

Prepared by:

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#215  
Coral Gables, FL 33146

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LANDLORD-TENANT REMOTE PARKING DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION (this "Declaration") is made and entered into this \_\_\_ day of April, 2016, by The City of Coral Gables ("City"), having an office at 405 Biltmore Way, Coral Gables, FL 33134, Ponte Gadea Gables, LLC (as "Landlord"), and M10 Motors, Inc., a Florida corporation (as "Tenant"), having an address at 2701 LeJeune Road, Coral Gables, FL 33134.

WHEREAS, the City is the fee simple owner of certain land in the City of Coral Gables, Florida, legally described as: Parcel A of Replat of Portions of Block 32, Revised Plat of Coral Gables Section L and Lots 1 thru 4 and Lot 9 and Alley closed per Resolution No. 194371, Block 32, according to the plat thereof, as recorded in Plat Book 8 at Page 85 of the Public Records of Miami-Dade County, Florida ("Parcel A");

WHEREAS, Landlord is the fee simple owner of the building (the "Building") located on that certain land in the City of Coral Gables, Florida, legally described in Exhibit "A," attached hereto and made a part hereof ("Parcel B");

WHEREAS, Landlord and Tenant entered into a Lease (the "Lease"), dated as of March 21, 2014, as amended, for the premises (the "Premises") located on the ground floor area within the Building located on Parcel B containing approximately 21,520 square feet, as more particularly described in the Lease;

WHEREAS, a diagram marked as Exhibit "B" showing the location of Parcels A and B, the boundaries of each as well as the proposed parking spaces is attached hereto and made a part hereof;

WHEREAS, Tenant currently leases the Premises from Landlord;

WHEREAS, Tenant with the consent of Landlord, submitted a request to the City to act upon Application No. BL-15-11-5707 (the "Application") to renovate the Building for use as an automobile dealership on Parcel B;

WHEREAS, Parcel B does not contain sufficient parking to meet the parking requirements, outlined in the City of Coral Gables' Zoning Code, for the use requested in the Application;

WHEREAS, Parcel A contains a parking area (the "Parking Lot") that has a sufficient number of spaces to rent to Tenant;

WHEREAS, Landlord and Tenant desire to utilize 63 spaces from the Parking Lot located on Parcel A to satisfy the parking requirements for the use of the Premises requested in the Application;

WHEREAS, The City and Tenant have entered into a Parking Permit Agreement, which is incorporated herein by reference;

WHEREAS, pursuant to the Parking Lease Agreement, Tenant will lease a total of 63 parking spaces located on Parcel A from the City, which shall serve as an accessory parking area to accommodate the use of the Premises requested pursuant to the Application;

WHEREAS, pursuant to Article 5, Division 14, Section 5-1408(B) of the City of Coral Gables' Zoning Code, the City requires the execution and recording of this Declaration, in connection with the use of the Parking Lot located on Parcel A as accessory remote parking to accommodate the use requested pursuant to the Application.

NOW, THEREFORE, in consideration of the City's issuance of a building permit for the Premises, the Declarants hereby declare as follows:

a. The City hereby covenants and agrees for itself (and its successors and assigns, and upon all mortgagees and lessees and others presently or in the future having any interest in the properties) that the 63 spaces required be used as remote parking for a period of one (1) year or until such time as the City Manager or designee provides ninety (90) day's notice to terminate the obligation, and if the spaces are leased, the City's right to access the remote spaces to inspect them as provided herein;

b. Landlord and Tenant hereby covenant and agree for themselves, including their heirs, successors, personal representatives and assigns, and upon all mortgagees and lessees and others presently or in the future having any interest (whether such interest is based upon ownership, leasehold, or otherwise) that if they or any one of them plans to relocate the remote parking spaces to another location that meets the requirements of the City's Zoning Code, then Landlord and Tenant shall submit an application to amend the remote parking approval promptly, at least ninety (90) days prior to the termination of the remote parking arrangement and that such amendment will be subject to the same application requirements, procedure and fee as a new application, and will be implemented in a manner that assures the continuous availability of the remote parking for the project;

