

OPERATING COVENANT AGREEMENT

BETWEEN THE CITY OF REDLANDS AND LAMPS PLUS, INC.

This Operating Covenant Agreement ("Agreement") is made and entered into this 2nd day of December, 2008, by and between the City of Redlands ("City") and Lamps Plus, Inc., ("Lamps Plus"). The City and Lamps Plus are sometimes individually referred to herein as a "Party" and, together, as the "Parties."

RECITALS

A. Lamps Plus is operating an approximately seven hundred eighty four thousand (784,000) square foot facility (the "Facility") located at 9425 California Avenue (the "Property") in the unincorporated area of the County of San Bernardino, State of California.

B. Lamps Plus uses the Facility as its Distribution Center ("Distribution Center") which will service Lamps Plus' stores located throughout the United States.

C. Lamps Plus proposes to designate the Distribution Center as the sole "point of sale" for all Lamps Plus' residential lighting and home décor and other products which are transacted through Lamps Plus' internet website and which are designated for any location within the State of California ("E-Commerce"). Lamps Plus estimates that the City will receive one hundred eighty thousand dollars per year (over a ten (10) year period) in anticipated annual E-Commerce direct sales tax. A retail storefront is being considered as a natural accompaniment to the Distribution Center, which would generate between 10 to 15 new jobs. The City will also receive direct sales tax from any retail sales made at the retail storefront.

D. The unincorporated area of the County of San Bernardino where the Distribution Center is located is commonly known as the "Donut Hole." Pursuant to the agreement between the City and the County of San Bernardino entitled "Contract for the Apportionment of Sales and Use Tax Revenue and the Provision of Municipal Services Within the Unincorporated Area Commonly Known as the Donut Hole" (the "County Contract"), the City currently receives from the County of San Bernardino ninety percent (90%) of the sales and use tax revenue generated in the Donut Hole.

E. The Redlands City Council finds that it is of substantial benefit to the City and its residents for (i) the City to obtain an operating covenant from Lamps Plus for the Distribution Center, (ii) that the Distribution Center be designated as the "point of sale" for Lamps Plus' E-Commerce and certain retail sales purposes; and (iii) that these benefits constitute valid public purposes for the City's entry into and execution of this Agreement.

F. In consideration for Lamps Plus' agreement to be bound by the operating covenant described herein, the City has agreed to make certain payments to Lamps Plus. The City and Lamps Plus acknowledge that the amount of each City payment hereunder is a fair exchange for the consideration actually furnished to the City by Lamps Plus during each fiscal year of the City in which such payment is made. The City has determined that each City payment to be made hereunder has been calculated so that it will not exceed the resources available to

make the payment, and that in no event shall the City be immediately indebted to Lamps Plus for any aggregate payment herein provided.

G. The purpose and intention of the City in making payments to Lamps Plus is to induce Lamps Plus to locate its E-Commerce functions and operations at the Facility and to designate the Distribution Center as the sole "point of sale" for Lamps Plus' E-Commerce and for certain retail sales purposes to further the well-being of the City's residents by enhancing local employment and expanding the City's tax revenue base.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for such other good and valuable consideration, the receipt of which is hereby acknowledged, the City of Redlands and Lamps Plus, Inc. agree as follows:

AGREEMENT

ARTICLE I

SUBJECT OF AGREEMENT

Section 1.01 Recitals. The foregoing recitals are true and correct and are hereby incorporated into this Agreement.

Section 1.02 Purpose of Agreement. The purpose of this Agreement is to effectuate the economic goals of the City by providing an incentive for Lamps Plus' location of its E-Commerce functions and operations at the Facility and designation of the Distribution Center as the sole "point of sale" for Lamps Plus' E-Commerce purposes in California. The operation of the Distribution Center on the Property pursuant to this Agreement, and the fulfillment generally of the requirements of this Agreement, are in the vital and best interests of the City and the health, safety and welfare of the City's citizens and in accord with the provisions of applicable federal, state and local law.

ARTICLE II

DEVELOPMENT AND OPERATING COVENANT

Section 1.03 Covenant.

A. Provided the regulations imposed on the development and operating of the Distribution Center by the County of San Bernardino or any other government entity are commercially reasonable (as determined by Lamps Plus in its sole and absolute discretion), and provided that the City continues to receive sales and use tax revenue generated in the Donut Hole pursuant to the County Contract, and subject to events of force majeure as defined in Section 5.06 hereof, Lamps Plus shall (i) use its good faith and commercially reasonable efforts to locate the E-Commerce functions and operations at the Distribution Center by December 2, 2008; and (ii) designate the Distribution Center, as of the date the E-Commerce functions and operations commence, as the sole "point of sale" pursuant to the Bradley Burns Uniform Local Sales and Use Tax Law, commencing with Section 7200 of the California Revenue and Taxation Code, as

amended (the "Sales Tax Law"), for all sales of Lamps Plus' residential lighting and home décor accessories and other products which are transacted through Lamps Plus' internet website and which are destined for any location within the State of California, for a period of ten (10) years from and after the date that Lamps Plus commences its E-Commerce operations. For purposes of this Agreement, "commence(s) operations" shall mean the date the Distribution Center first ships product to Lamps Plus' stores located in California or elsewhere on the west coast. Lamps Plus shall, within ten (10) days after the date the Distribution Center commences operations, provide written notice of the commencement of such operations to the City.

