

# GROSS LEASE

**Premises:** [PREMISES ADDRESS] **Effective Date:** **Governing State:** CA

This Commercial Lease Agreement (this "Lease") is entered into and made effective as of (the "Effective Date"), by and between [LANDLORD NAME], a Llc, with a notice address of [LANDLORD S NOTICE ADDRESS] ("Landlord"), and [TENANT NAME], a Llc, with a notice address of [TENANT S NOTICE ADDRESS] ("Tenant"). Landlord and Tenant are each a "Party" and together the "Parties."

## 1. Premises

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the premises located at [PREMISES ADDRESS], consisting of approximately [RENTABLE SQUARE FOOTAGE] rentable square feet (the "Premises"), together with the non-exclusive right to use common areas of the building and any parking expressly designated for Tenant, subject to the terms of this Lease.

The difference between rentable and usable square footage reflects Tenant's pro-rata share of building common areas (the "load factor") calculated in accordance with BOMA standards.

## 2. Term

The initial term of this Lease shall commence on \*\*\*\* (the "Commencement Date") and shall expire on \*\*\*\* (the "Expiration Date"), unless earlier terminated or extended in accordance with this Lease (the "Initial Term"). The Initial Term shall consist of approximately 5 years.

**Renewal option(s).** Provided Tenant is not in default beyond any applicable cure period, Tenant shall have 1 option(s) to extend the term for an additional period of 5 year(s) each, exercisable by written notice delivered to Landlord not less than nine (9) months and not more than twelve (12) months prior to the then-current expiration date.

**Fair Market Rent — appraisal procedure.** Base rent for each renewal period shall equal the then-current Fair Market Rent ("FMR") for comparable commercial space in the same submarket. If the Parties cannot agree on FMR within thirty (30) days after Tenant's exercise notice, each Party shall select a qualified MAI appraiser within fifteen (15) days, and the two appraisers shall independently determine FMR. If their determinations differ by ten percent (10%) or less of the lower, FMR shall be the average. If they differ by more than ten percent (10%), the two appraisers shall jointly select a third appraiser whose determination shall be binding, provided it falls between the first two; otherwise, FMR shall be the average of the two closest determinations. Each Party bears the cost of its own appraiser; the third appraiser's fee is split equally.

### 3. Base Rent

Tenant shall pay to Landlord base rent in the amount of \*\*\*\*\* ( ) per month ("Base Rent"), payable in advance on or before the first (1st) day of each calendar month during the term, without demand, deduction, or offset, at Landlord's notice address or such other place as Landlord may designate.

**Annual escalation.** Base Rent shall increase by **3%** on each anniversary of the Commencement Date, compounded annually.

**Late charges.** Any Base Rent or additional rent not received within 5 days of the due date shall bear a late charge equal to five percent (5%) of the overdue amount, plus interest at the lesser of twelve percent (12%) per annum or the maximum rate permitted by applicable law, from the due date until paid.

### 4. Security Deposit

Upon execution of this Lease, Tenant shall deposit with Landlord the sum of \*\*\*\*\* as security for Tenant's faithful performance of this Lease (the "Security Deposit"). Landlord may apply the Security Deposit to cure any default by Tenant, including unpaid rent, damage beyond normal wear and tear, cleaning costs, and holdover penalties. Tenant shall replenish any drawn portion within ten (10) days of Landlord's written demand. The Security Deposit (or balance thereof) shall be returned to Tenant within thirty (30) days after expiration of the Lease and surrender of the Premises in the required condition, less any permitted deductions, together with an itemized statement.

### 5. Permitted Use

Tenant shall use the Premises solely for the following purpose: **[PERMITTED USE OF THE PREMISES]** (the "Permitted Use") and for no other purpose without Landlord's prior written consent. **Tenant is solely responsible for obtaining all permits, licenses, and approvals required for its use of the Premises. Landlord makes no representation or warranty that the Premises are suitable or properly zoned for Tenant's intended use.**

### 6. Expense Allocation

**Gross lease.** Landlord shall pay all real property taxes, building insurance premiums, and structural maintenance expenses for the Premises and the building. Tenant's obligation is limited to Base Rent plus the items expressly allocated to Tenant in this Lease (including utilities and interior maintenance as set forth herein).

