

**NONRESIDENTIAL LEASE AGREEMENT**

Commercial, Industrial, Office, Retail

DATE: \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_, California

**1. FACTS:**

- 1.1 The Landlord \_\_\_\_\_ leases to \_\_\_\_\_, Tenant(s) the real estate referred to as \_\_\_\_\_
- 1.2 The Landlord acknowledges receipt of \$\_\_\_\_\_ to be applied as follows:
 Security deposit \$\_\_\_\_\_  Last month's rent \$\_\_\_\_\_
 First month's rent \$\_\_\_\_\_
- 1.3 The following checked addendums are made a part of this nonresidential lease:
 Additional terms addendum [ft Form 250]  Option to Renew/Extend [ft Form 566]  Authority to Sublease/Assign
 Property Description  Brokerage Fee Addendum [ft Form 273]  Option to Buy [ft Form 161]
 Condition of Premises [ft Form 560]  Option to Lease Additional Space  Other \_\_\_\_\_
 Building rules  Buyer's/Occupant's Operating Expense Sheet [ft Form 562]

**2. TERM OF LEASE:**

- 2.1 The lease commences \_\_\_\_\_, 20\_\_\_\_\_, and expires \_\_\_\_\_, 20\_\_\_\_\_, the month of commencement being the anniversary month.
- 2.2 The lease terminates on the last day of the term without further notice.
- 2.3 If Tenant holds over, Tenant to be liable for damages at the daily rate of \$\_\_\_\_\_.

**3. RENT:**

- 3.1 Tenant to pay rent monthly, in advance, on the first day of each month including rent for any partial month prorated at 1/30th of the monthly rent per day.
- 3.2  Monthly rent for the entire term is fixed at the amount of \$\_\_\_\_\_.
- 3.3  Monthly base rent for the initial twelve months of the term is the amount of \$\_\_\_\_\_, adjusted annually on the first day of each anniversary month by increasing the initial monthly base rent by the percentage increase between the applicable CPI-U index figures published for the third (3rd) month preceding the month of commencement and the third (3rd) month preceding the anniversary month.
a. The applicable CPI-U Index (Consumer Price Index for All Urban Consumer (1982-1984 = 100) is:
 Los Angeles-Anaheim-Riverside  SanFrancisco-Oakland-SanJose  SanDiego  National  Other\_\_\_\_\_
b. Rent increases under CPI-U adjustments are limited for any one year to an increase of \_\_\_\_\_%.
c. On any anniversary adjustment, should the CPI-U have decreased below the CPI-U for the prior twelve-month period, the monthly rent for the ensuing twelve months shall remain the same as the rent during the prior twelve months.
d. If the CPI-U is changed or replaced by the United States Government, the conversion factor published by the Government on the new Index shall be used to compute annual adjustments.
- 3.4  Monthly rent, from year to year, is adjusted on each anniversary month under the following graduations:
Initial year monthly rent: \$\_\_\_\_\_
First anniversary monthly rent: \$\_\_\_\_\_
Second anniversary monthly rent: \$\_\_\_\_\_
Third anniversary monthly rent: \$\_\_\_\_\_
Fourth anniversary monthly rent: \$\_\_\_\_\_
- 3.5  Additional percentage rent equal to \_\_\_\_\_% of Gross Sales made from the premises during each calendar year, less credit for other rent, real estate taxes, insurance and Common Area Maintenance (CAM) charge paid for the calendar year.
a. The percentage rent shall be computed and paid for each month of the lease with a signed written statement of the gross income and percentage computation by the tenth (10th) day of the following month.
b. The additional percentage rent to be payable monthly shall be credited for other rent, taxes, insurance, and CAMs paid by Tenant for the month.
c. Within one month after each calendar year and on expiration of the lease, Tenant shall compute and deliver a written statement of sales and the percentage rent due for the calendar year, less credit for rent, taxes, insurance and CAMs paid for the calendar year, to annually adjust the percentage rent remaining due from Tenant or to be refunded to Tenant by Landlord, which difference will be paid on delivery of the annual statement.
d. Gross Sales includes all money or equivalent received by Tenant, subtenant, licensees or concessionaires, in the ordinary course of business, whether wholesale or retail, cash or credit, less credit for goods returned by customer or merchandise returned by Tenant or transferred to tenant-affiliated stores.
e. Landlord has the right, on reasonable notice, to audit Tenant's books regarding sales information.
- 3.6  Every \_\_\_\_\_ years after commencement, including extensions/renewals, the monthly base rent will be adjusted, upward only, to current market rental rates for comparable premises, and computation of any future CPI-U adjustments

will treat the year of each current market adjustment as a commencement year for selecting the Index figures.

