



- Termination: Agreement may be terminated by either party with thirty (30) days written Notice from one party to the other party, with or without cause at any time.
- Rent: Triple net lease with monthly base rent at \$5,100 with a security deposit of \$2,500.
- Use of Premises: Tenant will operate its retail furniture business and no other use.

The Tenant was provided with a copy of the California Relocation Law as an exhibit to the Release and Waiver Agreement. Relocation law mandates public agencies to provide relocation assistance to businesses that are displaced as a result of a public project. The Tenant has been informed of the Agency's obligation to provide relocation assistance and has agreed to waive and release the Agency from further relocation assistance in exchange for reduced rent.

#### FINANCIAL IMPACT

The waiver of relocation benefits is expected to save the Agency a minimum of \$20,000 in relocation costs.

#### RECOMMENDATION

Based on the foregoing, staff recommends that the Agency:

- Conduct the public hearing;
- Approve the attached Release and Waiver Agreement regarding relocation assistance and benefits;
- Approve the attached Lease with Tenant effective October 1, 2010;
- Authorize the Agency Director to execute the pertinent documents on behalf of the Agency; and
- Authorize the Agency Director to make minor modifications to the Lease on behalf of the Agency when appropriate to do so.

By: GREG BROWN  
Real Property Manager



Attachment 1: Relocation Release and Waiver Agreement

Attachment 2: Site and Building Lease

Recommended for Approval

  
Matthew Fertal  
Director

**RELEASE AND WAIVER AGREEMENT  
RE RELOCATION ASSISTANCE AND BENEFITS**

This **RELEASE AND WAIVER AGREEMENT RE RELOCATION ASSISTANCE AND BENEFITS** ("Agreement") is entered into as of \_\_\_\_\_, 2010, by and between the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body corporate and politic ("Landlord"), and **CHAU NGOC DIEP (also known as Charlie Chau Diep)**, an unmarried man, and **LUONG NGUYEN DANG (also known as Nhut Dang)** an unmarried woman, as and in their individual capacities, jointly and severally, **DBA LIFETIME FURNITURE**, (collectively, "Tenant"), for the settlement, waiver, and release of any and all claims associated with termination of Tenant's Leasehold Interest (as such term is defined herein), and the removal of Tenant's personal property from the Premises (as such term is defined herein).

**RECITALS**

**A.** Landlord currently owns certain improved real property located at 10151 Garden Grove Boulevard, Garden Grove, California 92840 ("Premises") and has entered into a new month-to-month lease with Tenant with respect thereto ("Leasehold Interest") pursuant to a written Lease Agreement, dated as of \_\_\_\_\_, 2010, by and between Landlord and Tenant ("Lease").

**B.** Landlord and Tenant desire to confirm certain facts that are a part of this Agreement, including that on April 15, 2009, Landlord acquired certain improved real property with the common street addresses of 12861 Brookhurst Street; 10115 and 10151 Garden Grove Boulevard, Garden Grove, California 92843 from sellers **JOANN TRAASDAHL**, formerly known as Joann Ayala, as trustee of the J. O. Trust dated August 2001, and **JOHN C. NELSON**, as trustee under the will of Mildred Ruth Smith, deceased, of the separate trust for the benefit of Carri Lyn Conaty, formerly known as Carri Lyn Van Nimwegen, and as trustee under the will of Newell Roy Owenby, deceased, for the primary benefit of Bonnie Faye Owenby (together, "Seller") and took title thereof subject to a prior lease agreement entitled "Lease Agreement" and dated April 13, 2000, including an extension thereof entitled "Lease Extension" and dated April 30, 2005 (together "Prior Lease") with respect to the Premises, as more fully set forth in that certain Purchase and Sale Agreement dated as of as of October 9, 2007 .

**C.** Under the Prior Lease, the landlord was originally John R. Nelson, as Trustee of the Mildred Ruth Smith Trust and Newell Roy Owenby Trust, on behalf of said trusts and on behalf of Joann Ayala, co-owners and the prior landlord was succeeded by Seller ("Prior Landlord"). After Landlord's acquisition of the Premises, Tenant continued to occupy the Premises under the Prior Lease, which lease converted from a term lease to a month-to-month tenancy as of and on April 30, 2007.

**D.** The term of the Prior Lease expired on April 30, 2005, and as of May 1, 2005, Tenant commenced its month-to-month tenancy of the Premises at the rent set forth in the Prior Lease, as extended, to wit \$8,100 per month. In furtherance thereof, Tenant represents to Landlord that as of May 1, 2005, when the Prior Lease was last extended by Seller, rent due from Tenant to Prior Landlord was \$8,100 per month. Thereafter, Tenant and Prior Landlord mutually agreed to reduce the rent set forth in said extension to \$5,100 per month while otherwise affirming the terms of said extension.

**E.** By letter dated July 27, 2010 from Tenant to Landlord, Tenant voluntarily, independently, and of and by its own action prepared and submitted to Landlord a written offer and request asking and seeking a significant reduction in the monthly rent due under such Prior Lease and in such letter Tenant offered to Landlord to waive and release its future or potential eligibility for relocation assistance and benefits under the Relocation Laws (as such term is defined herein) in consideration and exchange for a bargain, below-market rent for the Premises (to be reduced hereunder from \$8,100 per month to the bargain rent of \$5,100 per month).

**F.** Landlord has considered Tenant's written request and has accepted Tenant's offer, which includes Landlord and Tenant entering into a new month-to-month "Lease" and this Agreement, which is attached as Exhibit D to the new Lease between Landlord and Tenant and incorporated therein.

**G.** Tenant understands and acknowledges that they have jointly and individually voluntarily entered into this Agreement with Landlord, and that if Tenant is ever required to vacate the Premises upon notice from Landlord, its vacation of the Premises would be the result of the termination of Tenant's Leasehold Interest, and would not be considered, expressly or impliedly, as a direct result of either of the following: (i) a written notice of intent to acquire, or the acquisition of, the Premises, in whole or in part, for a program or project undertaken by a public entity or by any person having an agreement with, or acting on behalf of, a public entity; or (ii) the rehabilitation, demolition, or other displacing activity, as the public entity may prescribe under a program or project undertaken by a public entity, of real property on which the person is a residential tenant or conducts a business or farm operation, if the public entity determines that the displacement is permanent.

**H.** Tenant desires to enter into this Agreement whereby Tenant expressly, intentionally, voluntarily and knowingly does and will settle, waive, and release any and all claims associated in any manner with Landlord's termination of Tenant's Leasehold Interest and Tenant's business(es) and the removal of Tenant's personal property from the Premises, to the extent that such claims exist now, or otherwise may or may not arise, or may or may not have arisen in the future, if at all.

**NOW, THEREFORE,** for good and valuable consideration, receipt of which is acknowledged, the parties hereto agree as follows:

**1. Relocation Law.** Tenant acknowledges that Tenant has received and reviewed a copy of the CRAL (as defined in this Section 1) and has been provided an opportunity to review all provisions of Relocation Law. As used in this Agreement, the term "Relocation Law" means the California Relocation Assistance Law, Health and Safety Code Section 7260, *et seq.* ("CRAL"), and the implementing regulations promulgated by the California Department of Housing and Community Development ("HCD") set forth in California Code of Regulations, Title 25, Housing and Community Development, Division 1, Chapter 6, Section 6000, *et seq.* ("Guidelines"), and federal relocation laws and regulations set forth in the Federal Uniform Relocation and Real Property Assistance Act, 42 U.S.C. Section 4601, *et seq.* ("URA"), the implementing regulations thereto in the Code of Federal Regulations, 49 CFR Part 24, and all applicable, if any, federal funding programs in 24 CFR Parts 42, 91, 92, and 570, including for example, the CDBG Program and the HOME Program, and in other federal relocation codes and regulations. A copy of CRAL sections 7260 to 7277 of the Government Code, is appended to this Agreement as Exhibit A.

2. **Possession/Vacation of the Premises.** Tenant represents, warrants, and agrees that they have not entered into any other lease, assignment or any other agreement allowing any third party to occupy all or any part of the Premises. Tenant represents, warrants, and agrees that as of the date of this Agreement, other than Tenant, no other person or entity has any legal right to possess or occupy the Premises.

3. **Full and Complete Settlement for Tenant's Leasehold Interest.** Landlord's agreement to enter into the new Lease under which there is a significant reduction in the Monthly Base Rent amount due and payable by Tenant, as set forth in further detail in the Lease, is in consideration for Tenant's Leasehold Interest in the Premises and any rights or obligations that exist or may arise out of the termination of Tenant's Leasehold Interest, whether for public purposes or private purposes, including without limitation, Tenant's Leasehold Interest, severance damages, relocation assistance, relocation benefits, any alleged pre-condemnation damages, any alleged loss of business goodwill, costs, interest, attorneys' fees, and any claim whatsoever of Tenant that might arise out of or relate in any respect whatsoever directly or indirectly to the termination of the Leasehold Interest by Landlord. Tenant acknowledges and agrees that they will not be entitled to relocation assistance or benefits under Relocation Law due to Landlord's termination of Tenant's Leasehold Interest and Tenant's business(es) and the removal of Tenant's personal property from the Premises, and further acknowledges and agrees that Tenant's status is deemed and shall be and remain as a post-acquisition tenant with no eligibility or rights to relocation assistance or benefits thereunder, as provided in the new Lease. Tenant fully, intentionally, knowingly and voluntarily waives, releases and discharges Landlord and the City of Garden Grove ("City"), and their appointed and elected officials, officers, directors, employees, contractors, and agents (together "Indemnitees") from all and any manner of rights, demands, liabilities, obligations, claims, or cause of actions, in law or equity, of whatever kind or nature, whether known or unknown, whether now existing or hereinafter arising, which arise from or relate in any manner to (i) the sale of the Premises or the relocation of any of Tenant's business operations or the relocation of any person or persons, business or businesses, or other occupant or occupants located on the Premises, including the specific waiver and release of any right to any relocation benefits, assistance and/or payments under the Relocation Law notwithstanding that such relocation assistance, benefits and/or payments may be otherwise required under such state or federal law; and (ii) compensation for any interest in the business operations at, on, or about the Premises including, but not limited to, land and improvements, fixtures, furniture, or equipment thereon, Leasehold Interest, goodwill, severance damage, attorneys' fees or any other compensation of any nature whatsoever. It is hereby intended that the release contained above relates to both known and unknown claims that Tenant and any person or entity claiming by or through Tenant may have, or claim to have, against any of the Indemnitees with respect to the subject matter contained herein or the events relating thereto. By releasing and forever discharging claims both known and unknown which are related to or which arise under or in connection with, the items set out above, Tenant expressly waives any rights under California Civil Code Section 1542, which provides:

**"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."**

END  
Tenant's Initials

L.D  
Tenant's Initials

In connection with this Agreement, Tenant acknowledges that they are aware that they and their attorneys may hereafter discover claims or facts or legal theories in addition to or different from those which they know or believe to exist with respect to the claims released herein, but that Tenant's intention hereby is to fully, finally and forever release and waive all such claims, known or unknown, suspected or unsuspected, which do now exist, may exist or have existed in favor of Tenant. In furtherance of such intention, this Agreement provided Tenant shall be and remain in effect as a full and complete release and waiver, notwithstanding the discovery or existence of any such additional claims, facts, or legal theories under applicable laws or regulations or otherwise relating to the Premises. Tenant acknowledges and agrees that its waiver and release is an essential and material term to the Lease and that without this Agreement, Landlord would not have consented to the Lease. Tenant understands and acknowledges the significance and consequences of this Agreement.

**4. Informed Consent.** Tenant agrees, warrants and represents that they have carefully read the contents of this Agreement (and the new Lease) and that, in executing this Agreement (and the new Lease), they do so with full knowledge of any and all rights which they may have, that they have received independent legal advice from their attorneys, or in the alternative, knowingly has determined not to seek legal advice with respect to the matters set forth herein, and that Tenant has freely signed this Agreement without relying on any agreement, promise, statement or representation by or on behalf of any person or entity, including any and all Indemnitees, except as specifically set forth in this Agreement.

**5. Binding On Successors.** The statements, representations and recitals contained in this Agreement are to be considered contractual in nature and not merely recitations of fact. This Agreement shall be binding upon Tenant and its heirs, agents, successors, legal representatives and assigns.

**6. Governing Law.** The laws of the State of California shall govern this Agreement in all respects, including, but not limited to, matters of construction, validity, enforcement and interpretation.

**7. Attorneys' Fees.** If any legal action is brought to enforce, construe, interpret or invalidate the terms of this Agreement, the prevailing party shall be entitled to all costs and expenses incurred in any such action including court costs and reasonable attorneys' fees, in addition to any other relief to which they may be entitled.

**8. Entire Agreement.** This Agreement (along with and including the new Lease) supersedes any prior understandings, discussions or agreements with respect to the subject matter hereof, including without limitation the Prior Lease. This Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

**9. Severability.** In the event that any terms, covenants or provisions of this Agreement shall be held by a court of competent jurisdiction to be invalid or contrary to public policy, the remaining provisions shall continue in full force and effect. If a court of competent jurisdiction is required to interpret this Agreement, the court shall be guided by Tenant's knowing, voluntary and willing request and desire for Landlord to consent to the Lease and the broadest and most comprehensive release and waiver of Relocation Law.

**10. Third Party Beneficiaries.** The parties hereto intend the City and to be a third party beneficiary of this Agreement. As an intended third party beneficiary, the City shall have the right to enforce the terms and conditions of this Agreement to the extent permitted by law.

**11. Execution of Further Documents.** From time to time, at the request of Landlord (or the City) and without further consideration of expense and within a reasonable period of time after a request is made, Tenant agrees to execute and deliver any and all further documents and instruments, and to do all acts, as Landlord (or the City) may reasonably request, which may be necessary or appropriate to fully implement the provisions of this Agreement, as and if necessary.

**12. Co-Participation in Drafting of this Agreement.** Landlord and Tenant each represent and warrant that they and their respective counsel fully participated in the drafting and terms of this Agreement. Accordingly, any ambiguities in the terms of this release and waiver shall not be construed against Landlord and any doctrine of law regarding interpretation of any such ambiguities in the terms and provisions of this release and waiver against Landlord shall not be applicable.

**13. Notices.** Any notice, request, demand, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered in person to an officer or duly authorized representative of the other party, or deposited in the United States mail, duly certified or registered (return receipt requested), postage prepaid, or delivered through another reasonably acceptable method, and addressed to the party for whom intended, as follows:

If to Landlord: Garden Grove Agency for Community Development  
P.O. Box 3070  
Garden Grove, California 92642  
Attention: Real Property Office

If to Tenant: Lifetime Furniture  
10151 Garden Grove Boulevard  
Garden Grove, California 92840  
Attention: Chau Ngoc Diep and Luong Nguyen Dang

Any party may from time to time, by written notice to the other, designate a different address, which shall be substituted for that specified above. If any notice or other document is sent by mail as aforesaid, the same shall be deemed fully delivered and received forty-eight (48) hours after mailing as provided above.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto caused this Agreement to be executed as of the day and year first above written.

**LANDLORD:**

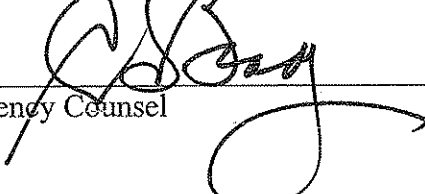
**GARDEN GROVE AGENCY FOR  
COMMUNITY DEVELOPMENT,**  
a public body, corporate and politic

By: \_\_\_\_\_  
Agency Director

**ATTEST:**

\_\_\_\_\_  
Agency Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Agency Counsel

**TENANT:**

**CHAU NGOC DIEP (also known as Charlie Chau Diep) and LUONG NGUYEN DANG (also known as Nhut Dang), as and in their individual capacities, jointly and severally, DBA LIFETIME FURNITURE**

By: \_\_\_\_\_  
Chau Ngoc Diep

By: \_\_\_\_\_  
Luong Nguyen Dang



IN WITNESS WHEREOF, the parties hereto caused this Agreement to be executed as of the day and year first above written.

