

# COMMERCIAL LEASE AGREEMENT

## Background

- A. This is an agreement ('The Agreement') to let commercial real property according to the terms set out below.
- B. The Landlord, the Tenant and the Premises are as set out in Schedule 1 of this Agreement.
- C. Collectively, the Landlord and Tenant will be referred to as 'The Parties'.

**IN CONSIDERATION OF** the Landlord letting and the Tenant renting the Premises, both parties agree to keep, perform and fulfil the following promises, conditions and agreements:

## Term

1. The Term of this Agreement will start at 12.00 noon on the Lease Start Date and end at 12.00 noon on the Lease End Date. The Lease Start Date and Lease End Date are set out in Schedule 1.
2. Tenant shall notify Landlord in advance of any anticipated extended absences from the Premises.
3. Prior to the Lease End Date, the Parties may, in writing, agree to extend the Term of this Agreement.

## Commercial Use Only

4. The Landlord agrees to lease the Premises to the Tenant for use as a commercial premises only. The Tenant undertakes not to use it for any other purpose including, but not limited to using it as a residential home.

## Rent

5. The amount of Rent, Rent Per Square Foot and Rent Payment Details are set out in Schedule 1.
6. The Rent will increase on an annual basis at the rate set out in Schedule 1.
7. The first full Rent payment under this Agreement shall be due on the Lease Start Date specified in Schedule 1. No holidays, special events, or weekends shall excuse Tenant's obligation to pay timely rent as described by this Agreement.
8. The Landlord may amend the Rent Payment Details from time to time by giving the Tenant 7 days' notice.
9. For any payment that is not paid within one day of its due date, Tenant shall pay a late fee equal to one twentieth (1/20) of the price of a monthly Rent payment.

## Holdover

10. If Tenant maintains possession of the Premises for any period after the termination of this lease (henceforth, the 'Holdover Period'), Tenant shall pay to the Landlord lease payment(s) during the Holdover Period at a rate equal to 150% of the normal payment rate from the last rent period under this Agreement, pro-rated based on the actual number of holdover days.

## Utilities

11. The Landlord shall be responsible for paying and maintaining provision of all utilities under this Agreement.

### **Maintenance**

12. The Landlord shall be responsible for maintaining the Premises in good repair at all times during the term of this Agreement.

### **Possession**

13. The Tenant is entitled to possession during the Term of this lease. Upon expiration of the Term, the Tenant agrees to surrender possession and deliver to the Landlord the Premises and all furniture and decorations within the Premises in as good a condition as they were at the beginning of the Term, reasonable wear and tear excepted.
14. The Landlord shall not directly or indirectly, through any agent, employee, or otherwise representative, lease any space within the property (except the Premises described by this Agreement), or permit the use or occupancy of any such space whose primary business activity is in, or may result in, competition with the Tenant's primary business activity without an express agreement in writing signed by both Parties. The Landlord hereby gives the Tenant the exclusive right to conduct their primary business activity on the property.

### **Eminent Domain**

15. This Agreement automatically becomes void if the Premises are taken by eminent domain. During the process, the Tenant will have the right to claim:
  - a. Value of the Lease Agreement.
  - b. Loss of Business Revenue.
  - c. Moving and Relocation Expenses.

### **Quiet Enjoyment**

16. During the Term of this Agreement, the Tenant has the right of quiet enjoyment of the Premises.

### **Cumulative Rights**

17. The rights of the Parties under this Lease are cumulative and shall not be construed as exclusive unless otherwise required by federal, state or local law.

### **Security Deposit**

18. The Tenant undertakes to pay to the Landlord a deposit, the amount of which is set out in Schedule 1, to cover damages and cleaning.
19. The Landlord agrees that they will refund the Tenant the deposit, minus any deductions, within 30 days of the Lease End Date. The Landlord will explain the reason for any deduction in writing within 30 days of the Lease End Date.
20. The Landlord may only make deductions for damage to the contents of the Premises that are over and above reasonable wear and tear.
21. The Landlord will upon the written request of the Tenant, at the Landlord's expense, compile an itinerary of the contents and condition of the property contained within the Premises. The Tenant may request such an itinerary up until the Lease Start Date.