- a. The monthly rent during any year shall not be less than the previous year's monthly rent.
- b. Landlord to reasonably determine and advise Tenant of the adjusted rental rates prior to three months before the adjustment becomes effective.
- 3.7 Rent to be paid in U.S. dollars by  cash, or  check, or  cashier's check, at Landlord's address.
- 3.8 Rent to be tendered by  mail or  personal delivery.
- 3.9 Tenant to pay a late charge of \$\_\_\_\_\_ in the event rent is not received within five days of the due date.
- 3.10 Tenant to pay \$\_\_\_\_\_ for each rent check returned for insufficient funds, and thereafter to pay rent by cash or cashier's check.

**4. OPERATING EXPENSES:**

- 4.1 Tenant is responsible for payment of utility and service charge as follows: \_\_\_\_\_
- 4.2 Landlord is responsible for payment of utility and service charge as follows: \_\_\_\_\_
- 4.3 Tenant to pay all taxes levied on Tenant trade fixtures installed on the premises.
- 4.4 Should Landlord pay any charge owed by Tenant, Tenant shall pay, within ten days of written demand, the charge as additional rent.
- 4.5 As additional rent, Tenant to pay \_\_\_\_\_% of all real property taxes and assessments levied by governments, for whatever cause, against the land, trees and building containing the leased premises, within 30 days after written computation and demand from Landlord.
- 4.6 As additional monthly rent, Tenant to pay \_\_\_\_\_% of the Common Area Maintenance (CAM) incurred each month, within ten days of written statement and demand for payment.
a. Common Area Maintenance is the cost of maintaining and operating the "Common Areas," including all sidewalks, corridors, plazas, hallways, restrooms, parking areas, interior and exterior walls and all other open areas not occupied by tenants.
b. Common Area Maintenance includes "all charges" for garbage removal, janitorial services, gardening, landscaping, printing/decorating, repair and upkeep, utilities and other operating costs, including charges for property management of the Common Area Maintenance.

**5. POSSESSION:**

- 5.1 Tenant may terminate the lease if Landlord does not deliver up possession within \_\_\_\_\_ days after commencement of the lease.
- 5.2 Landlord is to recover and deliver possession of the premises from the previous tenant. Tenant will not be liable for rent until possession is delivered.
- 5.3 If Landlord is unable to deliver possession of the premises, Landlord will not be liable for any damage.

**6. USE OF THE PREMISES:**

- 6.1 The Tenant's use of the premises shall be: \_\_\_\_\_
- 6.2 No other use of the premises is permitted. Tenant may not conduct any activity which increases Landlord's insurance premiums.
- 6.3 Tenant will not use the premises for any unlawful purpose, violate any government ordinance or building and tenant association rules, or create any nuisance.
- 6.4 Tenant shall deliver up the premises together with all keys to the premises on expiration of the lease in as good condition as when Tenant took possession, except for reasonable wear and tear.

**7. APPURTENANCES:**

- 7.1 Tenant shall have the right to use Landlord's access of ingress and egress.
- 7.2 Tenant shall also have the use of \_\_\_\_\_ parking spaces for the running of its business.

**8. SIGNS AND ADVERTISING:**

- 8.1 Tenant will not construct any sign or other advertising on the premises without the prior consent of Landlord.
- 8.2 Landlord will maintain a directory in the lobby of the premises displaying the name and suite number of Tenant. Landlord has the right to determine the size, shape, color, style and lettering of the directory.
- 8.3 Landlord will provide a sign to be placed on the primary door to Tenant's suite. The fees for the cost and installation will be paid by \_\_\_\_\_.

**9. TENANT IMPROVEMENTS/ALTERATIONS:**

- 9.1 Tenant may not alter or improve the real estate without Landlord's prior consent. Tenant will keep the real estate free of all claims for any improvements and will timely notify Landlord to permit posting of notices for nonresponsibility.
- 9.2 Any increases in Landlord's property taxes caused by improvements made by Tenant shall become additional rent due on demand.

**10. REPAIR AND MAINTENANCE:**

- 10.1 The premises are in good condition, except as noted in an addendum.
- 10.2 Tenant shall maintain and repair the premises, except for the following which are Landlord's responsibility:
  - Plumbing and sewers    Structural foundations    Exterior walls
  - Heating and air conditioning    Store front    Plate glass
  - Roof    Parking areas    Lawns and shrubbery    Sidewalks
  - Driveways/right of ways    Electrical
  - Other: \_\_\_\_\_

**11. RIGHT TO ENTER:**

- 11.1 Tenant agrees to make the premises available on 24 hours' notice for entry by Landlord for necessary repairs, alterations, or inspection of the premises.

**12. WASTE:**

- 12.1 Tenant will not destroy, damage, or remove any part of the premises or equipment, or commit waste, or permit any person to do so.

