfully request the Commission find and conclude, consistent with prior Orders, that passing through the costs of water and sewer services to its tenants through an allocation formula does not subject an apartment owner to public utility status, and to issue an order on the merits ruling that Respondents are not public utilities subject to Commission jurisdiction and dismissing the Complaint.

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June 15, 2023

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**Aug 19 2024**

**SC Court of Appeals**

Certificate of Counsel

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The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

August 16, 2024

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Sep 05 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM  
THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

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Appellate Case No. 2024-000208  
PSC Docket No. 2022-84-WS

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Sarah Zito, Alvaro Sarmiento, Jr., Mark Shinn, and Daniel Bermudez, Appellants,

v.

Strata Audubon, LLC and Strata Veridian, LLC, Respondents.

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BRIEF OF APPELLANTS

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### **STATEMENT OF ISSUES**

- I. Did the Public Service Commission err in holding, contrary to the plain, unambiguous language of Section 58-5-10(4) of the South Carolina Code of Laws, that Respondents did not operate as a public utility?
- II. Were there some ambiguity in Section 58-5-10(4), did the Public Service Commission err in holding Respondents did not operate as a public utility?
- III. Was the Public Service Commission's decision arbitrary and capricious in deviating from prior orders without a reasoned basis for the deviation?
- IV. Did the Public Service Commission err in making factual findings not supported by substantial evidence and immaterial under Section 58-5-10(4) and prior orders?

## **STATEMENT OF THE CASE**

Appellants initially filed an action in the Berkeley County Court of Common Pleas on September 22, 2020, *Zito v. Strata Equity Grp., Inc.*, 2020-CP-08-2090, against Respondents and others raising the issues asserted in this action. Respondents and the other defendants in that action removed the case to the United States District Court for the District of South Carolina on October 29, 2020, and moved to dismiss the action on the basis Appellants failed to exhaust their administrative remedies, as well as other grounds. On September 10, 2021, the District Court granted the motion and dismissed the action “without prejudice based on [Appellants’] failure to exhaust the available administrative remedies.”

On February 22, 2022, Appellants filed this action before the Public Service Commission of South Carolina (the “Commission”). On May 4, 2022, Respondents moved to dismiss certain causes of action asserted by Appellants. On June 21, 2022, in Order 2022-503, the Commission granted the motion to dismiss and dismissed certain claims.

On April 12, 2023, Respondents filed a Request for an Order Finding that No Testimonial Hearing is Required in this Customer Complaint Proceeding and Dismissing the Matter Based on the Written Record Before It. In response, on May 26, 2023, Appellants filed a Motion for Order Granting Complainants Relief Based on the Written Record or in the Alternative, Setting a Schedule and a Hearing and Memorandum in Opposition. On October 2, 2023, in Order 2023-736 (“Order 736”), the Commission dismissed the Complaint.

In the federal court action, following a denial of their motion for reconsideration, Appellants appealed the dismissal to the United States Court of Appeals for the Fourth Circuit on August 15, 2022. On December 18, 2023, the Fourth Circuit issued an unpublished per curiam opinion remanding the federal court action to the District Court for further proceedings.

Appellants filed a First Amended Complaint in the federal court action on March 15, 2024, and on April 12, 2024, Respondents moved to dismiss the First Amended Complaint.

In the Commission proceeding, on October 12, 2023, Appellants moved for reconsideration of Order 736. On January 18, 2024, in Order 2024-78, the Commission denied Appellants' Motion for Reconsideration. On February 12, 2024, Appellants filed the Notice of Appeal.

### **STATEMENT OF FACTS**

This action arises from apartment complex owners—Respondents—who supplied water and sewerage to tenants including Appellants at a rate different from what the owners paid to the area-wide utility for the water and sewerage, without measuring the actual water and sewerage usage of any apartment and instead using an allocation formula to divide the total usage at the apartment complex and allocate it to the tenants. Respondents included in the allocation formula and thereby charged the tenants for the water and sewerage used in the common areas of the properties. Respondents also charged the tenants administrative fees for allocating and billing the water and sewerage in addition to the allocation formula charge.

Appellants contend that conduct made Respondents a public utility subject to regulation of rates by the Commission. Appellants assert that the plain, unambiguous language of South Carolina's public utility law, Title 58 of the South Carolina Code, and the Commission's orders interpreting and applying Title 58 make Respondents a public utility. Respondents never sought Commission approval of the rates charged to their tenants for water and sewerage, and Appellants assert that therefore, Respondents charged an unlawful rate.

#### **I. Water and Sewerage Background.**

Water and sewerage services can be provided to apartment complex tenants in multiple ways. *In re Generic Proceeding Related to Sub-Metering of Electric, Water and Wastewater*

*Services*, Order No. 1999-307 (S.C.P.S.C. May 4, 1999) (“Order 307”).<sup>1</sup> One uncontroversial way of providing those services is to have the utility servicing the broader area—the area-wide utility—run its pipes up to and install a meter at each apartment. The tenants then contract directly with the area-wide utility for services. The utility uses that meter to measure the water and sewerage used by each apartment and bills each apartment’s tenants accordingly, with the landlord playing no role in providing or billing for the water and sewerage.

A second uncontroversial way of providing water and sewerage is for the area-wide utility to run its pipes to the landlord’s property with a meter at the connection point (the “master meter”). *Id.* at 3. The landlord then runs a pipe with a meter (the “submeter”) to each apartment, uses the submeter to measure the actual usage of each apartment, and charges the tenant only for that portion of the amount the area-wide utility charged the landlord that is directly attributable to that apartment as determined by the usage measured by the submeter. *See, e.g., id.*; Applicability of the Safe Drinking Water Act to Submetered Properties, 68 Fed. Reg. 74,233-01, 74,233, 2003 WL 22996790 (Dec. 23, 2003); R. p. 160, line 20–p. 162, line 16. In this “secondary meter” or “pass-through” form of providing water and sewerage, the tenants pay the same as what they would pay if they had contracts with and direct connections to the area-wide utility. This pass-through method of providing water and sewerage to tenants is a method the Commission decided does not render an entity a public utility because the entity is just passing through the service and associated charge to the tenant. *In re Seahorse Investment*, Order No. 2008-725, 2008 WL 9903512 (S.C.P.S.C. Oct. 28, 2008) (“Order 725”); *In re Rule to Show Cause on Submeterers*, Order No. 2003-214, 2003

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<sup>1</sup> The Commission order cited here and all filings with and orders of the Commission referenced in this brief are publicly available government records available through the Commission’s Docket Management System at [www.psc.sc.gov](http://www.psc.sc.gov) and of which the Court can take judicial notice. Rule 201, SCRE (Note); *Davenport v. City of Rock Hill*, 315 S.C. 114, 432 S.E.2d 451 (1993).

WL 23325952 (S.C.P.S.C. April 15, 2003). Respondents contend this pass-through method is how they provide water and sewerage to their tenants but with what they contend is a minor and insignificant difference—Respondents do not have submeters, do not measure tenants’ actual usages, and instead use a formula to allocate charges. As set forth *infra*, Appellants contend that difference is critical and causes Respondents to be a regulated public utility.

The third, controversial method of providing water and sewerage to tenants and the method actually used by Respondents is the “allocation formula” or “ratio utility billing system” method. Submetered Properties, 68 Fed. Reg. at 74,233 n.4. In the allocation formula method, the only meter is the master meter at the connection point between the area-wide utility and the landlord property owner. *See id.* There is no metering between the landlord’s pipes and each apartment. Instead, the landlord creates a formula by which it allocates to each tenant a portion of the total water and sewerage usage at the property. *Id.* The landlord provides water and sewerage to the tenants and then bills the tenants for that service using the landlord’s allocation formula. *Id.*

## **II. South Carolina Public Utility Law Background.**

Like other states, South Carolina defines several business enterprises, ranging from electrical utilities to motor vehicle carriers, as a “Public Utility” and subjects the “rates and service” of any public utility to regulation by the Commission. S.C. Code Ann. §§ 58-3-140 & 58-4-5. In Title 58 of the South Carolina Code—the title governing public utilities and the Commission—an entity that is a public utility subject to Commission regulation in providing water and sewerage is defined as including “every corporation and person furnishing or supplying in any manner . . . water, sewerage collection, sewerage disposal, . . . or any of them, to the public, or any portion thereof, for compensation.” S.C. Code Ann. § 58-5-10(4). Title 58 further provides that

the term “public or any portion thereof” used in defining a water or sewer utility includes “any limited portion of the public” even if only “a person.” S.C. Code Ann. § 58-5-10(5).

Title 58 provides the Commission is “vested with power and jurisdiction to supervise and regulate the rates and service of every public utility” and “to ascertain and fix such just and reasonable standard, classifications, regulations, practices, and measurements of service to be furnished, imposed, observed, and followed by every public utility.” S.C. Code Ann. § 58-5-210. Title 58 requires a utility to file a proposed rate for water or sewerage with and obtain approval from the Commission before the utility can charge customers that rate, and charging customers a rate not approved by the Commission is unlawful. S.C. Code Ann. §§ 58-5-240 & 58-5-370; S.C. Code Ann. Regs. 103-503 & -703. Title 58 also gives the Commission the power to determine that a rate charged by a water or sewer utility is “unjust” or “unreasonable” and order that a different rate be charged from that point forward. S.C. Code Ann. § 58-5-290.