**LANDLORD:**

**GARDEN GROVE AGENCY FOR  
COMMUNITY DEVELOPMENT,**  
a public body, corporate and politic

By: \_\_\_\_\_  
Agency Director

**ATTEST:**


\_\_\_\_\_  
Agency Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Agency Counsel

**TENANT:**

**CHAU NGOC DIEP (also known as Charlie Chau  
Diep) and LUONG NGUYEN DANG (also known as  
Nhut Dang), as and in their individual capacities,  
jointly and severally, DBA LIFETIME FURNITURE**

By: \_\_\_\_\_  
  
Chau Ngoc Diep

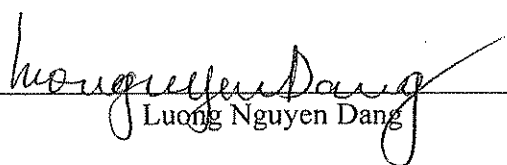
By: \_\_\_\_\_  
  
Luong Nguyen Dang

EXHIBIT A

CALIFORNIA RELOCATION ASSISTANCE LAW

**GOVERNMENT CODE SECTION 7260-7277**

7260. As used in this chapter:

(a) "Public entity" includes the state, the Regents of the University of California, a county, city, city and county, district, public authority, public agency, and any other political subdivision or public corporation in the state or any entity acting on behalf of these agencies when acquiring real property, or any interest therein, in any city or county for public use, and any person who has the authority to acquire property by eminent domain under state law.

(b) "Person" means any individual, partnership, corporation, limited liability company, or association.

(c) (1) "Displaced person" means both of the following:

(A) Any person who moves from real property, or who moves his or her personal property from real property, either:

(i) As a direct result of a written notice of intent to acquire, or the acquisition of, the real property, in whole or in part, for a program or project undertaken by a public entity or by any person having an agreement with, or acting on behalf of, a public entity.

(ii) As a direct result of the rehabilitation, demolition, or other displacing activity, as the public entity may prescribe under a program or project undertaken by a public entity, of real property on which the person is a residential tenant or conducts a business or farm operation, if the public entity determines that the displacement is permanent. For purposes of this subparagraph, "residential tenant" includes any occupant of a residential hotel unit, as defined in subdivision (b) of Section 50669 of the Health and Safety Code, and any occupant of employee housing, as defined in Section 17008 of the Health and Safety Code, but does not include any person who has been determined to be in unlawful occupancy of the displacement dwelling.

(B) Solely for the purposes of Sections 7261 and 7262, any person who moves from real property, or moves his or her personal property from real property, either:

(i) As a direct result of a written notice of intent to acquire, or the acquisition of, other real property, in whole or in part, on which the person conducts a business or farm operation for a program or project undertaken by a public entity.

(ii) As a direct result of the rehabilitation, demolition, or other displacing activity as the public entity may prescribe under a program or project undertaken by a public entity, of other real property on which the person conducts a business or farm operation, in any case in which the public entity determines that the displacement is permanent.

(2) This subdivision shall be construed so that persons displaced as a result of public action receive relocation benefits in cases where they are displaced as a result of an owner participation agreement or an acquisition carried out by a private person for, or in connection with, a public use where the public entity is otherwise empowered to acquire the property to carry out the public use. Except for persons or families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, who are occupants of housing that was made available to them on a permanent basis by a public agency and who are required to move from the housing, a "displaced person" shall not include any of the following:

(A) Any person who has been determined to be in unlawful occupancy of the displacement dwellings.

(B) Any person whose right of possession at the time of moving arose after the date of the public entity's acquisition of the real property.

(C) Any person who has occupied the real property for the purpose of obtaining assistance under this chapter.

(D) In any case in which the public entity acquires property for a program or project (other than a person who was an occupant of the property at the time it was acquired), any person who occupies the property for a period subject to termination when the property is needed for the program or project.

(d) "Business" means any lawful activity, except a farm operation, conducted for any of the following:

(1) Primarily for the purchase, sale, lease, or rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property.

(2) Primarily for the sale of services to the public.

(3) Primarily by a nonprofit organization.

(4) Solely for the purpose of Section 7262 for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display, whether or not the display is located on the premises on which any of the above activities are conducted.

(e) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing these products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(f) "Affected property" means any real property that actually declines in fair market value because of acquisition by a public entity for public use of other real property and a change in the use of the real property acquired by the public entity.

(g) "Public use" means a use for which real property may be acquired by eminent domain.

(h) "Mortgage" means classes of liens that are commonly given to secure advances on, or the unpaid purchase price of, real property, together with the credit instruments, if any, secured thereby.

(i) "Comparable replacement dwelling" means any dwelling that is all of the following:

(1) Decent, safe, and sanitary.

(2) Adequate in size to accommodate the occupants.

(3) In the case of a displaced person who is a renter, within the financial means of the displaced person. A comparable replacement dwelling is within the financial means of a displaced person if the monthly rental cost of the dwelling, including estimated average monthly utility costs, minus any replacement housing payment available to the person, does not exceed 30 percent of the person's average monthly income, unless the displaced person meets one or more of the following conditions, in which case the payment of the monthly rental cost of the comparable replacement dwelling, including estimated average monthly utility costs, minus any replacement housing payment available to the person, shall not exceed 25 percent of the person's average monthly income:

(A) Prior to January 1, 1998, the displaced person received a notice to vacate from a public entity, or from a person having an agreement with a public entity.

(B) The displaced person resides on property that was acquired by a public entity, or by a person having an agreement with a public entity, prior to January 1, 1998.

(C) Prior to January 1, 1998, a public entity, or a person having an agreement with a public entity, initiated negotiations to acquire the property on which the displaced person resides.

(D) Prior to January 1, 1998, a public entity, or a person having an agreement with a public entity, entered into an agreement to acquire the property on which the displaced person resides.

(E) Prior to January 1, 1998, a public entity, or a person having an agreement with a public entity, gave written notice of intent to acquire the property on which the displaced person resides.

(F) The displaced person is covered by, or resides in an area or project covered by, a final relocation plan that was adopted by the legislative body prior to January 1, 1998, pursuant to this chapter and the regulations adopted pursuant to this chapter.

(G) The displaced person is covered by, or resides in an area or project covered by, a proposed relocation plan that was required to have been submitted prior to January 1, 1998, to the Department of Housing and Community Development or to a local relocation committee, or for which notice was required to have been provided to occupants of the property prior to January 1, 1998, pursuant to this chapter and the regulations adopted pursuant to this chapter.

(H) The displaced person is covered by, or resides in an area or project covered by, a proposed relocation plan that was submitted prior to January 1, 1998, to the Department of Housing and Community Development or to a local relocation committee, or for which notice was provided to the public or to occupants of the property prior to January 1, 1998, pursuant to this chapter and the regulations adopted pursuant to this chapter, and the person is eventually displaced by the project covered in the proposed relocation plan.

(I) The displaced person resides on property for which a contract for acquisition, rehabilitation, demolition, construction, or other displacing activity was entered into by a public entity, or by a person having an agreement with a public entity, prior to January 1998.

(J) The displaced person resides on property where an owner participation agreement, or other agreement between a public entity and a private party that will result in the acquisition, rehabilitation, demolition, or development of the property or other displacement, was entered into prior to January 1, 1998, and the displaced person resides in the property at the time of the agreement, provides information to the public entity, or person having an agreement with the public entity showing that he or she did reside in the property at the time of the agreement and is eventually displaced by the project covered in the agreement.

(4) Comparable with respect to the number of rooms, habitable space, and type and quality of construction. Comparability under this paragraph shall not require strict adherence to a detailed, feature-by-feature comparison. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features shall be present.

(5) In an area not subject to unreasonable adverse environmental conditions.

(6) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

(j) "Displacing agency" means any public entity or person carrying out a program or project which causes a person to be a displaced person for a public project.

(k) "Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(l) "Small business" means a business as defined in Part 24 of Title 49 of the Code of Federal Regulations.

(m) "Lead agency" means the Department of Housing and Community Development.

7260.5. (a) The Legislature finds and declares the following:

(1) Displacement as a direct result of programs or projects undertaken by a public entity is caused by a number of activities, including rehabilitation, demolition, code enforcement, and acquisition.

(2) Relocation assistance policies must provide for fair, uniform, and equitable treatment of all affected persons.

(3) The displacement of businesses often results in their closure.

(4) Minimizing the adverse impact of displacement is essential to maintaining the economic and social well-being of communities.

(5) Implementation of this chapter has resulted in burdensome, inefficient, and inconsistent compliance requirements and procedures which may be improved by establishing a lead agency.

(b) This chapter establishes a uniform policy for the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a public entity. The primary purpose of this chapter is to ensure that these persons shall not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public as a whole and to minimize the hardship of displacement on these persons.

(c) The Legislature intends all of the following:

(1) Public entities shall carry out this chapter in a manner which minimizes waste, fraud, and mismanagement and reduces unnecessary administrative costs.

(2) Uniform procedures for the administration of relocation assistance shall, to the maximum extent feasible, assure that the unique circumstances of any displaced person are taken into account and that persons in essentially similar circumstances are accorded equal treatment under this chapter.

(3) The improvement of housing conditions of economically disadvantaged persons under this chapter shall be undertaken, to the maximum extent feasible, in coordination with existing federal, state, and local government programs for accomplishing these goals.

(4) The policies and procedures of this chapter shall be administered in a manner which is consistent with fair housing requirements and which assures all persons their rights under Title VIII of that act of April 11, 1968 (Public Law 90-284), commonly known as the Civil Rights Act of 1968 and Title VI of the Civil Rights Act of 1964.

7260.7. Notwithstanding any other provision of law, in furtherance of the goal set forth in paragraph (3) of subdivision (c) of Section 7260.5, nonprofit facilities subsidized pursuant to any federal or state program for the benefit of low-income tenants that restrict rent increases based on operating cost increases, and that also receive state funds for renovation and rehabilitation involving the temporary relocation of those tenants, shall be exempt from any restrictions on rents imposed pursuant to this chapter.

7261. (a) Programs or projects undertaken by a public entity shall be planned in a manner that (1) recognizes, at an early stage in the planning of the programs or projects and before the commencement of any actions which will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations, and (2) provides for the resolution of these problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion. The head of the displacing agency shall ensure the relocation assistance advisory services described in subdivision (c) are made available to all persons displaced by the public entity. If the agency determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury as a result thereof, the agency may make the advisory services available to the person.

(b) In giving this assistance, the public entity may establish local relocation advisory assistance offices to assist in obtaining replacement facilities for persons, businesses, and farm operations which find that it is necessary to relocate because of the acquisition of real property by the public entity.

(c) This advisory assistance shall include those measures, facilities, or services which are necessary or appropriate to do all of the following:

(1) Determine and make timely recommendations on the needs and preferences, if any, of displaced persons for relocation assistance.

(2) Provide current and continuing information on the availability, sales prices, and rentals of comparable replacement dwellings for displaced homeowners and tenants, and suitable locations for businesses and farm operations.

(3) Assure that, within a reasonable time period prior to displacement, to the extent that it can be reasonably accomplished, there will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities, and at rents or prices within the financial means of displaced families and individuals, decent, safe, and sanitary dwellings, sufficient in number to meet the needs of, and available to, those displaced persons requiring those dwellings and reasonably accessible to their places of employment, except that, in the case of a federally funded project, a waiver may be obtained from the federal government.

(4) Assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement dwelling, except in the case of any of the following:

(A) A major disaster as defined in Section 102(2) of the federal Disaster Relief Act of 1974.

(B) A state of emergency declared by the President or Governor.

(C) Any other emergency which requires the person to move immediately from the dwelling because continued occupancy of the dwelling by the person constitutes a substantial danger to the health or safety of the person.

(5) Assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location.

(6) Supply information concerning other federal and state programs which may be of assistance to those persons in applying for assistance under the program.

(7) Provide other advisory services to displaced persons in order to minimize hardships to those persons.

(d) The head of the displacing agency shall coordinate its relocation assistance program with the project work necessitating the displacement and with other planned or proposed activities of other public entities in the community or nearby areas which may affect the implementation of its relocation assistance program.

(e) Notwithstanding subdivision (c) of Section 7260, in any case in which a displacing agency acquires property for a program or project, any person who occupies the property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project, shall be eligible for advisory services to the extent determined by the displacing agency.

7261.5. In order to prevent unnecessary expenses and duplications of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons under this chapter, a public entity may enter into a contract with any individual, firm, association, or corporation for services in connection with such program, or may carry out its functions under this chapter through any federal, state, or local governmental agency having an established organization for conducting relocation assistance programs. Any public entity may, in carrying out its relocation assistance activities, utilize the services of state or local housing agencies or other agencies having experience in the administration or conduct of similar housing assistance activities.

7262. (a) Whenever a program or project to be undertaken by a public entity will result in the displacement of any person, the displaced person is entitled to payment for actual moving and related expenses as the public entity determines to be reasonable and necessary, including expenses for all of the following:

(1) Actual and reasonable expenses in moving himself or herself, his or her family, business, or farm operation, or his or her, or his or her family's, personal property.

(2) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property, as determined by the public entity.

(3) Actual and reasonable expenses in searching for a replacement business or farm, not to exceed one thousand dollars (\$1,000).

(4) Actual and reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, but not to exceed ten thousand dollars (\$10,000).

(b) Any displaced person eligible for payments under subdivision (a) who is displaced from a dwelling and who elects to accept the payments authorized by this subdivision in lieu of the payments authorized by subdivision (a) shall receive a moving expense and dislocation allowance which shall be determined according to a schedule established by the head of the lead agency. The schedule shall be consistent with the Residential Moving Expense and Dislocation Allowance Payment Schedule established by Part 24 of Title 49 of the Code of Federal Regulations.

(c) Any displaced person who moves or discontinues his or her business or farm operation and elects to accept the payment authorized by this subdivision in lieu of the payment authorized by subdivision (a), shall receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that the payment shall not be less than one thousand dollars (\$1,000) nor more than twenty thousand dollars (\$20,000). In the case of a business, no payment shall be made under this subdivision, unless the public entity is satisfied that the business cannot be relocated without substantial loss of patronage and is not part of a commercial enterprise having at least one other establishment not being acquired, engaged in the same or similar business. For purposes of this subdivision, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation before federal, state, and local income taxes during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property being acquired, or during any other period as the public entity determines to be more equitable for establishing earnings, and includes any compensation paid by the business or farm operation to the owner, his or her spouse, or his or her dependents during the two-year or other period. To be eligible for the payment authorized by this subdivision, the business or farm operation shall make available its state income tax records, financial statements, and accounting records, for confidential use pursuant to an audit to determine the payment pursuant to this subdivision. In regard to an outdoor advertising display, payment pursuant to this subdivision shall be limited to the amount necessary to physically move, or replace that display. Any displaced person eligible for payments under subdivision (a) who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the public entity, may elect to accept a fixed payment in lieu of the payment authorized by subdivision (a). The fixed payment shall not be less than one thousand dollars (\$1,000) nor more than twenty thousand dollars (\$20,000). A person whose sole business at the displacement dwelling is the rental of the property to others shall not qualify for a payment under this subdivision.

(d) Whenever the acquisition of real property used for a business or farm operation causes the person conducting the business or farm operation to move from other real property, or to move his or her personal property from other real property, the person shall receive payments for moving and related expenses under subdivision (a) or (b) and relocation advisory assistance under Section 7261 for moving from the other property.

(e) Whenever a public entity must pay the cost of moving a displaced person under paragraph (1) of subdivision (a), or subdivision (d):

(1) The costs of the move shall be exempt from regulation by the Public Utilities Commission.

(2) The public entity may solicit competitive bids from qualified bidders for performance of the work. Bids submitted in response to the solicitations shall be exempt from regulation by the Public Utilities Commission.

(f) No provision of this chapter shall be construed to require a public entity to provide any relocation assistance to a lessee if the property acquired for a program or project is subject to a lease for

purposes of conducting farm operations and the public entity agrees to assume all of the terms of that lease.