### 7. Utilities

Tenant shall pay, directly to the applicable utility providers, all charges for electricity, gas, water, sewer, telecommunications, and trash removal serving the Premises.

## 8. Maintenance, Repairs, and Alterations

**Landlord obligations.** Landlord shall maintain the structural components of the building (foundation, exterior walls, roof structure) and the base building systems serving the Premises.

**Tenant obligations.** Tenant shall, at its sole cost, maintain the interior of the Premises, all trade fixtures, and all non-structural elements in good order and repair, including routine HVAC service and filter replacement, plumbing fixtures serving the Premises, interior lighting, and any alterations made by Tenant.

**Alterations.** Tenant shall not make any structural alteration to the Premises without Landlord's prior written consent, not to be unreasonably withheld. Non-structural alterations costing less than \$10,000 in the aggregate do not require consent, but Tenant shall give Landlord written notice. Tenant shall obtain all required permits, use licensed contractors, and deliver lien waivers upon completion. **Mechanic's lien protection.** Tenant shall not permit any mechanic's or materialman's lien to attach to Landlord's fee interest. If any lien is filed, Tenant shall cause it to be discharged (by payment or bond) within twenty (20) days of notice.

**Surrender.** Upon expiration or termination, Tenant shall surrender the Premises in good condition, broom clean, ordinary wear and tear excepted. Landlord may elect, by notice given at the time consent to an alteration is granted, to require Tenant to remove the alteration and restore the Premises, or to retain the alteration as Landlord's property.

## 9. Insurance

**Tenant's insurance.** Throughout the term, Tenant shall maintain at its sole cost:

1. **Commercial General Liability (CGL)** insurance with limits of not less than **\$1,000,000.00** per occurrence and **\$2,000,000.00** aggregate, naming Landlord (and Landlord's lender, if any) as additional insured on a primary and non-contributory basis;
2. **Property Insurance** covering Tenant's personal property, inventory, trade fixtures, and leasehold improvements at replacement cost;
3. **Business Interruption Insurance** in an amount sufficient to cover at least twelve (12) months of Base Rent and continuing business expenses;
4. **Workers' Compensation** insurance as required by the law of CA, and Employer's Liability insurance with limits of not less than \$1,000,000.

**Certificates.** Tenant shall deliver certificates of insurance evidencing the required coverage to Landlord before the Commencement Date and upon each renewal. No certificate shall be cancelable without thirty (30) days' prior written notice to Landlord.

**Waiver of subrogation.** To the extent of insurance proceeds received (or that would have been received had the required insurance been maintained), each Party waives all rights of recovery against the other Party and its employees, agents, and invitees for any loss or damage to property covered (or required to be covered) by property insurance. Each Party shall cause its property insurance policies to include a waiver-of-subrogation endorsement in favor of the other Party.

## 10. Assignment and Subletting

Tenant shall not assign this Lease or sublet all or any portion of the Premises without Landlord's prior written consent, such consent not to be unreasonably withheld, conditioned, or delayed. In evaluating a proposed transferee, Landlord may consider creditworthiness, intended use, experience, and impact on the building. Landlord shall have the right, within thirty (30) days of receiving Tenant's request, to (a) consent; (b) reasonably deny consent; or (c) recapture the affected space by terminating this Lease as to that space.

**Permitted transfers without consent.** Tenant may assign this Lease or sublet the Premises, without Landlord's consent (but with written notice), to (i) an affiliate under common control; (ii) a successor entity resulting from merger, consolidation, or sale of all or substantially all of Tenant's assets or equity; or (iii) an entity acquiring Tenant's business line operated at the Premises — provided the transferee has a tangible net worth at least equal to Tenant's as of the Effective Date, and the use remains consistent with the Permitted Use.