### **III. Respondents Supplying Water and Sewerage to Tenants Using an Allocation Formula Plus Additional Charges.**

Appellants were tenants at two apartment complexes—the “Audubon Park Apartments” in Hanahan and the “Veridian Apartments” in Spartanburg—owned by Respondents. (R. pp. 1535-36 & 1552-56) At those properties, Respondents did not maintain any meter between Respondents’ tenants and the respective point of delivery/outflow of water and sewerage to/from the area-wide utility that Respondents obtained the services from. (R. pp. 1536 & 1554) In other words, there were no meters on the properties determining the actual water and sewerage usage of any particular apartment. (R. pp. 1536 & 1554)

The leases entered into with Appellants provided that water and sewerage would be provided to the tenants and billed for using an allocation formula rate. For the Audubon Park Apartments, the lease provided that water and sewerage would be billed by “allocation based on

the number of persons residing in your dwelling unit.” (R. pp. 1535-36, 1554, & 1583-84) For the Veridian Apartments, the lease provided that water and sewerage would be billed by “allocation based on a combination of square footage of your dwelling unit and the number of persons residing in your dwelling unit.” (R. pp. 1536, 1556, & 1623-24) Additionally, the leases provided that the water and sewerage usage in the common areas of the properties would be allocated to the tenants and that the tenants would be charged new account fees, monthly administrative billing fees, late fees, and final bill fees for utility charges. (R. pp. 1537, 1557, 1584, & 1624)

Respondents did not file any rate for water and sewerage or file their leases with the Commission. (R. pp. 1537 & 1557) Specifically, the Commission has not reviewed or approved the allocation rate, new account fees, monthly administrative billing fees, final bill fees, or inclusion of common area water and sewerage usage in the allocation formula rate used by Respondents. (R. pp. 1537 & 1557)

Appellants retained a statistician expert, Dr. William Huber, and a public utility regulation expert and former commissioner on a state public utility commission, Ashley Brown, who reviewed the available documents<sup>2</sup> and provided opinions in written testimony. Reviewing the measured water and sewer usage at each building at the Audubon Park Apartments property, the statistician expert found that the tenants in different buildings at the Audubon property were paying different rates for water and sewerage, stating he found “substantial variation in these per-occupant costs every month: typically, some occupants pay three times as much for their water and sewer

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<sup>2</sup> In addition to documents provided by the parties, over the course of the proceeding Appellants sent subpoenas to Charleston Water System, the area-wide utility providing water and sewerage to the Audubon Park Apartments, and to Conservice, LLC, the third-party entity that calculated, sent, and collected bills for water and sewerage for Respondents. (R. pp. 1658-67)

than other occupants of other buildings.” (R. p. 102, lines 11–13) The statistician also found that the allocation formula used by Respondents did not accurately allocate the water and sewerage charges among tenants, and specifically, “did not account for large measured variations among buildings in both water and sewer usage.” (R. p. 103, lines 8–11)

The public utility expert testified as to the differences between submetering and allocation formula billing. He explained that unlike submetering which reflects actual usage, an allocation formula rate “reflects subjective, and potentially entirely irrelevant, criteria, such as the number of permanent residents and the square footage of the individual unit.” (R. p. 161, line 13–p. 162, line 116) The expert explained that allocation formula billing fails to account for the fact that per capita consumption of water and sewerage is not uniform across tenants, does not provide a price signal to tenants to promote conservation of resources, provides no transparency in billing, and promotes manipulation by apartment complex owners. (R. p. 161, line 13–p. 162, line 116) The expert concluded that “the risks of formulaic pricing are precisely the asymmetric arrangements that regulatory oversight is intended to mitigate and control.” (R. p. 162, lines 14–16)

Addressing Respondents’ claim that they merely used an alternative method—the allocation formula—to measure water and sewerage, the public utility expert testified that the use of an allocation formula is not measuring the flow of water and sewerage. (R. p. 162, line 17–p. 163, line 2) He testified that “an allocation formula is not a measurement, it is a sale for resale.” (R. page 163, lines 1–2)

Addressing Respondents’ claim that they merely passed through water and sewerage to tenants, the public utility expert testified that using an allocation formula is not passing through water and sewerage and specifically, Respondents were not merely passing through water and sewerage to tenants. (R. page 163, line 21–p. 165, line 2) The public utility expert testified that

Respondents “were clearly being compensated through the administrative fees paid in addition to the charge for allocated water and sewer and through the tenants having to pay for water and sewer usage in the common areas.” (R. p. 165, lines 14-17.) He further testified that the administrative fees and common area usage charges “are a markup on the water and sewer, and [Respondents] cannot be engaged in a mere pass through where [Respondents] are marking up the water and sewer charges.” (R. p. 165, lines 14-16)

Addressing Respondents’ claim that they did not possess the water and sewerage provided to tenants, the public utility expert testified that “[u]nder a sale for resale arrangement, as carried out by [Respondents] in this case, [Respondents] undoubtedly take possession of the water.” (R. p. 165, lines 14–17.) The expert further explained that Respondents must be taking possession of the water because Respondents obtained the water on a volumetric basis and then allocated the charges for it on a formulaic basis while also diverting a portion of the supplied water for common area usage. (R. p. 165, line 14–p. 166, line 16.)

The public utility expert testified at length as to how the use of an allocation formula rate is inconsistent with public policy and the “fundamental principles” underlying public utility regulations and pricing. (R. p. 166, line 17–p. 168, line 1) Providing a summary of laws and regulations across jurisdictions, he testified as to the wide variation in treatment of allocation formula billing across jurisdiction in the United States, testifying that “[s]ome states permit allocation formula billing generally or have not addressed the issue, some states permit allocation formula billing but only subject to certain statutory and regulatory restrictions and limitations, and some states prohibit allocation formula billing.” (R. p. 169, line 2–p. 170, line 2.) He also testified that contrary to assertions otherwise, Respondents’ use of an allocation formula does not promote conservation of water. (R. p. 170, line 3–p. 171, line 16) Finally, addressing claims by

Respondents and anticipating the Commission's concerns, the public utility expert testified that the Commission finding Respondents acted as a public utility subject to Commission regulation would not result in a flood of apartment complex billing proceedings before the Commission. (R. p. 173, line 1–p. 174, line 3) In addition to the fact that apartment complexes could install submeters and avoid Commission regulation entirely, the public utility expert testified that public utility commissions have numerous regulatory options available “where the expense and broad scope of regulation of large utilities was more than what was needed to protect the consumers.” (R. p. 173, lines 19-20)

On October 2, 2023, the Commission entered Order 736 dismissing Appellants' claims. The Commission made six findings of fact in Order 736:

1. [Respondents] do not have water or sewer submetering infrastructure in either apartment building at issue in this proceeding.
2. [Respondents] contracted with a third-party billing provider, Conservice, to provide the billing functions for water and sewer service to resident units, and did not bill tenants directly, nor did [Respondents] contract directly with any utility providers for service to resident units.
3. [Respondents] contracted with Conservice to recover the actual costs of water and sewer services to its tenants through an allocation formula method on a not-for-profit basis.
4. [Respondents] do not have any monopoly rights over any service area; do not own any large, capital-intensive utility infrastructure; and do not seek or obtain any guaranteed rate of return on the pass-through billing of water and sewer services.
5. The water and sewer services are provided to the properties by local utilities and [Respondents] never take possession of the water and lack the ability to disconnect the water or sewer service to an individual tenant for non-payment.
6. [Respondents] are not operating a public utility that is subject to the jurisdictional authority of the Commission.

(R. pp. 25-26) The Commission concluded that “[m]erely providing metering services and a billing function is not sufficient activity to be considered a ‘public utility’ . . . ” and “[s]uch an arrangement does not subject the submeterer to the jurisdiction of the Commission.” (R. p. 35) Accordingly, the Commission dismissed the complaint for lack of subject matter jurisdiction. (R. p. 36)

### **STANDARD OF REVIEW**

Questions of statutory interpretation are issues of law to be decided by appellate courts *de novo* without any deference. *See, e.g., Comm’rs of Public Works of the City of Laurens v. City of Fountain Inn*, 428 S.C. 209, 219 n.4, 833 S.E.2d 834, 839 n.4 (2019) (“[T]his case is purely one of statutory interpretation, dependent only on how the undisputed facts apply to the statute. . . . [T]his case thus solely presents a question of law, which we review *de novo*.”); *S.C. Dep’t of Social Servs. v. Boulware*, 422 S.C. 1, 7, 809 S.E.2d 223, 226 (2018) (“Questions of statutory interpretation are questions of law, which are subject to *de novo* review and which we are free to decide without any deference to the court below.” (internal quotations omitted)). Where an administrative agency interprets a statute or regulation “administered by an agency,” courts are to engage in a two-step process in reviewing the agency’s interpretation. *Kiawah Dev. Partners, II v. S.C. Dep’t of Health & Env’t Control*, 411 S.C. 16, 32, 766 S.E.2d 707, 717 (2014). If “the language of a statute or regulation directly speaks to the issue,” then “the court must utilize the clear meaning of the statute or regulation.” *Id.* “If the statute or regulation is silent or ambiguous with respect to the specific issue,” the court is to proceed to the second step where the court defers to the agency interpretation “unless there is a compelling reason to differ” or the interpretation “is arbitrary, capricious, or manifestly contrary to the statute.” *Id.* at 33–35, 766 S.E.2d at 717–18 (internal quotation omitted). An agency decision “is arbitrary if it is without a rational basis, is

not based upon any course of reasoning or exercise of judgment, is made at pleasure, without adequate determining principles, or is governed by no fixed rules or standards.” *Daufuskie Island Utility Co., Inc. v. S.C. Off. of Regul. Staff*, 427 S.C. 458, 464, 832 S.E.2d 572, 575 (2019) (internal quotations omitted).

Where an appeal concerns an agency’s factual findings, “findings of fact of an administrative body must be sufficiently detailed to enable the reviewing court to determine whether the findings are supported by the evidence and whether the law has been properly applied to those findings.” *Able Commc’ns, Inc. v. S.C. Pub. Serv. Comm’n*, 290 S.C. 409, 411, 351 S.E.2d 151, 152 (1986). Factual determinations made by the Commission are subject to the substantial evidence standard of review, and a party challenging a factual finding of the Commission must show the finding is “clearly erroneous in view of the substantial evidence on the whole record.” *Kiawah Prop. Owners Grp. v. Pub. Serv. Comm’n of S.C.*, 357 S.C. 232, 237, 539 S.E.2d 148, 151 (2004). An agency decision is supported by substantial evidence where “upon looking at the entire record on appeal, there is evidence from which reasonable minds could reach the same conclusion that the ALC reached.” *Engaging & Guarding Laurens Cnty.’s Env’t v. S.C. Dep’t of Health & Env’t Control*, 407 S.C. 334, 342, 755 S.E.2d 444, 448 (2014).

