

## ***COMMERCIAL REAL ESTATE LEASE***

This Lease Agreement (this "Lease") is dated as of October 1, 2021, by and between Owens & Gates. LLC, a North Carolina limited liability company ("Landlord"), and Jackson County Tourism Development Authority ("Tenant"). The parties agree as follows:

**PREMISES.** Landlord, in consideration of the lease payments provided in this Lease, leases to Tenant a 2500 square foot office building located on 98 Cope Creek Road. (the "Premises") located at 98 D & E Cope Creek Plaza.

**TERM.** The lease term will begin on October 1, 2021 and will terminate on September 30, 2026. If tenant wants to continue occupancy after September 30, 2026, notification shall be given to landlord by August 31, 2026, and additional terms negotiated.

**LEASE PAYMENTS.** Tenant shall pay to Landlord monthly installments of \$1900.00 plus \$40.00 water fee, payable in advance on the first day of each month. Lease payments shall be made to the Landlord at PO Box 459, Dillsboro, NC 28725, which address may be changed from time to time by the Landlord.

**SECURITY DEPOSIT.** At the time of the signing of this Lease, Tenant shall pay to Landlord, in trust, a security deposit of \$1900.00 to be held and disbursed for Tenant damages to the Premises (if any) as provided by law. The \$1900 may not be used for the last month's rent. If tenant vacates the property before the end of the lease period, the security deposit will be forfeited.

**POSSESSION.** Tenant shall be entitled to possession on the first day of the term of this Lease, and shall yield possession to Landlord on the last day of the term of this Lease, unless otherwise agreed by both parties in writing. At the expiration of the term, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord in as good a condition as when delivered to Tenant, ordinary wear and tear excepted.

**USE OF PREMISES.** Tenant may use the Premises only for an office and other related activities. The Premises may be used for any other purpose only with the prior written consent of Landlord, which shall not be unreasonably withheld. Tenant shall notify Landlord of any anticipated extended absence from the Premises not later than the first day of the extended absence.

**PARKING.** Tenant shall be entitled to use up to 12 parking space(s) for the parking of the Tenant's customers'/guests' motor vehicle(s).

**PROPERTY INSURANCE.** Landlord and Tenant shall each maintain appropriate insurance for their respective interests in the Premises and property located on the Premises. Landlord shall be named as an additional insured in such policies. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably

satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies. Tenant shall also maintain any other insurance which Landlord may reasonably require for the protection of Landlord's interest in the Premises. Tenant is responsible for maintaining casualty insurance on its own property.

**LIABILITY INSURANCE.** Tenant shall maintain liability insurance on the Premises in a total aggregate sum of at least \$1,000,000.00. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies.

### **MAINTENANCE.**

Landlord's obligations for maintenance shall include:

- the roof, outside walls, and other structural parts of the building
- the parking lot, driveways, and sidewalks, including snow and ice removal
- the sewer, water pipes, and other matters related to plumbing
- the electrical wiring
- the air conditioning system
- Landlord is responsible for general maintenance of the building.
- all other items of maintenance not specifically delegated to Tenant under this Lease.

Tenant's obligations for maintenance shall include:

- Tenant will be responsible for minor maintenance; changing light bulbs, smoke alarm batteries, filters, renewing any paint, and minor plumbing. AC filters should be changed monthly or at recommended times as suggested by the filter manufacturer.

### **UTILITIES AND SERVICES.**

Tenant shall be responsible for the following utilities and services in connection with the Premises:

- electricity
- gas
- heating
- garbage and trash disposal
- janitorial services
- telephone, internet, and television service

Tenant acknowledges that Landlord has fully explained to Tenant the utility rates, charges and services for which Tenant will be required to pay to Landlord (water and sewer), other than those to be paid directly to the third-party provider.

**TAXES.** Taxes attributable to the Premises or the use of the Premises shall be allocated as follows:

**REAL ESTATE TAXES.** Landlord shall pay all real estate taxes and assessments for the Premises.

**PERSONAL TAXES.** Tenant shall pay all personal and business 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.

**DEFAULTS.** Tenant shall be in default of this Lease if Tenant fails to fulfill any lease obligation or term by which Tenant is bound. Subject to any governing provisions of law to the contrary, if Tenant fails to cure any financial obligation within 5 days (or any other obligation within 10 days) after written notice of such default is provided by Landlord to Tenant, Landlord may take possession of the Premises without further notice (to the extent permitted by law), and without prejudicing Landlord's rights to damages. In the alternative, Landlord may elect to cure any default and the cost of such action shall be added to Tenant's financial obligations under this Lease. Tenant shall pay all costs, damages, and expenses (including reasonable attorney fees and expenses) suffered by Landlord by reason of Tenant's defaults. All sums of money or charges required to be paid by Tenant under this Lease shall be additional rent, whether or not such sums or charges are designated as "additional rent". The rights provided by this paragraph are cumulative in nature and are in addition to any other rights afforded by law.

**LATE PAYMENTS.** For any payment that is not paid within 8 days after its due date, Tenant shall pay a late fee of \$25.00.

**HOLDOVER.** If Tenant maintains possession of the Premises for any period after the termination of this Lease ("Holdover Period"), Tenant shall pay to Landlord lease payment(s) during the Holdover Period at a rate equal to the rate designated during the Holdover Period. Such holdover shall constitute a month-to-month extension of this Lease.

**CUMULATIVE RIGHTS.** The rights of the parties under this Lease are cumulative, and shall not be construed as exclusive unless otherwise required by law.

