

LICENSE AGREEMENT

THIS AGREEMENT is made by and between the City of Burlington, a municipal corporation organized and existing under the laws of the State of Vermont (hereinafter referred to as CITY) and Paradigm RE, LLC, a corporation organized and existing under the laws of the State of Vermont, having its principal office at \_\_\_\_\_, \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_ (hereinafter referred to as Paradigm RE).

WHEREAS, the CITY owns property at 62 Church Street, Burlington, Vermont; and

WHEREAS, Paradigm RE wishes to use 533 square feet of CITY-owned space consisting of 117 square feet of first floor space within the structure of 62 Church Street as well as the 416 square foot greenhouse, which space it intends to continue to use for commercial purposes; and

WHEREAS, the CITY is willing to allow Paradigm RE to use that property provided that fit-up and use of the commercial space are complementary to the appearance and operation of the Church Street Marketplace.

NOW, THEREFORE, the parties have agreed to the following terms and conditions of this License Agreement:

1. Paradigm RE may use the 533 square feet of CITY-owned space (hereinafter “the Premises”) consisting of 117 square feet of first floor space within the structure of 62 Church Street as well as the 416 square foot greenhouse; a copy of a floor plan for the space being attached to this Agreement (Exhibit A) and constitutes the legal description of the premises. The premises are to be used by Paradigm RE exclusively as a retail space for the sale of clothing and apparel and for the provision of office and storage space supplemental to those

retail uses. Any other use of the premises shall require written approval from the Marketplace Commission. Paradigm RE shall be responsible for all utilities provided to the space (both within the building structure and within the greenhouse). Any alterations or improvements made by Paradigm RE to said space shall be at its own expense.

2. Paradigm RE's construction, improvements, and/or alterations shall be done in such manner as to provide that the greenhouse and any other public space affected by this Agreement remains accessible to all citizens, including the handicapped.

3. The CITY grants Paradigm RE the right to use the premises for a term of ten (10) years, commencing on June 1, 2010 or commencing at such earlier date as mutually agreed upon by the parties. Provided the Paradigm RE is not in default on any terms and conditions, Paradigm RE shall have the option to extend the License Agreement for up to two (2) additional five-year terms, subject to all the terms and conditions of the Lease. Paradigm RE must notify the Church Street Marketplace District Commission (hereinafter the "Marketplace Commission") of its intentions to exercise such option not less than 180 days nor more than one year prior to the expiration of the license agreement.

4. For the rights granted pursuant to this Agreement, Paradigm RE shall pay the CITY according to the following schedule:

A. Property Taxes.

For the term of this License Agreement the appropriate fiscal year Property Taxes payable on the Property tax payment schedule set by the City Charter shall be due and payable by Paradigm RE to the CITY.

B. Common Area Fees.

The computation for common area fees shall include all elements applied by the Marketplace Commission in the setting of Common Area fees for Marketplace properties on Church Street. For the term of this License Agreement the appropriate fiscal year common area fee payable on the common area fee payment schedule set by the City Charter shall be due and payable by Paradigm RE to the CITY.

C. License Fees.

For the initial term of this License Agreement, Paradigm RE shall pay the CITY a license fee of \$12,000.00 (Twelve Thousand and 00/100 Dollars) U. S. per twelve (12) month period to be paid in advance in equal consecutive monthly installments of \$1,000.00 (One Thousand and 00/100 Dollars) U.S. due and payable on the first day of each month beginning on June 1, 2010 or such earlier commencement date as mutually agreed by the parties. The license fee shall be increased by 3% each year effective with the payment due on the first anniversary of the commencement date, 2011 and annually thereafter.

D. Formula Negotiation.

In the event that the formula used to determine the common area fees for Church Street property owners for any fiscal year during the term of this Agreement is changed such that a simple mathematical calculation of the amounts due CITY from Paradigm RE for the rights granted hereby cannot be made, the parties agree to negotiate the amounts owed CITY for such year or years which amount(s) shall not be less than the amount(s) paid for the preceding fiscal year.

E. Nonpayment.

Nonpayment of any amounts due CITY pursuant to this Agreement shall immediately subject all amounts owed to a five (5%) percent penalty, plus one (1%) percent additional for each month the amount(s) remain(s) unpaid. Any amounts owed with penalty thereon for a period in excess of one year shall be increased by an additional eighteen (18%) percent penalty applied annually to the total amount so owed.

F. Delivery of Payments.

All payments to CITY pursuant to this Agreement shall be by check made out to the City of Burlington and delivered to the Marketplace Commission offices.