**Profit sharing.** Fifty percent (50%) of any rent or other consideration paid by a subtenant or assignee in excess of Base Rent (net of Tenant's reasonable transaction costs, including leasing commissions, legal fees, and tenant improvements) shall be paid to Landlord as additional rent.

## 11. Default and Remedies

**Events of Default.** Each of the following constitutes an Event of Default by Tenant:

1. Failure to pay Base Rent or any other sum due when due, not cured within 5 days after written notice;
2. Failure to perform any non-monetary obligation, not cured within 30 days after written notice (or such longer period as is reasonably required if cure cannot be completed within that time and Tenant diligently commences and pursues cure);
3. Insolvency, bankruptcy, assignment for benefit of creditors, appointment of a receiver, or similar event;
4. Abandonment of the Premises;
5. Material misrepresentation in any application or financial statement delivered to Landlord.

**Landlord's remedies.** Upon an Event of Default, Landlord may, at its option and in addition to all other rights at law or in equity:

(a) Terminate this Lease and recover possession, together with damages equal to the unpaid Base Rent to the date of termination plus the present value (discounted at the then-applicable federal mid-term rate) of the Base Rent for the remainder of the term, less the reasonable rental value of the Premises for that period; (b) Without terminating, re-enter and relet the Premises, holding Tenant liable for the deficiency between rent received and rent due, plus reletting costs; (c) Recover all reasonable attorneys' fees, court costs, brokerage commissions, costs of reletting, and costs of restoring the Premises; (d) Recover damages for any unamortized tenant improvement allowance, abated rent, or leasing commissions.

**Duty to mitigate.** Landlord shall make commercially reasonable efforts to relet the Premises following a termination for default, as required under CA law.

## 12. Holdover

If Tenant remains in possession of the Premises after the Expiration Date without Landlord's written consent, such occupancy shall be a tenancy at sufferance terminable at will, and Tenant shall pay holdover rent equal to **150%** of the last month's Base Rent, prorated daily, plus all other sums due under this Lease and any consequential damages Landlord incurs (including loss of a succeeding tenant). Landlord's acceptance of any holdover rent shall not create a new lease term, month-to-month tenancy, or year-to-year tenancy, notwithstanding any contrary common-law presumption.

## 13. Damage, Destruction, and Condemnation

**Casualty.** If the Premises are damaged by casualty and repair can reasonably be completed within one hundred eighty (180) days, Landlord shall promptly repair the base building shell, and Base Rent shall abate equitably during the period the Premises are untenable. If repair cannot be completed within 180 days, or the casualty occurs in the last twelve (12) months of the term, either Party may terminate this Lease on thirty (30) days' notice. Tenant shall insure and restore its own trade fixtures and leasehold improvements.

**Condemnation.** If all or substantially all of the Premises are taken by eminent domain, this Lease shall terminate as of the date of taking. If only a portion is taken such that the remainder is unsuitable for the Permitted Use, either Party may terminate on thirty (30) days' notice. Base Rent shall abate in proportion to the portion taken. Tenant reserves the right to pursue a separate condemnation award for trade fixtures, leasehold improvements paid for by Tenant, moving costs, and business interruption, to the extent such award does not reduce Landlord's award.

## 14. Subordination, Non-Disturbance and Attornment

This Lease is subordinate to any existing or future mortgage, deed of trust, or ground lease encumbering the Premises, provided that Landlord shall use commercially reasonable efforts to obtain, within sixty (60) days after the Effective Date (and before the Commencement Date for any future mortgage), a commercially reasonable Subordination, Non-Disturbance and Attornment Agreement ("SNDA") from

each lender or ground lessor, pursuant to which Tenant's possession shall not be disturbed so long as Tenant is not in default. Upon a foreclosure or deed in lieu, Tenant shall attorn to the successor owner and recognize it as landlord.

