

LICENSE AGREEMENT¹

THIS LICENSE AGREEMENT (this “**Agreement**”) is made as of the _____ day of _____ 2020 (the “**Effective Date**”) by and between [INSERT OWNER] (“**Owner**”), and [INSERT OCCUPANT] (“**Licensee**”). Owner and Licensee do hereby agree as follows:

1. Basic License Terms.

- (a) **Building:** the building located at _____.
- (b) **Premises:** _____.
- (c) **License Term:** the term of this Agreement commencing on the Delivery Date and ending on _____, as extended pursuant to Section 2(a) .
- (d) **License Fee:** an amount equal to \$ _____ per month.
- (e) **Permitted Purpose:** Licensee shall use the Premises solely for the following uses: _____.
- (f) **Permitted Operating Hours:** from _____ a.m. to _____ p.m., Monday through _____.
- (g) **Owner’s Payment Address:** _____.

2. License. (a) Owner hereby grants to Licensee a temporary license to use and occupy the Premises for the License Term, upon the terms and conditions hereinafter provided. Immediately following the expiration of the initial License Term, the License Term shall be on a month-to-month basis until such time as either party terminates this Agreement, which termination right may be exercised upon fifteen (15) days prior written notice to the non-terminating party.

(b) The Premises shall be accepted by Licensee in its “as-is” condition as of the date Owner delivers possession of the Premises to Licensee (the “**Delivery Date**”), and Owner is under no obligation to make any alterations or improvements in or to the Premises or the Building. If Owner is unable to deliver possession of the Premises to Licensee on any date specified in this Agreement, Owner shall have no liability to Licensee therefor, nor shall the License Term be extended, by reason thereof. This Section 2(b) shall be an express provision to the contrary for purposes of Section 223-a of the New York Real Property Law and any other law of like import now or hereafter in effect.

3. License Fee. Licensee shall pay to Owner, at Owner’s Payment Address, the License Fee for the Premises monthly in advance on the first day of each month during the License

¹ Please note that this document should not be construed as providing legal advice and you should review this document with an attorney prior to executing.

Term. If the License Term begins on a date other than on the first day of a month, the License Fee for such partial month shall be prorated on a per diem basis.

4. Use, Repair and Legal Requirements. (a) Licensee shall use the Premises solely for Permitted Purpose. Licensee shall at all times abide by and observe reasonable rules and regulations promulgated by Owner from time to time. Licensee shall not use or occupy the Premises for any unlawful purpose, or in any manner that will constitute waste, nuisance, or disturbance to Owner or any other tenant or occupant of the Building.

(b) Licensee shall keep the Premises in clean, safe and sanitary condition (*e.g.*, free from dirt and debris) and shall keep and maintain all furniture, fixtures and equipment and other personal property located in the Premises, in each case, in as good a condition as existed on the Delivery Date. Licensee shall repair any injury, breakage or damage caused by Licensee or its employees, contractors, agents or invitees to the Premises or the Building; provided, however, Owner shall have the right, at its option, to repair same at Licensee's reasonable expense.

(c) Licensee shall comply with all laws, ordinances (including zoning ordinances and land use requirements), regulations and orders of any governmental or quasi-governmental agency having jurisdiction over the Premises and any requirements of the insurance underwriter(s) for the Building (collectively, the "**Legal Requirements**") concerning the use, occupancy or condition of the Premises and the operation of the business conducted therein.

5. Operating Covenants. No sales or promotions may be conducted within the Premises other than in the normal course of Licensee's continuing business operations therein. Without limiting the generality of the foregoing, no auction, fire, bankruptcy, "lost our lease" or going out of business sales (or the like, howsoever denominated) may be conducted within the Premises. If Owner gives notice to Licensee of any objection which Owner may have to Licensee's displays in the windows of the Premises then Licensee shall promptly alter such displays to comply with Owner's objections. Licensee shall receive and deliver goods and merchandise only in the manner, at such times, and in such areas, as may be designated by Owner from time to time; all trash, refuse, and the like, shall be kept in covered trash receptacles, which trash receptacles shall be kept within the Premises at all times, and in no event stored outside of same. Licensee shall pay any business, rent or other taxes that are now or hereafter levied upon Licensee's use or occupancy of the Premises, the conduct of Licensee's business at the Premises, or Licensee's equipment, fixtures or personal property. In the event that any such taxes are enacted, changed or altered so that any of such taxes are levied against Owner or the mode of collection of such taxes is changed so that Owner is responsible for collection or payment of such taxes, Licensee shall pay any and all such taxes to Owner upon written demand from Owner. The Premises may be kept open for business during the Permitted Operating Hours. Any additional hours prior to or subsequent to the Permitted Operating Hours shall be subject to Owner's reasonable approval.