7262.5. Notwithstanding Section 7265.3 or any other provision of law, tenants residing in any rental project who are displaced from the project for a period of one year or less as part of a rehabilitation of that project, that is funded in whole or in part by a public entity, shall not be eligible for permanent housing assistance benefits pursuant to Sections 7264 and 7264.5 if all of the following criteria are satisfied:

(a) The project is a "qualified affordable housing preservation project," which means any complex of two or more units whose owners enter into a recorded regulatory agreement, having a term for the useful life of the project, with any entity for the provision of project rehabilitation financing. For this purpose, the regulatory agreement shall require of the owner and all successors and assigns of the owner, as long as the regulatory agreement is in effect, that at least 49 percent of the tenants in the project have, at the time of the recordation of the regulatory agreement, incomes not in excess of 60 percent of the area median income, adjusted by household size, as determined by the appropriate agency of the state. In addition, a project is a qualified affordable housing preservation project only if the beneficiary of the regulatory agreement elects this designation by so indicating on the regulatory agreement.

(b) The resident is offered the right to return to his or her original unit, or a comparable unit in the same complex if his or her original unit is not otherwise available due to the rehabilitation, with rent for the first 12 months subsequent to that return being the lower of the following: up to 5 percent higher than the rent at the time of displacement; or up to 30 percent of household income.

(c) The estimated time of displacement is reasonable, and the temporary unit is not unreasonably impacted by the effects of the construction, taking into consideration the ages and physical conditions of the members of the displaced household.

(d) All other financial benefits and services otherwise required under this chapter are provided to the residents temporarily displaced from their units, including relocation to a comparable replacement unit. Residents shall be temporarily relocated to a unit within the same complex, or to a unit located reasonably near the complex if that unit is in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, services, and the displaced person's place of employment.

7263. (a) In addition to the payments required by Section 7262, the public entity, as a part of the cost of acquisition, shall make a payment to the owner of real property acquired for public use which is improved with a dwelling actually owned and occupied by the owner as a permanent or customary and usual place of abode for not less than 180 days prior to the initiation of negotiation for the acquisition of that property.

(b) The payment, not to exceed twenty-two thousand five hundred dollars (\$22,500), shall be based on the following factors:

(1) The amount, if any, which, when added to the acquisition cost of the dwelling acquired by the public entity equals the reasonable cost of a comparable replacement dwelling.

(2) The amount, if any, which will compensate the displaced owner for any increased interest costs which the owner is required to pay for financing the acquisition of a comparable replacement dwelling. The amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than 180 days immediately prior to the initiation of negotiations for the acquisition of the dwelling. All of the mortgages on the acquired dwelling shall be used to compute the payment. The amount shall be computed using the lesser of the principal balance of the mortgage on the replacement dwelling or the outstanding principal balance of the mortgage on the acquired dwelling and the lesser of the



remaining term on the acquired dwelling or the actual term of the new mortgage. The present value of the increased interest costs shall be computed based on the lesser of the prevailing interest rate or the actual interest rate on the replacement property. The amount shall also include other reasonable debt service costs incurred by the displaced owner. For the purposes of this subdivision, if the replacement dwelling is a mobilehome, the term "mortgage," as defined in subdivision (h) of Section 7260, shall include those liens as are commonly given to secure advances on, or the unpaid purchase price of, mobilehomes, together with the credit instruments, if any, secured thereby.

(3) Reasonable expenses incurred by the displaced owner for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(c) The additional payment authorized by this section shall be made only to a displaced owner who purchases and occupies a decent, safe, and sanitary replacement dwelling within one year from the later of the following:

(1) The date the displaced person receives final payment for the displacement dwelling, or in the case of condemnation, the date the full amount of estimated just compensation is deposited in court.

(2) The date the displacing agency fulfills its obligation to make available at least one comparable replacement dwelling to the displaced person. However, the displacing agency may extend the period for good cause. Also, the displaced owner and the public entity may agree in writing that the displaced owner may remain in occupancy of the acquired dwelling as a tenant of the public entity on the conditions that the displaced owner shall only be entitled to the payment authorized by this section on the date on which the owner moves from the acquired dwelling and that the payment shall be in an amount equal to that to which the owner would have been entitled if the owner had purchased and occupied a replacement dwelling one year subsequent to the date on which final payment was received for the acquired dwelling from the public entity.

(d) In implementing this chapter, it is the intent of the Legislature that special consideration be given to the financing and location of a comparable replacement dwelling for displaced persons 62 years of age or older.

7263.5. For purposes of Section 7263, the leasing of a condominium for a 99-year period, or for a term which exceeds the life expectancy of the displaced person as determined from the most recent life tables in Vital Statistics of the United States, as published by the Public Health Service of the Department of Health, Education, and Welfare, shall be deemed a purchase of the condominium.

7264. (a) In addition to the payments required by Section 7262, as a part of the cost of acquisition, the public entity shall make a payment to any displaced person displaced from any dwelling not eligible to receive a payment under Section 7263 which was actually and lawfully occupied by the person as a permanent or customary and usual place of abode for not less than 90 days prior to the initiation of negotiation by the public entity for the acquisition of the dwelling, or in any case in which displacement is not a direct result of acquisition, or any other event which the public entity shall prescribe.

(b) The payment, not to exceed five thousand two hundred fifty dollars (\$5,250), shall be the additional amount which is necessary to enable the person to lease or rent a comparable replacement dwelling for a period not to exceed 42 months, unless the displaced person meets one or more of the conditions set forth in paragraph (3) of subdivision (i) of Section 7260, in which case the payment, which shall not exceed five thousand two hundred fifty dollars (\$5,250), shall be the additional amount which is necessary to enable the person to lease or rent a comparable replacement dwelling for a period not to exceed 48 months. However, publicly funded transportation projects shall make payments enabling the person to lease or rent a comparable replacement dwelling for a period not to exceed 42 months, including compensation for utilities, as provided in subdivision (b) of

Section 24.402 of Part 24 of Title 49 of the Code of Federal Regulations. Payments up to the maximum of five thousand two hundred fifty dollars (\$5,250) shall be made in a lump sum. Should an agency pay pursuant to Section 7264.5 an amount exceeding the maximum amount, payment may be made periodically. Computation of a payment under this subdivision to a low-income displaced person for a comparable replacement dwelling shall take into account the person's income.

(c) Any person eligible for a payment under subdivision (a) may elect to apply the payment to a downpayment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. The person may, at the discretion of the public entity, be eligible under this subdivision for the maximum payment allowed under subdivision (b), except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least 90 days but not more than 180 days immediately prior to the initiation of negotiations for the acquisition of the dwelling, the payment shall not exceed the payment which the person would otherwise have received under subdivision (b) of Section 7263 had the person owned and occupied the displacement dwelling 180 days immediately prior to the initiation of the negotiations.

(d) In implementing this chapter, it is the intent of the Legislature that special consideration shall be given to assisting any displaced person 62 years of age or older to locate or lease or rent a comparable replacement dwelling.

7264.5. (a) If a program or project undertaken by the public entity cannot proceed on a timely basis because comparable replacement housing is not available and the public entity determines that comparable replacement housing cannot otherwise be made available, the public entity shall take any action necessary or appropriate to provide the dwellings by use of funds authorized for the project. This section shall be construed to authorize the public entity to exceed the maximum amounts which may be paid under Sections 7263 and 7264 on a case-by-case basis for good cause as determined in accordance with rules and regulations adopted by the public entity. Where a displacing agency is undertaking a project with funds administered by a state agency or board, and where the displacing agency has adopted rules and regulations in accordance with Section 7267.8 for the implementation of this chapter, the determination of payments to be made pursuant to this subdivision shall be pursuant to those rules and regulations.

(b) No person shall be required to move from his or her dwelling because of its acquisition by a public entity, unless comparable replacement housing is available to the person.

(c) For purposes of determining the applicability of subdivision (a), the public entity is hereby designated as a duly authorized administrative body of the state for the purposes of subdivision (c) of Section 408 of the Revenue and Taxation Code.

(d) Subdivision (b) shall not apply to a displaced owner who agrees in writing with the public entity to remain in occupancy of the acquired dwelling as provided in subdivision (c) of Section 7263.

7265. (a) In addition to the payments required by Section 7262, as a cost of acquisition, the public entity shall make a payment to any affected property owner meeting the requirements of this section.

(b) The affected property shall be immediately contiguous to property acquired for airport purposes and the owner shall have owned the property affected by acquisition by the public entity not less than 180 days prior to the initiation of negotiation for acquisition of the acquired property.

(c) The payment, not to exceed twenty-two thousand five hundred dollars (\$22,500), shall be the amount, if any, which equals the actual decline in the fair market value of the property of the affected property owner caused by the acquisition by the public entity for airport purposes of other real property and a change in the use of the property.

(d) The amount, if any, of actual decline in fair market value of affected property shall be determined according to rules and regulations adopted by the public entity pursuant to this chapter. The rules and regulations shall limit payment under this section only to those circumstances in which the decline in

fair market value of affected property is reasonably related to objective physical change in the use of acquired property.

7265.3. (a) A public entity may make payments in the amounts it deems appropriate, and may provide advisory assistance under this chapter, to a person who moves from a dwelling, or who moves or discontinues his business, as a result of impending rehabilitation or demolition of a residential or commercial structure, or enforcement of building, housing, or health codes by a public entity, or because of systematic enforcement pursuant to Section 37924.5 of the Health and Safety code, or who moves from a dwelling or who moves or discontinues a business as a result of a rehabilitation or demolition program or enforcement of building codes by the public entity, or because of increased rents to result from such rehabilitation or code enforcement. Payments prescribed by subdivision (b) of Section 7264 may also be made to persons who remain in a dwelling during rehabilitation. Payments authorized by this section and made pursuant to subdivision (b) of Section 7264 may, at the option of the public entity, be computed and reviewed annually based on actual rental increases, and may be paid monthly or annually. A public entity may also give priority to a person who moves from a dwelling, or who remains in a dwelling during rehabilitation, in utilization of local, state, or federal rental assistance programs, either to enable the person to pay increased rents or to move to other suitable housing. A public entity assisting in the financing of rehabilitation may provide some or all of the payments authorized by this section as part of the loan for rehabilitation costs, provided that the public entity makes payments directly to the person who moves or who remains in the dwelling during rehabilitation.

(b) A public entity shall make payments in the amounts prescribed by this chapter, and shall provide advisory assistance under this chapter, to persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, whose rent, within one year after the rehabilitation of their dwelling is completed, is increased to an amount exceeding 25 percent of their gross income, or who move from their dwelling, as the result of a rehabilitation program in which the rehabilitation work is wholly or partially financed or assisted with public funds provided by or through the public entity.

(c) A public entity shall provide temporary housing for up to 90 days to persons displaced by rehabilitation work which is wholly or partially financed or assisted with public funds provided by or through the public entity.

(d) A person displaced by rehabilitation work which is wholly or partially financed or assisted with public funds provided by or through the public entity shall, as a condition of the financing or assistance, be given the option of relocating, after rehabilitation, in the dwelling from which the person was displaced.

(e) A public entity may limit the amounts of payments made pursuant to subdivision (b), otherwise calculated pursuant to subdivision (b) of Section 7264, to the lesser of: (i) the difference between the increased rent and 25 percent of gross income; or (ii) the difference between the increased rent and the rent immediately before the rehabilitation which was greater than 25 percent of gross income.

(f) The payments and advisory assistance as required in this section shall be mandatory only if federal or state funds are available. However, nothing shall preclude the public entity from using local funds.

7265.4. In addition to the payments required by Section 7262, as a cost of acquisition, the public entity, as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, shall reimburse the owner, to the extent the public entity deems fair and reasonable, for expenses the owner necessarily incurred for recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the public entity.

7266. (a) If a relocation appeals board has been established pursuant to Section 33417.5 of the Health and Safety Code, a city by ordinance may designate the board to hear appeals from all public entities, except those state agencies which have an appeal process, on the eligibility for, or the amount of, a payment authorized by this chapter.

(b) Any person aggrieved by a determination as to eligibility for, or the amount of, a payment authorized by this chapter may have the application reviewed by the public entity or by the relocation appeals board if authorized under subdivision (a). The review of a determination by a community redevelopment agency may only be made by a relocation appeals board established pursuant to Section 33417.5 of the Health and Safety Code.

7267. In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the public programs, and to promote public confidence in public land acquisition practices, public entities shall, to the greatest extent practicable, be guided by the provisions of Sections 7267.1 to 7267.7, inclusive, except that the provisions of subdivision (b) of Section 7267.1 and Section 7267.2 shall not apply to the acquisition of any easement, right-of-way, covenant, or other nonpossessory interest in real property to be acquired for the construction, reconstruction, alteration, enlargement, maintenance, renewal, repair, or replacement of subsurface sewers, waterlines or appurtenances, drains, septic tanks, or storm water drains.

7267.1. (a) The public entity shall make every reasonable effort to acquire expeditiously real property by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during his or her inspection of the property. However, the public entity may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value.

7267.2. (a) (1) Prior to adopting a resolution of necessity pursuant to Section 1245.230 of the Code of Civil Procedure and initiating negotiations for the acquisition of real property, the public entity shall establish an amount that it believes to be just compensation therefor, and shall make an offer to the owner or owners of record to acquire the property for the full amount so established, unless the owner cannot be located with reasonable diligence. The offer may be conditioned upon the legislative body's ratification of the offer by execution of a contract of acquisition or adoption of a resolution of necessity or both. The amount shall not be less than the public entity's approved appraisal of the fair market value of the property. A decrease or increase in the fair market value of real property to be acquired prior to the date of valuation caused by the public improvement for which the property is acquired, or by the likelihood that the property would be acquired for the improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant, shall be disregarded in determining the compensation for the property.

(2) At the time of making the offer described in paragraph (1), the public entity shall provide the property owner with an informational pamphlet detailing the process of eminent domain and the property owner's rights under the Eminent Domain Law.

(b) The public entity shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount it established as just compensation. The written statement and summary shall contain detail sufficient to indicate clearly the basis for the offer, including, but not limited to, all of the following information:

(1) The date of valuation, highest and best use, and applicable zoning of property.

(2) The principal transactions, reproduction or replacement cost analysis, or capitalization analysis, supporting the determination of value.

(3) If appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated and shall include the calculations and narrative explanation supporting the compensation, including any offsetting benefits.

(c) Where the property involved is owner-occupied residential property and contains no more than four residential units, the homeowner shall, upon request, be allowed to review a copy of the appraisal upon which the offer is based. The public entity may, but is not required to, satisfy the written statement, summary, and review requirements of this section by providing the owner a copy of the appraisal on which the offer is based.

(d) Notwithstanding subdivision (a), a public entity may make an offer to the owner or owners of record to acquire real property for less than an amount that it believes to be just compensation therefore if (1) the real property is offered for sale by the owner at a specified price less than the amount the public entity believes to be just compensation therefor, (2) the public entity offers a price that is equal to the specified price for which the property is being offered by the landowner, and (3) no federal funds are involved in the acquisition, construction, or project development.

(e) As used in subdivision (d), "offered for sale" means any of the following:

(1) Directly offered by the landowner to the public entity for a specified price in advance of negotiations by the public entity.

(2) Offered for sale to the general public at an advertised or published specified price, set no more than six months prior to, and still available at, the time the public entity initiates contact with the landowner regarding the public entity's possible acquisition of the property.

7267.3. The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling, assuming a replacement dwelling will be available, or to move his business or farm operation, without at least 90 days' written notice from the public entity of the date by which such move is required.

7267.4. If the public entity permits an owner or tenant to occupy the real property acquired on a rental basis for a short term, or for a period subject to termination by the public entity on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

7267.5. In no event shall the public entity either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property.

7267.6. If any interest in real property is to be acquired by exercise of the power of eminent domain, the public entity shall institute formal condemnation proceedings. No public entity shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

7267.7. (a) If the acquisition of only a portion of a property would leave the remaining portion in such a shape or condition as to constitute an uneconomic remnant, the public entity shall offer to acquire the entire property if the owner so desires.