c. Landlord and Tenant hereby covenant and agree for themselves, including their heirs, successors, personal representatives and assigns, and upon all mortgagees and lessees and others presently or in the future having any interest (whether such interest is based upon ownership, leasehold, or otherwise) that they will report any unplanned changes in the facts related to the use of the Premises as requested in the Application, or approved remote parking arrangement to the Director of Development Services within five (5) business days of the occurrence of the change, and shall submit a remedial plan consistent with the requirements of subsection 8 [Article 5, Division 14, Section 5-1408(B)(8) of the city of Coral Gables' Zoning Code] together with the review fee, within ten

(10) business days of the occurrence of the change, and further that the Development Services Director will have the sole but reasonable discretion to approve the remedial plan and set the timing of implementation, and may extend the above deadlines if good cause is shown;

d. Landlord and Tenant hereby covenant and agree for themselves, including their heirs, successors, personal representatives and assigns, and upon all mortgagees and lessees and others presently or in the future having any interest (whether such interest is based upon ownership, leasehold, or otherwise) that the City is authorized to inspect the remote parking spaces at will during the normal hours of operation of the use that is being served by the remote parking spaces, to determine the continuing adequacy of the remote parking arrangements;

e. Landlord and Tenant hereby covenant and agree for themselves, including their heirs, successors, personal representatives and assigns, and upon all mortgagees and lessees and others presently or in the future having any interest (whether such interest is based upon ownership, leasehold, or otherwise) that Tenant will prepare for execution by itself and Landlord and submit annually, an affidavit confirming that the facts supporting the initial approval of the use of remote parking remain accurate at the time of renewal of the certificate(s) of use of the Premises as requested in the Application;

f. Landlord and Tenant hereby covenant and agree for themselves, including their heirs, successors, personal representatives and assigns, and upon all mortgagees and lessees and others presently or in the future having any interest (whether such interest is based upon ownership, leasehold, or otherwise) that at the time of entering into a new remote parking provider lease or renewing a remote parking provider lease, they shall submit renewed documentation and affidavits as required by Article 5, Division 14, Section 1408(B)(6) of the City of Coral Gables' Zoning Code;

g. Landlord and Tenant hereby covenant and agree for themselves, including their heirs, successors, personal representatives and assigns, and upon all mortgagees and lessees and others presently or in the future having any interest (whether such interest is based upon ownership, leasehold, or otherwise) that they recognize and accept that any material failure to meet the requirements of Article 5, Division 14, Section 1408(B) of the City's Zoning Code (or the requirements of the related agreements, covenants, or conditions) that is not cured as provided therein will immediately subject both Landlord and Tenant to the original and full parking requirements of the Zoning Code applicable to the use of the Premises as contemplated by the Application, and that further the materiality of any failure shall be determined by the Development Services Director or designee, in consultation with the City Attorney;

h. That this Declaration is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above properties and shall constitute a covenant running with the land and shall be binding upon the Undersigned Declarants, including their successors and assigns, and may only be released by the City Manager for the City of Coral Gables, or its successor, in accordance with the ordinances of the City then in effect;

i. Either the City and/or the Landlord may request that the City Manager for the City of Coral Gables, or its successor, release this Declaration should the use conducted on Parcel

B be lawfully modified such that the remote accessory parking contemplated herein is no longer necessitated or otherwise required under the applicable provisions of the City of Coral Gables' Zoning Code or the ordinances of the City then in effect. Moreover, approval of a request to release this Declaration will not be unreasonably withheld upon a showing that the remote accessory parking contemplated herein is no longer necessitated or otherwise required under the applicable provisions of the City Zoning Code or the ordinances of the City then in effect;

j. That the failure to comply with this Declaration may result in a payment in lieu fee for each parking space not provided at the established date as of the date of the non-compliance or in the revocation of a certificate of use or other approvals issued for the use of the Premises on Parcel B in connection with or as a result of, directly or indirectly, the Application, at the election of the City;

