

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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COMPLAINT

THOMAS NICHOLSON VS. PAUL DICKERSON ET AL

001C04779865

Instructions:

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FILED
SUPERIOR COURT
COUNTY OF SAN FRANCISCO
FEB 04 2015
CLERK OF THE COURT
BY: *[Signature]* Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 CITY AND COUNTY OF SAN FRANCISCO
11 UNLIMITED CIVIL JURISDICTION

12 THOMAS NICHOLSON/ELIZABETH)
13 NICHOLSON THE NICHOLSON 2010)
14 TRUST; ANNE GARDNER and)
15 WILLIAM NICHOLSON,)

16 Plaintiffs,)

17 v.)

18 PAUL DICKERSON, an individual,)
19 individually and d.b.a. PAUL'S)
20 DETAILING; and DOES 1 through 30,)
21 inclusive,)

22 Defendants.)

No. CUD-15-65103 **7**

**FIRST AMENDED COMPLAINT
IN UNLAWFUL DETAINER
(Termination of Tenancy;
Damages)**

23 (Note, correction of case number "15" and caption for Unlimited Civil Jurisdiction,
24 \$450.00 filing fee paid on Jan. 2, 2015 filing of initial Complaint.)

25 Plaintiff alleges:

26 1. At all times herein relevant, plaintiffs are individuals, the sons and
27 daughter of Eileen S. Abadie and owners, as successors in interest, of the commercial
28 premises located at, and commonly known as, 55 Oak Street, San Francisco, CA 94102
("Premises").

1 2. Plaintiffs are informed and believe, and thereon allege, that at all
2 times herein relevant, defendant, PAUL DICKERSON, was, and is, an individual doing
3 business at the Premises.

4 3. The true names and capacities whether individual, corporate,
5 partnership, associate, or otherwise of defendant DOES 1 through 30, inclusive, are
6 unknown to plaintiffs at this time who therefore sue said defendants by such fictitious
7 names. When the true names and capacities of said defendants are ascertained, plaintiffs
8 will amend this complaint accordingly. Plaintiffs are informed and believe, and thereon
9 allege, that each of the defendants designated herein as a DOE is responsible in some
10 manner for the acts, events, occurrences and happenings herein referred to and is legally
11 responsible to plaintiffs therefor, as herein alleged.

12 4. At all times herein relevant, each defendant was the agent,
13 employee, servant and representative of each of the remaining defendants and was acting
14 within the course, scope and authority of such agency, employment or representation in
15 carrying out the acts and event herein described and did so with the full knowledge and
16 consent of his, her or its respective principal and employer.

17 5. The transactions, occurrences and events upon which this action is
18 brought arose, were entered into and were to be performed, and the real property involved
19 in this action is located, in the City and County of San Francisco, State of California.

20 6. On or about January 26, 2013, plaintiffs, and each of them, as
21 Landlord, entered into that certain Commercial Lease Agreement dated January 23, 2013
22 ("Lease") of the Premises to defendant, PAUL DICKERSON, as Lessee. A true copy of
23 the written Lease is attached hereto as Exhibit "A" and incorporated herein by this
24 reference ("Lease").

25 7. Defendant PAUL DICKERSON entered into possession of the
26 Premises under the Lease pursuant to its terms, and has continuously occupied the
27 Premises and continues to occupy the Premises.

28 8. Plaintiffs are informed and believe, and thereon allege, that between
on or about January 23, 2013, and the date hereof, defendant JAMIE GUTIERREZ

1 entered into a written or oral agreement with defendant PAUL DICKERSON concerning
2 the Lease and the Premises and entered into possession of the Premises, but has
3 physically vacated the Premises on or about January 23, 2015.

4 9. Plaintiffs have performed all of the terms and conditions of the
5 Lease on plaintiffs' part to be performed.

6 10. By the terms of the Lease, defendant PAUL DICKEERSON is
7 presently required to pay plaintiff rent in the amount of \$3,750.00 per month in advance
8 on the first day of each month and other sums as additional rent as provided in the Lease
9 (hereinafter sometimes collectively referred to as "Rent").

10 Defendant has failed to pay the rent required by the Lease and is presently
11 in default of rent in the total sum of \$30,500.00.

12 11. On November 24, 2014, plaintiff caused defendant PAUL
13 DICKERSON to be served pursuant to Civil Code Section 1946.1 and Code of Civil
14 Procedure Section 1161(5) with a written notice terminating defendant's tenancy on
15 December 17, 2014 ("Notice"). A true copy of the Notice is attached hereto as Exhibit
16 "B" and incorporated herein by this reference.

17 12. The Notice was served on defendant pursuant to Code of Civil
18 Procedure Section 1162 by substituted service on JAMIE GUTIERREZ, an employee in
19 charge at time of service, at the Premises. A true copy of the Proof of Service is attached
20 hereto as Exhibit "C" and incorporated herein by this reference.

21 13. Defendants, and each of them, failed to deliver up possession of the
22 Premises on or before the date specified, but rather, continue in possession without
23 plaintiffs' permission or consent and contrary to the terms of the written Notice.

24 14. Paragraph 40 of the Lease provides that, in any unlawful detainer
25 proceeding arising out of the Lease, the prevailing party between Landlord and Tenant
26 shall be entitled to reasonable attorney fees and costs from the non-prevailing Landlord
27 or Tenant.

28 Plaintiffs have been compelled to file this action because of the breach by
defendants, and each of them, and have had to pay, and will hereafter have to pay,

1 attorneys' fees for prosecution of this action, which attorneys' fees, alleged on
2 information and belief, will be in the minimum amount of \$7,500.00.

3 15. The reasonable rental value of the premises is \$125.00 per day
4 (\$3,750.00 per month) and plaintiffs have sustained and are sustaining damages in those
5 sums by reason of defendants' unlawful detainer of the Premises commencing December
6 25, 2014.

7 16. This action is filed in compliance with The Residential Rent
8 Stabilization and Arbitration Ordinance, San Francisco Administrative Code, Chapter 37,
9 in that the Premises are commercial premises and, therefore, exempt from application of
10 the Ordinance.

11 WHEREFORE, plaintiff prays for judgment against defendants, and each
12 of them, as follows:

13 1. For restitution of the Premises;
14 2. For a declaration of forfeiture of the Lease;
15 3. For past due rent in default in the sum of \$30,500.00.
16 4. For rent and other sums as additional rent in the amount of \$70.00
17 per day from December 25, 2014, for so long as defendants, or any of them, unlawfully
18 detain the Premises to and including the date of judgment herein, and that such sum be
19 trebled;

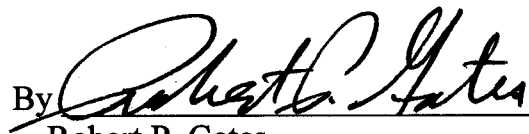
20 5. For reasonable attorneys' fees, alleged on information and belief to
21 be in the minimum sum of \$7,500.00.

22 6. For costs of suit; and

23 7. For such other and further relief as the court may deem just and
24 proper.

25 DATED: February 4, 2015.

ERSKINE & TULLEY
A PROFESSIONAL CORPORATION


26
27 By 
28 Robert P. Gates

Attorneys for Plaintiffs

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I am an attorney at law duly admitted and licensed to practice before all courts of this State and I am the attorney of record for THOMAS NICHOLSON/ELIZABETH NICHOLSON THE NICHOLSON 2010 TRUST; ANNE GARDNER and WILLIAM NICHOLSON, plaintiffs in the within action.

I have read the foregoing First Amended Complaint in Unlawful Detainer and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters I believe them to be true.


Robert P. Gates



CALIFORNIA
ASSOCIATION
OF REALTORS®

COMMERCIAL LEASE AGREEMENT **EXHIBIT A** (C.A.R. Form CL, Revised 11/11)

Date (For reference only): January 23, 2013

Anne Gardner, William Nicholson & Thomas Nicholson/The Nicholson 2010 Trust ("Landlord") and
Paul Dickerson & John C. Carteras d.b.a Paul's detailing ("Tenant") agree as follows:

1. **PROPERTY:** Landlord rents to Tenant and Tenant rents from Landlord, the real property and improvements described as: 55 Oak Street, San Francisco ("Premises"), which comprise approximately 100,000 % of the total square footage of rentable space in the entire property. See exhibit for a further description of the Premises.

2. **TERM:** The term begins on (date) January 25, 2013 ("Commencement Date").
(Check A or B):

☐ A. Lease: and shall terminate on (date) at ☐ AM ☐ PM. Any holding over after the term of this agreement expires, with Landlord's consent, shall create a month-to-month tenancy that either party may terminate as specified in paragraph 2B. Rent shall be at a rate equal to the rent for the immediately preceding month, payable in advance. All other terms and conditions of this agreement shall remain in full force and effect.

☒ B. Month-to-month: and continues as a month-to-month tenancy. Either party may terminate the tenancy by giving written notice to the other at least 30 days prior to the intended termination date, subject to any applicable laws. Such notice may be given on any date.

☐ C. RENEWAL OR EXTENSION TERMS: See attached addendum .

3. **BASE RENT:**

A. Tenant agrees to pay Base Rent at the rate of (CHECK ONE ONLY):

☒ (1) \$ 3,750.00 per month, for the term of the agreement.

☐ (2) \$ per month, for the first 12 months of the agreement. Commencing with the 13th month, and upon expiration of each 12 months thereafter, rent shall be adjusted according to any increase in the U.S. Consumer Price Index of the Bureau of Labor Statistics of the Department of Labor for All Urban Consumers ("CPI") for (the city nearest the location of the Premises), based on the following formula: Base Rent will be multiplied by the most current CPI preceding the first calendar month during which the adjustment is to take effect, and divided by the most recent CPI preceding the Commencement Date. In no event shall any adjusted Base Rent be less than the Base Rent for the month immediately preceding the adjustment. If the CPI is no longer published, then the adjustment to Base Rent shall be based on an alternate index that most closely reflects the CPI.

☐ (3) \$ per month for the period commencing and ending and
\$ per month for the period commencing and ending and
\$ per month for the period commencing and ending .

☐ (4) In accordance with the attached rent schedule.

☐ (5) Other: .

B. Base Rent is payable in advance on the 1st (or ☐ day of each calendar month, and is delinquent on the next day.

C. If the Commencement Date falls on any day other than the first day of the month, Base Rent for the first calendar month shall be prorated based on a 30-day period. If Tenant has paid one full month's Base Rent in advance of Commencement Date, Base Rent for the second calendar month shall be prorated based on a 30-day period.

4. **RENT:**

A. Definition: ("Rent") shall mean all monetary obligations of Tenant to Landlord under the terms of this agreement, except security deposit.

B. Payment: Rent shall be paid to (Name) Thomas Nicholson, 206 S. Ridgewood Road, Kentfield, CA 94904 at (address) , or at any other location specified by Landlord in writing to Tenant.

C. Timing: Base Rent shall be paid as specified in paragraph 3. All other Rent shall be paid within 30 days after Tenant is billed by Landlord.

5. **EARLY POSSESSION:** Tenant is entitled to possession of the Premises on January 25, 2013.

If Tenant is in possession prior to the Commencement Date, during this time (i) Tenant is not obligated to pay Base Rent, and (ii) Tenant ☐ is not obligated to pay Rent other than Base Rent. Whether or not Tenant is obligated to pay Rent prior to Commencement Date, Tenant is obligated to comply with all other terms of this agreement.

6. **SECURITY DEPOSIT:**

A. Tenant agrees to pay Landlord \$ 3,750.00 as a security deposit. Tenant agrees not to hold Broker responsible for its return. (IF CHECKED:) ☐ If Base Rent increases during the term of this agreement, Tenant agrees to increase security deposit by the same proportion as the increase in Base Rent.

B. All or any portion of the security deposit may be used, as reasonably necessary, to: (i) cure Tenant's default in payment of Rent, late charges, non-sufficient funds ("NSF") fees, or other sums due; (ii) repair damage, excluding ordinary wear and tear, caused by Tenant or by a guest or licensee of Tenant; (iii) broom clean the Premises, if necessary, upon termination of tenancy; and (iv) cover any other unfulfilled obligation of Tenant. **SECURITY DEPOSIT SHALL NOT BE USED BY TENANT IN LIEU OF PAYMENT OF LAST MONTH'S RENT.** If all or any portion of the security deposit is used during tenancy, Tenant agrees to reinstate the total security deposit within 5 days after written notice is delivered to Tenant. Within 30 days after Landlord receives possession of the Premises, Landlord shall: (i) furnish Tenant an itemized statement indicating the amount of any security deposit received and the basis for its disposition, and (ii) return any remaining portion of security deposit to Tenant. However, if the Landlord's only claim upon the security deposit is for unpaid Rent, then the remaining portion of the security deposit, after deduction of unpaid Rent, shall be returned within 14 days after the Landlord receives possession.

C. No interest will be paid on security deposit, unless required by local ordinance.

Landlord's Initials () (1-23-13)

Tenant's Initials () ()

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Reviewed by Date

CL REVISED 11/11 (PAGE 1 of 6)

COMMERCIAL LEASE AGREEMENT (CL PAGE 1 OF 6)

Agent: Thomas Redmond
Broker: Redmond Realty 2010 Ocean Avenue, Suite E San Francisco, CA 94127

Phone: 415.494.5340

Fax: 415.349.4678

Prepared using zipForm® software

EXHIBIT A
FROM MODS

Premises: 55 Oak Street, San Francisco.Date January 23, 2013

7. PAYMENTS:

	TOTAL DUE	PAYMENT RECEIVED	BALANCE DUE	DUE DATE
A. Rent: From <u>02/01/2013</u> To <u>02/28/2013</u> Date Date	\$ <u>3,750.00</u>	\$ _____	\$ <u>3,750.00</u>	_____
B. Security Deposit	\$ <u>3,750.00</u>	\$ _____	\$ <u>3,750.00</u>	_____
C. Other: _____ Category	\$ _____	\$ _____	\$ _____	_____
D. Other: _____ Category	\$ _____	\$ _____	\$ _____	_____
E. Total:	\$ <u>7,500.00</u>	\$ _____	\$ <u>7,500.00</u>	_____

8. PARKING: Tenant is entitled to N/A unreserved and _____ reserved vehicle parking spaces. The right to parking ☐ is ☐ is not included in the Base Rent charged pursuant to paragraph 3. If not included in the Base Rent, the parking rental fee shall be an additional \$ _____ per month. Parking space(s) are to be used for parking operable motor vehicles, except for trailers, boats, campers, buses or trucks (other than pick-up trucks). Tenant shall park in assigned space(s) only. Parking space(s) are to be kept clean. Vehicles leaking oil, gas or other motor vehicle fluids shall not be parked in parking spaces or on the Premises. Mechanical work or storage of inoperable vehicles is not allowed in parking space(s) or elsewhere on the Premises. No overnight parking is permitted.

9. ADDITIONAL STORAGE: Storage is permitted as follows: N/A

The right to additional storage space ☐ is ☐ is not included in the Base Rent charged pursuant to paragraph 3. If not included in Base Rent, storage space shall be an additional \$ _____ per month. Tenant shall store only personal property that Tenant owns, and shall not store property that is claimed by another, or in which another has any right, title, or interest. Tenant shall not store any improperly packaged food or perishable goods, flammable materials, explosives, or other dangerous or hazardous material. Tenant shall pay for, and be responsible for, the clean-up of any contamination caused by Tenant's use of the storage area.

10. LATE CHARGE; INTEREST; NSF CHECKS: Tenant acknowledges that either late payment of Rent or issuance of a NSF check may cause Landlord to incur costs and expenses, the exact amount of which are extremely difficult and impractical to determine. These costs may include, but are not limited to, processing, enforcement and accounting expenses, and late charges imposed on Landlord. If any installment of Rent due from Tenant is not received by Landlord within 5 calendar days after date due, or if a check is returned NSF, Tenant shall pay to Landlord, respectively, \$ _____ as late charge, plus 10% interest per annum on the delinquent amount and \$25.00 as a NSF fee, any of which shall be deemed additional Rent. Landlord and Tenant agree that these charges represent a fair and reasonable estimate of the costs Landlord may incur by reason of Tenant's late or NSF payment. Any late charge, delinquent interest, or NSF fee due shall be paid with the current installment of Rent. Landlord's acceptance of any late charge or NSF fee shall not constitute a waiver as to any default of Tenant. Landlord's right to collect a Late Charge or NSF fee shall not be deemed an extension of the date Rent is due under paragraph 4, or prevent Landlord from exercising any other rights and remedies under this agreement, and as provided by law.

11. CONDITION OF PREMISES: Tenant has examined the Premises and acknowledges that Premise is clean and in operative condition, with the following exceptions: Property offered and accepted "AS-IS" with no credits available to tenant
Items listed as exceptions shall be dealt with in the following manner: _____

12. ZONING AND LAND USE: Tenant accepts the Premises subject to all local, state and federal laws, regulations and ordinances ("Laws"). Landlord makes no representation or warranty that Premises are now or in the future will be suitable for Tenant's use. Tenant has made its own investigation regarding all applicable Laws.

13. TENANT OPERATING EXPENSES: Tenant agrees to pay for all utilities and services directly billed to Tenant _____

14. PROPERTY OPERATING EXPENSES:

A. Tenant agrees to pay its proportionate share of Landlord's estimated monthly property operating expenses, including but not limited to, common area maintenance, consolidated utility and service bills, insurance, and real estate taxes, based on the ratio of the square footage of the Premises to the total square footage of the rentable space in the entire property. _____

OR B. ☒ (If checked) Paragraph 14 does not apply.

15. USE: The Premises are for the sole use as Auto Detailing and Related Services

No other use is permitted without Landlord's prior written consent. If any use by Tenant causes an increase in the premium on Landlord's existing property insurance, Tenant shall pay for the increased cost. Tenant will comply with all Laws affecting its use of the Premises.

16. RULES/REGULATIONS: Tenant agrees to comply with all rules and regulations of Landlord (and, if applicable, Owner's Association) that are at any time posted on the Premises or delivered to Tenant. Tenant shall not, and shall ensure that guests and licensees of Tenant do not, disturb, annoy, endanger, or interfere with other tenants of the building or neighbors, or use the Premises for any unlawful purposes, including, but not limited to, using, manufacturing, selling, storing, or transporting illicit drugs or other contraband, or violate any law or ordinance, or committing a waste or nuisance on or about the Premises.

17. MAINTENANCE:

A. Tenant OR ☐ (If checked, Landlord) shall professionally maintain the Premises including heating, air conditioning, electrical, plumbing and water systems, if any, and keep glass, windows and doors in operable and safe condition. Unless Landlord is checked, if Tenant fails to maintain the Premises, Landlord may contract for or perform such maintenance, and charge Tenant for Landlord's cost.

B. Landlord OR ☐ (If checked, Tenant) shall maintain the roof, foundation, exterior walls, common areas and _____

Landlord's Initials (Jan) (1-23-13)Tenant's Initials (29) (____)

Premises: 55 Oak Street, San Francisco.Date January 23, 2013

18. **ALTERATIONS:** Tenant shall not make any alterations in or about the Premises, including installation of trade fixtures and signs, without Landlord's prior written consent, which shall not be unreasonably withheld. Any alterations to the Premises shall be done according to Law and with required permits. Tenant shall give Landlord advance notice of the commencement date of any planned alteration, so that Landlord, at its option, may post a Notice of Non-Responsibility to prevent potential liens against Landlord's interest in the Premises. Landlord may also require Tenant to provide Landlord with lien releases from any contractor performing work on the Premises.
19. **GOVERNMENT IMPOSED ALTERATIONS:** Any alterations required by Law as a result of Tenant's use shall be Tenant's responsibility. Landlord shall be responsible for any other alterations required by Law.
20. **ENTRY:** Tenant shall make Premises available to Landlord or Landlord's agent for the purpose of entering to make inspections, necessary or agreed repairs, alterations, or improvements, or to supply necessary or agreed services, or to show Premises to prospective or actual purchasers, tenants, mortgagees, lenders, appraisers, or contractors. Landlord and Tenant agree that 24 hours notice (oral or written) shall be reasonable and sufficient notice. In an emergency, Landlord or Landlord's representative may enter Premises at any time without prior notice.
21. **SIGNS:** Tenant authorizes Landlord to place a FOR SALE sign on the Premises at any time, and a FOR LEASE sign on the Premises within the 90 (or ☐) day period preceding the termination of the agreement.
22. **SUBLETTING/ASSIGNMENT:** Tenant shall not sublet or encumber all or any part of Premises, or assign or transfer this agreement or any interest in it, without the prior written consent of Landlord, which shall not be unreasonably withheld. Unless such consent is obtained, any subletting, assignment, transfer, or encumbrance of the Premises, agreement, or tenancy, by voluntary act of Tenant, operation of law, or otherwise, shall be null and void, and, at the option of Landlord, terminate this agreement. Any proposed sublessee, assignee, or transferee shall submit to Landlord an application and credit information for Landlord's approval, and, if approved, sign a separate written agreement with Landlord and Tenant. Landlord's consent to any one sublease, assignment, or transfer, shall not be construed as consent to any subsequent sublease, assignment, or transfer, and does not release Tenant of Tenant's obligation under this agreement.
23. **POSSESSION:** If Landlord is unable to deliver possession of Premises on Commencement Date, such date shall be extended to the date on which possession is made available to Tenant. However, the expiration date shall remain the same as specified in paragraph 2. If Landlord is unable to deliver possession within 90 (or ☐) calendar days after the agreed Commencement Date, Tenant may terminate this agreement by giving written notice to Landlord, and shall be refunded all Rent and security deposit paid.
24. **TENANT'S OBLIGATIONS UPON VACATING PREMISES:** Upon termination of agreement, Tenant shall: (i) give Landlord all copies of all keys or opening devices to Premises, including any common areas; (ii) vacate Premises and surrender it to Landlord empty of all persons and personal property; (iii) vacate all parking and storage spaces; (iv) deliver Premises to Landlord in the same condition as referenced in paragraph 11; (v) clean Premises; (vi) give written notice to Landlord of Tenant's forwarding address; and (vii) Upon Landlord's written notice, Tenant has 30 days to vacate surrendering the premises. All improvements installed by Tenant, with or without Landlord's consent, become the property of Landlord upon termination. Landlord may nevertheless require Tenant to remove any such improvement that did not exist at the time possession was made available to Tenant.
25. **BREACH OF CONTRACT/EARLY TERMINATION:** In event Tenant, prior to expiration of this agreement, breaches any obligation in this agreement, abandons the premises, or gives notice of tenant's intent to terminate this tenancy prior to its expiration, in addition to any obligations established by paragraph 24, Tenant shall also be responsible for lost rent, rental commissions, advertising expenses, and painting costs necessary to ready Premises for re-rental. Landlord may also recover from Tenant: (i) the worth, at the time of award, of the unpaid Rent that had been earned at the time of termination; (ii) the worth, at the time of award, of the amount by which the unpaid Rent that would have been earned after expiration until the time of award exceeds the amount of such rental loss the Tenant proves could have been reasonably avoided; and (iii) the worth, at the time of award, of the amount by which the unpaid Rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided. Landlord may elect to continue the tenancy in effect for so long as Landlord does not terminate Tenant's right to possession, by either written notice of termination of possession or by re-letting the Premises to another who takes possession, and Landlord may enforce all Landlord's rights and remedies under this agreement, including the right to recover the Rent as it becomes due.
26. **DAMAGE TO PREMISES:** If, by no fault of Tenant, Premises are totally or partially damaged or destroyed by fire, earthquake, accident or other casualty, Landlord shall have the right to restore the Premises by repair or rebuilding. If Landlord elects to repair or rebuild, and is able to complete such restoration within 90 days from the date of damage, subject to the terms of this paragraph, this agreement shall remain in full force and effect. If Landlord is unable to restore the Premises within this time, or if Landlord elects not to restore, then either Landlord or Tenant may terminate this agreement by giving the other written notice. Rent shall be abated as of the date of damage. The abated amount shall be the current monthly Base Rent prorated on a 30-day basis. If this agreement is not terminated, and the damage is not repaired, then Rent shall be reduced based on the extent to which the damage interferes with Tenant's reasonable use of Premises. If damage occurs as a result of an act of Tenant or Tenant's guests, (i) only Landlord shall have the right, at Landlord's sole discretion, within 30 days after such total or partial destruction or damage to treat the lease as terminated by Tenant, and (ii) Landlord shall have the right to recover damages from Tenant.
27. **HAZARDOUS MATERIALS:** Tenant shall not use, store, generate, release or dispose of any hazardous material on the Premises or the property of which the Premises are part. However, Tenant is permitted to make use of such materials that are required to be used in the normal course of Tenant's business provided that Tenant complies with all applicable Laws related to the hazardous materials. Tenant is responsible for the cost of removal and remediation, or any clean-up of any contamination caused by Tenant.
28. **CONDEMNATION:** If all or part of the Premises is condemned for public use, either party may terminate this agreement as of the date possession is given to the condemner. All condemnation proceeds, exclusive of those allocated by the condemner to Tenant's relocation costs and trade fixtures, belong to Landlord.
29. **INSURANCE:** Tenant's personal property, fixtures, equipment, inventory and vehicles are not insured by Landlord against loss or damage due to fire, theft, vandalism, rain, water, criminal or negligent acts of others, or any other cause. Tenant is to carry Tenant's own property insurance to protect Tenant from any such loss. In addition, Tenant shall carry liability insurance in an amount of not less than \$ 1,000,000.00. Tenant's liability insurance shall name Landlord and Landlord's agent as additional insured. Tenant, upon Landlord's request, shall provide Landlord with a certificate of insurance establishing Tenant's compliance. Landlord shall maintain liability insurance insuring Landlord, but not Tenant, in an amount of at least \$ 1,000,000.00, plus property insurance in an amount sufficient to cover the replacement cost of the property. Tenant is advised to carry business interruption insurance in an amount at least sufficient to cover Tenant's complete rental obligation to Landlord. Landlord is advised to obtain a policy of rental loss insurance. Both Landlord and Tenant release each other, and waive their respective rights to subrogation against each other, for loss or damage covered by insurance.

Landlord's Initials (JAN) (1-23-13)Tenant's Initials (PP) ()

Premises: 55 Oak Street, San Francisco.Date January 23, 2013

30. **TENANCY STATEMENT (ESTOPPEL CERTIFICATE):** Tenant shall execute and return a tenancy statement (estoppel certificate), delivered to Tenant by Landlord or Landlord's agent, within 3 days after its receipt. The tenancy statement shall acknowledge that this agreement is unmodified and in full force, or in full force as modified, and state the modifications. Failure to comply with this requirement: (i) shall be deemed Tenant's acknowledgment that the tenancy statement is true and correct, and may be relied upon by a prospective lender or purchaser; and (ii) may be treated by Landlord as a material breach of this agreement. Tenant shall also prepare, execute, and deliver to Landlord any financial statement (which will be held in confidence) reasonably requested by a prospective lender or buyer.
31. **LANDLORD'S TRANSFER:** Tenant agrees that the transferee of Landlord's interest shall be substituted as Landlord under this agreement. Landlord will be released of any further obligation to Tenant regarding the security deposit, only if the security deposit is returned to Tenant upon such transfer, or if the security deposit is actually transferred to the transferee. For all other obligations under this agreement, Landlord is released of any further liability to Tenant, upon Landlord's transfer.
32. **SUBORDINATION:** This agreement shall be subordinate to all existing liens and, at Landlord's option, the lien of any first deed of trust or first mortgage subsequently placed upon the real property of which the Premises are a part, and to any advances made on the security of the Premises, and to all renewals, modifications, consolidations, replacements, and extensions. However, as to the lien of any deed of trust or mortgage entered into after execution of this agreement, Tenant's right to quiet possession of the Premises shall not be disturbed if Tenant is not in default and so long as Tenant pays the Rent and observes and performs all of the provisions of this agreement, unless this agreement is otherwise terminated pursuant to its terms. If any mortgagee, trustee, or ground lessor elects to have this agreement placed in a security position prior to the lien of a mortgage, deed of trust, or ground lease, and gives written notice to Tenant, this agreement shall be deemed prior to that mortgage, deed of trust, or ground lease, or the date of recording.
33. **TENANT REPRESENTATIONS; CREDIT:** Tenant warrants that all statements in Tenant's financial documents and rental application are accurate. Tenant authorizes Landlord and Broker(s) to obtain Tenant's credit report at time of application and periodically during tenancy in connection with approval, modification, or enforcement of this agreement. Landlord may cancel this agreement: (i) before occupancy begins, upon disapproval of the credit report(s); or (ii) at any time, upon discovering that information in Tenant's application is false. A negative credit report reflecting on Tenant's record may be submitted to a credit reporting agency, if Tenant fails to pay Rent or comply with any other obligation under this agreement.
34. **DISPUTE RESOLUTION:**

A. **MEDIATION:** Tenant and Landlord agree to mediate any dispute or claim arising between them out of this agreement, or any resulting transaction, before resorting to arbitration or court action, subject to paragraph 34B(2) below. Paragraphs 34B(2) and (3) apply whether or not the arbitration provision is initiated. Mediation fees, if any, shall be divided equally among the parties involved. If for any dispute or claim to which this paragraph applies, any party commences an action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED.

B. **ARBITRATION OF DISPUTES:** (1) Tenant and Landlord agree that any dispute or claim in Law or equity arising between them out of this agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration, including and subject to paragraphs 34B(2) and (3) below. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of real estate transactional law experience, unless the parties mutually agree to a different arbitrator, who shall render an award in accordance with substantive California Law. In all other respects, the arbitration shall be conducted in accordance with Part III, Title 9 of the California Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered in any court having jurisdiction. The parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05.

(2) **EXCLUSIONS FROM MEDIATION AND ARBITRATION:** The following matters are excluded from Mediation and Arbitration hereunder: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; (iii) the filing or enforcement of a mechanic's lien; (iv) any matter that is within the jurisdiction of a probate, small claims, or bankruptcy court; and (v) an action for bodily injury or wrongful death, or for latent or patent defects to which Code of Civil Procedure §337.1 or §337.15 applies. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a violation of the mediation and arbitration provisions.

(3) **BROKERS:** Tenant and Landlord agree to mediate and arbitrate disputes or claims involving either or both Brokers, provided either or both Brokers shall have agreed to such mediation or arbitration, prior to, or within a reasonable time after the dispute or claim is presented to Brokers. Any election by either or both Brokers to participate in mediation or arbitration shall not result in Brokers being deemed parties to the agreement.

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

Landlord's Initials Jaa/END 1-23-13 Tenant's Initials RD

Landlord's Initials Jaa (END) (1-23-13)

Tenant's Initials RD () ()

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CL REVISED 11/11 (PAGE 4 of 6)

Reviewed by _____ Date _____



COMMERCIAL LEASE AGREEMENT (CL PAGE 4 OF 6)

55 Oak Paul's

EXHIBIT A

Premises: 55 Oak Street, San Francisco,Date January 23, 2013

Landlord and Tenant acknowledge and agree that Brokers: (i) do not guarantee the condition of the Premises; (ii) cannot verify representations made by others; (iii) will not verify zoning and land use restrictions; (iv) cannot provide legal or tax advice; (v) will not provide other advice or information that exceeds the knowledge, education or experience required to obtain a real estate license. Furthermore, if Brokers are not also acting as Landlord in this agreement, Brokers: (vi) do not decide what rental rate a Tenant should pay or Landlord should accept; and (vii) do not decide upon the length or other terms of tenancy. Landlord and Tenant agree that they will seek legal, tax, insurance, and other desired assistance from appropriate professionals.

Tenant _____

Date _____

(Print Name) _____

Address _____ City _____ State _____ Zip _____

Tenant _____

Date _____

(Print Name) _____

Address _____ City _____ State _____ Zip _____

- ☐ **GUARANTEE:** In consideration of the execution of this Agreement by and between Landlord and Tenant and for valuable consideration, receipt of which is hereby acknowledged, the undersigned ("Guarantor") does hereby: (i) guarantee unconditionally to Landlord and Landlord's agents, successors and assigns, the prompt payment of Rent or other sums that become due pursuant to this Agreement, including any and all court costs and attorney fees included in enforcing the Agreement; (ii) consent to any changes, modifications or alterations of any term in this Agreement agreed to by Landlord and Tenant; and (iii) waive any right to require Landlord and/or Landlord's agents to proceed against Tenant for any default occurring under this Agreement before seeking to enforce this Guarantee.

Guarantor (Print Name) _____

Guarantor _____

Date _____

Address _____ City _____ State _____ Zip _____

Telephone _____ Fax _____ E-mail _____

Landlord agrees to rent the Premises on the above terms and conditions.

Landlord _____

Date _____

(owner or agent with authority to enter into this agreement) Anne GardnerAddress 1352 Hill Crest Drive City Cedar City State UT Zip 84720

Landlord _____

Date _____

(owner or agent with authority to enter into this agreement) William NicholsonAddress 943 Lake Front Road City Lake Oswego State OR Zip 97034 97034

Agency relationships are confirmed as above. Real estate brokers who are not also Landlord in this agreement are not a party to the agreement between Landlord and Tenant.

Real Estate Broker (Leasing Firm) _____ DRE Lic. # _____

By (Agent) _____ DRE Lic. # _____ Date _____

Address _____ City _____ State _____ Zip _____

Telephone _____ Fax _____ E-mail _____

Real Estate Broker (Listing Firm) Redmond Realty DRE Lic. # 01000675By (Agent) Thomas Redmond DRE Lic. # 01000675 Date 01/23/2013Address 2010 Ocean Avenue, Suite E City San Francisco State CA Zip 94127Telephone (415)494-5340 Fax (415)349-4676 E-mail tom@redmondrealtysf.com

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Reviewed by _____ Date _____



ADDENDUM TO COMMERCIAL LEASE AGREEMENT

(C.A.R. Form CL, Revised 11/11)

This Addendum is incorporated into and shall be deemed to amend and supplement the Commercial Lease Agreement (this "Lease"), to which this Addendum is attached, executed by THOMAS A. NICHOLSON and ELIZABETH M. NICHOLSON, TRUSTEES OF THE NICHOLSON 2010 TRUST; WILLIAM H. NICHOLSON and ANNE M. GARDNER ("Landlord"), and PAUL DICERSON ~~AND JOHN CONTRERAS~~ d.b.a Paul's Detailing ("Tenant"). Capitalized terms used but not defined in this Addendum shall have the meanings given to those terms in this Lease. Notwithstanding anything to the contrary contained in the main body of this Lease:

1. Tenant hereby acknowledges and agrees that notwithstanding the terms and provisions of Section 31 of this Lease, in no event shall any transferee of Landlord's interests in the Premises be liable or responsible for the acts, omissions or obligations of Landlord.
2. Tenant, as a material part of the consideration for this Agreement, expressly waives any and all claims against Landlord for loss or damage to Tenant's property resulting from fire, water, theft or other such occurrences. Landlord shall not have, under any circumstances, liability for any loss of business, loss of profits or any other consequential damages.
3. Tenant further acknowledges and agrees that the Agreement is entered into upon the express condition that Landlord shall be free from liability for claims for damages by reason of injury to any person, or loss of or damage to any property from any cause and in any manner connected with Tenant's use of the Property, and Tenant agrees to defend, indemnify and hold Landlord harmless from any and all claims, demands, causes of action, damages, liabilities, costs and/or expenses (including attorneys' fees and costs), of any kinds arising out of or connected with the Property and the Agreement, except to the extent caused by the sole negligence or willful misconduct of Landlord. This indemnification extends to claims occurring after this Lease is terminated, as well as when it is in force.

[Signatures on Next Page]

EXHIBIT A

"Landlord"

THE NICHOLSON 2010 TRUST

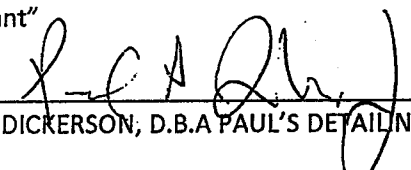
By _____
Thomas A. Nicholson, Trustee

By _____
Elizabeth M. Nicholson, Trustee


WILLIAM H. NICHOLSON

ANNE M. GARDNER

"Tenant"



PAUL DICKERSON, D.B.A PAUL'S DETAILING



~~JOHN CONTRERAS, D.B.A. PAUL'S DETAILING~~



CALIFORNIA
ASSOCIATION
OF REALTORS®

ADDITIONAL SIGNATURE ADDENDUM

(C.A.R. Form ASA, 4/06)

This form is not an assignment. It should not be used to add new parties after a contract has been formed.

The following are additional signatories to the ☐ Residential Purchase Agreement, ☒ Other Commercial Lease Agreement

, dated January 23, 2013, for the
property known as 55 Oak Street, San Francisco, CA ("Property"),

between Paul Dickerson & John Contreras ☐ Buyer ☐ Seller ☐ Landlord ☒ Tenant ☐ Other

and Anne Gardner, William Nicholson & Thomas
Nicholson/Elizabeth Nicholson - 2010 Trust ☐ Buyer ☐ Seller ☒ Landlord ☐ Tenant ☐ Other.

By signing below, the undersigned (i) acknowledges receipt of the document identified above; and, except as specified below
(ii) agrees to the terms, conditions, representations and disclosures in the document.

☐ Buyer ☐ Seller ☒ Landlord ☐ Tenant ☐ Other

(Print Name) Thomas Nicholson, Trustee, The Nicholson 2010 Trust

(If applicable) By _____ Title _____

(Signature) Thomas Nicholson (The Nicholson 2010 Trust) Date Jan 23 - 2013

(Only initial the following if the document identified above contains an arbitration or liquidated damages provision which has been initiated by one or more parties.)

I () agree () do not agree to have disputes decided in accordance with the arbitration provision.

I () agree () do not agree to the liquidated damages provision.

☐ Buyer ☐ Seller ☒ Landlord ☐ Tenant ☐ Other

(Print Name) Elizabeth Nicholson, Trustee, The Nicholson 2010 Trust

(If applicable) By _____ Title _____

(Signature) Elizabeth Nicholson (The Nicholson 2010 Trust) Date 1-23-13

(Only initial the following if the document identified above contains an arbitration or liquidated damages provision which has been initiated by one or more parties.)

I () agree () do not agree to have disputes decided in accordance with the arbitration provision.

I () agree () do not agree to the liquidated damages provision.

☐ Buyer ☐ Seller ☐ Landlord ☐ Tenant ☐ Other

(Print Name) _____

(If applicable) By _____ Title _____

(Signature) _____ Date _____

(Only initial the following if the document identified above contains an arbitration or liquidated damages provision which has been initiated by one or more parties.)

I () agree () do not agree to have disputes decided in accordance with the arbitration provision.

I () agree () do not agree to the liquidated damages provision.

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ASA 4/06 (PAGE 1 OF 1)

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ADDITIONAL SIGNATURE ADDENDUM (ASA PAGE 1 OF 1)

Agent: Thomas Redmond

Phone: 415.494.5340

Fax: 415.349.4678

Prepared using zipForm® software

Broker: Redmond Realty 2010 Ocean Avenue, Suite E San Francisco, CA 94127

THIRTY-DAY NOTICE OF TERMINATION OF TENANCY

**TO: Mr. Paul Dickerson
PAUL'S DETAILING
55 Oak Street
San Francisco, CA 94102**

TENANT IN POSSESSION

Within 30 days after service of this notice, you must quit and surrender possession of the premises described herein to the undersigned owner or authorized agent at c/o ERSKINE & TULLEY, A PROFESSIONAL CORPORATION, Robert P. Gates, Esq., 220 Montgomery Street, Suite 315, San Francisco, CA 94104-3436.

Your failure to vacate the premises within 30 days will cause the undersigned to initiate legal proceedings against you to recover possession of the premises and to seek a judgment for damages for each day of occupancy after the expiration date of this notice, costs and attorneys' fees, all as provided by California law and the Commercial Lease Agreement dated January 23, 2013.

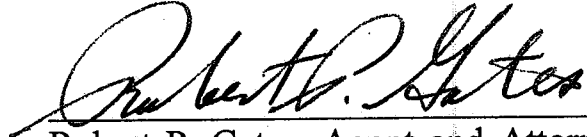
This notice is intended as a 30-day notice terminating your month to month tenancy. Prorated rent in the amount of \$3,750.00 per month is due and payable through and including the date of termination of your tenancy under this notice.

Said premises are situated in the City and County of San Francisco, State of California, and consist of commercial premises commonly known as 55 Oak Street, San Francisco, California 94102.

You are hereby notified that the undersigned is serving this Notice upon you as authorized by Section 37.9(a) of the San Francisco Residential Rent Stabilization and Arbitration Ordinance. This constitutes notice to you in writing of the grounds under which possession is sought. Before endeavoring to recover possession Landlord is required and does hereby notify you that advice regarding this notice to vacate is available from the Residential Rent Stabilization and Arbitration Board of the City and County

of San Francisco, most recently known to be located at 25 Van Ness Avenue, Suite 320, San Francisco, California 94102, Telephone: (415) 252-4600. Landlord believes that your tenancy is exempt from the San Francisco Residential Rent Stabilization and Arbitration Ordinance since it is commercial premises.

DATED: November 17, 2014.



Robert P. Gates, Agent and Attorney
for Anne Gardner, William
Nicholson, Thomas Nicholson/
Elizabeth Nicholson The
Nicholson 2010 Trust,
Landlord

c/o ERSKINE & TULLEY A
PROFESSIONAL CORPORATION
220 Montgomery Street, Suite 315
San Francisco, CA 94104-3436
415-392-5431



PROOF OF PERSONAL SERVICE

I, the undersigned, declare that I served the following document

☐ Three Day Notice to Pay Rent or Quit
☐ Five Day Notice to Pay Rent or Quit
☒ Thirty Day Notice of Termination of Tenancy

On the following party:

To: Mr. Paul Dickerson
Paul's Detailing (TENANT IN POSSESSION)
55 Oak St.
San Francisco, CA 94102

MANNER OF SERVICE:

☐ Personal Service on: _____

The Notice was served to and for the tenant named above, at the address listed above.

Date of Service: _____, Time of Service: _____. (CCP § 1162 (1))

☒ Substituted Service on: JAMIE GUTIERREZ, employee in charge at time of service.

The Notice was served by substituted service. It not being possible to serve the tenant personally because he/she was absent from the premises. I therefore served a copy on a person of suitable age and discretion apparently in charge of the premises at the address listed above.

Date of Service: 11/17/14, Time of Service: 10:30AM, and by mailing via United States Postal Service, postage prepaid, and addressed to said tenant(s) at the address listed above. (CCP § 1162 (2))

☐ Posting Notice and Mailing

The Notice was served by posting and mailing, as it was not possible to serve the tenant personally because he/she was absent from the premises and there was no one of suitable age or discretion apparently in charge of the premises. I therefore served the Notice by affixing a copy in a conspicuous place at the address above, on Date: _____, at Time: _____ and by mailing a copy of Notice via United States Postal Service, in a prepaid, sealed envelope, addressed to said tenant(s) at the address listed above. (CCP § 1162 (3))

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed at San Francisco, California, on:

Date: November 17, 2014

Signature: _____

Larry Tisdall

Reg. No. 1085, County of San Francisco