(b) A person whose real property is being acquired in accordance with this chapter may, after the person has been fully informed of his or her right to receive just compensation for the property,

donate the property, any part thereof, any interest therein, or any compensation paid therefor to a public entity determined by the person.

7267.8. (a) All public entities shall adopt rules and regulations to implement payments and to administer relocation assistance under this chapter. These rules and regulations shall be in accordance with the rules and regulations adopted by the Department of Housing and Community Development.

(b) Notwithstanding subdivision (a), with respect to a federally funded project, a public entity shall make relocation assistance payments and provide relocation advisory assistance as required under federal law.

7267.9. (a) Prior to the initiation of negotiations for acquisition by a public entity or public utility of nonprofit, special use property, as defined by Section 1235.155 of the Code of Civil Procedure, the acquiring public entity or public utility shall make every reasonable effort to seek alternative property which is other than nonprofit, special use property. However, this requirement shall not apply to properties acquired by public entities for transportation purposes, including, but not limited to, the construction, expansion, or improvement of streets, highways, or railways.

(b) This section does not apply to actions or proceedings commenced by a public entity or public utility to acquire real property or any interest in real property for the use of water, sewer, electricity, telephone, natural gas, or flood control facilities or rights-of-way where those acquisitions neither require removal or destruction of existing improvements, nor render the property unfit for the owner's present or proposed use.

7269. (a) No payment received by any person under this chapter or as tenant relocation assistance required by any state statute or local ordinance shall be considered as income for the purposes of the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

(b) No payment received by any person under this chapter shall be considered as income or resources to any recipient of public assistance and such payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled under any other provisions of law.

7269.1. Where a recipient of relocation benefits payments under federal or state law is also a general assistance recipient under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code and two or more rent schedules apply to the recipient, the highest shall prevail and any excess amount over lower rent schedule shall not be counted as income or resources for general assistance purposes under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

7270. Nothing contained in this chapter shall be construed as creating in any condemnation proceedings brought under the power of eminent domain any element of damages not in existence on the date of enactment of this chapter.

7271. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

7272. If under any other provision of law of this state the owner or occupant of real property acquired by a public entity for public use is given greater protection than is provided by

Sections 7265.3 to 7267.8, inclusive, the public entity shall also comply with such other provision of law.

7272.3. It is the intent of the Legislature, by this chapter, to establish minimum requirements for relocation assistance payments by public entities. This chapter shall not be construed to limit any other authority which a public entity may have to make other relocation assistance payments, or to make any relocation assistance payment in an amount which exceeds the maximum amount for such payment authorized by this chapter. Any public entity may, also, make any other relocation assistance payment, or may make any relocation assistance payment in an amount which exceeds the maximum amount for such payment authorized by this chapter, if the making of such payment, or the payment in such amount, is required under federal law to secure federal funds.

7272.5. Nothing contained in this article shall be construed as creating in any condemnation proceeding brought under the power of eminent domain, any element of damages not in existence on the date the public entity commences to make payments under the provisions of this article as amended by the act which enacted this section at the 1971 Regular Session of the Legislature.

7273. Funds received pursuant to Sections 2106 and 2107 of the Streets and Highways Code may be expended by any city to provide relocation advisory assistance, and to make relocation assistance payments, to displaced persons displaced because of the construction of city highways or streets.

7274. Sections 7267 to 7267.7, inclusive, create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

7275. Whenever any public entity acquires real property by eminent domain, purchase, or exchange, the purchase price and other consideration paid by such entity is public information and shall be made available upon request from the entity concerned.

7276. (a) If a resolution is adopted under Section 1245.330 of the Code of Civil Procedure consenting to the acquisition of property by eminent domain and the person authorized by the resolution to acquire the property by eminent domain acquires the property by purchase, eminent domain, or otherwise, that person shall provide relocation advisory assistance and shall make any of the payments required to be made by public entities pursuant to the provisions of this chapter in conformity with this chapter and the guidelines adopted by the Commission of Housing and Community Development pursuant to Section 7268.

(b) This section does not apply to public utilities which are subject to the provisions of Article 6 (commencing with Section 600) of Chapter 3 of Part 1 of Division 1 of the Public Utilities Code or to public entities which are subject to this chapter.

7277. (a) The requirement to provide relocation assistance and benefits imposed by this chapter shall not apply to a purchase of property which is offered for sale by the owner, property being sold at execution or foreclosure sale, or property being sold pursuant to court order or under court supervision if the property in any of the foregoing situations is either occupied by the owner or is unoccupied, and if the offer for sale is not induced by public entity disposition, planned condemnation, or redevelopment of surrounding lands, and if the sales price is fair market value or less, as determined by a qualified appraiser, and if no federal funds are involved in the acquisition, construction, or project development. "Offered for sale" means either advertised for sale in a publication of general circulation published at least once a week or listed with a licensed real estate broker and published in a multiple listing, pursuant to Section 1087 of the Civil Code.

(b) At the time of making an offer to acquire property under subdivision (a), public entities shall notify the property owner in writing, of the following:

- (1) The public entity's plans for developing the property to be acquired or the surrounding property.
- (2) Any relocation assistance and benefits provided pursuant to state law which the property owner may be forgoing.



**LEASE AGREEMENT**

**GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**  
a public body corporate and politic  
as "**LANDLORD**"

AND

**CHAU NGOC DIEP (also known as Charlie Chau Diep)**, an unmarried man,  
and  
**LUONG NGUYEN DANG (also known as Nhut Dang)**, an unmarried woman,  
as and in their individual capacities, jointly and severally, and doing business as  
**LIFETIME FURNITURE**,  
together as "**TENANT**"

**LEASE AGREEMENT**

**TENANT: CHAU NGOC DIEP (also known as Charlie Chau Diep) and LUONG NGUYEN DANG (also known as Nhat Dang), in their individual capacities, jointly and severally, DBA LIFETIME FURNITURE., doing business as LIFETIME FURNITURE, as *TENANT***

**ADDRESS: 10151 Garden Grove Blvd, Garden Grove, California 92840**

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**EXHIBITS**

EXHIBIT A: PREMISES DESCRIPTION

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**LEASE AGREEMENT**  
**(Lifetime Furniture—Month-to-Month Tenancy)**

This **LEASE AGREEMENT (Lifetime Furniture—Month-to-Month Tenancy)** (“Lease”) is entered into and is effective as of \_\_\_\_\_, 2010 (“Commencement Date”) by and between **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body corporate and politic (“Landlord”) and **CHAU NGOC DIEP** (also known as **Charlie Chau Diep**), an unmarried man, and **LUONG NGUYEN DANG** (also known as **Nhut Dang**), an unmarried woman, as and in their individual capacities, jointly and severally, **DBA LIFETIME FURNITURE** (together, “Tenant”)

**RECITALS**

**A.** Landlord is a redevelopment agency, exercising governmental functions and powers and organized and existing under Chapter 2 of the Community Redevelopment Law of the State of California, Health & Safety Code Section 33000, *et seq.*, which was formed by the City Council of the City of Garden Grove (“City”) as its legislative body.

**B.** Landlord and Tenant desire to confirm certain facts that are a part of this Agreement, including that on April 15, 2009, Landlord acquired certain improved real property with the common street address of 12861 Brookhurst Street; 10115 Garden Grove Boulevard; and 10151 Garden Grove Boulevard, Garden Grove, California 92840 from sellers JOANN TRAASDAHL, formerly known as Joann Ayala, as trustee of the J. O. Trust dated August 2001, and JOHN C. NELSON, as trustee under the will of Mildred Ruth Smith, deceased, of the separate trust for the benefit of Carri Lyn Conaty, formerly known as Carri Lyn Van Nimwegen, and as trustee under the will of Newell Roy Owenby, deceased, for the primary benefit of Bonnie Faye Owenby (together, “Seller”) and took title thereof subject to a prior lease agreement entitled “Lease Agreement” and dated November 1, 2002, including an extension thereof entitled “Lease Extension” and dated November 1, 2005 (together “Prior Lease”) with respect to the Premises (as such term is defined herein), as more fully set forth in that certain Purchase and Sale Agreement dated as of as of October 9, 2007.

**C.** Under the Prior Lease, the landlord was originally John R. Nelson, as Trustee of the Mildred Ruth Smith Trust and Newell Roy Owenby Trust, on behalf of said trusts and on behalf of Joann Ayala, co-owners and the prior landlord was succeeded by Seller (“Prior Landlord”). After Landlord’s acquisition of the Premises, Tenant continued to occupy the Premises under the Prior Lease, which lease converted from a term lease to a month-to-month tenancy as of and on October 31, 2008.

**D.** The term of the Prior Lease expired on April 30, 2005, and as of May 1, 2005, Tenant commenced their month-to-month tenancy of the Premises at the rent set forth in the Prior Lease, as extended, to wit \$8,100 per month. In furtherance thereof, Tenant represents to Landlord that as of May 1, 2005, when the Prior Lease was last extended by Seller, rent due from Tenant to Prior Landlord was \$8,100 per month. Thereafter, Tenant and Prior Landlord mutually agreed to reduce the rent set forth in said extension to \$5,100 per month while otherwise confirming the terms of said extension.

**E.** By letter dated July 27, 2010 from Tenant to Landlord, Tenant voluntarily, independently, and of and by their own action prepared and submitted to Landlord a written offer and request asking and seeking a significant reduction in the monthly rent due under such Prior Lease and

in such letter Tenant offered to Landlord to waive and release their future or potential eligibility for relocation assistance and benefits under the Relocation Laws (as such term is defined herein) in consideration and exchange for a bargain, below-market rent for the Premises (to be reduced hereunder from \$8,100 per month to the bargain rent of \$5,100 per month).

**F.** Landlord has considered Tenant's written request and desires to accept Tenant's offer, which includes Landlord and Tenant entering into this new month-to-month Lease in order to set forth the terms and conditions of Tenant's tenancy and occupancy of the Premises and Landlord and Tenant entering into that certain "Release and Waiver Agreement Re Relocation Assistance and Benefits" attached as Exhibit D hereto ("Relocation Waiver") and fully incorporated by this reference.

**G.** Tenant willingly and knowingly accepts the fact that the Premises may be needed on short notice by Landlord for the implementation of the Amended and Restated Redevelopment Plan for the Garden Grove Community Project and other redevelopment purposes.

## **ARTICLE 1 BASIC LEASE PROVISIONS**

- 1.1 Landlord:** GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic.
- 1.2 Tenant:** CHAU NGOC DIEP (also known as Charlie-Chau Diep), an unmarried man, and LUONG NGUYEN DANG (also known as Nhut Dang), an unmarried woman, as and in their individual capacities, jointly and severally, DBA LIFETIME FURNITURE, (collectively, "Tenant")
- 1.3 Premises:** The real property located at 10151 Garden Grove Boulevard, (Section 2.1) Garden Grove, California 92840 (APN 089-071-25) and described on Exhibit A, which is comprised of approximately 15,994 square feet of improved land ("Real Property") and the following building: 5,700 square foot, wood-frame stucco building ("Building"). The Real Property and Building are collectively referred to herein as the "Premises."
- 1.4 Month-to-Month Term of Lease:** A month-to-month tenancy commencing on (Section 2.1) \_\_\_\_\_, 2010 ("Commencement Date"), which Tenant expressly authorizes and agrees may be terminated by either party or thirty (30) days written Notice (as such term is defined herein) from one party to the other party, with or without cause at any time.
- 1.5 Commencement Date:** The Commencement Date of this Lease shall be (Section 2.2) \_\_\_\_\_, 2010.
- 1.6 Rent:** This is a triple net lease with Monthly Base Rent at \$5,100.00. (Article 4)
- 1.7 Monthly Base Rent:** Five Thousand One Hundred Dollars (\$5,100.00) (Section 4.1) commencing on the Commencement Date..
- 1.8 Additional Rent:** All expenses associated with the ownership, operation and/or (Section 4.2) maintenance of the Premises, including without limitation, taxes and utilities,

maintenance, repair and management, that are payable to third parties other than Landlord.

- 1.9 **Use of Premises/Business of Tenant:** The sole and exclusive permitted use of the Premises shall be for Tenant to operate their *Lifetime Furniture* business, which is and shall be limited to Tenant engaging primarily and exclusively in the sale, leasing, and servicing of new and used furniture (“Business” or “Permitted Use”). (Section 7.1)
- 1.10 **Insurance Limits:** \$2,000,000.00 (Exhibit B)
- 1.11 **Security Deposit:** \$2,500.00.
- 1.12 **Conditions Precedent:** The conditions precedent to the effectiveness of this Lease are set forth in Section 3.1. (Section 3.1)
- 1.13 **Broker(s):** None. Section 21.3
- 1.14 **Addresses for Notice and Payments:** Article 18

**LANDLORD**

Garden  
Gove,  
California  
92840  
Attention:  
Charlie  
Chau  
Diep  
and  
Nhut  
Dang

**with copy to:**

Stradling, Yocca, Carlson & Rauth  
666 Newport Center Drive, Suite 1600  
Newport Beach, California 92660  
Attention: Celeste Stahl Brady, Esq.

**with copy to:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Landlord’s Address for Payments/Rep**

Garden

The Recitals set forth above are fully incorporated into this Lease. In the event of a conflict between Article 1 and the rest of the Lease, the rest of the Lease shall control.

## **ARTICLE 2 PREMISES AND TERM**

**2.1 LEASE OF PREMISES.** Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord on a month-to-month tenancy and upon the covenants and conditions set forth in this Lease commencing on \_\_\_\_\_, 2010, the Commencement Date; further, Tenant expressly authorizes and agrees that this Lease and the tenancy hereunder may be terminated by either party upon thirty (30) days written Notice from one party to the other party, with or without cause at any time. Tenant expressly, voluntarily and knowingly understands, acknowledges and agrees that in no event shall Landlord be required to provide any more than thirty (30) days notice to terminate this Lease; reciprocally, Tenant may terminate this Lease at any time for any reason upon thirty (30) days notice to Landlord. The Premises consist of the Real Property and the Building as shown on the Site Plan attached as Exhibit A-1. The Term is set forth in Section 1.4 ("Term").

**2.2 COMMENCEMENT DATE.** The Commencement Date is set forth in Section 1.5.

**2.3 RESERVATIONS.**

(a) Landlord reserves to itself, its successors and assigns, along with the right to grant and transfer:

(i) Nonexclusive easements on behalf of itself and the City for the installation, emplacement, maintenance and replacement of electric, gas, telephone, cable television, telecommunications, water, sanitary sewer lines, drainage facilities or any other utilities (collectively, "Utilities"), together with the right to enter upon the Premises in order to service, maintain, repair, reconstruct, relocate or replace any Utilities. Landlord shall repair, reconstruct and restore any Utilities to its condition prior to such entry by Landlord for the purposes set forth in this Article.

(ii) Nonexclusive easements on, over, under or across the Premises within ten (10) feet from all property lines bordering on a public or private street or drive for the installation, emplacement, replacement, repair, operation and maintenance of any Utilities.

(iii) All oil, oil rights, petroleum, minerals, mineral rights, natural gas rights and other hydrocarbon substances by whatsoever name known, geothermal resources (as defined in California Public Resources Code, Section 6903) and all products derived from any of the foregoing that may be within or under the Premises together with the perpetual right of drilling, mining, exploring, prospecting, operating, storing in and removing the same from the Premises, including the right to whipstock or directionally drill and mine from lands other than the Premises, oil or gas wells, tunnels and shafts into, through or across the subsurface of the Premises, and to bottom such whipstocked or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits thereof, and to redrill, retunnel, equip, maintain, repair, deepen and operate any such wells or mines; without, however, the right to enter, drill, mine, store, explore and operate on or through the surface or the subsurface of the Premises.