5. Paradigm RE shall maintain in effect throughout the term of this Agreement public liability insurance providing for a minimum of One Million (\$1,000,000) Dollars per person, Two Million (\$2,000,000) Dollars per accident, and One Million (\$1,000,000) Dollars for property damage, which insurance shall cover any accident, injuries or damages suffered on, about or within the premises affected by this Agreement.

6. Paradigm RE shall at all times prior to the termination of this Agreement and to the delivery to CITY of sole control of the public right-of-way and interior of the publicly-owned building affected by this Agreement, indemnify CITY against all liability, loss, cost, damage or expense sustained by CITY, including attorney's fees and other expenses of litigation arising:

a. on account of or through the use of the public right-of-way and/or publicly owned space affected by this Agreement and/or improvements and/or alterations constructed thereon or therein by Paradigm RE or by any other person;

b. arising out of or directly or indirectly due to any failure of Paradigm RE in any respect promptly and faithfully to satisfy its obligations under this Agreement.

Paradigm RE also shall, at all times prior to expiration or sooner termination of this Agreement and the return to CITY of possession of the premises affected hereby, indemnify CITY against all liens and charges of any and every nature that may at any time be established against the premises or any improvements thereon or therein or any part thereof as a consequence, direct or indirect, of any act or omission of Paradigm RE or as a consequence, direct or indirect, of the existence of Paradigm RE's interest under this Agreement.

7. Paradigm RE shall not, during the term hereof, maintain on the premises, commit or permit the maintenance or commission of any nuisance or violation of any applicable City ordinance, state or federal statute, or controlling bylaw, regulation or condition imposed whether existing at the time of commencement of this Agreement or enacted, amended or otherwise put into effect during the term of this Agreement.

8. Paradigm RE shall have the right at its own expense from time to time during the term of this Agreement to improve or alter any portion of the premises provided that any such improvement(s) or alteration(s) shall be made in a workmanlike manner and in compliance with all applicable federal, state and municipal laws and regulations. Prior approval for any such improvement or alteration shall first be obtained in writing from the Marketplace Commission as well as any other necessary City board, commission or entity.

9. All improvements or alterations erected or made to the premises shall, on expiration or sooner termination of this Agreement, belong to the City without further compensation to Paradigm RE.

10. Paradigm RE shall not sell or assign its rights pursuant to this Agreement or permit the use of the premises or any part thereof by any other entity without the express written consent of the Marketplace Commission, which consent will not be unreasonably withheld so long as the premises are to be used exclusively for retail clothing and apparel business operations. Consent to the use of the premises for any other purpose is subject to the discretion of the Church Street Marketplace District Commission. Any unauthorized action in violation of this provision shall be void, and shall terminate at CITY'S option Paradigm RE's rights pursuant to this Agreement.

11. This Agreement is made on the express condition that if Paradigm RE shall default in the performance of any terms and conditions of this Agreement and the default shall continue for ten (10) days after written notice of non-payment of fees or charges or for thirty (30) days after written notice of any other default in meeting its obligations hereunder is given by CITY to Paradigm RE, then and in either event CITY shall have the option to declare this Agreement ended and to take possession of the premises. In the event that CITY gives written notice to Paradigm RE of its option to declare this Agreement ended, Paradigm RE shall cease commercial use of the premises within seven (7) days from receipt of such written notice. Paradigm RE shall vacate the premises not less than 30 days thereafter. In the event that CITY terminates the rights of Paradigm RE pursuant to this Agreement for default in the performance of any terms and conditions of this Agreement, then Paradigm RE shall be responsible to reimburse CITY for all of CITY'S resulting costs including removal costs, attorney's fees, litigation fees, sheriff's fees, etc., arising from CITY'S availing itself of its rights pursuant to this Agreement.

12. Paradigm RE shall be responsible for the following costs, including but not limited to:

- a. wages and salaries of all employees engaged in operation and maintenance of the premises, including taxes, insurance and benefits relating thereto;
- b. all supplies and materials used in operation and maintenance of the premises;
- c. cost of water, power, heating, lighting, air-conditioning and ventilating the premises;
- d. cost of all maintenance and service agreements on equipment, including alarm service and window cleaning;
- e. cost of casualty and liability insurance applicable to the premises and Paradigm RE's personal property used in connection therewith;
- f. all taxes and assessments and governmental charges whether federal, state, county or municipal;
- g. cost of repairs and general maintenance.