## **ARGUMENT**

### **I. Order 736 is Erroneous and Must be Reversed Because it is Contrary to the Plain, Unambiguous Language of Section 58-5-10(4) of the South Carolina Code of Laws.**

#### **A. The Plain Language of Title 58 Requires Reversal.**

The plain language of Title 58 of the South Carolina Code directly speaks to the issue in this proceeding, and therefore, the Court must apply that plain language and hold that Respondents acted as a regulated public utility. If statutory language directly addresses an issue, a court is not to give any deference to an agency interpretation, and “the court must utilize the clear meaning of

the statute.” *Kiawah Dev.*, 411 S.C. at 32, 766 S.E.2d at 717. That principle follows from the elementary rule of statutory construction that “[w]here the statute’s language is plain and unambiguous, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.” *Hodges v. Rainey*, 341 S.C. 79, 86, 533 S.E.2d 578, 581 (2000). “The words used in a statute must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute’s operation.” *Gilstrap v. S.C. Budget & Control Bd.*, 310 S.C. 210, 214, 423 S.E.2d 101, 103 (1992).

Title 58 provides: “The term ‘public utility’ includes . . . every corporation and person furnishing or supplying in any manner . . . water, sewerage collection, sewerage disposal, . . . or any portion thereof, for compensation . . .” S.C. Code Ann. § 58-5-10(4). Therefore, an entity is a public utility regulated by the Commission and required to obtain Commission approval before charging customers a rate if: (1) the entity “furnish[es] or suppl[ies] . . . water, sewerage collection, [or] sewerage disposal . . . to the public, or any portion thereof” and (2) the entity does so “for compensation.” The Commission is obligated to apply South Carolina law and does not have the authority to disregard, alter, or deviate from statutory law. Section 58-5-10(4) plainly and unambiguously provides that any entity that furnishes or supplies water or sewer for compensation is a public utility regulated by the Commission.

While there may be potential policy reasons for defining a ‘public utility’ differently than the definition in Section 58-5-10(4), the General Assembly made the policy decision to define ‘public utility’ broadly in a manner encompassing Respondents. Where the General Assembly made a policy decision expressed in the plain language of a statute, both as a matter of the legal principles of statutory interpretation and as the result of South Carolina’s constitutional separation of powers, administrative agencies and courts must apply the statutory language and cannot use

policy considerations to interpret the statute as having a narrower application than the statutory text provides. *See, e.g.*, S.C. Const. art. I, § 8 (requiring the three branches of government be “forever separate and distinct from each other, and no person or persons exercising the functions of one of said department shall assume or discharge the duties of any other”); *Smith v. Tiffany*, 419 S.C. 548, 565, 799 S.E.2d 479, 488 (2017) (“We construe the statute in a manner to give effect to the policy decision made by the legislature. . . . [T]he policy decision belongs to the legislature, and the legislature has crafted the provisions of the Act as it sees fit. We are a court, not a legislative body. That a court may disagree with a legislative body’s policy decisions or believe a perceived ‘more fair’ outcome exists is of no moment.”); *Hampton v. Haley*, 403 S.C. 395, 403–09, 743 S.E.2d 258, 262–65 (2013) (stating that “while non-legislative bodies may make policy determinations when properly delegated such power by the legislature, absent such a delegation, policymaking is an intrusion upon the legislative power,” and “hold[ing] the [agency] violated the separation of powers by acting beyond its statutory authority and infringing upon the General Assembly’s power to make policy determinations”). As succinctly stated by the United States Court of Appeals for the Fourth Circuit, “no amount of policy-talk can overcome plain statutory text.” *Julmice v. Garland*, 29 F.4th 206, 210 (4th Cir. 2022).

Here, Respondents’ conduct satisfied each of the requirements to be a regulated public utility under Section 58-5-10(4). Respondents were supplying water and sewerage to Appellants. (R. pp. 216-1506 & p. 1530) The statute’s use of “furnishing” and “supplying” requires nothing more than that an entity make water or sewerage available to others for their use. For example, the New Oxford American Dictionary defines “supply” as “v. (supplies, supplying, supplied) [with obj.] make (something needed or wanted) available to someone; provide.” (R. p. 118). Similarly, the New Oxford American Dictionary defines “furnish” as “v. . . . (furnish someone with) supply

someone with (something); give (something) to someone. (R. p. 116) Respondents provided pipes between the area-wide utility connection and fixtures in the apartments that made water and sewerage available to Appellants and other tenants for their use. (R. pp. 216-1506 & 1530) Respondents were taking water from the area-wide utility into pipes owned by Respondents, transporting that water to faucets, shower heads, and other outlets owned by Respondents, and providing the water to Appellants and the other tenants at those outlets. Similarly, Respondents were accepting wastewater into pipes owned by Respondents and using those pipes to transport the wastewater to sewer pipes owned by area-wide utilities. Therefore, Respondents were furnishing and supplying water and sewerage to Appellants and other tenants.

Appellants and other tenants were a portion of the public. Title 58 provides the term “public, or any portion thereof” includes “any limited portion of the public” even if only “a person.” S.C. Code Ann. § 58-5-10(5). Therefore, Appellants were furnishing and supplying water and sewerage to a portion of the public, and the first requirement for an entity to be a regulated public utility is satisfied.

Respondents also were providing water and sewerage “for compensation.” Providing water or sewerage “for compensation” requires nothing more than that an entity receive something of value in exchange for providing water or sewerage. Black’s Law Dictionary defines “compensation” as “[r]emuneration and other benefits received in return for services rendered; esp., salary or wages.” (R. p. 1520) Here, Respondents received money in exchange for providing water and sewerage to Appellants and other tenants, and therefore, Respondents provided water and sewerage for compensation.

While the foregoing is sufficient to find Respondents provided water and sewerage for compensation, as discussed *infra*, the Commission has previously interpreted Section 58-5-10(4)

as requiring that the entity providing the water or sewerage receive a benefit from providing the water or sewerage and as not being satisfied where an entity merely measures the actual usage of water by a tenant and passes through the costs of that usage to the tenant. Such an interpretation of Section 58-5-10(4) is immaterial here because Respondents did not just measure actual water and sewerage usage by tenants and pass through the costs of that usage to the tenants. Here, Respondents obtained a benefit from and profited from providing the water and sewerage to Appellants and the other tenants.

The first way in which Respondents obtained a benefit from providing water and sewerage to Appellants and the other tenants is the administrative charge billed in addition to the allocation formula charge for water and sewerage. As reflected on the billing documents produced by the entity that performed the billing for Respondents, each month the tenants were charged a \$4.87 service fee in addition to the allocation formula charges for water and sewerage. Therefore, the service fee was compensation paid for the furnishing of water and sewerage to the tenants.

The second way in which Respondents obtained a benefit from providing water and sewerage to Appellants and the other tenants is the billing of the tenants for water and sewerage usage in the common areas of the properties. At each property, the total water and sewerage usage at the property billed to the tenants included water and sewerage used at the common areas of the property, including any leasing office, gym, pool, irrigation, etc. (R. pp. 103, lines 12-17, 1537, 1557, 1584, & 1624) Billing tenants for water and sewerage used in the common areas conferred a benefit on Respondents because they were thus able to take what should be an operating expense and have the tenants pay those expenses. The fact that such operating expenses would presumably otherwise be included in the rent charged for apartments at the properties does not alter the fact that Respondents obtained a benefit from billing tenants for common area water and sewerage

usage, and to the contrary, this further proves the point. By not having to include the water and sewerage expenses for the common areas in the rent, Respondents were able to either: (1) keep rents at the prevailing market rates but, due to the decreased expenses for water and sewerage, obtain an increased profit from the rent or (2) lower rents below the prevailing market rate to make Respondents' rents more competitive and thereby increase occupancy and earn increased profits. Additionally, by not having to include water and sewerage in the common areas in operating expenses, Respondents benefited by being able to use excessive amounts of water and sewerage to further their profit interests without any concern for costs. For example, Respondents could use unlimited amounts of water for irrigation to beautify the landscaping at a property and make the property more desirable to prospective tenants without facing any expense from such water usage because the tenants were paying for the common area water usage. Similarly, Respondents could pressure wash the apartment buildings regularly or hose off the sidewalks and parking lots regularly because the tenants paid for such water usage. Finally, Respondents also benefited from the reverse scenario where Respondents were able to avoid non-water and sewerage costs by having tenants pay for common area water and sewerage usage. For example, if faucets, irrigation pipes, pools, or other common area components that use water leaked or were inefficient, Respondents could avoid the expense of repairing a leak or replacing an inefficient component because the tenants were billed for the water.

**B. The Commission's Order 736 Does Not Change the Analysis of the Statute's Plain Language and Relied on Factual Findings that Are Immaterial Under the Plain Language of Section 58-5-10(4).**

While the plain language of Section 58-5-10(4) thus provides that Respondents using an allocation formula to bill all water and sewerage with administrative fees and common area usage included made them a regulated public utility, Order 736 concluded that does not constitute the

operation of a public utility because “merely providing metering services and a billing function is not sufficient activity to be considered a ‘public utility’ as defined in S.C. Code Ann. Section 58-5-10(4).” (R. p. 35) Setting aside the factual issue that Respondents were not merely measuring the flow and providing billing functions, the Commission’s legal conclusion that an entity engaged in allocation formula billing is not a utility reads an exception into Section 58-5-10(4) that is not present in and not supported by the statutory text. Tasked with applying the plain language of Section 58-5-10(4), the Commission and courts cannot add provisions to the statute. *See S.C. Pub. Int. Found. v. Calhoun Cnty. Council*, 432 S.C. 492, 497, 854 S.E.2d 836, 838 (2021) (“It is not the province of this Court to engraft an additional provision onto a statute which is ostensibly clear on its face.”); *Grier v. AMISUB of S.C., Inc.*, 397 S.C. 532, 540, 725 S.E.2d 693, 698 (2012) (“[W]hen a statute is clear on its face, it is improvident to judicially engraft extra requirements to legislation.”); Antonin Scalia & Bryan A. Garner, *Reading Law* 94 (2012) (“[An] absent provision cannot be supplied by the courts.”).