(iv) Any and all water, and all rights or interests therein, together with the right to explore, drill, redrill, remove and store the same from the Premises or to divert or otherwise utilize such water, rights or interests on any other property owned or leased by Landlord, but without, however, any right to enter upon the surface of the Premises in the exercise of such rights. In exercising its rights reserved herein, Landlord shall use commercially reasonable efforts not to materially and unreasonably interfere with the operation of Tenant's business on the Premises.

(b) Landlord shall have the following rights exercisable without notice to Tenant and without liability to Tenant for damage or injury to persons, property or business, and without being deemed an eviction or disturbance of Tenant's use or possession of the Premises or giving rise to any claim for setoff or abatement of Rent: (i) to change the Building's name or street address upon thirty (30) days' Notice; (ii) to install, affix and maintain any signs now or hereafter existing on the interior or exterior of the Building or the Premises; and (iii) upon reasonable Notice to Tenant, to display the Premises to prospective purchasers, or developers or tenants at reasonable hours.

**2.4 OWNERSHIP OF IMPROVEMENTS; CONDITION ON TENANT'S SURRENDER.** The Building and all improvements constructed, attached or used on the Premises are and shall remain the property of Landlord. On the date of termination of this Lease, Tenant shall surrender the Premises and all improvements broom clean, in good order, condition and repair, reasonable wear and tear excepted, and free of Hazardous Materials caused to have occurred or been released at, on, or about the Premises during Tenant's Prior Lease and/or during Tenant's occupancy during this Lease, and lien-free, except to the extent that the condition of disrepair existed at the Commencement Date.

**2.5 DATE OF LEASE AND LEGAL EFFECT.** The terms, covenants and conditions of this Lease shall become legally binding on the Commencement Date. Subject to Section 3.1, Tenant's obligation to secure insurance as set forth in Article 11 and to pay Monthly Base Rent, Additional Rent, and any other sum of money or charges due hereunder shall commence on the Commencement Date. Tenant's obligation to pay insurance premiums shall commence as set forth in Article 11.

### **ARTICLE 3 POSSESSION AND OPENING DATE**

**3.1 TENANT'S RIGHT OF POSSESSION.** Landlord shall not be obligated to deliver possession of the Premises to Tenant until Landlord has received from Tenant certificates of insurance as required by Exhibit B, the Tenant's Estoppel as required by Exhibit C and the fully executed Relocation Waiver in the form of Exhibit D. Commencing on the Commencement Date, Tenant shall pay the first installments of Monthly Base Rent, the estimated share of Additional Rent and Taxes, and any other sum of money or charges due hereunder.

**3.2 DELIVERY OF POSSESSION.** Landlord shall be deemed to have delivered possession of the Premises to Tenant upon the Commencement Date. In this regard, Tenant expressly, voluntarily and knowingly understands, acknowledges and agrees that under this Lease Tenant is and shall be deemed to be a "post-acquisition tenant" for purposes of the Relocation Laws and pursuant to the Relocation Waiver, Exhibit D.

**3.3 ACCEPTANCE OF POSSESSION BY TENANT.** Tenant acknowledges that it is currently in possession of the Premises and acknowledges and agrees that neither Landlord nor

Landlord's agents have made, or will make, any representation or warranty as to the condition of the Premises or the suitability of the Premises for the conduct of Tenant's Business.

**3.4 GOVERNMENTAL APPROVAL.** Tenant shall be responsible for achieving all approvals and permits from the City and other governmental agencies having jurisdiction over the Premises and/or the Business necessary to conduct the Business on the Premises, which shall include all necessary permits related to sales of new and used motor vehicles and the servicing and repair of motor vehicles and lawful handling and disposal of Hazardous Materials in connection with operation of Tenant's Business.

#### **ARTICLE 4 RENT**

Tenant shall pay to Landlord as "Rent" hereunder, without demand, offset or deduction, all of the following:

**4.1 MONTHLY BASE RENT.** Beginning on the Commencement Date, Tenant shall pay the Monthly Base Rent specified in Section 1.7, monthly, in advance, on or before the fifth (5th) day of each month.

**4.2 ADDITIONAL RENT.** Tenant shall be required to pay any other expenses incurred by Landlord for the operation, ownership and/or maintenance of the Premises, including without limitation, all utilities, taxes and insurance not payable to Landlord. All sums required to be paid by Tenant to Landlord in addition to Monthly Base Rent whether or not such sums are designated as "rent" shall be included in rent ("Additional Rent"). Monthly Base Rent and Additional Rent are collectively referred to herein as "Rent."

#### **ARTICLE 5 TAXES**

##### **5.1 REAL PROPERTY TAXES.**

(a) "Taxes" shall include any form of tax or assessment, including possessory interest taxes, if any (whether special or general, ordinary or extraordinary, foreseen or unforeseen), license fee, license tax, tax or excise on Rent or any interest of Landlord or Tenant (including any legal or equitable interest of Landlord or its beneficiary under a deed of trust, if any) in the Premises or the underlying realty. "Taxes" shall not include Landlord's general income taxes, inheritance, estate or gift taxes.

(b) Landlord shall use reasonable efforts to cause all bills for Taxes payable by Tenant hereunder to be sent directly to Tenant, in which event, from and after the Commencement Date, Tenant shall pay, prior to delinquency, all Taxes assessed during the Term. Taxes for any partial year shall be prorated.

(c) If Taxes are payable to Landlord, Landlord, at its option, may collect Tenant's share of Taxes after the actual amount of Taxes are ascertained.

**5.2 OTHER PROPERTY TAXES.** Tenant shall pay, prior to delinquency, all taxes, assessments, license fees and public charges levied, assessed or imposed upon their business



operation, trade fixtures, leasehold improvements, merchandise and other personal property on the Premises. No taxes or assessments referred to in this Section 5.2 shall be considered Taxes.

### **5.3 CONTESTING TAXES.**

(a) Tenant shall have the right to contest any Taxes, at their own cost and in their own name, and Landlord shall not pay any such Taxes; provided, however, that Tenant shall take such steps as may be required to perfect the contest, including payment of the Taxes under protest prior to an appeal of adverse determination of the contest. Upon final determination of any such contest (and if the Taxes have not already been paid under protest), Tenant shall pay the Taxes for which it is responsible hereunder as they are finally determined and all penalties, interest, costs, and expenses which may thereupon be due or have resulted therefrom.

(b) If Tenant contests any Taxes and such contest interferes with any proposed sale, financing or refinancing affecting the Premises, which Landlord has either commenced or is about to commence, upon Landlord's written request, Tenant shall either furnish to Landlord security in the amount of such contested Taxes, plus estimated costs and interest, or a bond of a responsible corporate surety in such amount.

## **ARTICLE 6 UTILITIES**

**6.1 TENANT UTILITY FACILITIES.** "Tenant Utility Facilities" means sanitary sewer lines and systems, gas lines and systems, heating, ventilating and air conditioning lines and systems, water lines and systems, fire protection sprinkler heads, lines and systems, electric power, telephone and communication lines and systems, cable lines, internet lines, and any other utilities, systems and lines exclusively serving the Premises.

**6.2 UTILITY CHARGES.** Tenant agrees to pay directly to the appropriate utility company all charges for Tenant Utility Facilities.

**6.3 WAIVER OF LIABILITY.** Regardless of the entity supplying any of the Tenant Utility Facilities or providing any service referred to in this Article 6, Landlord shall not be liable in damages for any failure or interruption of any utility or service unless such failure was due to the intentional or negligent acts of Landlord or its agents. No failure or interruption of any utility or service shall entitle Tenant to terminate this Lease or discontinue making payments of Monthly Base Rent or Additional Rent.

**6.4 TENANT'S NONPAYMENT.** If Tenant fails to timely pay any charges referred to in this Article 6, Landlord may pay the charge and Tenant shall reimburse Landlord such amount, as Additional Rent, within five (5) days of demand therefor.

## **ARTICLE 7 TENANT'S CONDUCT OF BUSINESS**

**7.1 PERMITTED USE.** Tenant shall use the Premises solely for their Business, which is the sole Permitted Use specified in Section 1.9.

**7.2 COVENANT TO OPEN AND OPERATE.** Tenant covenants to maintain the Business as a business that is open to the public, fully fixturized, staffed and stocked with

merchandise and inventory. Subject to temporary closures due to casualty, condemnation or permitted remodeling, Tenant shall operate continuously the Business during the times established by Tenant (subject to applicable laws and the reasonable approval of Landlord), and, at all times, shall keep and maintain within the Premises an adequate stock of merchandise and trade fixtures to service and supply the usual and ordinary requirements of their customers. Tenant shall not cease operations, close, or otherwise abandon their Business without prior written Notice to Landlord (whether with or without Tenant's concurrent Notice of termination of this Lease), in which event Landlord may but is not obligated to terminate this Lease.

**7.3 SPECIFIC USE RESTRICTIONS.** Unless approved by Landlord, in its sole discretion, Tenant shall not do any of the following, each of which is a "Prohibited Use."

(a) Zoning Restrictions. Use, develop or attempt to use or develop any portion of the Premises for any purpose other than those purposes expressly allowed (without the benefit of a conditional use permit, zone variance, exception or amendment) as of the Commencement Date.

(b) Zone Changes. Change or attempt any change in zoning, or obtaining or applying for a conditional use permit, zoning variance or exception or other similar approval with respect to the use or development of any portion of the Premises not expressly allowed under existing zoning as of the Commencement Date.

(c) Noncomplying Facilities. Construct or maintain any building or other improvements on the Premises not in full compliance with all requirements of law, the provisions of this Lease, or any recorded covenants, conditions and restrictions existing from time to time covering the Premises.

(d) Nuisance. Maintain or suffer to be maintained any waste or nuisance on the Premises, keep the Premises in an unclean or unsanitary condition or permit dust, offensive or refuse matter or substances constituting an unnecessary, unreasonable or unlawful hazard or material detrimental to the public health to accumulate upon the Premises.

(e) Resubdivisions. Effect any change or amendment to any parcel or final map covering the Premises or record any further parcel or final map of any portion of the Premises or facilities thereon, pursuant to California Government Code Sections 66410 *et seq.*, or any similar statute hereafter enacted and any local ordinances adopted pursuant thereto.

**7.4 GOVERNMENTAL REQUIREMENTS.** Tenant covenants to use and operate the Business and the Premises in accordance with all laws, ordinances, statutes, rules, regulations, orders and decrees, including without limitation, prevailing wages, if any, of the United States, the State of California, the County of Orange, the City or any other political subdivision in which the Premises is located and of any other political subdivision, agency or instrumentality exercising jurisdiction over Landlord, Tenant or the Premises.

## **ARTICLE 8 MAINTENANCE, REPAIRS AND ALTERATIONS**

**8.1 TENANT'S MAINTENANCE OBLIGATIONS.** Tenant, at their expense, shall keep the Premises and all Tenant Utility Facilities clean and presentable, consistent with their age, and shall make replacements necessary to keep the Premises and Tenant Utility Facilities in such

condition. All replacements shall be of a quality equal to or exceeding that of the original. Should Tenant fail to make these repairs and replacements or otherwise maintain the Premises within ten (10) days after Notice by Landlord, or should Tenant begin but fail to complete any repairs or replacements within a reasonable time after Notice by Landlord, Landlord may, but shall not be obligated to, make the repairs or replacements expressly without liability to Tenant for any loss that may accrue to Tenant's Business as a result thereof. Tenant shall promptly repair at their expense any damage to the Premises or any Building caused by the installation or removal of Tenant's personal property. If Tenant fails to contract with a service company or fails to maintain the HVAC equipment serving the Building located on the Premises, Landlord may contract with a service company (or provide such service itself) and collect a reserve from Tenant for the cost of same, as Additional Rent. If Landlord makes any repairs or replacements, or provides similar services on Tenant's behalf, Tenant shall promptly pay Landlord the cost of same.

**8.2 LANDLORD'S RIGHT OF ENTRY.** Landlord or its authorized representatives may enter the Premises following reasonable Notice to Tenant (except in a case of emergency) to: (a) inspect the Premises; (b) perform any obligation or exercise any right or remedy of Landlord under this Lease; (c) make repairs, alterations, improvements or additions to the Building or to other portions of the Premises; (d) perform work necessary to comply with laws, ordinances, rules or regulations of any public authority or of any insurance underwriter; and (e) perform work that Landlord deems necessary to prevent waste or deterioration of the Premises should Tenant fail to promptly commence and complete such repairs within ten (10) days after Notice.

**8.3 ALTERATIONS.** Tenant shall not make any addition, renovation, alteration, reconstruction or change (collectively, "Alterations") to the Premises, the Building or any other improvements on the Real Property. Notwithstanding the foregoing, Tenant may, at Tenant's sole cost with Landlord's prior written approval, which approval Landlord may withhold in its sole and absolute discretion, make non-structural Alterations which do not affect the exterior appearance of the Premises and the cost of which does not exceed \$25,000.00, provided that such Alterations shall not materially and adversely affect the HVAC, plumbing, fire detection or fire sprinkler system serving the Premises and do not interfere with Landlord's rights to use the areas reserved in Section 2.3.

**8.4 DRAINAGE AND WATER QUALITY REQUIREMENTS.** Without limiting any other provisions contained in this Lease, Tenant acknowledges that with regard to surface drainage and groundwater and surface water quality, the Premises are subject to the requirements of the United States Environmental Protection Agency ("EPA"), the California State Water Resources Control Board ("State Board"), the Regional Water Quality Control Board ("Regional Board"), the County of Orange, and the City. Accordingly, Tenant shall comply, at their sole cost and expense, with all laws, rules and regulations regarding drainage and water quality (collectively, "Water Quality Laws") including the Federal Clean Water Act, the Federal Coastal Zone Management Act, the Porter-Cologne Water Quality Control Act and The California Coastal Act. In addition, Tenant agrees to obtain any and all permits which may be required pursuant to the Water Quality Laws in connection with Tenant's use or operation of the Premises or any Alteration to comply with the requirements of any such permits and, to the extent applicable, the requirements of any similar permits covering the Premises generally. Such permits may include, without limitation, National Pollutant Discharge Elimination System ("NPDES") permits (and the associated Storm Water Pollution Prevention Plan ("SWPPP") required by the State of California General Permit for storm water associated construction activity), County storm water permits, County drainage area management plans or Regional Board issued *de minimis* permits. Furthermore,

Tenant agrees to comply with all rules and regulations adopted by the State Board, Regional Board or other governmental authority authorized by the EPA to implement the NPDES or similar programs. Tenant shall coordinate with the appropriate governmental authorities to ensure Tenant's compliance with the requirements of this Section 8.4.

## **ARTICLE 9 NO ASSIGNMENT OR SUBLETTING**

Tenant shall not assign, change ownership or voting control, or otherwise transfer (including any transfer by operation of law) all or any part of this Lease or of Tenant's interest in the Premises or the Business (collectively, "Assignment" or "Assign") without Landlord's prior written consent, which consent Landlord may withhold in its sole and absolute discretion. Furthermore, in no event shall Tenant have the right to sublet or enter into franchise, license or concession agreements for any part of the Premises. Tenant's unauthorized assignment or sublease shall be void and shall terminate this Lease at Landlord's option. In addition, Tenant shall not encumber or pledge this Lease or their interest in the Premises.

## **ARTICLE 10 ENVIRONMENTAL MATTERS**

**10.1 HAZARDOUS MATERIALS LAWS; HAZARDOUS MATERIALS.** "Hazardous Materials Laws" means any and all federal, state or local laws, ordinances, rules, decrees, orders, regulations or court decisions (including the so-called "common law") relating to Hazardous Materials, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under or about the Premises, or soil and ground water conditions, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), as amended, 42 U.S.C. § 9601, *et seq.*, the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901, *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*, any amendments to the foregoing, and any similar federal, state or local laws, ordinances, rules, decrees, orders or regulations. "Hazardous Materials" means any chemical, compound, material, substance or other matter that: (i) is a flammable explosive, asbestos, radioactive material, nuclear medicine material, drug, vaccine, bacteria, virus, hazardous waste, toxic substance, gasoline, petroleum product or other product used in the servicing of motor vehicles, polychlorinated biphenyls or related injurious or potentially injurious material, whether injurious or potentially injurious by itself or in combination with other materials; (ii) is controlled, designated in or governed by any Hazardous Materials Law; (iii) gives rise to any reporting, notice or publication requirements under any Hazardous Materials Law; or (iv) gives rise to any liability, responsibility or duty on the part of Tenant or Landlord with respect to any third person under any Hazardous Materials Law.