22. If there is a disagreement over the Landlord's deductions, the Parties agree to undertake mediation and abide by any decision of the Mediator regarding the size of a reasonable deduction. If the Parties cannot agree on a mediator for their dispute, they undertake to use the processes of the American Arbitration Association to appoint a mediator on their behalf. The fee for such a mediation will be split equally between the Parties.

### **Insurance**

23. The Parties shall each maintain appropriate insurance for their respective interests in the Premises and property located on the Premises. The Tenant's insurance shall be not less than the amount specified as the Tenant's Minimum Insurance in Schedule 1. The Landlord will be named as an additional insured party on any and all such policies. Tenant shall deliver evidence to Landlord as proof of adequate insurance in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such policies. Tenant shall also maintain any other insurance which Landlord reasonably requires for the protection of Landlord's interests in the Premises. Tenant is responsible for maintaining property insurance on its own property.
24. Tenant shall maintain appropriate liability insurance on the Premises. The Tenant's insurance shall be not less than the amount specified as the Tenant's Minimum Insurance in Schedule 1. Tenant shall deliver evidence to Landlord as proof of adequate insurance in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such policies.

### **Landlord Access to Premises**

25. Subject to Tenant's consent, which shall not be unreasonably withheld, the Landlord may enter the Premises upon 24 hours' notice for any of the following reasons:
- a. To inspect the Premises;
  - b. To maintain the Premises;
  - c. To make repairs that the Landlord is obligated to perform;
  - d. To provide necessary services;
  - e. To show the unit to prospective buyers, lessors or workers.
26. The Landlord does not assume any liability for the care or supervision of the Premises. As provided by law, in case of an emergency, Landlord may enter the Premises without Tenant's prior consent.
27. During the last three months of this Agreement, or any extended Term of this Agreement, Landlord shall be allowed access to the Premises to display 'To Let' signs and show the Premises to prospective future tenants.

### **Alterations or Improvements**

28. The Tenant shall have the obligation to conduct any construction or remodeling (at Tenant's expense) that may be required to use the Premises.
29. Tenant may also construct such fixtures on the Premises (at Tenant's expense) that appropriately facilitate its use for such purposes. Such construction shall be undertaken and such fixtures may be erected only with the prior written consent of the Landlord which shall not be unreasonably withheld.

30. Tenant shall not install awnings or advertisements on any part of the Premises without Landlord's prior written consent.
31. At the end of the Term, Tenant shall be entitled to remove (or at the request of the Landlord shall remove) such fixtures, and shall restore the Premises to substantially the same condition of the Premises at the commencement of this Agreement.

### **Taxes**

32. Taxes related to the Premises or its use shall be allocated in the following way:
  - a. Real Estate Taxes- Landlord shall pay all real estate taxes and assessments for the Premises.
  - b. Personal Taxes- Landlord shall pay all personal taxes and any other charges which may be levied against the Premises and which are attributable to Tenant's use of the Premises, along with all sales and/or use taxes (if any) that may be due in connection with lease payments.

### **Termination upon Sale of Premises**

33. Notwithstanding any other provisions in this Agreement, the Landlord may terminate this Agreement upon 28 days' written notice to Tenant that the Premises has been sold.