In finding that Respondents are not regulated public utilities, Order 736 relies on findings that Respondents: (1) contracted with a third-party to perform billing; (2) “recover the actual costs of water and sewer services to its [*sic*] tenants through an allocation formula method on a not-for-profit basis;” (3) “do not have any monopoly rights over a service area;” (4) “do not own any large, capital-intensive utility infrastructure;” (5) “do not seek or obtain a guaranteed rate of return on the pass-through billing;” (6) “never take possession of the water;” and (7) “lack the ability to disconnect the water or sewer service to an individual tenant for non-payment.” (R. pp. 25-26). Section 58-5-10(4) does not contain any language stating such limitations on what is a public utility or that could be interpreted as limiting the definition of public utilities in such a manner.

The immaterial nature of many of these factual findings are addressed in detail in Section IV *infra* in relation to the lack of substantial evidence supporting those findings. Of the other factual findings made by the Commission, several engage in circular reasoning, finding that a characteristic that a regulated public utility has solely by virtue of being a regulated public utility and submitting to Commission jurisdiction means an entity that does not have those characteristics is not a regulated public utility. For example, Order 736 relies on a finding that Respondents “do not have any monopoly rights over a service area,” but an entity obtains monopoly rights over a service area solely by being a regulated public utility that submits to Commission jurisdiction and receives Commission approval of its tariffs and services. To the extent an entity has monopoly rights over a service territory, those monopoly rights exist solely by virtue of having been conferred on a utility by the Commission pursuant to Title 58 of the South Carolina Code. *See, e.g., New Orleans Gas-light Co. v La. Light & Heat Producing & Mfg. Co.*, 115 U.S. 650, 669 (1885) (“[T]he manufacture of gas, and its distribution for public and private use . . . is not an ordinary business in which every one may engage, but is a franchise belonging to the government, to be granted, for the accomplishment of public objects, to whomsoever, and upon what terms, it pleases.”); *Atlantic Coast Line R. Co. v. Pub. Serv. Comm’n*, 226 S.C. 136, 140, 84 S.E.2d 132, 134 (1954) (“Public utility corporations accept their franchises from the State subject to the valid exercise of the police power of the State and to their duty to conform to reasonable regulations designed to promote the public safety and convenience.”); *S. Ry. Co. v. Pub. Serv. Comm’n*, 195 S.C. 247, —, 10 S.E.2d 769, 775 (1940) (“[I]t is quite true, . . . corporations which devote their property to a public use may not pick and choose, serving only the portions of the territory covered by their franchises which it is presently profitable for them to serve . . . .” (internal quotations omitted)); *State v. Broad River Power Co.*, 157 S.C. 1, —, 153 S.E. 537, 548 (1929) (“It is the contention of the

petitioners that a franchise is the privilege of doing that ‘which does not belong to the citizens of the country generally by common right,’ and that such franchises are granted primarily for the public benefit and when accepted constitute a contract, and that the grantee undertakes in consideration for the privilege granted to perform the services authorized. This position, in my opinion, is well supported by authority and cannot be successfully questioned.”); Scott Hempling, *Regulating Public Utility Performance: The Law of Market Structure, Pricing and Jurisdiction* 14 (2013) (“For most of the twentieth century, the market structure faced by most retail consumers of electricity, gas, telecommunications and water was a monopoly. The incumbent provider was a vertically integrated company, government-selected, providing prescribed services within a defined territory at approved prices. Supporting this market infrastructure was a legal infrastructure, called a franchise: a ‘special privilege,’ granted by the state government to the utility to provide defined services subject to defined obligations. . . . [The franchise] typically has seven distinct dimensions: 1. *Exclusive retail franchise*: The utility’s right to be the sole provider of a government-prescribed service within a state-defined service territory.”); Charles F. Phillips, Jr., *The Regulation of Public Utilities* 110–11 (1988) (“[P]ublic utilities have four rights that are largely the result of their special status. . . . Third, . . . public utilities have the right of *protection* from competition from an enterprise offering the same service in the same service area.”).

Similarly, Order 736 relies on a finding that Respondents “do not seek or obtain a guaranteed rate of return on the pass-through billing,” but an entity seeks and obtains a guaranteed rate of return solely through being a regulated public utility and submitting to the jurisdiction of the Commission. *See, e.g., Duke Energy Carolinas, LLC v. S.C. Off. of Regul. Staff*, 434 S.C. 392, 404–05, 864 S.E.2d 873, 879–80 (2021) (stating that the Supreme Court “has long followed the governing principles” set forth by the Supreme Court of the United States that public utilities are

entitled to just and reasonable rates of return); *Nucor Steel v. S.C. Pub. Serv. Comm’n*, 312 S.C. 79, 85, 439 S.E.2d 270, 273 (1994) (holding that South Carolina’s public utility statutes require the Commission to “determine a fair rate-of-return”); Hempling, *Regulating Public Utility Performance* 14–15 (“[A public utility’s franchise relationship] has seven distinct dimensions: . . . 7. *Just and reasonable rates*: The utility’s right to charge rates set by the regulator, designed to provide a reasonable opportunity to earn a fair return on equity investment.”); Phillips, *The Regulation of Public Utilities* 110 (“[P]ublic utilities have four rights that are largely the result of their special status. First, public utilities have the right to collect a reasonable price for their services. Regulatory authorities may not force such a business to operate at a loss.”). The Court should reject this circular reasoning as to whether an entity is a public utility because it has characteristics that it could only have were it already deemed a public utility. The Court should look no further than the plain language of Section 58-5-10(4) and should reject the Commission’s factual findings as immaterial under that statutory language.

**C. Decisions of the Supreme Court of South Carolina and the Commission Provide that the Plain Language of Section 58-5-10(4) Makes Respondents a Regulated Public Utility.**

Consideration of the plain language of Section 58-5-10(4) should result in the conclusion that Respondents’ use of an allocation formula with administrative fees and common area usage resulted in them being a regulated public utility. Moreover, not only are the Commission’s findings immaterial in relation to the plain language of Section 58-5-10(4)’s definition of a public utility as discussed *supra*, the Commission’s reliance on those findings as relevant to whether an entity is a public utility is directly contrary to the South Carolina Supreme Court’s application of 58-5-10(4) in *Anchor Point, Inc. v. Shoals Sewer Co.*, 308 S.C. 422, 418 S.E.2d 546 (1992). In *Anchor Point*, the Court considered whether, under Section 58-5-10(4), a nonprofit organization

created to provide sewerage to condominiums was a public utility subject to Commission regulation. 308 S.C. at 424–25, 418 S.E.2d at 547–48. The Court first stated that “it should be noted that [South Carolina’s] definition of public by including ‘any limited portion of the public’ is much broader than other states.” *Id.* at 426, 418 S.E.2d at 548. The Court concluded that because the nonprofit organization “serve[d] a limited portion of the public” it was a public utility. *Id.* The Court then addressed and rejected the argument that the entity was not a public utility because it was “constructed solely to serve members of a nonprofit organization.” *Id.* Therefore, the Court rejected the position adopted by the Commission here that an entity is not a public utility if it is providing water or sewerage on a nonprofit basis. In *Anchor Point*, the Court held that an entity was a public utility despite providing sewerage on a not-for-profit basis.

Additionally, the *Anchor Point* decision indicates the Commission’s other findings relied on to conclude Respondents are not a public utility are not proper considerations under Section 58-5-10(4). In *Anchor Point*, the Court did *not* consider whether the nonprofit entity had monopoly rights, owned large, capital-intensive utility infrastructure, sought a guaranteed rate of return, took possession of sewerage, or had the ability to disconnect service. Rather, the *Anchor Point* decision applied the plain language of the statute, finding the nonprofit entity was providing sewerage to a limited portion of the public, and therefore, concluding the entity was a regulated public utility. *Id.* The Court’s analysis indicates that once the elements of furnishing or supplying water or sewerage to a portion of the public for compensation are met, an entity is a public utility under Title 58 and there is no further analysis needed or exceptions to apply.

Additionally, examining the language of Section 58-5-10(4) in a prior order considering both secondary meter submetering and the use of an allocation formula rate, the Commission concluded that “[a] literal interpretation of this statute would classify any entity that sells water

and/or provides wastewater services for compensation as a public utility.” Order 307 at 3. Relying on the plain language of Section 58-5-10(4), the Commission then explicitly held that a submeterer—regardless of whether a secondary metering submeterer or an entity using an allocation formula rate—is a regulated utility, concluding:

It appears to this Commission that any entity that sells water or provides wastewater services for compensation is a public utility, including submeterers. We believe that landlords and companies that submeter and bill tenants for water and/or wastewater services are indeed public utilities, and should be certificated by this Commission.

Order 307 at 4. While the Commission later backtracked to a degree as discussed *infra*, the Commission acknowledged in Order 307 that the plain language of Section 58-5-10(4) provides that any entity that sells water or provides wastewater to a portion of the public for compensation is a regulated public utility.

**D. Consideration of Surrounding Statutory Language Confirms that Section 58-5-10(4) Makes Respondents a Regulated Public Utility.**

The Commission’s findings and conclusions are also contrary to the surrounding statutory language in Section 58-5-10(4). After generally and broadly defining a “public utility” as any entity or person who furnishes or supplies natural gas, heat, water, sewerage, or street railway service to a portion of the public for compensation, Section 58-5-10(4) states two exceptions to the broad, general definition of a public utility. First, Section 58-5-10(4) makes an exception for “a corporation or person furnishing, supplying, marketing, and/or selling natural gas at the retail level for use as a fuel in self-propelled vehicles is not a public utility.” Second, Section 58-5-10(4) makes an exception for “a corporation or person whose only purpose is the furnishing, supplying, marketing, and/or selling of treated effluent for irrigation purposes.” The two exceptions are relevant to whether Respondents are a “public utility” under Section 58-5-10(4) for two reasons.