13. CITY shall not be liable to Paradigm RE for losses due to theft, burglary or other casualty or for damages done by unauthorized persons on the premises.

14. Paradigm RE shall maintain the premises in a manner which befits the appearance of the Church Street Marketplace, as regulated by the Marketplace Commission. If failure to perform maintenance in the manner deemed appropriate by the Marketplace Commission shall continue for thirty (30) days after written notice thereof, the Marketplace Commission may contract with others for maintenance of the premises. In such event, Paradigm RE shall be responsible for all such costs, payable to CITY on demand. In the event, however, where the Marketplace Commission has rejected a storefront presentation on the grounds that it does

not befit the appearance of the Church Street Marketplace and there is a good faith disagreement as to the decision made by the Marketplace Commission, the parties may agree to nonbinding arbitration with costs shared by the parties in order to resolve said dispute.

15. Paradigm RE at its own cost shall repair or replace any damage or injury done to the premises, or any part thereof, caused by any reason. If Paradigm RE fails to make such repairs or replacements promptly, CITY may, at its option, make such repairs or replacements and Paradigm RE shall repay the cost(s) thereof, payable to CITY on demand.

16. If the premises and/or the rights granted pursuant to this Agreement shall be taken or condemned for any public purpose, by CITY or by any other appropriate governmental entity, to such an extent as to render the premises untenable, this Agreement shall, at the option of either party, forthwith cease and terminate.

17. In the event of holding over by Paradigm RE after expiration or sooner termination of this Agreement without the written consent of CITY, Paradigm RE shall pay as liquidated damages double license fees for the entire holdover period; the holdover period being defined as that period of time dating from termination of this agreement until such date as the CITY retakes sole possession of the premises. No holding over by Paradigm RE after the term of this Agreement shall operate to extend this Agreement. In the event of any unauthorized holding over, Paradigm RE shall indemnify CITY against all claims for damages by any other person with whom CITY may have entered a License Agreement for all or any part of the premises effective upon the termination of this Agreement. Any holding over with the consent of CITY in writing shall thereafter constitute this License Agreement a license agreement from month to month.



18. Force Majeure: Neither the City nor Paradigm RE shall be deemed in violation of this Agreement if it is prevented from performing any obligations hereunder by reason of strikes, boycotts, labor disputes, acts of God, acts of the public enemy, acts of superior governmental authority, severe weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not under its control, and the party experiencing force majeure gives written notice to the other party identifying the nature of such force majeure, and when it began. The party experiencing force majeure shall take immediate action to attempt to remove such causes of force majeure as may occur from time to time and its operations under this Agreement shall be resumed immediately after such cause has been removed, provided that neither party shall be required to settle any labor dispute except upon terms that party deems acceptable. The suspension of any obligations under this section shall not cause the term of this Agreement to be extended and shall not affect any rights accrued under this Agreement prior to the occurrence of the force majeure. The party giving notice of the force majeure shall also give notice of its cessation.

19. This Agreement may not be altered, changed or amended except by an instrument in writing, signed by all parties hereto.

23. Failure of CITY to declare any default immediately upon occurrence thereof, or delay in taking action in connection therewith, shall not waive such default but CITY shall have the right to declare any such default at any time and take such action as might be lawful or authorized hereunder, either in law or in equity.

24. All prior agreements with respect to these premises are hereby superseded.

AGREED to at Burlington, Vermont this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

CITY OF BURLINGTON

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Duly Authorized

STATE OF VERMONT            )  
  )  
COUNTY OF CHITTENDEN, SS. )

At Burlington, this \_\_\_\_\_ day of \_\_\_\_\_, 2010 personally appeared \_\_\_\_\_, Director of the Church Street Marketplace District Commission, and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of the City of Burlington.

Before me,

\_\_\_\_\_  
Notary Public

PARADIGM RE, LLC

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Duly Authorized

\_\_\_\_\_ of Paradigm RE, LLC, signs and enters into this Agreement individually as personal guarantor of the duties, responsibilities and obligations of Paradigm RE, LLC.

\_\_\_\_\_

STATE OF VERMONT            )  
  )  
COUNTY OF CHITTENDEN, SS.    )

At Burlington, this \_\_\_\_ day of \_\_\_\_\_, 2010 personally appeared \_\_\_\_\_ and he/she acknowledged this instrument, by him/her sealed and subscribed, to be his free act and deed and the free act and deed of Paradigm RE, LLC.

Before me,

\_\_\_\_\_  
Notary Public

