

## NO SMOKING POLICY

A. The parties desire to mitigate (i) the irritation and known health effects of secondhand smoke; (ii) the increased maintenance, cleaning, and redecorating costs from smoking; (iii) the increased risk of fire from smoking; and (iv) the higher costs of fire insurance for a non-smoke-free building. The term “smoking” means inhaling, exhaling, breathing, or carrying any lighted cigar, cigarette, pipe, electronic cigarette, hookah or other tobacco product or similar lighted product in any manner or in any form. The term “smoking” also includes the inhaling of a lighted marijuana cigarette or other apparatus, except where the use of marijuana is medically prescribed.

B. You agree and acknowledge that the Apartment to be occupied by You and members of Your household has been designated as a smoke-free living environment. You and members of Your household shall not smoke anywhere in the Apartment rented by You, or in the building in which the Apartment is a part, or in any of the common areas or adjoining grounds of such building or other parts of the rental community, nor shall You permit any guests or visitors under Your control to do so. You shall inform Your guests of the no-smoking policy. Further, You shall promptly give Owner a written statement of any incident where tobacco smoke is migrating into Your Apartment from outside of the Apartment (“second-hand smoke”). The State and City of New York have enacted legislation specifically recognizing the health dangers inherent in environmental tobacco smoke, commonly known as “second-hand smoke”. You acknowledge and understand that causing the infiltration of second-hand smoke into the common areas of the building and/or into other apartments in the building, may constitute a nuisance and health hazard and be a material infringement on the quiet enjoyment of the other tenants in the building. For the foregoing reasons, You acknowledge and agree that the prevention by You, Your invitees and guests, of smoking in the building and of the infiltration of second-hand smoke into the common areas of the building and/or into other apartments in the building is OF THE ESSENCE to this Lease, and You covenant and agree to take all measures necessary, at Your own cost and expense, to prevent second-hand smoke from emanating from Your Apartment and infiltrating the common areas of the building and/or into other apartments in the building. Your failure to promptly cease and desist from causing or permitting second-hand smoke to emanate from the Apartment, is a substantial and material default of Your covenants under this Lease, and Owner shall be entitled to exercise all rights and remedies at law or in equity, including but not limited to terminating the Lease and commencing a summary proceeding to evict the You from the Apartment. You agree that in the event Owner commences any proceeding or action for possession, including a summary proceeding for possession of the Apartment, You will not interpose any defense or counterclaim alleging that the building’s distribution ductwork, common walls, radiators, piping and other elements of the building are insufficient to prevent the infiltration of second-hand smoke into the common areas of the building and/or into other apartments in the building or that Owner’s maintenance of the foregoing was inadequate.

C. Owner shall post no-smoking and/or smoke free signs at entrances and exits, common areas, hallways, and in conspicuous places adjoining the grounds of the building. You acknowledge that Owner’s adoption of a smoke-free living environment, and the efforts to designate the building as smoke-free do not make the Owner or any of its managing agents the guarantor of Your health or of the smoke-free condition of the Apartment and the common areas. However, Owner shall take reasonable steps to enforce the smoke-free terms of its leases and to make the building smoke-free. Owner is not required to take steps in response to smoking unless Owner is put on actual notice of the presence of prohibited smoke, via agent, personal knowledge, and/or written notice by a You.

D. You agree that the other tenants at the building are the third-party beneficiaries of the smoke-free policy, meaning that Your commitments in this Lease are made to the other tenants in the building as well as to the Owner. A tenant may sue another tenant for an injunction to prohibit smoking or for damages, but does not have the right to evict another tenant.

E. A material breach of this smoke-free policy by the You shall be a material breach of the Lease and grounds for immediate termination of the Lease by the Owner. You acknowledge that irreparable damage to Owner might result if these covenants and agreements are not specifically enforced; and therefore that in addition to all other rights and remedies of Owner as provided in this Lease these covenants and agreements shall be enforceable in a court of competent jurisdiction by a decree of specific performance and by appropriate injunctive relief, all in accordance with applicable law. In addition, You agree to indemnify and hold Owner harmless from and against any and all loss or damage

which Owner may incur as a result of the breach by You of any of the foregoing, including, without limitation, any withholding of rent by tenants of the building, and reasonable attorneys' fees and disbursements incurred by Owner in connection with any litigation or negotiations with You or any other tenants of the building with respect to the foregoing. You also agree to reimburse Owner for any costs or expenses incurred by Owner to mitigate or remedy the infiltration of second-hand smoke into the common areas of the building and/or into other apartments in the building, which emanates from Your Apartment. All of the foregoing shall be payable to Owner as additional rent. The failure by Owner to respond to a complaint filed by a tenant regarding smoke shall not be construed as a breach of the warranty of habitability, or the covenant of quiet enjoyment, nor shall it be deemed to be a constructive eviction of the You.

F. You acknowledge that Owner's adoption of a smoke-free living environment, and the efforts to designate the building as smoke-free does not in any way change the standard of care that the Owner or managing agent would have to a tenant or to the tenant's household to render the building and the Apartment designated as smoke-free any safer, more habitable, or improved in terms of air quality standards than any other rental premises. Owner specifically disclaims any implied or express warranties that the building, common areas or the subject premises will have any higher or improved air quality standards than any other rental property. Owner cannot and does not warranty or promise that the rental subject premises or common areas will be free from secondhand smoke. You acknowledge that Owner's ability to police, monitor, or enforce the agreements herein is dependent in significant part on voluntary compliance by You and Your guests. Tenants with respiratory ailments, allergies, or any other physical or mental condition relating to smoke are put on notice that Owner does not assume any higher duty of care to enforce this smoke-free policy than any other Owner obligation under the Lease.

G. You acknowledge that current tenants residing in the building under an existing lease may not be immediately subject to the No-smoking Policy. As current tenants move out, or enter into new leases, the smoke-free policy will become effective for their unit or new lease as permitted by law.

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Tenant Name

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Tenant Signature

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Date