As an initial matter, the two exceptions indicate the broad scope of Section 58-5-10(4)'s definition of a public utility. By including the exceptions, the General Assembly indicated that absent the exceptions entities providing natural gas at the retail level for use as fuel in self-propelled vehicles and entities providing treated effluent for irrigation would be public utilities.

More importantly, under the recognized negative-implication rule of statutory construction—“*expressio unius est exclusio alterius*” when dressed up in its traditional Latin form—the expression of an exception in a statute implies the lack of other exceptions. *See Garrison v. Target Corp.*, 435 S.C. 566, 581, 869 S.E.2d 797, 806 (2022) (“Subsection (A) [of the statute] begins by stating ‘except as provided in subsections (B) and (C),’ indicating that the statute applies to all cases not specifically excluded by those subsections.”); *Hodges v. Rainey*, 341 S.C. 79, 86–87, 533 S.E.2d 578, 582 (2000) (“The canon of construction ‘*expressio unius est exclusio alterius*’ . . . holds that to express or include one thing implies the exclusion of another, or of the alternative. . . . The enumeration of exclusions from the operation of a statute indicates that the statute should apply to all cases not specifically excluded.” (internal quotations omitted)); Antonin Scalia & Bryan A. Garner, *Reading Law* 107 (2012) (“The expression of one thing implies the exclusion of others.”). Therefore, with Section 58-5-10(4) excluding retail suppliers of natural gas vehicle fuel and treated effluent for irrigation, the necessary conclusion is that the General Assembly intended that all other suppliers of natural gas, heat, water, sewerage, and street railway service are public utilities pursuant to Section 58-5-10(4).

In conclusion, Section 58-5-10(4) plainly and unambiguously provides that an entity engaged in the conduct Respondents engaged in is a public utility subject to the jurisdiction of the Commission. Order 736 failed to apply that statutory law. Instead, the Commission considered statutorily irrelevant factors as somehow removing Respondents from Section 58-5-10(4)'s

definition of a public utility. The Commission cannot disregard Section 58-5-10(4) and substitute its policy judgment of what should constitute a regulated utility for the policy judgment already made by the General Assembly and codified in Section 58-5-10(4). The Commission's disregard of the statutory language and substitution of its own considerations in place of the statutory language is erroneous and requires reversal.

**II. Even Were There Some Ambiguity in Section 58-5-10(4), the Commission's Interpretation is Not Entitled to Deference and Does Not Comport with the Language of Section 58-5-10(4).**

As previously discussed, the language of Section 58-5-10(4) plainly and unambiguously provides that all that is required for an entity to be a regulated public utility is for the entity to supply water or wastewater to a portion of the public for compensation, and therefore, Respondents' conduct made them a regulated public utility under Section 58-5-10(4). While that resolves the issue and the Commission did not find any ambiguity in Section 58-5-10(4), even were the Court to find some ambiguity in Section 58-5-10(4), the Commission's interpretation would not be entitled to deference and should be rejected as deviating from the statutory language.

As discussed in the previous section, the Commission previously concluded in Order 307 that Section 58-5-10(4) provides that a regulated public utility is any entity that supplies water or wastewater to a portion of the public for compensation and nothing more is required to be a regulated utility. Therefore, the Commission previously interpreted Section 58-5-10(4) in a manner contrary to the interpretation the Commission relied on here. Where an agency is inconsistent in its interpretation of a statute and has not provided considered reasons for the change of position, the agency interpretation is not entitled to deference. *See I.N.S. v. Cardoza-Fonseca*, 480 U.S. 421, 446 n.30 (1987) ("An additional reason for rejecting the [agency's] request for heightened deference to its position is the inconsistency of the positions the [agency] has taken

through the years. An agency interpretation of a relevant provision which conflicts with the agency's earlier interpretation is entitled to considerably less deference than a consistently held agency view." (internal quotations omitted)); *Sec. of the Interior v. California*, 464 U.S. 312, 321 n.6 (1984) ("Under normal circumstances [the agency's] understanding of the meaning of [the statute] would be entitled to deference by the courts. But in construing [the statute] the Agency has walked a path of such tortured vacillation and indecision that no help is to be gained in that quarter."); *Kiawah Devel.*, 411 S.C. at 33, 766 S.E.2d at 717 (stating a court is to give deference "assuming the interpretation is worthy of deference"); Alfred C. Aman, Jr. & William T. Mayton, *Administrative Law* 500-01 (2d ed. 2001) ("When courts conclude that the agency has been inconsistent and it has not given a considered reason for its change of position, however, they rarely defer. . . . If the inconsistency on the part of the agency appears to be egregious, the court may assign no weight at all to the agency's views."). The Commission has been inconsistent in its interpretation of Section 58-5-10(4), has not provided considered reasons for the inconsistency, and accordingly, its most recent interpretation here is not entitled to deference.

In 1998, the Commission established a docket to consider both secondary metering submetering and allocation formula submetering or "RUBS," the "Generic Proceeding Relating to Sub-Metering of Electric, Water and Wastewater Services," the 1998-624-EWS docket. In that docket the Commission issued Order 307 which first defined submetering as: "Submetering is done when the particular service (water/wastewater or electricity) is metered through a master meter, and the service is then split off into different sub-units, such as apartment or retail outlets in a shopping center." Order 307 recognized two forms of submetering: the secondary metering version and the allocation formula version at issue here where the property owner allocates the water, wastewater, or electricity charges "by means of a calculated formula." Examining the

language in Section 58-5-10(4) defining a “public utility,” Order 307 found that “[a] literal interpretation of this statute would classify any entity that sells water and/or provides wastewater services for compensation as a public utility.” Order 307 at 3. The Commission then explicitly held that a submeterer—regardless of whether a secondary metering submeterer or an allocation formula submeterer—is a regulated utility. Order 307 at 4. Because the Commission found the record in docket 1998-624-EWS did “not contain enough information to set up specific rules,” the Commission ordered “that a rulemaking proceeding be established so that we may determine specific requirements for certifications of submeterers and regulation of them in general.”

The Commission then opened a new docket, “Rules and Regulations Dealing with Water and Wastewater Submetering,” docket 1999-216-WS, to engage in the rulemaking. Due to difficulties developing regulations, the Commission issued Order No. 2000-436 (“Order 436”) which provided the Commission would “hold this matter in abeyance until further notice” and “that the proposed regulations shall be held in abeyance.” Order 436 merely held in abeyance the rulemaking proceedings and proposed regulations, and nowhere in Order 436 did the Commission provide any reversal, or even skepticism, of its earlier holding that a submeterer is a public utility subject to Commission regulation.

After several years passed without the promulgation of regulations, Commission Staff filed petitions for rule to show cause orders as to why several submeterers should not be required to obtain certificates from the Commission as regulated utilities. In response, the Commission issued Order No. 2003-214 (“Order 214”) dismissing the petitions and holding that if an entity is submetering by merely measuring the flow and passing through the charges—*i.e.*, secondary meter submetering with no markup or other charges—the entity is not a regulated public utility. Order 214 reasoned that such submeterers do not “actually ‘furnish or supply’ the commodity, but merely

measure the amount of flow of water or wastewater and provide billing functions.” Order 214 provided no explanation as to how the Commission arrived at a different conclusion from its previous conclusion that submetering was furnishing or supplying water or wastewater that made an entity a regulated public utility. Moreover, Order 214 contains no discussion of whether the Commission changed its former position as to entities that provide water and wastewater using allocation formula billing and generally, contains no consideration whatsoever of allocation formula billing.

Not only is the Commission’s interpretation here inconsistent with a former interpretation and not worthy of deference, but the Commission’s interpretation does not comport with the statutory language. As discussed previously, Section 58-5-10(4) merely requires that an entity furnish or supply water or wastewater. That language requires nothing more than that an entity make water or sewerage available to others for their use. An apartment property owner using an allocation formula rate generally, and specifically Respondents here, makes water and sewerage available to tenants. The owner provides a series of pipes supplying water to faucets and other outlets in the apartment. When a tenant desires water, the tenant turns on the faucet, and the owner provides water to the tenant. Similarly, an owner provides a series of pipes conveying wastewater from drains in an apartment away from the apartment. When a tenant creates wastewater, the owner accepts it and disposes of it for the tenant.

The Commission’s new interpretation in Order 214 and then third interpretation in Order 736 ignore this aspect of submetering or allocation formula rate methods of supplying water and wastewater to tenants. Neither Order 214 nor Order 736 contains an explanation as to how an entity that purchases water and wastewater from an area-wide utility, owns and provides pipes that transport the water and wastewater to and from the area-wide utility to outlets and drains in

apartments, and makes the water and wastewater available whenever a tenant desires could be “merely measur[ing] the amount of flow of water or wastewater and provid[ing] billing functions.” Order 214 at 10. Moreover, neither Order 214 nor Order 736 contains an explanation of how measuring the flow and providing billing would be inconsistent with, or even relevant to, an entity being a regulated public utility.