**10.2 USE.** Tenant shall not allow any Hazardous Material to be used, generated, released, stored or disposed of on, under or about, or transported from, the Premises, unless: (a) such use is specifically disclosed to and approved by Landlord (which approval may be granted or withheld in Landlord's sole discretion) prior to such use; and (b) such use is conducted in compliance with the provisions of this Article 10. Landlord may approve such use subject to conditions to protect the Premises and Landlord's interests. Landlord may, without limitation, withhold approval if Landlord determines that such proposed use involves a risk of a release or discharge of Hazardous Materials or a violation of any Hazardous Materials Laws or that Tenant has not provided adequate assurances of their ability to remedy such a violation and fulfill their obligations under this Article 10. Notwithstanding the foregoing, this provision shall not be construed or understood to prohibit Tenant

from allowing Hazardous Materials to be brought upon the Premises so long as they are Hazardous Materials which are customary and common to the normal course of business in the construction or operation of a first-class vehicle dealership and so long as such Hazardous Materials are used, stored and disposed of in strict accordance with all applicable Hazardous Materials Laws. Upon the expiration of the Term or sooner termination of this Lease, Tenant shall remove any equipment, improvements or storage facilities utilized by Tenant or any assignee or subtenant of Tenant or their respective agents, contractors, employees, concessionaires, licensees, or invitees in connection with any Hazardous Materials and shall clean up, detoxify, repair and otherwise restore the Premises to a condition free of Hazardous Materials. The parties to this Lease acknowledge that, for a substantial period of time prior to the Commencement Date, the Premises have been used for Tenant's operation of the Business, which may have resulted in the release of Hazardous Materials. Tenant shall be solely responsible, both financially and legally, for remediation of Hazardous Materials on the Premises to the extent such Hazardous Materials were released, discharged, used, or stored on or about the Premises during the term of the Prior Lease and prior to the Commencement Date of this Lease and/or during this Lease.

**10.3 COMPLIANCE WITH HAZARDOUS MATERIALS LAWS.** Tenant and their agents, contractors, employees, assignees, sublessees, licensees, concessionaires, and invitees shall strictly comply with, and shall operate and maintain the Premises in compliance with Hazardous Materials Laws. Tenant shall obtain and maintain in full force and effect all permits, licenses and other governmental approvals required for Tenant's operations on the Premises under any Hazardous Materials Laws and shall comply with all terms and conditions thereof. At Landlord's request, Tenant shall deliver copies of, or allow Landlord to inspect, all such permits, licenses and approvals. Tenant shall not perform any monitoring, investigation, clean-up, removal or other remedial work including, without limitation, the preparation and implementation of any closure, remedial action or other required plans in connection therewith (collectively, "Remedial Work") in response to the presence of any Hazardous Materials in or about the Premises, nor enter into any settlement agreement, consent decree or other compromise in respect to any claims relating to any Hazardous Materials in any way connected with the Premises, without first notifying Landlord of Tenant's intention to do so and affording Landlord ample opportunity to appear or otherwise appropriately assert and protect Landlord's interest with respect thereto. Landlord shall have the right to intervene in any governmental action or proceeding involving any Remedial Work, and to approve performance of the work, in order to protect Landlord's interests. Upon Landlord's approval of the work to be performed and provided that Landlord does not elect to perform said work as provided hereinbelow, Tenant shall perform any Remedial Work required as a result of any release or discharge by Tenant or any assignee or sublessee of Tenant or their respective agents, contractors, employees, licensees, concessionaires, or invitees of Hazardous Materials affecting the Premises or any violation of Hazardous Materials Laws by Tenant or any assignee or sublessee of Tenant or their respective agents, contractors, employees, licensees, concessionaires, or invitees. Landlord shall have the right, but not the obligation, to remedy any violation by Tenant of the provisions of this Article 10 or to perform any Remedial Work which is necessary or appropriate as a result of any governmental order, investigation or proceeding and Tenant shall pay, upon demand, all costs (including attorneys' fees and other costs) incurred by Landlord in remedying such violations or performing all Remedial Work, together with interest thereon at the Agreed Rate from the date of payment by Landlord. Landlord shall not be responsible for remediation of Hazardous Materials on the Premises which were released, discharged, used, or stored prior to the Commencement Date; provided further that in the event that the Premises cannot be used, in whole or in part, for the Permitted Use, this Lease may be terminated by either party and neither party shall have any further rights or obligations with respect to the other hereunder.

**10.4 NOTICE; REPORTING.** Tenant shall notify Landlord within two (2) days after any of the following: (a) a release or discharge of any Hazardous Materials, whether or not the release or discharge is in quantities that would otherwise be reportable to a public agency; (b) Tenant's receipt of any order of a governmental agency requiring any Remedial Work pursuant to any Hazardous Materials Laws; (c) Tenant's receipt of any warning, notice of inspection, notice of violation or alleged violation, or Tenant's receipt of notice or knowledge of any proceeding, investigation or enforcement or regulatory action, pursuant to any Hazardous Materials Laws; (d) Tenant's receipt of notice or knowledge of any report made to any environmental agency arising out of or in connection with any Hazardous Materials in or about the Premises or removed therefrom, including any complaints, notices, warnings or asserted violations in connection therewith; or (e) Tenant's receipt of notice or knowledge of any claims made or threatened by any third party against Landlord or Tenant relating to any loss or injury resulting from Hazardous Materials. Tenant shall deliver to Landlord copies of all test results, reports and business or management plans required to be filed with any governmental agency pursuant to any Hazardous Materials Laws, including without limitation copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the Premises. In connection with any Hazardous Materials involving the Premises with respect to which Tenant is responsible hereunder, Tenant shall make all reports and filings required by any Hazardous Materials Laws, including without limitation, pursuant to California Water Code Section 13260 and California Health and Safety Code Section 25220, and provide Landlord with the same for Landlord's review and approval prior to filing.

**10.5 OTHER REQUIREMENTS.**

(a) Additional Insurance or Financial Capacity. If at any time it reasonably appears to Landlord that Tenant is not maintaining sufficient insurance or other means of financial capacity to enable Tenant to fulfill their obligations to Landlord under this Lease, whether or not then accrued, liquidated, conditional or contingent, Tenant shall procure and thereafter maintain in full force and effect such insurance or other form of financial assurance, with or from companies or persons and in forms reasonably acceptable to Landlord, as Landlord may from time to time reasonably request.

(b) Landlord's Maintenance. The parties agree that although Landlord shall have the right to enter upon the Premises at any time to monitor and enforce Tenant's compliance with the requirements of this Article 10, Landlord does not have the power or authority to control Tenant's actual use of the Premises beyond the commitments and covenants set forth herein and therefore shall have no responsibility for the same.

**ARTICLE 11  
INSURANCE AND INDEMNITY**

**11.1 TENANT'S INSURANCE.** Commencing on the Commencement Date and continuing during the Term, Tenant shall at all times, at their sole cost and expense, maintain the insurance described in Exhibit B.

**11.2 INDEMNITY.** Tenant shall pay for, defend (with an attorney approved by Landlord), indemnify, and hold Landlord and the City of Garden Grove and their elected and appointed officials, officers, employees, representatives and agents (together "Indemnitees") harmless from any real or alleged damage or injury and from all claims, judgments, liabilities, penalties, costs and expenses, including attorneys' fees and costs (collectively, "Costs"), in any way

connected to Tenant's (or anyone acting directly or indirectly by or through Tenant) use or operation of the Premises, or any repairs, alterations or improvements which Tenant may make or cause to be made on the Premises, or by any breach of this Lease by Tenant, or by any existing or future condition, defect, matter or thing or about the Premises or any part thereof or any equipment or appurtenance therein and any loss or interruption of business or loss of Rent income resulting from any of the foregoing; provided, however, Tenant shall not be liable for Costs to the extent such damage or injury is ultimately determined to be caused by the willful negligence or misconduct of Landlord. Notwithstanding the foregoing, Tenant shall in all cases accept any tender of defense of any action or proceeding in which any of the Indemnitees is or are named or made a party and shall, notwithstanding any allegations of willful negligence or misconduct on the part of any of the Indemnitees, defend the Indemnitees as provided herein until a final determination of willful negligence or misconduct is made. Costs shall also include all of Indemnitees' attorneys' fees, litigation costs, investigation costs and court costs and all other costs, expenses and liabilities incurred by any of the Indemnitees or their counsel(s) from the first Notice that any claim or demand is to be made or may be made. Notwithstanding any other provision hereof, Tenant's obligations under this Section 11.2 shall survive the termination of this Lease.

## **ARTICLE 12**

### **DAMAGE**

**12.1 NONTERMINATION AND NONABATEMENT.** Except as expressly provided in Section 12.2(a), no destruction or damage to the Premises or any improvements located thereon by fire, windstorm or other casualty, whether insured or uninsured, shall entitle Tenant to terminate this Lease or to an abatement of Rent hereunder; provided, however, that both Landlord and Tenant each reserve rights to terminate this Lease upon thirty (30) days notice as provided herein.

#### **12.2 REPAIR OF DAMAGE.**

(a) Destruction. If the Building is totally destroyed or damaged or rendered wholly untenable by fire or other casualty, then Landlord and Tenant shall each have the right to terminate this Lease by giving Notice to the other party within thirty (30) days after the date of destruction. If Tenant does not terminate the Lease within thirty (30) days from the expiration of such 30-day period, Tenant shall pay Rent unabated and all insurance proceeds shall be paid to Landlord. If the Building is partially damaged or rendered partially untenable by fire or other casualty, Tenant shall, within thirty (30) days from the date of such destruction, begin the repair or replacement of the portion of the Building affected; provided, however, that both Landlord and Tenant each reserve rights to terminate this Lease upon thirty (30) days notice as provided herein.

(b) Application of Insurance Proceeds. All insurance proceeds recovered on account of damage or destruction less the cost of such recovery, shall be paid to Landlord or, if partially damaged or rendered partially untenable under the last sentence of the paragraph immediately above then such proceeds shall be applied to the payment of the cost of repairing and replacing the Building. Whether or not the Lease is terminated, if net available insurance proceeds are insufficient to pay the entire cost of such work, or if the damage or destruction is the result of a cause not required to be insured against, then Tenant shall bear the cost thereof in excess of the net available insurance proceeds. Upon termination of this Lease, the Premises shall be redelivered to Landlord after removal, at Tenant's expense, of debris and all removable fixtures, furniture and equipment, if requested by Landlord, and all insurance proceeds received by or due to Tenant shall be paid to Landlord after deducting such expenses.

**12.3 CONTINUED RENT.** There shall be no abatement of Monthly Base Rent or Additional Rent during any period of repair, irrespective of the continued operation of Tenant's business during such period.

**12.4 WAIVER OF STATUTORY RIGHTS OF TERMINATION.** Tenant waives any statutory rights of termination based on a partial or total destruction of the Premises.

### **ARTICLE 13 EMINENT DOMAIN**

**13.1 TAKING.** "Taking," as used in this Article 13, means an appropriation or taking under the power of eminent domain by any governmental authority or a voluntary sale or conveyance in lieu of condemnation but under threat of condemnation.

**13.2 TOTAL TAKING.** In the event of a Taking of the entire Premises, this Lease shall terminate and expire as of the date possession is delivered to the condemning authority and Landlord and Tenant shall each be released from any liability under this Lease after the date of such termination, but Rent for the last month of Tenant's occupancy shall be prorated and Landlord shall refund to Tenant any Rent paid in advance and Tenant's obligations under Section 11.2 hereof shall survive such termination.

**13.3 PARTIAL TAKING.** If there is a Taking of more than 25% of the floor area of the Building or the land comprising the Premises such that access to or from or visibility of the Premises is materially adversely affected so that the Premises is unsuitable for the conduct of Tenant's Business, then Tenant may terminate this Lease as of the date Tenant is required to vacate a portion of the Premises by giving Landlord Notice of the termination within 30 days after Tenant receives Notice from Landlord of the Taking.

**13.4 AWARD.** The entire award in any such condemnation proceeding, whether for a total or partial Taking, or for diminution in the value for the fee, shall belong to Landlord. Without diminishing the rights of Landlord under the preceding sentence, Tenant is entitled to recover from the condemning authority such compensation as may be separately awarded by the condemning authority to Tenant in their own right for the taking of trade fixtures and equipment owned by Tenant and for the expense of removing and relocating their trade fixtures and equipment, but only in the event that the compensation awarded to Tenant is in addition to and does not diminish the compensation awarded to Landlord as provided above. If this Lease is terminated as provided in this Article 13, Tenant may remove all of their removable trade fixtures, furniture and equipment from the Premises, provided that Tenant repairs any damage caused by such removal and leaves the Premises in a neat and clean condition. Tenant shall be entitled to a portion of any award received by Landlord which is specifically designated by the condemning authority as attributable to Tenant's leasehold interest in the Premises or specifically attributable to Tenant's fixtures and equipment which are not capable of removal from the Premises. In no event shall the portion of any award of compensation paid to Tenant exceed the total award received by Landlord.

**13.5 CONTINUATION OF LEASE.** If Landlord and Tenant elect not to terminate this Lease after a Taking (or have no right to so terminate) then as soon as reasonably possible Tenant shall, at Tenant's expense, as soon as reasonably possible after the Taking, restore the Building on the remaining Premises to a complete unit of like quality and character as existed prior to the Taking and, thereafter, Monthly Base Rent shall be reduced on an equitable basis, taking into account the



relative value of the portion of the Premises taken as compared to the portion remaining, and Landlord shall be entitled to receive the total award or compensation.

## **ARTICLE 14 DEFAULTS BY TENANT**

**14.1 EVENTS OF DEFAULT.** Any of the following constitutes an event of default and breach of this Lease by Tenant: (a) failing to pay any monetary obligation for a period of five (5) days after Notice from Landlord or to perform any other obligation of the Lease for more than a reasonable time (not exceeding ten (10) days) after Notice from Landlord (any such Notice being in lieu of, and not in addition to, any Notice required by Section 1161 of the California Code of Civil Procedure or superseding statute); or (b) vacating or abandoning the Premises or closing or ceasing operation of the Business thereon; or (c) making any general assignment for the benefit of creditors; or (d) the attachment or judicial seizure of substantially all of Tenant's assets located at the Premises or Tenant's interest in this Lease (where the seizure is not discharged within 30 days) or (e) an assignment without the consent of Landlord in accordance with Article 9; or (f) holding over after the termination of the Lease; (g) a petition, whether voluntary or involuntary, for bankruptcy, reorganization, arrangement, insolvency or similar relief is filed with respect to any of the parties comprising Tenant; or (h) assigning or subleasing or attempting to assign or sublease this Lease or any part of Tenant's interest in the Premises. In addition to all other rights or remedies of Landlord set forth in this Lease, if Tenant defaults, then Landlord shall have all rights available to Landlord as may be permitted from time to time by the laws of the State of California, without further Notice or demand to Tenant. In addition, Landlord has the remedy described in California Civil Code Section 1951.4 (Landlord may continue this Lease in effect after Tenant's breach and abandonment and recover Rent as it becomes due), if Tenant has the right to sublet or assign, subject only to reasonable limitations. In any case in which Landlord re-enters and occupies the Premises, by unlawful detainer proceedings or otherwise, Landlord, at its option, may repair, alter, subdivide or change the character of the Premises as Landlord deems best, relet all or any part of the Premises and receive the rents therefor, and none of these actions shall constitute a termination of this Lease or a release of Tenant from any liability. Landlord shall not be deemed to have terminated this Lease or the liability of Tenant to pay any Rent or other charges later becoming due by any re-entry of the Premises pursuant to this Section 14.1, or by any action in unlawful detainer or otherwise to obtain possession of the Premises, unless Landlord has first given Tenant Notice that it is terminating this Lease. Notwithstanding anything to the contrary set forth above, if the default complained of, other than a default for the payment of monies, cannot be cured within the period required herein, then Tenant shall not be considered to be in default of the Lease if it commences to cure the default within the required period and thereafter diligently and continuously prosecutes the cure to completion.