### **Event of Default**

34. The Tenant will default under this Agreement if any one or more of the following events ('the Event of Default') occurs:
  - a. The Tenant fails to pay the Rent to the Landlord or any amount of it due or within any grace period.
  - b. The Tenant fails to perform any of its obligations under this Agreement or any applicable obligation under the Original Lease.
  - c. The Premises, or any part of it, is completely or partially damaged by fire or other casualty that is due to the Tenant's negligence, wilful act, or that of the Tenant's employee, family, agent, or guest.
  - d. The Tenant abandons the Premises or any part of the Premises.
  - e. The Tenant uses the Premises for any unpermitted or illegal purposes.
  - f. The Tenant becomes insolvent, commits an act of bankruptcy, becomes bankrupt, takes the benefit of any legislation that may be in force for bankrupt or insolvent debtors, becomes involved in a voluntary or involuntary winding up, dissolution or liquidation proceeding, or if a receiver will be appointed for the affairs of the Tenant.
  - g. Any other event of default provided by Federal, State or Local Law.

### **Remedies**

35. Upon the occurrence of any Event of Default, the Landlord has any or all of the following remedies:
  - a. Terminate the Agreement upon any notice required by Federal, State or Local Law and the term will then immediately become forfeited and void.
  - b. The Landlord may perform any obligation of this Agreement or the Original Lease, which the Tenant has failed to perform and seek redress from the Tenant.

- c. The Landlord may re-enter the Premises or any part of the Premises, and in the name of the whole repossess and enjoy the same as of its former state anything contained within the Premises.
  - d. Any other remedy provided for by Federal, State or Local Law.
36. The exercise, by the Landlord, of one right or remedy will not prejudice the Landlord from exercise further rights or remedies at a future time.
37. Upon the expiration, termination or cancellation of the Original Lease or this Agreement, all obligations of the parties under this Agreement will be extinguished.
38. Any improvements remaining on the Premises upon termination will revert to the Landlord and will be free of any encumbrance at the time of such reversion.

#### **Destruction or Condemnation of Premises**

39. If the Premises are partially destroyed by fire or other casualty to the extent that such resulting damage prevents the Tenant's continued use of the Premises in a normal manner as intended, and if the damage is reasonably repairable within 60 days after the occurrence of the incident which caused the damage, and if the cost of repairs is greater than 50% of the value of the property, or if the Landlord is prevented from repairing the damage by forces beyond the Landlord's control given their reasonable level of effort, or if the property is condemned, this Agreement shall terminate upon twenty days' notice of such event or condition by either party and any unearned rent paid in advance by the Tenant shall be apportioned and refunded to it. The Tenant shall give Landlord timely notice of any damages to the Premises.

#### **Governing Law and Jurisdiction**

40. It is the intention of the Parties to this Agreement that the tenancy created by this Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, be construed in accordance with and governed, to the exclusion of the law of any other forum, by the laws of the State of Jurisdiction set out in Schedule 1, without regard to the jurisdiction in which any action or special proceeding may be instituted.

#### **Severability**

41. If there is a conflict between any provision of this Agreement and Federal, State or Local Law then said law will prevail and such provisions of this Agreement that are inconsistent will be deleted or modified in order to comply with said law. Further, any provisions that are required by law are incorporated into this Agreement.
42. The Agreement will continue to be valid and enforceable to the extent it is held to be by law.
43. The Tenant will ensure that the Premises remain free and clear of any and all liens arising out of the work performed or materials used in making such improvements to the Premises.

#### **Americans with Disabilities Act Compliance**

44. As dictated by the Americans with Disabilities Act (ADA), all businesses that are open to the public or employ fifteen or more people require that the premises be accessible to individuals with disabilities. In the event that the premises must be altered for ADA

compliance, the cost of improvements, alterations, and/or modifications necessary for compliance with the ADA shall be the responsibility of Landlord.

### **Subordination of the Lease**

45. This Agreement is subordinate to any mortgage that now exists, or may be given later by the Landlord, with respect to the Premises.

### **Subletting**

46. The Tenant will not assign, transfer or sublet the Premises or any part of the Premises without the prior written consent of the Landlord.

### **Notices**

47. All notices from the Landlord to the Tenant will be sent to the address at which the Tenant is to be contacted in Schedule 1.

48. All notices from the Tenant to the Landlord will be sent to the address at which the Landlord is to be contacted in Schedule 1.