**III. Order 736 is Contrary to Commission Precedent, Erroneously and Without Reasoned Decision-Making Deviates from Commission Precedent, and Therefore, is Arbitrary and Capricious.**

Order 736 misconstrues and deviates from the Commission’s prior orders on submetering and allocation formula rates, does so based on an erroneous reading of the Commission’s prior orders and without any reasoned basis for deviating from the prior orders, and therefore, should be reversed as arbitrary and capricious. When an agency order deviates from prior orders without a basis for distinguishing the circumstances, the agency order may be set aside as arbitrary and capricious. *See South Shore Hosp., Inc. v. Thompson*, 308 F.3d 91, 103 (1st Cir. 2002) (“[P]atently inconsistent applications of agency standards to similar situations are by definition arbitrary.”); *Henry Ford Health Sys. v. Shalala*, 223 F.3d 907, 912 (6th Cir. 2000) (“[I]nconsistent application of a regulation is often a hallmark of arbitrary or capricious agency action.”); *Contractors Transp. Corp. v. U.S.*, 537 F.2d 1160, 1162 (4th Cir. 1976) (reversing agency decision as arbitrary and capricious and lacking a rational basis where agency reached inconsistent results in similar adjudications with no explanation).

Order 736 conflicts with Commission precedent that where an entity receives a benefit from furnishing water and sewerage, rather than merely measures the actual usage and passes through the costs of the usage, the entity is a regulated utility. As discussed *supra*, the Commission previously concluded in Order 307 that “[a] literal interpretation of this statute would classify any

entity that sells water and/or provides wastewater services for compensation as a public utility.” The Commission then explicitly held in Order 307 that a submeterer—regardless of whether a secondary metering submeterer or an allocation formula submeterer—is a regulated utility. Order 736 provides no explanation of any legal basis for the Commission rejecting its prior conclusions in Order 307 and arriving at the apparent new standard for what constitutes a public utility provided in Order 736. Moreover, the Commission has not provided in any order an explanation as to how the conclusion as to what constitutes a utility articulated in Order 307 was incorrect. The Commission correctly concluded in Order 307 that submeterers are public utilities under the plain language of Section 58-5-10(4), and Order 736 holding otherwise is erroneous.

In Order 214, the Commission held that if an entity is submetering by merely measuring the flow and passing through the charges—*i.e.*, secondary meter submetering with no markup or other charges—the entity is not a regulated public utility. Order 214 reasoned that such submeterers do not “actually ‘furnish or supply’ the commodity, but merely measure the amount of flow of water or wastewater and provide billing functions.” Order 736 is contrary to Order 214 and Order 307 because Respondents do not merely measure the flow of water and wastewater and pass through the associated costs. Rather, Respondents neither measure the flow nor pass through the actual costs. Under Order 214 and Order 307, Respondents acted as regulated utilities, and Order 736 is contrary to those orders, provides no basis for deviating from those orders, and therefore, is arbitrary and capricious.

Finally, in Order 725, the Commission found a complex owner was a non-regulated submeterer rather than a regulated utility only because the owner measured the actual water and sewer usage and passed the actual cost directly to the tenant, rather than charging tenants through a method other than actual usage and rather than charging tenants any fees in addition to the usage

charge. The Commission found: “From the description of these activities undertaken by [the owner], it appears that the Company is in fact submetering . . . water and sewer service to the residents of [the park] and not providing these services for compensation.” Order 725 at 2. The Commission then ordered:

As a submeterer and not a regulated utility, [the owner] shall only pass through actual water and sewer service charges from Charleston Water System according to the metered usage of individual tenants of the [park]. No other water or sewer charges are allowed to be billed to these tenants.

Order 725 at 3. Order 725 therefore establishes that a submeterer who charges on a basis other than a tenant’s actual measured usage is a regulated utility and a submeterer who charges fees in addition to charges for actual usage or charges for anything more than actual usage is a regulated utility. Here, Respondents did not charge tenants an amount equal to their actual measured usage and charged fees and for common area usage in addition to the tenants’ estimated usages. Under Order 725, Respondents acted as regulated utilities, and Order 736 fails to apply the standard articulated in and deviates from Order 725 with no explanation as to how Order 725 is incorrect or can be altered or extended under the governing statutory law.

**IV. Order 736 is Based on Factual Findings that Are Not Supported by Substantial Evidence and that Are Immaterial Under Section 58-5-10(4) and Commission Orders.**

In addition to conflicting with the governing statutory law and Commission orders applying that statutory law, Order 736 is erroneous because it makes factual findings that are not supported by evidence in the record, much less by substantial evidence, and that are immaterial under the governing statute and Commission orders.

**A. Order 736 Erroneously Relies on a Finding that Respondents Do Not Bill Their Tenants Directly.**

Order 736 relies on a finding that Respondents do not bill the tenants directly. Section 58-5-10(4) contains no language whereby whether a utility bills customers itself or contracts with a

third-party to bill customers is a requirement for an entity to be a regulated utility. Moreover, whether an entity bills its customers for water and sewer directly or contracts with a third-party for such billing could never be a relevant consideration in whether an entity is a regulated utility. Were it a relevant consideration, any entity could function as a public utility yet escape regulation by contracting out the billing portion of its business to a third-party. Such an absurd result must be rejected, especially where the statutory language provides no support for such an interpretation. *See, e.g., Ranucci v. Crain*, 409 S.C. 493, 500, 763 S.E.2d 189, 192–93 (2014) (“This Court will not construe a statute in a way which leads to an absurd result or renders it meaningless.”).

**B. The Commission Erroneously Found that Respondents’ Water and Sewer Billing “Is Designed to Recover the Actual Cost of Water and Sewer Service Through an Allocation Method Provided on a Not-For Profit Basis” and is “Pass-Through Billing.”**

Despite all the evidence in the record indicating that the opposite is true, Order 736 erroneously found that Respondents were “only passing through to tenants—on an allocation basis—the cost of providing water and sewer service without profit.” (R. p. 31) As an initial matter, there is no evidence in the record that the water and sewerage were provided at cost and on a not-for-profit basis other than the conclusory assertion of Andrew Gordon in his affidavit. The Commission declined Appellants’ request to conduct discovery. Appellants dispute whether the water and sewerage were provided at cost and on a not-for-profit basis, and a self-serving, conclusory assertion in an affidavit is insufficient to establish such a disputed fact. *See, e.g., Shupe v. Settle*, 315 S.C. 510, 516–17, 445 S.E.2d 651, 655 (Ct. App. 1994) (“A conclusory statement as to the ultimate issue in a case is not sufficient to create a genuine issue of fact for purposes of resisting summary judgment.”); *Germann v. N.Y. Life Ins. Co.*, 286 S.C. 34, 38–39, 331 S.E.2d 385, 388 (Ct. App. 1985) (“Additionally, we observe that Mrs. Germann adduced no competent evidence to prove a purpose of the trust other than that expressed in the trust agreements. Her sole

proof in the record before us is a conclusory statement in the affidavits of her two children that . . . . A conclusory statement as to the ultimate issue in a case is not sufficient to create a genuine issue of fact for purposes of resisting summary judgment.”). Moreover, the evidence in the record is uncontroverted that Respondents’ method of billing does not recover actual costs and is not provided on a not-for profit basis because Respondents bill tenants for common area water and sewer usage and bill tenants administrative fees.

Similarly, Order 736 erroneously finds that Respondents provide water and sewerage on a “pass-through basis.” Respondents do not provide water and sewerage on a pass-through basis. Respondents make no effort to measure water or sewer usage by particular tenants nor do they even make an effort to make a rough estimate of particular tenants’ actual water or sewer usage. Additionally, Respondents’ furnishing of water and sewerage to tenants cannot be on a “pass-through basis” because Respondents bill tenants for common area water and sewer usage and bill tenants administrative fees.

The Commission attempted to bypass these problems in two ways, neither of which complies with the applicable law. First, the Commission concluded the total amount that Respondents bill the tenants at each of the properties equals the total amount Respondents paid for water and sewerage services for each property. There is nothing in the record to support such a finding, and therefore, the finding is erroneous. Additionally, there is no basis in Title 58, judicial decisions applying Title 58, or even in Commission orders, to support such a shift from the amount paid by a particular water or sewer user to a group of water and sewer users. Analyzing the issue in terms of usage of all persons at a property rather than usage by individual users is directly contrary to the Commission’s Order 725 which found a water and sewerage provider was not a public utility because it was “pass[ing] through *actual* water and sewer service charges from

Charleston Water System according to the metered *usage of individual tenants* of the [mobile home park]” and provided that “[n]o other water or sewer charges are allowed to be billed to these tenants.” Order 725 at 3.

Additionally, shifting the analysis from individual usage to property-wide usage would render absurd results plainly contrary to Title 58. For example, were the Commission’s analysis to turn on whether the total amount billed to a group equals the total cost of providing services to that group, an entity could in all respects function as and be a utility yet evade public utility regulation. An entity could incorporate as a nonprofit corporation without shareholders, provide water and sewerage to customers across a territory using an allocation formula, and including all operating expenses including salaries for executives in the total cost of providing those services. The Commission’s analysis must be rejected as rendering absurd results and as having already been rejected in *Anchor Point*.

**C. The Commission Erroneously Found that Respondents “Did Not Possess or Take Possession of the Water.”**

Order 736 erroneously finds that Respondents “did not possess or take possession of the water or sewerage,” in spite of the lack of evidence in the record to support that finding and in spite of that finding conflicting with South Carolina law. The evidence shows that Respondents possess the water and sewer at the points between the area-wide utility’s meter and the outlet or drain in an apartment. The Commission made a conclusory finding that Respondents do not possess the water or sewerage without making any supporting factual findings—other than that Respondents owned the pipes in which the water or sewerage was located which supports a finding of possession—or providing any explanation of how, under South Carolina law, Respondents could not possess the water or sewerage when in pipes between the area-wide utility’s meter and the outlet or drain in an apartment. The Commission concluded “it cannot be said that

[Respondents] assert exclusive domain over the water or sewer supplies,” but that conclusion is not supported by any factual findings or any legal reasoning. The Commission did not make any finding or identify any evidence as to who—other than Respondents—exercised any domain over the water or sewer supplies. The Commission did not provide any explanation as to how whether one has “exclusive domain” over water or sewer is determinative of or relevant to whether one possesses the water or sewer under South Carolina law. Also, again, the Commission’s reasoning yields absurd results. Employing the Commission’s reasoning on possession, one is left struggling to conceive of how any entity could be a water or sewerage utility. Water and sewerage utilities, by their very nature, own pipes, and consumers can obtain water from and deposit sewage into those pipes at the consumer’s discretion. The fact that a consumer controls when to turn a faucet on and how much water to obtain from the utility is immaterial to whether the utility possesses the water in its pipes or whether the utility is a utility. Were the law otherwise, no utility would possess the water in its pipes, and following the Commission’s reasoning, no water utility would be a utility under Section 58-5-10(4). Moreover, to be clear, as with the Commission’s other factual findings, whether Respondents take possession of the water or sewerage is immaterial to whether Respondents are regulated utilities under the plain language of Title 58 of the South Carolina Code.

