

32745

SUBLEASE

THIS SUBLEASE (the "Sublease"), dated as of January 1, 2012 (the "Commencement Date"), is entered into by and between the CITY OF LONG BEACH, a municipal corporation (the "City"), as sublessor, and ALANT CORP., a California corporation, dba Circle Porsche Audi ("Owner"), as sublessee.

RECITALS

A. Owner owns and occupies certain property within the City of Long Beach at 1919 N. Lakewood Boulevard (the "Site"). The Site is legally described and depicted on the Legal Description attached hereto as "Exhibit A".

B. Owner and City entered into that certain Agreement dated as of January 1, 2012 (the "Agreement"), pursuant to which City agreed to provide certain assistance to Owner in order that Owner may continue to operate the Site as a retail automobile sales, leasing and service complex. This Sublease is entered into pursuant to the Agreement.

C. Contemporaneously herewith, Owner, among others, is leasing the Site to City pursuant to the Lease.

D. Capitalized terms when used herein shall have the same meanings ascribed to them in the Agreement, unless otherwise defined herein.

WITNESSETH

1. Sublease of Site. City does hereby sublease, and Owner does hereby rent, the Site, more particularly described in Exhibit "A" attached hereto, with all appurtenances, areas, approaches, and rights-of-way incident thereto, commencing on the Commencement Date, and ending on the earlier of (i) the eleventh (11th) anniversary of the Commencement Date, (ii) the date upon which Rent in the cumulative amount of the Maximum Rent Amount has been paid, or (iii) the termination of the Lease (the "Termination Date").

2. Rent. Owner shall pay rent (the "Sublease Rent") in advance each Fiscal Year of one dollar (\$1). City hereby acknowledges receipt of payment and prepayment of all Sublease Rent due hereunder.

3. Possession. Upon and after the Commencement Date, Owner shall have the right to take possession of the Site.

4. No Right to Sublet. Owner shall not enter into any other agreement for the sublease of the Site or any portion thereof during the term of this Sublease, without the prior written consent of City, which consent may be withheld in City's absolute discretion.

5. Covenants of Owner. Owner covenants and agrees as follows:

5.1. Operation of the Site. Owner covenants that it shall conduct New Vehicle Dealer Operations on the Site for the term of this Sublease.

5.2. Maintenance. Owner covenants that it shall maintain the Site (and all abutting grounds, parking and landscape areas which Owner is otherwise required to maintain) in good condition and repair, shall operate the Site in a businesslike manner, shall prudently preserve and protect both its own and City's interests in connection with the Site, shall not commit or permit any waste or deterioration of the Site, shall not abandon any portion of the Site or leave the Site unguarded or unprotected, and shall not otherwise act, or fail to act, in such a way as to unreasonably increase the risk of any damage to the Site or of any other impairment of City's interests under the Agreement.

5.3. Property Taxes, Sales Taxes and Assessments. Owner shall pay, prior to delinquency, all of the following (collectively, the "Impositions"): (a) all general and special real property taxes and assessments imposed on the Site; (b) all other taxes and assessments and charges of every kind that are assessed upon the Site and that create or may create a lien upon the Site (or upon any personal property or fixtures used in connection with the Site), including without limitation nongovernmental levies and assessments pursuant to applicable covenants, conditions or restrictions; (c) all Sales Taxes; and (d) all license fees, taxes and assessments imposed on Owner. If permitted by law, Owner may pay any Imposition in installments (together with any accrued interest).

5.4. Maximize Sales Tax. During the term of this Sublease, Owner shall use its best efforts, consistent with the requirements of law, to cause the Site to be the place of sale or use for any transaction or activity (i.e. sale, storage, use or other consumption in California of tangible personal property) engaged in by Owner which transaction or activity is subject to the California Sales and Use Tax Law, Part 1 of Division 2 of the California Revenue and Taxation Code commencing at Section 6001, or any successor law thereto.

5.5. Cooperation of Owner. Owner covenants that it shall cooperate fully with City as more specifically set forth in the Agreement.

6. General.

6.1. Notices. Any notice, approval, demand or other communication required or desired to be given pursuant to this Sublease shall be in writing and shall be personally served (including by means of professional messenger service) or, in lieu of personal service, deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested, or by Federal Express or other similar reputable overnight delivery service, and shall be effective upon receipt and shall be addressed as set forth below:

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If to City: City Manager
City of Long Beach
333 West Ocean Blvd., 13th Floor
Long Beach, California 90802

If to Owner: Alant Corp., dba Circle Porsche Audi
1919 N. Lakewood Blvd.
Long Beach, CA 90815
Attn: Jim Speck

Either City or Owner may change its respective address by giving written notice to the other in accordance with the provisions of this Section.

6.2. Non-Discrimination. Owner shall not discriminate in the hiring of the personnel, contractors and subcontractors to complete the improvement of the Site on the basis of race, color, religion, sex, age, national origin, or ancestry.

6.3. Successors. The provisions of this Sublease shall bind and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors, and assigns.

6.4. No Assignment. Owner expressly acknowledges and agrees that City has only agreed to enter into this Sublease as a means by which to induce the improvement and the specific occupancy of Owner in, and operation by Owner of its business on, the Site throughout the Operating Periods. Accordingly, Owner further expressly acknowledges and agrees that this Sublease is neither transferable nor assignable except as expressly permitted in the Agreement.

7. Indemnification and Insurance.

7.1. Indemnification. Owner will protect, indemnify and save City and its officers, employees and agents, harmless from and against all liabilities, obligations, claims, damages, penalties, causes of action, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against City or the Site unless caused by the acts, errors or omissions of City, by reason of (a) any accident or injury to or death of persons or loss of or damage to property occurring on or about the Site, or any part thereof, (b) any and all obligations of Owner pursuant to the Lease or the Sublease, (c) any failure on the part of Owner to perform or comply with any of the terms of this Sublease, (d) any negligent or tortious act on the part of Owner or any of its agents, contractors, subtenants, licensees or invitees, or (e) the condition of the Site, including but not limited to the existence of any hazardous and/or toxic substance(s), other kinds of soil or other water contamination, or pollutants of any kind located on or within the Site, or any part thereof, whether such condition, liability, loss, damage, costs and/or expense shall accrue or be discovered before or after any termination of this Sublease; provided however that Owner shall not be required to indemnify, defend or hold the City harmless from liability, loss, damage, costs or expenses arising out of the acts of City's officers,

employees or agents. In the event that any action, suit or proceeding is brought against City by reason of any such occurrence, Owner, upon City's request, will, at Owner's expense, defend such action, suit or proceeding with counsel reasonably acceptable to City.

7.2. Insurance. Without in any way limiting any other indemnification contained in this Sublease, Owner shall take out and maintain for the duration of this Sublease, at Owner's sole cost and expense, the following insurance in the amounts specified and in the forms provided below:

7.2.1. Comprehensive General Liability in an amount not less than five million dollars (\$5,000,000) combined single limit for each occurrence for bodily injury, personal injury and property damage including contractual liability. City and its officials, employees and volunteers' shall be covered as additional insureds with respect to liability arising out of activities by or on behalf of Owner or in connection with the use or occupancy of the Site. Coverage shall be in a form acceptable to the City Risk Manager and shall be primary as to any insurance or self-insurance maintained by City.

7.2.2. "All Risk" property insurance, including builder's risk protection during the course of construction, covering the full replacement value of Owner's improvements constructed on or about the Site. Said insurance shall include debris removal and shall provide coverage for earthquake and flood if this protection is available from responsible carriers at reasonable cost. Said insurance shall be maintained as long as Owner shall own said improvements.

7.2.3. Such other insurance and in such amounts as may from time to time be reasonably required by City against the same or other insurable hazards which at the time are commonly insured against in the case of premises similarly situated, due regard being given to the type of improvements thereon and their use and occupancy.

7.2.4. Acceptable insurance coverage shall be placed with carriers admitted to write insurance in California, or carriers with a rating of or equivalent (as reasonably determined by City's risk manager) to A:VIII by A.M. Best & Company. Any deviation from this rule shall require specific approval in writing from the City's Risk Manager. Any deductibles or self-insured retentions must be declared to and approved by City, which approval may not be unreasonably withheld. In the event such insurance does provide for deductibles or self insurance, Owner agrees that it will protect the City, its agents, officers and employees in the same manner as these interests would have been protected had full commercial insurance been in effect. Coverage under each policy shall not be suspended, avoided or canceled by either party except after thirty (30) days (or ten (10) days in the case of non-payment of premiums) prior written notice to City. Owner shall furnish City with certificates of insurance and with original endorsements effecting coverage as required under this section. The certificates and endorsements for each insurance policy shall be signed by a person authorized by the insurer to bind coverage on its behalf. City reserves the right to require complete certified copies of all insurance policies at any time. If required by City, Owner shall,

from time to time increase the limits of its general liability insurance to reasonable amounts customary for owners of improvements similar to those on the Property.

7.2.5. As between City and Owner, Owner shall be solely responsible for the clean-up and/or characterization of any hazardous and/or toxic substance(s), other kinds of soil or water contamination, or pollutants of any kind located on or within the Site, unless such contamination was caused by City or its agents. Nothing in this Section shall be interpreted to impose additional requirements upon Owner greater than those imposed by law.

8. Events of Default. The occurrence of any of the following, whatever the reason therefore, shall constitute an Event of Default:

8.1. Owner is in material breach of its obligations pursuant to this Sublease;

8.2. Owner defaults or otherwise fails to perform any of its duties or obligations under or in connection with the Sublease (subject to any applicable cure rights);

8.3. Owner defaults or otherwise fails to perform any of its duties or obligations under or in connection with the Agreement (subject to any applicable cure rights); or

8.4. City defaults or otherwise fails to perform any of its duties or obligations under or in connection with the Agreement, the Lease or this Sublease (subject to any applicable cure rights).

9. Default and Termination.

9.1 Remedies Upon Default. Upon the occurrence of any Event of Default, and thirty (30) days after written notice of default, and after a reasonable opportunity to cure such default, the non-defaulting party may, at its option, either:

9.1.1 Terminate this Sublease; or

9.1.2 pursue an action for breach of contract or any other remedy available at law or in equity.

Except as expressly provided elsewhere in this Sublease, termination of the Sublease under this Article shall not relieve the defaulting party from any obligation incurred pursuant to this Sublease with respect to the period prior to the date of such termination including, without limitation, the obligation to pay any sum due to City or from any claim for damages against Owner.

9.2 Institution of Legal Actions; Applicable Law. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Sublease. Such legal actions must be instituted in the County of Los Angeles, State of California, or in the Federal District Court in the Central District

of California. The laws of the State of California shall govern the interpretation and enforcement of this Sublease.

9.3 Automatic Termination of Sublease. This Sublease shall immediately and automatically, without further action of the City, terminate upon termination of the Sublease.

10. Amendment of Sublease. This Sublease may only be amended by a writing signed by all parties.

IN WITNESS WHEREOF, said parties have hereunto set their hands and seals.

"Owner"

ALANT CORP., a California corporation,
dba Circle Porsche Audi

5-30, 2012

By: [Signature]
Its: President

By: [Signature]
Its: Asst. Sec.

"City"

CITY OF LONG BEACH, a municipal
corporation

6-12, 2012

By: [Signature] Assistant City Manager
City Manager

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

Approved as to form this 7 day of June, 2012.

ROBERT E. SHANNON, City Attorney

By: [Signature]
Deputy

EXHIBIT A TO SUBLEASE

LEGAL DESCRIPTION OF THE SITE

THE LAND REFERRED TO HEREIN IS SITUATED IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND DESCRIBED AS FOLLOWS:

Parcel 1 of Parcel Map No. 8002, in the City of Long Beach, County of Los Angeles, State of California, as per map filed in Book 86, Page 91 of Parcel Maps, in the office of the County Recorder of said County.

Reserving unto Grantor all oil, mineral, gas, and other hydrocarbon substances below a depth of 500 feet under said real property, without the right of surface entry.