49. All notices to be given under this Agreement will be in writing and will be served personally or sent by certified or registered mail using United States Postal Service.

### **Disputes during Lease Period**

50. If a disagreement arises during the Lease period, the following actions shall take place:

- a. If there is a dispute between the Landlord and Tenant, all Parties agree to attempt to come to an agreement through the use of an agreed upon mediator.
- b. It is agreed that the costs involved in hiring the mediator shall be shared equally and that each party shall cooperate in a good faith attempt to come to a resolution.
- c. Both parties agree that they shall allow the mediator 30 (thirty) days from the first meeting to reach a compromise before going to court.
- d. If the parties are unable to come to an agreement with the assistance of the mediator in 30 (thirty) days, they each reserve the right to bring legal action in a court of law or before an arbitrator.
- e. The decision of a court or arbitrator shall be legally binding upon all parties involved.

### **Early Termination**

51. The Tenant may terminate this Agreement prior to the end of the Term.

52. The Landlord shall allow the Tenant to quit or terminate this Agreement by paying a penalty fee equivalent to 2 months' rent.

### **Heirs and Assigns**

53. Tenant may not transfer or assign this Lease or any portion of this Lease to a third party. Notwithstanding the foregoing, all covenants of this Lease shall succeed to and be binding upon any heirs, executors, administrators, successors, and assigns of the parties.

### **No Waiver**

54. If Landlord fails to enforce strict performance of any part or sub-part of this Lease, this shall not be construed as a waiver of Landlord's right to enforce the same part or sub-part later in time or to enforce any other part or sub-part.

**Further General Provisions**

- 55. Titles of clauses, sections and schedules will have no effect on the meaning of the agreement.
- 56. References to the singular includes the plural and vice versa. Any noun may be of either gender as the context requires.
- 57. At the time of taking possession of the Premises by the Tenant, or within 14 days of such possession, the Landlord will provide the Tenant with an inspection form.
- 58. In the event of any legal action concerning this Agreement, the losing party will pay to the prevailing party reasonable attorney's fees and court costs to be fixed by the court and such judgment will be entered.
- 59. Subject to the other provisions of this Agreement, this Agreement constitutes the sole agreement between the parties, and no additions, deletions or modifications may be accomplished without the written consent of the Parties. Any oral representation made at the time of executing this Agreement are not legally valid and, therefore, are not binding upon either party.
- 60. The Parties have no interest or other ownership in each other.
- 61. The Parties are not agents for each other.
- 62. Under no circumstances will this Agreement be construed as creating a partnership or joint venture between the Parties to this Agreement.
- 63. If the Tenant is under the age of 18, the Tenant's legal guardian or parent guarantees and agrees to perform all of the terms, covenants and conditions of this Agreement by affixing their signature below.
- 64. Each signatory to this Agreement acknowledges receipt of an executed copy of this Agreement.

**Schedule 1**

<b>Date</b>	
<b>Name of Landlord</b>	
<b>Name of Tenant</b>	
<b>Address of the Premises</b>	

<b>Rent</b>	
<b>Rent payment details (e.g. by Bank Transfer to Account Details on 15<sup>th</sup> of the month)</b>	
<b>Deposit Amount</b>	
<b>Lease Start Date</b>	
<b>Lease End Date</b>	
<b>Address at which the Landlord is to be contacted</b>	
<b>Address at which the Tenant is to be contacted (if left blank, assumed to be Leased Premises)</b>	
<b>Percentage Annual Rental Increase</b>	
<b>State of Jurisdiction (i.e. the state the Premises is in)</b>	
<b>Agreement Date</b>	
<b>Square Footage of Premises</b>	
<b>Rent Per Square Foot</b>	
<b>Tenant's Required Minimum Insurance</b>	

**IN WITNESS WHEREOF** the Parties have duly affixed their signatures under hand and seal on the Agreement Date as specified in Schedule 1.

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**Landlord**

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**Tenant**

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**Witness**

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**Witness**