### **CONCLUSION**

For the reasons set forth herein, the Court should reverse.

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September 5, 2024

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Sep 05 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

Appeal from The Public Service Commission of South Carolina

Appellate Case No. 2024-000208  
PSC Docket No. 2022-84-WS

Sarah Zito, Alvaro  
Sarmiento, Jr., Mark  
Shinn, and Daniel  
Bermudez,

Appellants,

v.

Strata Audubon, LLC and  
Strata Veridian, LLC,

Respondents.

CERTIFICATE OF SERVICE

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Sep 04 2024

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THE STATE OF SOUTH CAROLINA  
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APPEAL FROM THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

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Sarah Zito, Alvaro Sarmiento, Jr., Mark Shinn, and                      Appellants,  
Daniel Bermudez

v.

Strata Audubon, LLC, and Strata Veridian, LLC,                      Respondents.

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BRIEF OF RESPONDENT

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| S.C. Code Ann. § 1-23-380(5)(e) ..... | 7           |
| S.C. Code Ann. § 1-23-380(5)(f).....  | 7           |
| S.C. Code Ann. § 58-5-10 .....        | 3, 8, 9, 13 |
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## **STATEMENT OF ISSUES**

1. This appeal concerns a complaint by four tenants alleging that Respondents inclusion of pass-through charges for water and sewer service in monthly rental payments constitutes the unlawful provision of public utility service. Recognizing that Respondents did not have any characteristics of a utility, the Public Service Commission dismissed Tenants' Complaint for lack of subject matter jurisdiction. Did the Public Service Commission err in finding that the Respondents are not Public Utilities?

## **COUNTER-STATEMENT OF THE CASE**

This brief is submitted on behalf of Respondents, Strata Audubon, LLC, and Strata Veridian, LLC, in response to the Appellants' brief appealing the decision of the Public Service Commission of South Carolina ("PSC" or "Commission") dismissing the Appellants' Complaint. Appellants alleged that the Respondents are acting as unauthorized public utilities under South Carolina law by employing an allocation billing method—agreed to by the parties—because the properties at issue do not have individual utility meters for each apartment (submeters) to charge for water and sewer services. The Commission correctly dismissed the Complaint and the motion for reconsideration, concluding that the Respondents' billing method does not transform a landlord into the statutory definition of a public utility.

Appellants are a group of former tenants of two properties owned by Respondents: The Grove Apartments and the Audubon Park Apartments (collectively, "the properties"). The properties were constructed in 1998 (Grove Park Apartments) and 1991 (Audubon Park Apartments). Water and sewerage services at the properties are measured by a master meter. There is no individual water or sewer submetering service in either of the buildings, and it is undisputed that "there are no meters on [Respondents'] properties determining the actual water and sewerage usage" of Appellants and other tenants. (Order No. 2023-736 at p. 11; R. p. 27).

Given the absence of individual submetering infrastructure at the buildings, Appellants agreed with Respondents, per the lease agreement terms, that Appellants would be responsible for paying for water and sewer services pursuant to an allocation method. The allocation method, also known as a ratio utility billing system ("RUBS"), requires Respondents to allocate water and sewer costs to their tenants in their two multi-family properties based in one case on the number of persons living in the unit, or in the other based on a combination of the number of

persons living in each unit and square footage of the units. The complaint acknowledges that the applicable formula is stated in a specific addendum to the Tenants' rental agreements.

At no point did Respondents contract directly with any utility providers, nor did Respondents ever bill their tenants directly. Instead, Respondents contracted with Conservice, a third-party billing company agreed upon by tenants in their lease, to provide billing services for water and sewerage. Conservice sought to recover the actual costs of water and sewer services to tenants at the properties through an allocation method on a not-for-profit, pass-through basis. Respondents do not have a monopoly over any service area; do not own any large, capital-intensive utility infrastructure; and did not seek a guaranteed rate of return. Furthermore, Respondents do not take possession of the water or sewerage, and they do not have the ability to disconnect or shut off water to a tenant for failure to pay.

Initially, Appellants filed a complaint in federal district court, which the court dismissed it for failure to exhaust administrative remedies.<sup>1</sup> Appellants then filed a complaint with the Public Service Commission of South Carolina. The Commission dismissed Appellants' Complaint for lack of subject matter jurisdiction after determining Respondents were not public utilities per the statutory definition in S.C. Code Ann. § 58-5-10.

### **THE PUBLIC SERVICE COMMISSION'S FINDINGS OF FACT**

The following is a brief discussion of each of the six Findings of Fact made by the Commission, and the explanation provided by the Commission for each Finding. These Findings of Fact are particularly important to this appeal because of the deferential standard of review that this Court must afford to the Public Service Commission and apply to these findings.

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<sup>1</sup> This decision was remanded for further consideration, and subsequently Appellants' filed an Amended Complaint alleging breach of contract related to the accuracy of the allocation method. *Zito v. Strata Equity Group, Inc.*, 2023 WL 8712054 (4<sup>th</sup> Cir. No.: 2:20-cv-3808-BHH (D.S.C.)). Respondents' motion to dismiss the Amended Complaint is currently pending in federal court.

- 1.) “Defendants do not have water or sewer submetering infrastructure in either apartment building at issue in this proceeding.”

(Order No. 2023-736 at p. 9; R. p. 25)

The Commission stated that “[t]his assertion of no submetering infrastructure is undisputed by the Complainants in their Complaint....”

- 2.) “Defendants contracted with a third-party billing provider, Conservice, to provide the billing functions for water and sewer service to resident units, and did not bill tenants directly, nor did the Defendants contract directly with any utility providers for service to resident units.”

(Order No. 2023-736 at pp. 9-10; R. pp. 25-26).

The Commission stated: “[t]he Commission notes that there is no allegation that the Defendants have contracted for service to specific residential units. It is not in dispute that Conservice has been providing billing services on behalf of the Defendants in this case. Since there is no dispute, the Commission may accept the fact as asserted.” Order 736 at 12.

- 3.) “Defendants contracted with Conservice to recover the actual cost of water and sewer services to its tenants to an allocation formula method on a not-for-profit basis.”

(Order No. 2023-736 at p. 10; R. p. 26).

The Commission stated that there are three aspects to this Finding of Fact. First, “it is undisputed that Conservice was contracted to perform billing services.” (*Id.* at p. 12; R. p. 28). Second, “[t]he fact that the rates are based on an allocation formula is not in dispute and may be accepted as fact by the Commission.” (*Id.* at p. 13; R. p. 29). The third aspect with regard to this finding of fact was Complainant’s allegation “that the tenants’ actual utility usage and pro rata billed amount are different.” (*Id.* at p. 14; R. p. 30). In that regard, the Commission stated that “Defendants were clear in describing the nature of the aggregate billing amount.” (*Id.* at p. 15; R. p. 31). The Commission further stated that “[b]y its very nature, a formula method for sub-

metered allocation of costs is going to be approximate on a specific-tenant basis. The only way to reflect actual usage, and bill, accordingly, is to have all tenants individually metered. Such a method would require significant infrastructure installation and would have material detrimental financial impact for Defendants and, also, ratepaying tenants.” *Id.*

- 4.) “Defendants do not have any monopoly rights over any service area; do not own any large, capital intensive utility infrastructure; and do not seek or obtain any guaranteed rate of return on the pass-through billing of water and sewer services.”

(Order No. 2023-736 at p. 10; R. p. 26).

The Commission stated: “The complainants do not dispute that Defendants do not own significant utility infrastructure and do not seek a rate of return on the investment in the same.”

(*Id.* at 16; R. p. 32).

- 5.) “The water and sewer services are provided to properties by local utilities and the Defendants never take possession of the water and lack the ability to disconnect the water or sewer service to an individual tenant for nonpayment.”

(Order No. 2023-736 at p. 10; R. p. 26).

The Commission first stated that “[i]t is uncontested that the Defendants provided service for local water and wastewater utility.” (*Id.* at pp. 16-17; R. pp. 32-33). Furthermore, “[i]t is uncontested that the Defendants do not have the ability to turn off water or sewer service to the individual tenants, and the Commission finds that the Defendants do not have the ability to control water or service individual Defendants.” (*Id.* at p. 17; R. p. 33).

And while the Commission acknowledged that “[t]here is a difference in positions between the parties regarding whether the Defendants ‘possess’ the water or not.... Defendants undisputedly did not have the ability to control the flow of water or sewer service in a tenant-specific capacity and therefore cannot exercise control of the commodities. The Commission

finds therefore that Defendant did not possess or take possession of the water or sewerage.” *Id.*

6.) “Defendants did not operate any public utility that is subject to the jurisdictional authority of the Commission.”<sup>2</sup>

(Order No. 2023-736 at p. 10; R. p. 26).

The Commission quoted the following from Order No. 2003-214, “[s]ubmeterer’s water and wastewater services do not meet the statutory definition of a ‘public utility’.... [and] that such submeterers do not actually ‘furnish or supply’ the commodity but merely measure the amount of flow of water or wastewater and provide billing functions. Order 2003-214 p. 10, ¶ 2.” (*Id.* at 18; R. p. 34). As such, the Commission stated: “Here the Defendants are engaged in a relatively common practice of submetering water and wastewater services to their tenants. Consistent with prior Commissioner Orders, this activity is not determinative of operation of a public utility.” *Id.*

### **STANDARD OF REVIEW**

The standard of review is deferential to the Commission, and the Commission should only be overruled for clear error, abuse of discretion, or because the ruling is arbitrary and capricious.