**14.2 TERMINATION OF LEASE.** Should Landlord elect to terminate this Lease pursuant to the provisions of Section 14.1, damages shall include, without limitation, the worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of Rent loss Tenant proves could have been reasonably avoided.

## **ARTICLE 15 SUBORDINATION, ATTORNMENT AND TENANT'S CERTIFICATE**

**15.1 SUBORDINATION.** This Lease is subject and subordinate to: (a) the lien of any deed of trust or the interest of any lease in which Landlord is the lessee (and to all advances made or

to be made upon the security of any of the foregoing); and (b) to matters of public record applicable to the Premises, including any covenants, conditions, restrictions, easements and ground leases (the documents referred to in clauses (a) and (b), including amendments, are collectively, "Agreements"). Tenant agrees that it will not violate the terms of the Agreements. Tenant acknowledges that a beneficiary of a deed of trust or a lessor of Landlord may elect to cause the lien of the deed of trust or leasehold interest to be subordinate to this Lease. Subject to such election, if any Agreement is not of record on the Commencement Date, then this Lease shall automatically become subordinate to such Agreement upon recordation so long as such Agreement does not prevent Tenant from using the Premises for the Permitted Use. Tenant agrees to execute and return to Landlord, within 10 days of written request, an agreement in recordable form subordinating this Lease to the Agreements. Tenant shall not unreasonably withhold their consent to amendments to this Lease requested by the holder of a deed of trust or similar financing instrument encumbering Landlord's fee interest in the Premises so long as such changes do not materially alter the economic terms of this Lease or materially diminish the rights, or materially increase the obligations, of Tenant.

**15.2 ATTORNMENT.** If any foreclosure proceedings are begun, or in the event of the exercise of the power of sale under any deed of trust encumbering the Premises, or should a lease in which Landlord is the lessee be terminated, then Tenant shall attorn to the purchaser or lessor under such lease upon any foreclosure, sale or lease termination and recognize the purchaser or lessor as the "Landlord" under this Lease, provided that the purchaser or lessor shall acquire the Premises subject to this Lease.

## **ARTICLE 16 SECURITY DEPOSIT**

Upon execution of this Lease, Tenant will pay Landlord or Tenant deposited under the Prior Lease the Security Deposit specified in Section 1.11. The Security Deposit shall not bear interest and will be held by Landlord as security for Tenant's faithful performance of all of Tenant obligations under this Lease. If Landlord applies all or part of the Security Deposit to the payment of Rent or to any loss or damage to Landlord due to Tenant's default, then within five (5) days after Notice, Tenant will deposit sufficient cash with Landlord to restore the Security Deposit to the amount originally deposited. If Tenant performs all of their obligations under this Lease, the Security Deposit or any remaining balance will be returned to Tenant within thirty (30) days of the expiration or earlier termination of this Lease. Tenant expressly waives any statutory right to the return of the Security Deposit earlier than said 30-day period.

## **ARTICLE 17 QUIET ENJOYMENT**

As long as Tenant pays all of the Rent and performs all of the other terms and conditions of this Lease, Tenant shall peaceably and quietly hold and enjoy the Premises; subject, however, to: (a) the rights of the parties as set forth in this Lease; and (b) any Agreements to which this Lease is or will become subordinate.

## **ARTICLE 18 NOTICES**

All notices, demands, requests, approvals and other communications under this Lease (each, a "Notice") shall be in writing and shall be given by United States regular mail, registered mail,

courier or overnight delivery service, addressed as set forth in Paragraph 1.14, or to such other address or addresses as either party may designate by Notice to the other in accordance with this Article 18. Notices delivered by regular mail shall be deemed delivered 48 hours after deposit thereof in a United States Mail Post Box. All other Notices shall be deemed delivered as of the date of delivery (or attempted delivery or rejection) established by United States Post Office return receipt or the overnight courier's proof of delivery, as the case may be, but in no event later than 48 hours after deposit thereof in a United States Mail Post Box or with a courier or delivery service. Notice given by facsimile shall not be effective unless receipt is acknowledged by the recipient in writing.

## **ARTICLE 19**

### **TITLE**

The parties to this Lease acknowledge that, for a substantial period of time prior to the Commencement Date, Tenant has occupied the Premises and is familiar with them. Tenant acknowledges that, as of the Commencement Date, there are no liens upon their estate other than: (a) the Agreements (as defined in Section 15.1); (b) any liens not preventing Tenant from using the Premises as permitted by this Lease; (c) the effect of any zoning laws of the city, county and state where the Premises are situated, and (d) general and special taxes not delinquent. Tenant agrees that: (i) as to their leasehold estate, it, and all persons in possession or holding under it, will comply with the terms of the Agreements and any matters of record; and (ii) this Lease is subordinate to the Agreements, including amendments and modifications; provided, however, that if the Agreements are not of record as of the Commencement Date, then this Lease shall automatically become subordinate to the Agreements upon recordation, provided the Agreements satisfy the requirements of Sections 15.1 and 15.2 and do not prevent Tenant from using the Premises for the Permitted Use. Tenant agrees to execute and deliver to Landlord, within ten (10) days of written demand, an agreement in recordable form subordinating this Lease to the Agreements.

## **ARTICLE 20**

### **WAIVER AND RELEASE OF RELOCATION ASSISTANCE AND BENEFITS**

Tenant acknowledges that Landlord acquired the Premises for redevelopment or other public purposes; however, in consideration for Landlord accepting Tenant's request for the reduced Monthly Base Rent due hereunder (as significantly reduced from the amount of rent due under the Prior Lease), Tenant expressly, voluntarily and knowingly understands, acknowledges and agrees that it is releasing, waiving and terminating their rights, if any, to relocation assistance and benefits that may be due or become eligible or may have become eligible pursuant to "Relocation Law", which as used in this Lease shall mean the California Relocation Assistance Law, Health and Safety Code Section 7260, *et seq.*, and the implementing regulations promulgated by the California Department of Housing and Community Development set forth in California Code of Regulations, Title 25, Housing and Community Development, Division 1, Chapter 6, Section 6000, *et seq.*, and federal relocation laws and regulations set forth in the Federal Uniform Relocation and Real Property Assistance Act, 42 U.S.C. Section 4601, *et seq.*, the implementing regulations thereto in the Code of Federal Regulations, 49 CFR Part 24, and all applicable, if any, federal funding programs in 24 CFR Parts 42, 91, 92, and 570, including for example, the CDBG Program and the HOME Program, and in other federal relocation codes and regulations. Tenant expressly, voluntarily and knowingly understands, acknowledges and agrees that their status is and will be and remain as a "post-acquisition tenant" with no eligibility or rights to relocation assistance or benefits ("Waived Matters") thereunder pursuant to the Relocation Law.

Concurrently with the execution of this Lease, Tenant and Landlord are executing the Relocation Waiver setting forth the parties' agreement with respect to Tenant's release and waiver of the Waived Matters. Tenant acknowledges that Landlord has agreed to accept a substantially reduced Rent amount from Tenant and Tenant expressly, voluntarily and knowingly understands, acknowledges and agrees that Tenant's occupation of the Premises at a significantly reduced Monthly Base Rent has been made by Landlord at Tenant's request in exchange for Tenant's agreement to release and waive the Waived Matters. Tenant further expressly, voluntarily, and knowingly understands, acknowledges and agrees that their execution of the Relocation Waiver constitutes a substantial and material consideration for Landlord's execution of this Lease on the terms set forth herein, including but not limited to the amount of Monthly Base Rent charged to Tenant, and that Landlord would not execute this Lease but for Tenant's releases and waivers set forth in the Relocation Waiver. The Relocation Waiver is attached as Exhibit D hereto and incorporated into this Lease as though set forth in full herein.

## **ARTICLE 21 MISCELLANEOUS**

**21.1 GENERAL.** A waiver by a party of a breach of this Lease by the other party shall not be construed as a waiver of a later breach of the same covenant. Except as limited by Article 14 or as specified to the contrary elsewhere in this Lease, the rights and remedies of the parties are cumulative and in addition to any rights and remedies not specified in this Lease. There are no other agreements or representations between the parties and this Lease supersedes and cancels any previous negotiations, representations, brochures, agreements and understandings, if any, between them. This Lease may not be amended except in writing signed by Landlord and Tenant. This Lease shall be governed by California law. If any provision of this Lease or its application is found to be invalid or unenforceable, such determination shall not affect the other provisions of this Lease and they shall remain valid and enforceable. Time is of the essence in all provisions of this Lease. This Lease may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

**21.2 SUCCESSORS.** All of the rights and obligations of the parties under this Lease shall apply to: (a) their respective heirs, executors, administrators; and (b) their permitted concessionaires, successors, subtenants and assignees. If there is more than one Tenant under this Lease, each shall be jointly and severally bound by all of the terms hereunder.

**21.3 BROKERS.** There have been no brokers, finders or agents involved in this Lease, and each party agrees to hold the other harmless from the failure to pay any broker, finder or agent making a claim for compensation, commission or charges with respect to this Lease and/or the negotiation hereof.

**21.4 TRANSFER OF LANDLORD'S INTEREST.** If Landlord sells, exchanges or assigns this Lease (other than a conditional assignment as security for a loan), then it shall be relieved of all obligations accruing under this Lease from and after the date of transfer provided that Landlord's successor-in-interest assumes such obligations from and after such date.

**21.5 PAYMENT AND LATE CHARGES.** Tenant shall pay Rent to Landlord at the Address for Notices and Payments specified therefor in Section 1.14, or to such other address and/or person as Landlord may from time to time identify to Tenant. If Tenant fails to pay any Rent when due, the unpaid amount shall bear interest at the prime interest rate charged by Union Bank, N.A.

plus 2 percentage points (but in no event to exceed the maximum lawful rate) (“Interest Rate”) from the date due until paid. In addition, from and after the second time within any 12-month period any payment of Rent is not received within five (5) days of the due date, or if any required report is not received within five (5) days of the due date, Tenant shall pay to Landlord a late charge of \$500.00 for overdue Monthly Base Rent, and \$250.00 for overdue Additional Rent or an overdue report. Payment of a late charge shall be due on the same date that the next Rent payment is due. Landlord and Tenant agree that this late charge represents a reasonable estimate of Landlord’s costs and expenses and is fair compensation to Landlord for its loss resulting from Tenant’s late payment. Except where another rate of interest is specifically provided for in this Lease, any amount due from either party to the other which is not paid when due, shall bear interest from the due date at the Interest Rate specified in this Section 21.5. If no specific time is set forth for the payment of any money under this Lease, then such payment shall be required within ten (10) days of receipt of Notice. In no event shall Tenant be entitled to any credit or offset specifically permitted by this Lease, if Tenant, at the time in question is in default of any of their obligations under this Lease.

**21.6 LIENS.** Tenant shall pay all costs for work performed by it or on their behalf and shall keep the Premises free and clear of mechanics’ liens or any other liens. Tenant shall give Landlord immediate Notice of any lien filed against the Premises as a result of any work performed by or on behalf of Tenant. Tenant shall immediately cause any lien to be discharged or removed of record by either paying the amount of the lien or recording a statutory lien release bond in an amount equal to 150% of the amount of the lien. If Tenant fails to do so, Landlord shall have the right, but not the obligation, in addition to all other rights and remedies available to Landlord to either pay and discharge the lien, without regard to the validity thereof, or obtain and record a statutory lien release bond and to: (a) collect from Tenant; or (b) deduct from any amount payable by Landlord to Tenant under this Lease: (i) all costs incurred by Landlord in paying and discharging such lien, or in obtaining the bond; and (ii) all expenses incurred by Landlord in connection with the lien, including attorneys’ fees and costs, recording fees and administrative costs and expenses.

**21.7 TRADE FIXTURES AND PERSONAL PROPERTY.** Upon the termination of the Lease, Tenant shall remove all of their trade fixtures, furniture, equipment, signs, improvements, additions and alterations to the Premises to the extent they are not permanently affixed, and immediately repair any damage resulting from such removal so as to leave the Premises in the condition required by Section 21.9. Upon the removal of Tenant’s exterior signage, Tenant shall, at their sole cost, restore any building face to the condition required by this Lease, including conditions related to Hazardous Materials. Tenant may finance their movable fixtures and equipment installed in the Premises, and such financing will not be considered an Assignment, provided it does not confer an interest in the Premises. All trade fixtures, signs and other personal property installed in or attached to the Premises by Tenant must be new when installed or attached.

**21.8 FORCE MAJEURE.** Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, regulations, or controls, judicial orders, enemy or hostile governmental action, civil commotion, terrorist activities, fire or other casualty, and other causes (except financial) beyond the reasonable control of the party obligated to perform, shall excuse the performance by that party for a period equal to the prevention, delay or stoppage, except the obligations imposed with regard to the payment of Rent to be paid by Tenant pursuant to this Lease; provided the affected party gives the other party Notice within thirty (30) days of the event causing the prevention, delay or stoppage. Notwithstanding anything to the contrary contained in this Section 21.8, in the event any

work performed by Tenant or Tenant's contractor results in a strike, lockout and/or labor dispute, such action shall not excuse the performance by Tenant of the provisions of this Lease.

**21.9 TERMINATION AND HOLDING OVER.** This Lease may be terminated upon thirty (30) days written notice by either party to the other. Upon termination, Tenant shall peaceably and quietly surrender the Premises broom-clean and in good condition, including conditions related to Hazardous Materials (and including, at Landlord's option, the demolition and removal of any improvements made by Tenant to the Premises), as the Premises were in upon delivery of possession to Tenant, except for reasonable wear and tear and any damage to the Premises which Tenant is not required to repair under the terms of this Lease. Should Tenant hold over beyond the expiration of the Term after the 30-day notice required hereunder, the Monthly Base Rent shall be the greater of: (a) 150% of the Monthly Base Rent payable for the Term of this Lease; or (b) the then currently scheduled Rent for comparable space, as the same is reasonably determined in Landlord's sole business judgment. The parties shall not be obligated to negotiate a renewal or extension of the Lease. If Tenant fails to surrender the Premises upon termination, then Tenant shall indemnify, defend and hold the Indemnitees harmless from any loss or liability which may accrue therefrom including any claims made by any succeeding tenant or purchaser founded on or resulting from Tenant's failure to surrender. Acceptance by Landlord of any Monthly Base Rent or other charges after the termination of this Lease shall not constitute a consent to a holdover hereunder, constitute acceptance of Tenant as a tenant at will, or result in a renewal of the Lease.

**21.10 ATTORNEYS' FEES AND PROCESSING CHARGES.** If either party institutes an action or proceeding against the other party relating to the provisions of this Lease, then the non-prevailing party in such action or proceeding shall reimburse the prevailing party for their actual attorneys' fees, and all fees, costs and expenses (including any actual expert fees and court costs) incurred in connection with such action or proceeding, including any post-judgment fees, costs or expenses incurred on any appeal or in collection of any judgment.

**21.11 WAIVER OF TRIAL BY JURY; MEDIATION.** The parties desire and intend that any disputes arising between them in connection with this Lease be subject to resolution in a court trial without a jury. Therefore, Landlord and Tenant each hereby waive the right to a trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding or other hearing brought by either party against the other on any matter whatsoever arising out of, or in any way connected with, this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect. Anything to the contrary notwithstanding, if a dispute arises in connection with this Lease, except for an action for unlawful detainer, and if such dispute cannot be settled through direct discussions, then before resorting to litigation, the parties shall first use their good faith efforts to settle all disputes relating to this Lease by mediation in Orange County, California. The party seeking mediation shall set forth the particulars of their claim in a Notice to the other party. Landlord shall then designate the identity of the mediator subject to the reasonable approval of Tenant. If Landlord brings an unlawful detainer action, or if the parties are unable to settle any other dispute pursuant to mediation, then the proceeding shall be tried in a court trial without a jury as provided above.