**NON-SUFFICIENT FUNDS.** Tenant shall be charged \$35.00 for each check that is returned to Landlord for lack of sufficient funds.

**REMODELING OR STRUCTURAL IMPROVEMENTS.** Tenant shall have the obligation to conduct any construction or remodeling (at Tenant's expense) that may be required to use the Premises as specified above. 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. Tenant shall not install awnings or advertisements on any part of the Premises without Landlord's prior written consent. At the end of the lease term, Tenant shall be entitled to remove (or at the request of Landlord shall remove)

such fixtures, and shall restore the Premises to substantially the same condition of the Premises at the commencement of this Lease.

**ACCESS BY LANDLORD TO PREMISES.** Subject to Tenant's consent (which shall not be unreasonably withheld), Landlord shall have the right to enter the Premises to make inspections, provide necessary services, or show the unit to prospective buyers, mortgagees, tenants or workers. However, Landlord does not assume any liability for the care or supervision of the Premises. As provided by law, in the case of an emergency, Landlord may enter the Premises without Tenant's consent. During the last three months of this Lease, or any extension of this Lease, Landlord shall be allowed to display the usual "To Let" signs and show the Premises to prospective tenants.

**INDEMNITY REGARDING USE OF PREMISES.** To the extent allowed by North Carolina law, Tenant agrees to indemnify, hold harmless, and defend Landlord from and against any and all losses, claims, liabilities, and expenses, including reasonable attorney fees, if any, which Landlord may suffer or incur in connection with Tenant's possession, use or misuse of the Premises, except Landlord's act or negligence.

**DANGEROUS MATERIALS.** Tenant shall not keep or have on the Premises any article or thing of a dangerous, flammable, or explosive character that might substantially increase the danger of fire on the Premises, or that might be considered hazardous by a responsible insurance company, unless the prior written consent of Landlord is obtained and proof of adequate insurance protection is provided by Tenant to Landlord.

**COMPLIANCE WITH REGULATIONS.** Tenant shall promptly comply with all laws, ordinances, requirements and regulations of the federal, state, county, municipal and other authorities, and the fire insurance underwriters. However, Tenant shall not by this provision be required to make alterations to the exterior of the building or alterations of a structural nature.

**MECHANICS LIENS.** Neither the Tenant nor anyone claiming through the Tenant shall have the right to file mechanics liens or any other kind of lien on the Premises and the filing of this Lease constitutes notice that such liens are invalid. Further, Tenant agrees to (1) give actual advance notice to any contractors, subcontractors or suppliers of goods, labor, or services that such liens will not be valid, and (2) take whatever additional steps that are necessary in order to keep the premises free of all liens resulting from construction done by or for the Tenant.

**SUBORDINATION OF LEASE.** This Lease is subordinate to any mortgage that now exists, or may be given later by Landlord, with respect to the Premises.

**ASSIGNABILITY/SUBLETTING.** Tenant may not assign or sublease any interest in the Premises, nor effect a change in the majority ownership of the Tenant (from the ownership existing at the inception of this lease), nor assign, mortgage or pledge this Lease, without the prior written consent of Landlord, which shall not be unreasonably withheld.

**NOTICE.** Notices under this Lease shall not be deemed valid unless given or served in writing and forwarded by mail, postage prepaid, addressed as follows:

**LANDLORD:**

Owen & Gates, LLC.  
PO BOX 459  
Dillsboro, NC 28725

**TENANT:**

Nick Breedlove, Executive Director  
Jackson County TDA  
98D Cope Creek Road  
Sylva, NC 28779

Notices may be given to tenant at 98D Cope creek Plaza office.

Such addresses may be changed from time to time by any party by providing notice as set forth above. Notices mailed in accordance with the above provisions shall be deemed received on the third day after posting.

**GOVERNING LAW.** This Lease shall be construed in accordance with the laws of the State of North Carolina.

**ENTIRE AGREEMENT/AMENDMENT.** This Lease Agreement contains the entire agreement of the parties and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Lease. This Lease may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

**SEVERABILITY.** If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

**WAIVER.** The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

**BINDING EFFECT.** The provisions of this Lease shall be binding upon and inure to the benefit of both parties and their respective legal representatives, successors and assigns.

**E-VERIFY.** Lessee shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if Lessee utilizes a contractor or subcontractor, Lessee shall

require the contractor or subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

**IRAN DIVESTMENT ACT CERTIFICATION.** As of the effective date of this agreement, Lessee is not listed on the Final Divestment List created by the State Treasurer pursuant to North Carolina General Statute § 147-86.58. The signatories for Lessee hereby certify that they are authorized to make the foregoing statement.

**SIGNATURES.** This Lease may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be considered one and the same agreement. This Agreement may also be executed electronically. By signing electronically, the parties indicate their intent to comply with the Electronic Commerce in Government Act (N.C.G.S § 66-358.1 et seq.) and the Uniform Electronic Transactions Act (N.C.G.S § 66-311 et seq.). Delivery of an executed counterpart of this Agreement by either electronic means or by facsimile shall be as effective as a manually executed counterpart.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed in their respective names by their duly authorized officers.

**LANDLORD:**

Harold David Gates for Owen & Gates, LLC \_\_\_\_\_ Date: 10/1/2021

H. David Gates, Manager

**TENANT:**

**JACKSON COUNTY TOURISM DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: Robert Jumper

Title: Chairman

This instrument has been pre-audited in the Manner required by the Local Government Budget and Fiscal Control Act.

This the \_\_\_\_\_ day of \_\_\_\_\_ 2021

\_\_\_\_\_  
Finance Officer  
Jackson County, North Carolina