## 15. Estoppel Certificate

Within fifteen (15) business days after written request, each Party shall execute and deliver an estoppel certificate confirming: (a) this Lease is in full force and effect and unmodified (or, if modified, stating the modifications); (b) the current Base Rent and the dates through which rent has been paid; (c) the Security Deposit amount; (d) the commencement and expiration dates; (e) no defaults by either Party exist (or describing any known defaults); and (f) such other customary information as may reasonably be requested. Failure to deliver within the required period is an Event of Default.

## 16. Indemnification

Tenant shall indemnify, defend, and hold harmless Landlord and its affiliates, officers, employees, and agents from and against all claims, losses, damages, liabilities, and expenses (including reasonable attorneys' fees) arising out of (a) Tenant's use or occupancy of the Premises; (b) Tenant's negligence or willful misconduct; (c) any breach of this Lease by Tenant; or (d) acts or omissions of Tenant's employees, agents, contractors, or invitees — except to the extent caused by Landlord's negligence or willful misconduct.

Landlord shall indemnify, defend, and hold harmless Tenant from claims arising out of Landlord's negligence or willful misconduct or breach of this Lease, except to the extent caused by Tenant.

**Waiver of consequential damages.** To the maximum extent permitted by law, neither Party shall be liable to the other for lost profits, lost business opportunity, or other consequential, indirect, special, or punitive damages, except for damages arising from a Party's intentional misconduct or a holdover by Tenant.

## 17. Americans with Disabilities Act (ADA) — 42 U.S.C. §12181 et seq.

**Allocation of ADA compliance.** Landlord shall be responsible for ADA compliance of the base building and common areas as of the Commencement Date. Tenant shall be responsible for ADA compliance of the interior of the Premises, all alterations and improvements made by Tenant, and any barriers arising from Tenant's particular use of the Premises. If Tenant makes an alteration that triggers the "path of travel" requirement under 28 C.F.R. §36.403, Tenant shall bear the cost of bringing the altered area and the path of travel into compliance. Each Party indemnifies the other for ADA violations attributable to its respective area of responsibility.

## 18. Environmental

**Landlord representation.** Landlord represents and warrants, to Landlord's actual knowledge as of the Effective Date, that the Premises are free of Hazardous Materials in violation of applicable Environmental Laws, except as disclosed in writing to Tenant prior to execution.

**Tenant covenants.** Tenant shall not use, generate, store, release, or dispose of any Hazardous Materials on or about the Premises in violation of applicable Environmental Laws (including CERCLA, 42 U.S.C. §§9601-9675, and RCRA, 42 U.S.C. §§6901-6992k), except for small quantities of office or cleaning supplies used in the ordinary course and stored and disposed of in accordance with law.

**Mutual indemnity.** Each Party indemnifies the other for environmental contamination caused by the indemnifying Party or its agents, contractors, or invitees, including costs of investigation, remediation, fines, penalties, third-party claims, and diminution in value. "Hazardous Materials" and "Environmental Laws" shall have the meanings given in CERCLA and successor statutes.

**California Hazardous Materials Disclosure (Health & Safety Code §25359.7).** Landlord discloses to Tenant, pursuant to California Health & Safety Code §25359.7, that Landlord has no actual knowledge of any release of hazardous substances on or beneath the Premises, except as specifically disclosed in writing to Tenant prior to the Effective Date.

### Good-Guy Guaranty (Exhibit G)

\*\*\*\* ("Guarantor") guarantees payment of Base Rent and additional rent accruing under this Lease through the date that Tenant (a) vacates and surrenders possession of the Premises to Landlord in the condition required by this Lease, (b) delivers the keys, (c) is current on all rent and other sums due through the surrender date, and (d) provides Landlord not less than three (3) months' prior written notice of the intended surrender date. Upon satisfaction of all four conditions, Guarantor's liability for subsequently accruing rent terminates. Guarantor remains liable for rent and damages accrued through the surrender date and for any breach of the surrender obligations.