**21.12 NO LIABILITY.** In any case where Landlord's consent is required, Landlord shall have no liability for damages to Tenant or to any third party if it is adjudicated that Landlord's consent has been unreasonably withheld and such unreasonable withholding of consent constitutes a

breach of this Lease or other duty to Tenant or any other person. In such event, Tenant's sole remedy shall be to have Landlord's consent be deemed given.

**21.13 ENTIRE AGREEMENT/LIMITATION OF ACTIONS.** It is understood that there are no oral or written agreements or representations between the parties hereto affecting this Lease and this Lease supersedes and cancels the Prior Lease and any and all previous negotiations, arrangements, representations, brochures, agreements and understandings, if any, between Landlord and Tenant. Confirming the understandings and agreements described in this Section 21.13, Tenant agrees to execute and deliver to Landlord the Tenant's Estoppel in the form and content of Exhibit C attached hereto and the Relocation Waiver in the form of Exhibit D, concurrently with Tenant's execution and delivery of this Lease. Any claim, demand, cause of action or defense of any kind by Tenant which is based on or arises in connection with the negotiations prior to the execution of this Lease, or any asserted statement, representation, arrangement, agreement or understanding between Landlord and Tenant which is not expressly stated in this Lease shall be barred unless Tenant commences an action thereon, or interposes in a legal proceeding a defense based thereon, within six (6) months after the date of the asserted inaction or omission, or the date of the occurrence of the event or action to which the claim, demand, cause of action or defense relates, whichever applies.

**21.14 NO ACCORD AND SATISFACTION.** No payment by Tenant or receipt by Landlord of a lesser amount than any payment of Rent due shall be deemed to be other than on account of the amount due, and no endorsement or statement on any check or any letter accompanying any check or payment of Rent shall be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such payment of Rent or to pursue any other remedies available to Landlord. No receipt of money by Landlord from Tenant after the termination of this Lease or Tenant's right of possession of the Premises shall reinstate, continue or extend the Term.

**21.15 PATRIOT ACT REPRESENTATIONS.** Landlord and Tenant each represents and warrants to the other that: (a) they are not acting directly or indirectly for or on behalf of any person, group, entity or nation named by the United States Treasury Department as a Specially Designated National and Blocked Person, or for or on behalf of any person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit or supports terrorism; and (b) they are not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity or nation.

**21.16 NO RECORDING.** Tenant shall not record this Lease.

## **ARTICLE 22 NON-DISCRIMINATION**

Tenant agrees and covenants that, except as otherwise provided or permitted by law, there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Premises, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of

tenants, lessees, subtenants, sublessees, or vendees in the Premises. The foregoing covenants shall run with the land.

Except as otherwise provided or permitted by law, Tenant shall refrain from restricting the rental, sale or lease of the Premises on any of the bases listed above in this Article 22. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

"That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

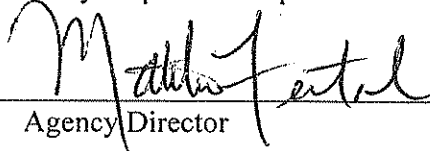
In contracts: "There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the California Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the California Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises which are the subject of this Agreement, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."



IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease on the day and year first above written.

**LANDLORD:**

**GARDEN GROVE AGENCY FOR  
COMMUNITY DEVELOPMENT,**  
a public body corporate and politic

  
\_\_\_\_\_  
Agency Director

**ATTEST:**

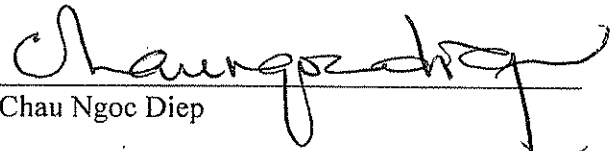
\_\_\_\_\_  
Agency Secretary

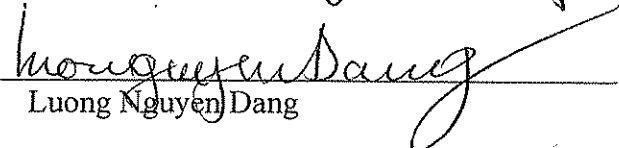
**APPROVED AS TO FORM:**

\_\_\_\_\_  
Agency Counsel

**TENANT:**

**CHAU NGOC DIEP (also known as Charlie Chau  
Diep), an unmarried man, and LUONG NGUYEN  
DANG (also known as Nhut Dang), an unmarried  
woman, as and in their individual capacities, jointly  
and severally, DBA LIFETIME FURNITURE**

By:   
\_\_\_\_\_  
Chau Ngoc Diep

By:   
\_\_\_\_\_  
Luong Nguyen Dang

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease on the day and year first above written.

**LANDLORD:**

**GARDEN GROVE AGENCY FOR  
COMMUNITY DEVELOPMENT,**  
a public body corporate and politic

\_\_\_\_\_  
Agency Director

**ATTEST:**

\_\_\_\_\_  
Agency Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Agency Counsel



**TENANT:**

**CHAU NGOC DIEP (also known as Charlie Chau Diep), an unmarried man, and LUONG NGUYEN DANG (also known as Nhut Dang), an unmarried woman, as and in their individual capacities, jointly and severally, DBA LIFETIME FURNITURE**

By: \_\_\_\_\_  
Chau Ngoc Diep

By: \_\_\_\_\_  
Luong Nguyen Dang

**EXHIBIT A**

**PREMISES DESCRIPTION**

This Lease is made subject to all covenants, conditions, restrictions, reservations, rights, rights-of-way, easements and all other matters of record or apparent affecting the Premises or the use thereof as of the Commencement Date.

**EXHIBIT A-1**

**PREMISES SITE PLAN**

[TO BE INSERTED]

## EXHIBIT B

### INSURANCE REQUIREMENTS

#### 1. Insurance.

**A. General Liability Insurance Requirements.** Without limiting Landlord's or City's right to indemnification, Tenant shall, prior to commencing any activities under the lease to which this Exhibit B is attached ("Lease"), secure or cause to be secured from a company or companies licensed to conduct insurance business in the State of California, pay for, and maintain in full force and effect from and after the Commencement Date, and continuing for the duration of the Lease, a policy of commercial general liability insurance issued by an "A-:VII" or better rated insurance carrier as rated by A.M. Best Company as of the date that Tenant obtains or renews their insurance policies, on an occurrence basis, in which Landlord, the City and their respective officers, employees, agents and representatives are named as additional insureds. Tenant shall furnish a certificate of insurance to Landlord prior to the Commencement Date, and shall furnish complete copies of such policy or policies upon request by Landlord. Notwithstanding any inconsistent statement in the policy or any subsequent endorsement attached hereto, the protection offered by the policy shall:

1. Include an additional insured endorsement naming Landlord and the City, their officers, employees, agents, representatives and attorneys as additional insureds for on-going and completed operations (Forms CG 20 26 07 04 or equivalent and CG 20 37 07 04 or equivalent), as approved by Landlord;

2. Provide a per occurrence policy for both personal injury and property damage in the amount of not less than \$2,000,000.00, which will be considered equivalent to the required minimum limits;

3. Bear an endorsement providing that Landlord shall be notified not less than thirty (30) days before any expiration, cancellation, nonrenewal, reduction in coverage, increase in deductible, or other material modification of such policy or policies, and shall be notified not less than ten (10) days after any event of nonpayment of premium.

4. For any claims related to this Agreement, Tenant's insurance coverage shall be primary insurance as respects to Landlord, the City, and their respective officers, employees, agents and representatives. Any insurance or self-insurance maintained by Landlord, the City, their respective officers, employees, agents, and representatives shall be excess of the Tenant's insurance and shall not contribute with it. Claims made and modified occurrence policies shall not be accepted.

**B. Workers' Compensation Insurance.** Tenant shall provide to Landlord certificates of insurance evidencing that Tenant maintains workers' compensation insurance covering their respective employees, as required by California law. The insurer shall waive their rights of subrogation against Landlord and the City, their officers, employees, agents, representatives and attorneys.

**C. Property Insurance.** Tenant shall secure, maintain, and pay for all-risk property insurance. as follows: Commencing on the Commencement Date and continuing until the termination of the Lease: (i) all-risk physical damage insurance coverage, on an all-risk basis, covering all insurable structures and equipment, but excluding the perils of earthquake

(land movement) and flood coverage, in an amount not less than 100% of the replacement cost of the total values at risk to protect against loss of, damage to, or destruction of the Premises; such insurance shall not contain a coinsurance clause; (ii) business interruption and extra expense insurance to protect Tenant, Landlord and the City, covering loss of revenues and/or extra expense incurred by reason of the total or partial suspension or delay of, or interruption in, the operation of the Business caused by loss or damage to or destruction of any part of the insurable real property structures or equipment as a result of the perils insured against under such all risk property insurance, covering a period of suspension, delay or interruption of at least six (6) calendar months, in an amount not less than the amount required to cover such business interruption and/or extra expense loss during any such period; such insurance shall not contain deductible in an amount in excess of a thirty (30) day period; and (iii) as applicable, boiler and machinery insurance in the aggregate amount of the full replacement value of the equipment typically covered by such insurance; such insurance shall be extended to include business interruption/extra expense coverage, as described above, provided, however, that the limits of coverage shall be not less than ninety (90) days instead of six (6) months. On the coverage required under this subparagraph, Landlord shall be named as a loss payee, as their interests may appear, with a loss payable endorsement, which shall be delivered to Landlord on or prior to the Commencement Date.

For all insurance required under this subsection, said policies shall provide, by endorsement, that they will not be cancelled, non-renewed or reduced in scope or coverage, without at least 30 days prior written notice to Landlord, except in the event of non-payment of premium which shall provide for at least ten (10) days prior written notice to Landlord.

For any claims related to this Agreement, Tenant's insurance coverage shall be primary insurance as respects to Landlord, the City, and their respective officers, employees, agents and representatives. Any insurance or self-insurance maintained by Landlord, the City, their respective officers, employees, agents, and representatives shall be excess of the Tenant's insurance and shall not contribute with it. Claims made and modified occurrence policies shall not be accepted.

**D. Automobile Liability.** Tenant shall, prior to commencing any activities under the lease to which this Exhibit B is attached ("Lease"), secure or cause to be secured from a company or companies licensed to conduct insurance business in the State of California, pay for, and maintain in full force and effect from and after the Commencement Date, and continuing for the duration of the Lease, a policy of automobile liability insurance issued by an "A-VII" or better rated insurance carrier as rated by A.M. Best Company as of the date that Tenant obtains or renews their insurance policies, on a combined single limit basis, in which Landlord, the City and their respective officers, employees, agents and representatives are named as additional insureds. Tenant shall furnish a certificate of insurance to Landlord prior to the Commencement Date, and shall furnish complete copies of such policy or policies upon request by Landlord. Notwithstanding any inconsistent statement in the policy or any subsequent endorsement attached hereto, the protection offered by the policy shall:

1. Include an additional insured endorsement naming Landlord and the City, their officers, employees, agents, representatives and attorneys as additional insureds (Form CA 20 48 02 99 or equivalent), as approved by Landlord.
2. Provide a combined single limit policy not less than \$2,000,000.00 for all automobiles owned, non-owned, leased, hired and borrowed;

3. Bear an endorsement providing that Landlord shall be notified not less than thirty (30) days before any expiration, cancellation, nonrenewal, reduction in coverage, increase in deductible, or other material modification of such policy or policies, and shall be notified not less than ten (10) days after any event of nonpayment of premium.

4. For any claims related to this Agreement, Tenant's insurance coverage shall be primary insurance as respects to Landlord, the City, and their respective officers, employees, agents and representatives. Any insurance or self-insurance maintained by Landlord, the City, their respective officers, employees, agents, and representatives shall be excess of the Tenant's insurance and shall not contribute with it. Claims made and modified occurrence policies shall not be accepted.

**D. Obligation to Repair and Restore Damage Due to Casualty Covered by Insurance.** Subject to Paragraph E below, if the Premises shall be totally or partially destroyed or rendered uninhabitable by fire or other casualty required to be insured against by Tenant, or if the Premises are damaged, but not substantially damaged (as defined in Paragraph E below) by fire or other casualty of any kind, whether or not required to be insured against by Tenant, Tenant shall promptly proceed to obtain any available insurance proceeds and take all steps required or permitted under Section 12 of the Lease.

**E. Damage or Destruction Due to Cause Not Required to be Covered by Insurance.** If the Building is destroyed or substantially damaged by a casualty for which Tenant is not required to (and has not) insured against, then Landlord shall not be required to repair, replace, or restore such improvements. In addition, Tenant may make an election not to repair, replace or restore such improvements and may further elect to terminate the Lease by providing Landlord with written notice of such election within ninety (90) days after the destruction or substantial damage to the Building. In the alternative, Tenant may elect to repair, replace, or restore the Building and, in such event, thereafter shall promptly commence and complete, or cause to be commenced and completed, the repair, replacement, or restoration of the damaged or destroyed portions of the Building. As used in this subsection and in the preceding subsection "substantial damage" or "substantially damaged" means damage or destruction which is twenty five percent (25%) or more of the replacement cost of the Building.

**EXHIBIT C**

**TENANT'S ESTOPPEL**

**TENANT: CHAU NGOC DIEP (also known as Charlie Chau Diep), an unmarried man, and LUONG NGUYEN DANG (also known as Nhut Dang), an unmarried woman, as and in their individual capacities, jointly and severally, DBA LIFETIME FURNITURE.**

**PREMISES:** 10151 Garden Grove Blvd, Garden Grove, California 92840

**COMMENCEMENT DATE:** \_\_\_\_\_, 2010

This **TENANT'S ESTOPPEL** is executed concurrently with the execution by Tenant of the above-referenced Lease with **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, as Landlord, for the lease of the above-referenced Premises.

Tenant represents, warrants, certifies and states each of the following:

1. Except as specifically provided in the Lease, no representation, warranty, or other agreement whatsoever has been made to Tenant, their agents, representatives or other party acting for or on behalf of Tenant, by Landlord, its agents, representatives, or other party acting for or on behalf of Landlord, in connection with the Lease, the Land, the Premises or otherwise, exclusivity rights, or other representations, warranties or agreements, express or implied, which would induce Tenant to execute the Lease or lease the Premises.

2. Tenant agrees and acknowledges that Landlord is relying on Tenant's execution of this Tenant's Estoppel and would not execute the Lease but for Tenant's execution hereof.

3. Tenant has reviewed and understands this document and has had an opportunity to discuss this with counsel or has waived such opportunity.

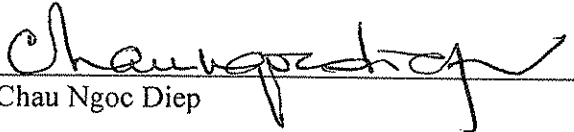
**[Tenant's signatures appear on following page.]**



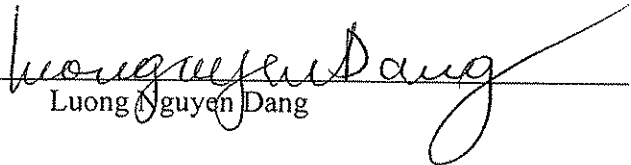
**TENANT:**

**CHAU NGOC DIEP** (also known as Charlie Chau Diep), and unmarried man, and **LUONG NGUYEN DANG** (also known as Nhut Dang) an unmarried woman, in their individual capacities, jointly and severally

**By: CHAU NGOC DIEP** (also known as Charlie Chau Diep), an unmarried man, in his individual capacity,

  
Chau Ngoc Diep

**By: LUONG NGUYEN DANG** (also known as Nhut Dang), an unmarried woman, in her individual capacity

  
Luong Nguyen Dang

**EXHIBIT D**

**RELEASE AND WAIVER AGREEMENT RE RELOCATION ASSISTANCE AND  
BENEFITS**

[Attached on following pages.]

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