When reviewing a decision from the Commission, this Court should defer to the agency’s judgment. “The Commission is considered the expert designated by the legislature to make policy determinations regarding utility rates.” *S.C. Energy Users Comm. v. S.C. Pub. Serv. Comm’n*, 388 S.C. 486, 490, 697 S.E.2d 587, 590 (2010). Accordingly, “the party challenging a PSC order bears the burden of convincingly proving the decision is clearly erroneous, or

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<sup>2</sup> The Defendants acknowledge that finding of Fact Number 6 may more appropriately be characterized as a Conclusion of Law. Nevertheless, the Defendants will proceed with setting out the Commission’s rationale for this Finding of Fact.

arbitrary or capricious, or an abuse of discretion, in view of the substantial evidence on the whole record.” *Duke Power Co. v. Pub. Serv. Comm’n of S.C.*, 343 S.C. 554, 558, 541 S.E.2d 250, 252 (2001) (citing *Porter v. South Carolina Public Service Comm’n*, 333 S.C. 12, 507 S.E.2d 328 (1998)). “[The] Court may not substitute its judgment for the Commission’s on questions about which there is room for a difference of intelligent opinion.” *Duke Power Co.*, at 558, 541 S.E.2 at 252 (2001).

For questions of fact, a court may only reverse or modify the agency’s findings when it is “clearly erroneous in view of the reliable, probative, and substantial evidence on the record as a whole” or “arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.” S.C. Code Ann. § 1-23-380(5)(e)–(f) (Supp. 2020). “A decision by the [PSC] is arbitrary if it is without a rational basis, is based not upon any course of reasoning and exercise of judgment, is made at pleasure, without adequate determining principles, or is governed by no fixed rules or standards.” *Daufuskie Island Util. Co. v. S.C. Office of Regul. Staff*, 427 S.C. 458, 464, 832 S.E.2d 572, 575 (2019) (internal alteration and quotation marks omitted) (citation omitted).

Substantial evidence is evidence that, considering the record as whole, “from which reasonable minds could reach the same conclusion that the ALJ reached”. *Hill v. S.C. Dep’t of Health & Envtl. Control*, 389 S.C. 1, 9, 698 S.E.2d 612, 617 (2010). However, the possibility of drawing two inconsistent conclusions from the evidence does not prevent a court from concluding that substantial evidence supports an administrative agency’s finding. *Id.*; *Porter v. S.C. PSC*, 333 S.C. 12, 21, 507 S.E.2d 328, 332 (1998).

For questions of law, such as when an agency is interpreting and applying its own enabling statute, the court may only reverse or modify the agency’s interpretation if (1) the

interpretation is contrary to the plain language of the statute or (2) if the statute is ambiguous and there are compelling reasons why the agency's interpretation is improper. *Kiawah Dev. Partners, II v. S.C. Dep't of Health & Env't Control*, 411 S.C. 16, 32-33, 766 S.E.2d 707, 717 (2014). Even then, "[t]he construction given to a statute by those charged with the duty of exercising it is always entitled to the most respectful consideration and ought not to be overruled without cogent reasons." *Id.*, 411 S.C. 16, 33, 766 S.E.2d 707, 718 (2014) (quoting *Brown v. Bi-Lo, Inc.*, 354 S.C. 436, 440, 581 S.E.2d 836, 838 (2003)).

### **ARGUMENTS AND AUTHORITIES**

#### **I. The Respondents Are Not Public Utilities Because They Did Not Furnish or Supply Water and Sewerage to Appellants.**

The Commission has previously ruled that that landlords who use submetering of water and sewer services are not public utilities as defined in S.C. Code Ann. Section 58-5-10 (2015). *See* Order No. 2003-214, p.10 ¶¶ 2-4. As the Commission in the instant case stated: "The Commission has previously addressed whether submetering of water and sewer services by a landlord subjects a landlord to the Commission's jurisdiction as a 'public utility.' Submeters of water and sewer services do not meet the statutory definition of a 'public utility' as defined in S.C. Cod. Ann. Section 58-5-10 (2015)." (Order No. 2023-736, pp. 7-8; R. pp. 23-24). The Commission in this case also stated: "Through submetering, the landlord is capturing its monthly costs for water and sewer service. It is well-established by the Commission that submetering does not constitute furnishing or supplying the commodity to the tenant.... The landlord is not a public utility because it does not take possession of the water [or sewerage] but only passes through the utility costs to the tenant." (Order No. 2023-736, p. 8; R. p. 24).

Nevertheless, on appeal, Appellants contend the Commission erred in dismissing the Complaint because, as Appellants allege, Respondents furnished and supplied water and sewer

to Appellants for compensation. (Ap. Br. at 13). However, as explained below, this argument is nonsensical.

Under South Carolina law, the Commission is “vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State.” SC Code Ann § 58-5-210. As it applies to this case, South Carolina law defines a public utility as “every corporation and person furnishing or supplying in any manner...water...to the public, or any portion thereof, for compensation.” S.C. Code Ann. § 58-5-10.

**A. Statute Is Not Ambiguous**

“Where the statute’s language is plain and unambiguous, the rules of statutory interpretation are not needed, and the court has no right to impose another meaning.” *Hodges v. Rainey*, 341 S.C. 79, 86, 533 S.E.2d 578, 581 (2000).

“The construction given to a statute by those charged with the duty of executing it”—such as the Public Service Commission executing laws regarding public utilities—“is always entitled to the most respectful consideration, and ought not to be overruled without cogent reasons.” *Read Phosphate Co. v. S.C. Tax Comm’n*, 169 S.C. 314, 168 S.E. 722, 728 (1933).

The Commission held that “[m]erely providing metering services and a billing function is not sufficient activity to be considered a “public utility” as defined in S.C. Code Ann. section 58-5-10(4).” (Order No. 2023-736, p. 19; R. p. 35). The Commission is correct. There is simply no evidence to support any notion that Respondents furnished or supplied water and sewer to Appellants. Though their brief is somewhat unclear, Appellants appear to base their argument on the fact that Respondents own the pipes through which the water and sewerage traveled. (Ap. Br. at 15.) In Appellants’ view, this ownership of the pipes transforms landlords into public utilities.

However, Appellants cite no South Carolina law or case to support their argument. *See First Sav. Bank v. McLean*, 314 S.C. 361, 363, 444 S.E.2d 513, 515 (1994) (stating an issue is abandoned where the appellant fails to provide argument or supporting authority). Rather, Appellants cite dictionary definitions of furnish and supply in an attempt to show that the Respondents met the statutory definition of a public utility.

First, Appellants rely on the definition of: “supply” as “v. (supplies, supplying, supplied) [with obj.] make (something needed or wanted) available to someone; provide.” (Ap. Br. at 14-15).

Second, Appellants rely on the definition of: “furnish” as “v. . . . (furnish someone with) supply someone with (something); give (something) to someone.” (Ap. Br. at 15).

While it is undisputed that the Defendants provided service from a local water and wastewater utility, the Defendant did not actually provide the water and sewerage. That was provided by the local utility. Notwithstanding, Appellants rely on these definitions to assert that the Respondents furnished and supplied water and sewerage services by doing nothing more than making the water and sewage services available.

Here, it is undisputed that the Respondents do not have the ability to turn off water or sewer nor do they have the ability to control water or sewer service to individual tenants. (Order No. 2023-736, p. 17; R. p. 33). While it is true that “Respondents provided pipes between the area-wide utility connection and fixtures in the apartment” (Ap. Br. At 15), ownership of the pipes that water and sewerage pass through, without the ability to control the flow of service, is no more possession of the water and sewerage than the SCDOT claiming possession of the cars that travel along its roads.

Accordingly, the unambiguous meaning of the statute supports the Commission's conclusion that the Respondents neither furnished nor supplied water and sewerage service to Appellants. (Order No. 2023-736 pp. 19-20; R. pp. 35-36). As a result, the Court should affirm the Commission's order dismissing the complaint.

### **B. If Statute Is Ambiguous**

Furthermore, assuming the Court determines the statute is ambiguous, the Commission's interpretation of "furnish or supply" is entitled to deference, is clearly not arbitrary or capricious and should be affirmed. *See Kiawah Dev. Partners, II v. S.C. Dep't of Health & Env't Control*, 411 S.C. 16, 32-33, 766 S.E.2d 707, 717 (2014) (court should "give deference to the agency's interpretation of the statute or regulation, assuming the interpretation is worthy of deference").

As a threshold matter, an unbroken line of South Carolina caselaw upholds the deference doctrine, which provides that courts defer to an administrative agency's interpretations with respect to the statutes entrusted to its administration or its own regulations, "unless there is a compelling reason to differ." *S.C. Coastal Conservation League*, 363 S.C. at 75, 610 S.E.2d at 486; *see also, e.g., Barton v. S.C. Dep't of Prob., Parole & Pardon Servs.*, 404 S.C. 395, 415, 745 S.E.2d 110, 121 (2013) (stating that an agency's interpretation "will not be overruled absent compelling reasons"); *CFRE, LLC v. Greenville Cnty. Assessor*, 395 S.C. 67, 77, 716 S.E.2d 877, 882 (2011) (same); *Buist v. Huggins*, 367 S.C. 268, 276, 625 S.E.2d 636, 640 (2006) (same); *Brown v. S.C. Dep't of Health & Envtl. Control*, 348 S.C. at 515, 560 S.E.2d at 414 (same); *Glover by Cauthen v. Suitt Constr. Co.*, 318 S.C. 465, 469, 458 S.E.2d 535, 537 (1995) (same); *Faile v. S.C. Employment Sec. Comm'n*, 267 S.C. 536, 540, 230 S.E.2d 219, 222 (1976) (stating that an agency's interpretation will not be overruled "without cogent reasons"); *Hadden*