### Force Majeure

Neither Party shall be in default under this Lease for any delay or failure to perform (except monetary obligations, which are not excused) arising from causes beyond that Party's reasonable control, including acts of God, war, terrorism, civil unrest, labor disputes not within the Party's control, governmental orders (including pandemic-related closure or capacity orders), epidemic or pandemic, fire, flood, earthquake, hurricane, or unavailability of materials (each a "Force Majeure Event"). The affected Party shall give written notice within fifteen (15) days of the Force Majeure Event. **Clarification on rent.** Force majeure shall not excuse Tenant's obligation to pay Base Rent, additional rent, or sales tax. **Termination right.** If a Force Majeure Event continues for more than **180** consecutive days and materially impairs Tenant's ability to operate at the Premises, either Party may terminate this Lease on thirty (30) days' written notice.

## 19. Notices

All notices under this Lease shall be in writing and delivered by (a) personal delivery (effective on receipt); (b) nationally recognized overnight courier (effective the next business day); (c) certified mail, return receipt requested (effective on deposit, receipt required for proof); or (d) email, effective upon written confirmation of receipt, to the addresses set forth in the preamble (or such other address as a Party designates by written notice).

## 20. State-Specific Provisions

**California.** This Lease is governed by California law. (a) Pursuant to **California Civil Code §1951.2**, Landlord has a duty to make reasonable efforts to mitigate damages upon Tenant's default. (b) Pursuant to **California Civil Code §1951.4**, Landlord may elect to continue this Lease in effect and sue for rent as it comes due, Tenant having the express right to sublet subject to Landlord's reasonable consent requirements herein. (c) Pursuant to **California Civil Code §1717**, any attorneys' fees provision shall be reciprocal. (d) Any restriction on Tenant's ability to engage in a lawful profession that would violate California Business & Professions Code §16600 shall be void and severable.

## 21. General Provisions

**Governing Law; Venue.** This Lease shall be governed by the laws of the State of CA, without regard to conflict-of-laws rules. Venue for any action relating to this Lease shall be the state or federal courts located in the county where the Premises are located.

**Dispute resolution.** Any action or proceeding arising out of or relating to this Lease shall be brought exclusively in the state or federal courts located in the county where the Premises are situated.

**Attorneys' fees.** In any action or proceeding arising out of this Lease, the prevailing Party shall be entitled to recover its reasonable attorneys' fees, court costs, and expenses from the non-prevailing Party.

**Quiet Enjoyment.** So long as Tenant is not in default beyond any applicable cure period, Tenant shall have quiet enjoyment of the Premises, free from disturbance by Landlord or anyone claiming by, through, or under Landlord, subject to the terms of this Lease.

**Entire Agreement.** This Lease, together with all exhibits, constitutes the entire agreement between the Parties concerning the Premises and supersedes all prior or contemporaneous negotiations, representations, and understandings, whether oral or written. No modification is effective unless in writing and signed by both Parties.

**Severability.** If any provision of this Lease is held invalid, illegal, or unenforceable, the remainder shall continue in full force, and the invalid provision shall be modified to the minimum extent necessary to be enforceable while preserving the Parties' intent.

**Binding Effect; Successors.** This Lease binds and benefits the Parties and their respective heirs, successors, and permitted assigns.

**Counterparts; Electronic Signatures.** This Lease may be executed in counterparts, each of which shall be deemed an original. Electronic signatures transmitted by PDF or a reputable e-signature service shall be valid and binding under the federal ESIGN Act (15 U.S.C. §7001 et seq.) and applicable state UETA.

**Memorandum of Lease.** Either Party may record a memorandum of this Lease (but not the Lease itself) in the real property records of the county where the Premises are located. The other Party shall execute a commercially reasonable memorandum upon request.

**Brokers.** Each Party represents to the other that it has not dealt with any real estate broker in connection with this Lease other than those specifically identified in a written disclosure, and each Party indemnifies the other for any claim for commission or fees by any broker claiming through that Party.

## Signatures

IN WITNESS WHEREOF, the Parties have executed this Lease as of the Effective Date.

### Landlord

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

### Tenant

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

### Guarantor

The undersigned Guarantor executes this Lease solely to evidence Guarantor's agreement to the Personal Guaranty set forth above.

### Guarantor

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE