

## ASSIGNMENT, ASSUMPTION, AND CONSENT AGREEMENT

(The Dance Program License Agreement)

This Assignment, Assumption and Consent Agreement ("**Agreement**") is entered into and effective as of \_\_\_\_\_, 2016, by KIMERA LEWIS, a sole proprietor ("**Assignor**"), LISA GRAF and CRISTINA JUSTICE, (collectively, "**Assignees**"), and CATHEDRAL CITY, a California general law city and municipal corporation ("**City**"). Assignor, Assignees and City are sometimes referred to individually as a "**Party**" or collectively referred to as the "**Parties**."

### **RECITALS**

A. Assignor and City entered into a License Agreement for Assignor's use of certain real property owned by City on August 10, 2011 ("**Agreement**"). At that time, Assignor was the operator of The Dance Program. The real property that is the subject of the Agreement is located at 68-07 and 68-727 East Palm Canyon Drive ("**Premises**") and is more particularly described in the Agreement.

B. Assignor and City subsequently executed a First Amendment to License Agreement on April 13, 2016 ("**First Amendment**"), to accommodate City's desire to use the Premises for other purposes and to provide Assignor with assistance in relocating operations to a new location.

C. Under Section 22 of the Agreement as stated in the First Amendment, City agreed to pay an initial amount of five thousand dollars (\$5,000.00) to Assignor upon execution of the First Amendment to assist in relocation of the operations of the Dance Program, which sum has already been paid to Assignor.

D. Section 22 of the Agreement as stated in the First Amendment further provides for additional relocation assistance to be paid by the City to Assignor in the amount of fifteen thousand dollars (\$19,200.00) via periodic payments of six thousand four hundred (\$6,400.00) each on or after October 1, 2016, January 1, 2017, and April 1, 2017, respectively. These payments are contingent on Assignor being open for business at a facility within Cathedral City. These payments have not yet been made.

E. Assignor now desires to sell the Dance Program and to assign all of its interests, rights, title, obligations, duties and responsibilities, terms, conditions, and covenants in, to and under the Agreement and First Amendment ("**Rights and Obligations**") to Assignees, and Assignees desire to purchase the Dance Program from Assignor and assume the Rights and Obligations for the purpose of undertaking the Dance P. Assignor and Assignees have or will enter an agreement amongst themselves for such purchase and sale.

F. Section 20 of the Agreement requires Assignor to obtain the express written consent of City prior to assigning any of her Rights and Obligations in the Agreement to another Party. This Agreement is intended by the Parties to satisfy all of the requirements of Section 20, for the assignment and assumption of the Rights and Obligations between Assignor and Assignees and the consent of City.

G. Assignees represent to City that they have fully and independently reviewed the terms and conditions of the Agreement and the First Amendment, including, without limitation, all of the Rights and Obligations contained therein, and based thereon Assignees desire to assume the Rights and Obligations in, to and under the Agreement.

### **OPERATIVE PROVISIONS**

NOW, THEREFORE, in exchange for the mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Consent. City does hereby consent to the assignment by Assignor and the assumption by Assignees of the Rights and Obligations in, to and under the Agreement and First Amendment pursuant to Section 20 of the Agreement.

2. Assignment and Assumption. Assignor, as assignor, hereby transfers, assigns and conveys all of its Rights and Obligations in, to and under the Agreement to Assignees. Assignees hereby accepts the foregoing assignment, assume all such Rights and Obligations, and agree to perform and discharge all such obligations of Assignor under the Agreement, including, without limitation, the unexecuted terms, conditions, and covenants of the Agreement, together with all performance and development requirements and deadlines. To the extent that conditions exist which constitute a failure to perform or a default by Assignor under the Agreement, such failures to perform and/or defaults, if any, are not hereby excused or waived and Assignees assume and shall be responsible for cure of same, as provided under the Agreement.

3. General Provisions

3.1 Recitals. Each of the Recitals set forth above is incorporated in this Agreement as though set forth in full herein and the Parties acknowledge and agree to the truth and accuracy thereof.

3.2 Governing Law; Venue. This Agreement shall be interpreted and enforced in accordance with the laws of the State of California without regard to principles of conflicts of laws. Any action to enforce or interpret this Agreement shall be filed and litigated exclusively in the Superior Court of Riverside, California or in the Federal District Court for the Central District of California.

3.3 Entire Agreement/Amendment. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior written and oral agreements with respect to the matters covered by this Agreement. This Agreement may not be amended except by an instrument in writing signed by each of the Parties.

3.4 Further Assurances. Each Party shall execute and deliver such other certificates, agreements and documents and take such other actions as may be reasonably required to consummate or implement the transactions contemplated by this Agreement.

3.5 Captions; Interpretation. The section headings used herein are solely for convenience and shall not be used to interpret this Agreement.

3.6 Severability. If any term, provision, condition or covenant of this Agreement, or its application to any Party or circumstance, shall be held by a court of competent jurisdiction, to any extent, to be invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law, unless the rights and obligations of the Parties have been materially altered or abridged thereby.

3.7 Counterparts. This Agreement may be executed in counterparts, each of which shall, irrespective of the date of its execution and delivery, be deemed an original, and the counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, City, Assignor, and Assignees have executed this Agreement as of the date first set forth above.

CITY:

THE CITY OF CATHEDRAL CITY

By: \_\_\_\_\_  
Charles P. McClendon, City Manager

ATTEST:

\_\_\_\_\_  
Gary F. Howell, City Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Eric S. Vail, City Attorney

ASSIGNOR:

KIMERA LEWIS

\_\_\_\_\_  
Kimera Lewis

ASSIGNEES:

LISA GRAF

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Lisa Graf

CRYSTINA JUSTICE

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Crystina Justice

**NOTE: ASSIGNOR'S AND ASSIGNEES' SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO THOSE PARTIES' RESPECTIVE BUSINESS TYPES**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, \_\_\_\_ before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

### OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER		DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/>	INDIVIDUAL	_____
<input type="checkbox"/>	CORPORATE OFFICER	TITLE OR TYPE OF DOCUMENT
<input type="checkbox"/>	PARTNER(S) <input type="checkbox"/> LIMITED	_____
<input type="checkbox"/>	<input type="checkbox"/> GENERAL	NUMBER OF PAGES
<input type="checkbox"/>	ATTORNEY-IN-FACT	_____
<input type="checkbox"/>	TRUSTEE(S)	DATE OF DOCUMENT
<input type="checkbox"/>	GUARDIAN/CONSERVATOR	_____
<input type="checkbox"/>	OTHER _____	SIGNER(S) OTHER THAN NAMED ABOVE
	_____	

### SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

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

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**DESCRIPTION OF ATTACHED DOCUMENT**

☐ INDIVIDUAL  
☐ CORPORATE OFFICER  
\_\_\_\_\_

\_\_\_\_\_  
TITLE OR TYPE OF DOCUMENT

☐ PARTNER(S) ☐ TITLE(S) LIMITED  
☐ GENERAL

\_\_\_\_\_  
NUMBER OF PAGES

☐ ATTORNEY-IN-FACT

\_\_\_\_\_  
DATE OF DOCUMENT

☐ TRUSTEE(S)

☐ GUARDIAN/CONSERVATOR

\_\_\_\_\_  
SIGNER(S) OTHER THAN NAMED ABOVE

☐ OTHER \_\_\_\_\_  
\_\_\_\_\_

**SIGNER IS REPRESENTING:**

(NAME OF PERSON(S) OR ENTITY(IES))

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\_\_\_\_\_