6. Assignment and Sublicensing. Licensee shall not assign this Agreement (in whole or in part), sublicense (which term, as used herein, shall include any type of subrental arrangement and any type of license to occupy) all or any part of the Premises, or otherwise permit occupancy or use by another party of all or any part of the Premises.

7. Alterations. Licensee shall not make, or permit anyone to make, any alterations, additions or improvements in or to the Premises or the Building or place any fixtures therein.

8. Entry by Owner. Licensee shall permit Owner, its agents or representatives, to enter the Premises at any time during the License Term to (i) examine, inspect and protect the Premises and the Building (including in the case of threat to life or property) or to make such alterations or repairs as Owner deems necessary in its sole judgment and (ii) exhibit the Premises to prospective tenants, purchasers, lenders, investors and partners, provided that, in each case, Owner provides Licensee reasonable prior verbal or written notice of such entry (except in the case of an emergency).

9. Indemnity and Insurance. (a) Licensee for itself, its successors and assignees, hereby releases, remises and discharges and agrees to indemnify and hold harmless Owner and its respective affiliates and each and all of their employees, servants, agents, officers, officials, shareholders, directors, members, trustees, beneficiaries, and partners (collectively, the “**Licensee Indemnitees**”), from and against all claims, costs, damages, demands, actions, liabilities, expenses and causes of action (including, without limitation, attorney's fees) of any sort arising out of, resulting from or relating to (i) any act, omission or negligence of Licensee, its agents, contractors, employees, guests, licensees, invitees, customers or clients (collectively, the “**Licensee Parties**”); (ii) any accident, injury or damage whatsoever caused to any person, or to the property of any person, occurring in or about the Premises during the License Term (and for so long prior thereto or thereafter as Licensee or anyone acting by, through or under Licensee may use, or be in occupancy of, the Premises or any portion thereof); (iii) any accident, injury or damage whatsoever occurring outside the Premises but within the Building or on common areas of the land on which the Building is located, where such accident, injury or damage results, or is claimed to have resulted, from any act, omission or negligence on the part of any of the Licensee Parties; or (iv) any breach of this Agreement by Licensee. The provisions of this Section 9(a) shall survive the expiration or early termination of this Agreement.

(b) All of the equipment, effects and property of every kind of Licensee, and all persons claiming, by through or under Licensee, which may be in the Premises, shall be at the sole risk and hazard of Licensee.

(c) Licensee shall procure and maintain in full force and effect at all times during the License Term such insurance as is reasonably requested by Owner, which insurance shall name, as additional insureds, Owner and such other affiliates of Owner as is reasonably requested by Owner. **Licensee shall provide a certificate of insurance evidencing the insurance required hereunder prior to Licensee's occupancy of the Premises.** To the fullest extent permitted by law, and notwithstanding any term of this Agreement to the contrary, the parties hereto waive and release any and all rights of recovery against the other, and agree not to seek to recover from the other or to make any claim against the other, and in the case of Owner, against Licensee and in the case of Licensee, against all Licensee Indemnitees for any loss or damage incurred by the waiving/releasing party to the extent such loss or damage is insured under any insurance policy required by this Agreement or which would have been so insured had the party carried the insurance it was required to carry hereunder.

10. Services and Utilities. Owner shall provide to the Premises heating, ventilation and air-conditioning during the Permitted Hours. Owner shall provide to the Premises electricity and water.

11. Licensee Default. This Agreement shall, at the option of Owner in its sole discretion, cease and terminate upon written notice from Owner to Licensee, if any of the following occur: (a) Licensee fails to pay the License Fee or any other sums required by this Agreement when due; (b) Licensee violates or fails to perform any of the conditions, covenants or agreements of this Agreement (other than the payment of the License Fee or any other sums required by this Agreement), and any such violation or failure continues for a period of twenty (20) days after written notice thereof has been delivered by Owner to Licensee; or (c) Licensee abandons the Premises. Licensee shall remain liable to Owner for all costs, expenses and other damages (including reasonable attorneys' fees and costs) arising from such violation or failure or incurred by Owner to defend or enforce its rights under this Agreement or applicable law.

12. Failure to Make Payments. Except as otherwise provided in this Agreement, any amounts owed by Licensee to Owner shall be due and payable thirty (30) days after Owner delivers notice thereof to Licensee. If Licensee fails to make any payments when due, such payment shall bear interest at the rate per annum which is two percent (2%) higher than the publicly announced "prime rate" then being reported by Bank of America, from the date such payment became due to the date of payment thereof by Licensee; provided, however, that nothing contained herein shall be construed as permitting Owner to charge or receive interest in excess of the maximum legal rate then allowed by law.

13. End of Term. Upon the expiration or earlier termination of this Agreement, Licensee shall quit and vacate the Premises, remove all of Licensee's moveable furniture, equipment, personal property, goods and effects therefrom, and surrender the Premises in broom-clean condition and otherwise in substantially the same condition it was in as of the Delivery Date (ordinary wear and tear and casualty and condemnation excepted). If Licensee fails to surrender the Premises as aforesaid, (i) Licensee shall be deemed in holdover, and Owner shall have all remedies available at law or in equity in connection with such failure, (ii) Owner shall have the right to reenter and take possession of the Premises without process, or by any legal process in force in the jurisdiction in which the Building is located, (iii) Owner shall have the right, at Licensee's expense, to remove Licensee's personal property from the Premises, which personal property, at Owner's option, may be deemed the property of Owner, and (iv) beginning on the day immediately after the expiration or earlier termination of the License Term and continuing through the last day of the month in which Licensee surrenders the Premises as aforesaid, Licensee shall pay to Owner, a monthly license fee, without set off, deduction or demand, in an amount equal to 200% of the fair market rent for the Premises as reasonably determined by Owner. The obligations of Licensee set forth in this Section shall survive the termination of this Agreement.

14. Notices. All notices or other communications hereunder shall be in writing and delivered to the addresses provided below, as applicable.

15. Subordination. This Agreement and Licensee's rights under this Agreement are subject to and subordinate to any ground lease or underlying lease, mortgage, deed of trust, or other lien encumbrance or indenture, together with any renewals, extensions, modifications,

consolidations, and replacements of them, that now or hereafter affects the Premises or any interest of Owner in the Premises or Owner's interest in this Agreement.

16. Limitation of Liability. Owner and Licensee each agree that Owner and Licensee, as applicable, shall only assert a claim against the other party hereto, and Owner and Licensee each shall not be entitled to enforce the obligations of the other party hereto under this Agreement by any action or proceeding against any of such other party's direct or indirect affiliates, partners, lenders, members, managers, officers, shareholders, stockholders, directors, employees, principals, trustees, beneficiaries, licensees, servants, contractors, agents or representatives. In no event shall Owner or Licensee be liable for any indirect, consequential or punitive damages, including loss of profits or business opportunity, arising under or in connection with this Agreement.

17. Waiver of Jury Trial. LICENSOR AND LICENSEE HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY OF THE PARTIES HERETO AGAINST THE OTHER(S) ON OR IN RESPECT OF ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE RELATIONSHIP OF LICENSOR AND LICENSEE HEREUNDER, LICENSEE'S USE OF THE PREMISES AND/OR ANY CLAIM OF INJURY OR DAMAGE IN CONNECTION THEREWITH.

18. General Provisions.

(a) It is agreed that nothing contained in this Agreement shall be deemed or construed as creating a partnership, joint venture, or relationship of landlord and tenant between Owner and Licensee. LICENSEE HEREBY EXPRESSLY ACKNOWLEDGES THAT THIS AGREEMENT IS A LICENSE AGREEMENT, NOT A LEASE, AND EXPRESSLY WAIVES ANY NOTICE TO QUIT, NOTICE TO VACATE, NOTICE OF INTENT, OR ANY OTHER NOTICES WHICH MAY OTHERWISE BE REQUIRED BY LAW IN THE EVENT OF A TERMINATION OF A LICENSE.

(b) This Agreement shall not be effective and binding unless and until fully executed and delivered by each of the parties hereto. This Agreement may not be modified or changed in whole or in part in any manner other than by an agreement in writing duly signed by all parties hereto. This Agreement may be conducted in multiple counterparts and/or by electronic means and may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature.

(c) If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(d) This Agreement shall be governed by and construed in accordance with the laws of New York, without regard to the conflicts of laws principles.

[signatures follow]

IN WITNESS WHEREOF, Owner and Licensee have caused this Agreement to be executed and delivered as of the date set forth above.

OWNER:

_____,
a _____

By: _____
Name:
Title:

Owner Notice Address:

LICENSEE:

_____,
a _____

By: _____
Name:
Title:

Licensee Notice Address:

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