**13. LIABILITY INSURANCE:**

- 13.1 Tenant shall obtain and maintain commercial general liability and plate glass insurance covering both personal injury and property damage to cover Tenant's use of the premises insuring Tenant and Landlord.
- 13.2 Tenant shall obtain insurance for this purpose in the minimum amount of \$\_\_\_\_\_.
- 13.3 Tenant shall provide Landlord with a Certificate of Insurance naming the Landlord as an additional insured. The Certificate shall provide for written notice to Landlord should a change or cancellation of the policy occur.
- 13.4 Each party waives all insurance subrogation rights it may have.

**14. FIRE INSURANCE:**

- 14.1 Tenant shall obtain and maintain a standard fire insurance policy with extended coverage for theft and vandalism to the extent of 100% of the replacement value of all personal property and the restoration of Tenant improvements.

**15. HOLD HARMLESS:**

- 15.1 Tenant shall hold Landlord harmless for all claims, damages or liability arising out of the premises caused by Tenant or its employees or patrons.

**16. DESTRUCTION:**

- 16.1 In the event the premises are totally or partially destroyed, Tenant agrees to repair the premises if the destruction is caused by Tenant or covered by its insurance.
- 16.2 The lease shall not be terminated due to any destruction.
- 16.3 Landlord shall repair the premises if the cause is not covered by insurance or is covered by Landlord's policy only.
- 16.4 Landlord may terminate the lease if the repairs cannot be completed within 30 days, the cost of restoration exceeds 70% of the replacement value of the premises, the insurance proceeds are insufficient to cover the actual cost of the repairs, or the premises may not be occupied by law.

**17. SUBORDINATION:**

- 17.1 Tenant agrees to subordinate to any new financing secured by the premises which does not exceed 80% loan-to-value ratio, interest of two percent over market and not less than a 15 year monthly amortization and five year due date.

**18. TENANT ESTOPPEL CERTIFICATES:**

- 18.1 Within 10 days after notice, Tenant will execute a certificate stating the existing terms of the lease to be provided to prospective buyers or lenders.
- 18.2 Failure to deliver the certificate shall be conclusive evidence the information contained in it is correct.

**19. ASSIGNMENT, SUBLETTING AND ENCUMBRANCE:**

- 19.1  Tenant may not assign this lease or sublet any part of the premises, or further encumber the leasehold.
- 19.2  Tenant may not transfer any interest in the premises without prior consent of Landlord, and  consent is subject to attached conditions.
- 19.3  Unconsented-to transfers of any interest in the lease terminate the lease.

**20. SURRENDER:**

- 20.1 Tenant may surrender this lease only by a written cancellation and waiver agreement with Landlord.

**21. EMINENT DOMAIN:**

- 21.1 Should a portion or all of the premises be condemned for public use, Landlord may terminate the lease and Tenant's possession. If the lease is not terminated, Tenant shall receive a rent abatement for the actual reduction (if any) in the value of the lease.
- 21.2 Tenant waives the right to any compensation awarded from the condemning authority for the whole or partial taking of the premises.
- 21.3 Any Tenant's damages shall come solely from the condemning authority.

**22. WAIVER:**

- 22.1 Waiver of a breach of any provision in this lease shall not constitute a waiver of any subsequent breach. Landlord's receipt of rent with knowledge of Tenant's breach does not waive Landlord's right to enforce the breach.

**23. DEFAULT REMEDIES:**

- 23.1 If Tenant breaches any provision of this lease, Landlord may exercise its rights, including the right to collect future rental losses after forfeiture of possession.

**24. BROKERAGE FEES:**

- 24.1  Landlord,  Tenant, to pay \$\_\_\_\_\_ to Broker: \_\_\_\_\_.

**25. MISCELLANEOUS:**

- 25.1 Items left blank or unchecked are not applicable.
- 25.2  See attached addendum for additional terms.
- 25.3 If an action is instituted to enforce this agreement, the prevailing party shall receive reasonable attorney fees.
- 25.4 This lease shall be binding on all heirs, assigns and successors except as provided in section 19.
- 25.5 This lease shall be enforced under California law.
- 25.6 This lease reflects the entire agreement between the parties.
- 25.7  This lease is secured by a trust deed.

**I agree to let the premises on the terms stated above.**

Date: \_\_\_\_\_, 20\_\_\_\_

Landlord: \_\_\_\_\_

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

\_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ Fax (\_\_\_\_) \_\_\_\_\_

Signature: \_\_\_\_\_

**I agree to occupy the premises on the terms stated above.**

Date: \_\_\_\_\_, 20\_\_\_\_

Tenant: \_\_\_\_\_

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

\_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ Fax (\_\_\_\_) \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_