k. The Undersigned Declarants each covenant and agree to indemnify, defend, and hold harmless the City of Coral Gables, its elected and appointed officials, officers, attorneys, consultants, agents, and employees from and against all claims, damages, losses, and expenses, direct, indirect, or consequential (including but not limited to fees and charges of attorneys and other professionals and court and arbitration costs) arising out of or resulting, in whole or part, from their execution of this Declaration or from any claim or allegation related to the Undersigned Declarants' capacity and/or authority to execute this Declaration. Moreover, the Undersigned Declarants agree that nothing in this Indemnification and Hold Harmless provision will be considered to increase or otherwise waive any limits of liability, or to waive any immunity established by Florida Statutes, case law, or any other source of law afforded to the City of Coral Gables; and

l. The undersigned Declarants hereby covenant and agree that this Declaration shall be recorded, against both Parcel A and Parcel B, in the public records of Miami-Dade County, Florida at their sole expense.

**Signatures and acknowledgements on following pages**

IN WITNESS WHEREOF, the underside has set its hand and seal to this Declaration of Restrictive Covenants this \_\_\_ day of \_\_\_\_\_, 2016.

**WITNESSES:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_

**On behalf of the City of Coral Gables, a  
Municipal Corporation of the State of  
Florida**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**WITNESSES:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_

**LANDLORD:**

**PONTE GADEA GABLES, LLC**, a Florida limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**WITNESSES:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_

**TENANT:**

**M10 MOTORS, INC.**, a Florida corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**Acknowledgements on following page**

STATE OF FLORIDA )

COUNTY OF MIAMI-DADE)

THE FOREGOING INSTRUMENT was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, in her capacity as \_\_\_\_\_, for the City of Coral Gables (a Municipal Corporation of the State of Florida), who is personally known to me or has produced a \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

My commission expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

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

THE FOREGOING INSTRUMENT was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, as \_\_\_\_\_, of **PONTE GADEA GABLES, LLC**, a Florida limited liability company, who is personally known to me or has produced a \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF

My commission expires: \_\_\_\_\_

**TENANT:**

STATE OF \_\_\_\_\_ )

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

THE FOREGOING INSTRUMENT was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, as \_\_\_\_\_, of **M10 MOTORS, INC.**, a Florida corporation, who is personally known to me or has produced a \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF \_\_\_\_\_

My commission expires: \_\_\_\_\_

EXHIBIT "A"

Legal Description

LOT 1, BLOCK 16, OF CORAL GABLES CRAFTS SECTION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 10, PAGE(S) 40, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LESS AND EXCEPT THE FOLLOWING:

A PORTION OF LOT 1, BLOCK 16, OF CORAL GABLES CRAFTS SECTION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 10, PAGE(S) 40, OF PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, WHICH LIES WITHIN THE EXTERNAL AREA FORMED BY A 15.00 FOOT RADIUS ARC CONCAVE TO THE SOUTHEAST, TANGENT TO THE NORTH LINE OF SAID LOT 1 AND TANGENT TO THE WEST LINE OF LOT 1.

AND

LOTS 2 THROUGH 11, INCLUSIVE, BLOCK 16, AND LOTS 39 THROUGH 48, INCLUSIVE, BLOCK 16, ALL IN CORAL GABLES CRAFTS SECTION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 10, PAGE(S) 40, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, TOGETHER WITH 20.00 FOOT ALLEY LYING SOUTH OF LOTS 1 THROUGH 10, BLOCK 16.

LESS AND EXCEPT THE FOLLOWING:

A PORTION OF LOT 48, BLOCK 16, OF CORAL GABLES CRAFTS SECTION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 10, PAGE(S) 40, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, WHICH LIES WITHIN THE EXTERNAL AREA FORMED BY A 15.00 FOOT RADIUS ARC CONCAVE TO THE NORTHEAST, TANGENT TO THE SOUTH LINE OF SAID LOT 48 AND TANGENT TO THE WEST LINE OF SAID LOT 48.