B. Lamps Plus, on its behalf and on behalf of its successors-in-interest, hereby waives its right to protect against disclosure of the information contained in its California state sales and use tax returns (but solely for the limited purpose of compliance with the terms of this Agreement) and further authorizes the release of such information by the City to extent necessary to comply with terms of this Agreement. Upon written request of the City and within twenty-one (21) days of any such request, Lamps Plus shall also provide to the City copies of Lamps Plus' California state sales and use tax returns evidencing sales and the payments of use taxes that are the subject of this Agreement.

C. The foregoing subparagraphs of this Section 2.01 are hereinafter referred to in this Agreement as the "Covenant."

Section 1.04 Consideration.

A. In consideration for Lamps Plus' agreement to be bound by the Covenant, the City shall make payments to Lamps Plus in amounts equal to forty percent (40%) of the Sales Tax Revenues received by the City as a direct result of Lamps Plus' E-Commerce sales to destination locations within the State of California for the period beginning on December 2, 2008, and continuing for ten (10) years thereafter. "Sales Tax Revenues" shall mean that portion of taxes derived and received by the City and legally available for unrestricted use by the City's general fund from the imposition of the Sales Tax Law, arising from all businesses and activities conducted in the Facility and on the Property in accordance herewith from time to time, which are subject to the Sales Tax Law.

B. The amounts due hereunder for the Covenant shall be payable from any source of funds legally available to the City. The determination of the source of funds for the City's payments shall be in the sole and absolute discretion of the City. Lamps Plus acknowledges that the City is not making a pledge of Sales Tax Revenues, or any other particular source of funds; the definition of Sales Tax Revenues, as used herein, is used merely as a measure of the amount of payment due hereunder and as means of computing the City's payment in consideration for the Covenant. It is acknowledged by Lamps Plus that the City's obligation to make payments provided for herein is specifically contingent upon receipt by the City of the Sales Tax Revenues derived from operation of the Distribution Center which are paid to the City by the County of San Bernardino pursuant to the County Contract. The City shall not be obligated to make any payments hereunder if Sales Tax Revenues are not received by the City from the County of San Bernardino.

C. In the event Lamps Plus fails to properly report the amount of e-commerce sales generated at the Distribution Center or fails to properly designate the "Point of Sale" location of its e-commerce sales to the State Board of Equalization or the County of San Bernardino as required by this Agreement, any administration costs associated with the correction of such errors charged to the City by the County of San Bernardino pursuant to the County Contract may be off-set by the City against payments owed to Lamps Plus pursuant to this Section 1.04. The City shall accompany any off-setting payment to Lamps Plus with written documentation evidencing the administrative costs incurred by the County and charged to the City pursuant to the County Contract.

D. Each of the City's payments to Lamps Plus hereunder shall be made within six (6) months of the date of the City's receipt of its corresponding share of the Sales Tax Revenue paid to the City by the County of San Bernardino pursuant to the County Contract.

E. It is acknowledged and agreed to by the City and Lamps Plus that any payments by the City shall be made only for those periods in which Lamps Plus is in compliance with the Covenant described herein. The failure of the City to make any payment required by this Agreement because of any Default (as defined in Section 3.01 hereof) by Lamps Plus in complying with the Covenant shall not cause acceleration of any future payments by the City to Lamps Plus beyond the date of such Default.

Section 1.05 Conditions Precedent.

A. The obligation of Lamps Plus to locate the E-Commerce functions and operations at the Facility is contingent upon satisfaction or written waiver by Lamps Plus of each of the following:

1. Lamps Plus has located the E-Commerce administrative functions and point of sales at the Facility.

2. Lamps Plus has secured approval from the County of San Bernardino of all plans and specifications, if necessary, for the proposed operation of the E-Commerce administrative functions and has been issued permits therefor.

3. There is no litigation challenging the validity of any provision of this Agreement or that may have a material adverse effect on the Property or the Facility, Lamps Plus' intended operations or use thereof, or City's payment obligations hereunder.

B. The obligation of the City to make payments to Lamps Plus is contingent upon satisfaction or written waiver by the City of each of the following:

1. Lamps Plus has located the E-Commerce administrative functions and operations, and E-Commerce sales tax to the Facility.

2. Lamps Plus has secured approval from the County of San Bernardino of all plans and specifications, if any, for the proposed E-Commerce operations at the Distribution Center and has paid all necessary fees to entitle Lamps Plus to the issuance of permits therefor.

3. Lamps Plus has performed and complied in all material respects, with all agreements and covenants required by this Agreement to be performed or complied with by Lamps Plus within the time periods required hereunder.

4. Lamps Plus has authorized, in writing, the County of San Bernardino to release and provide to the City all information relating to Lamps Plus' Sales Tax Revenue generated at the Distribution Center.

5. There is no litigation challenging this Agreement or the implementation hereof.

ARTICLE III

DEFAULTS AND REMEDIES

Section 1.06 Default. The occurrence of any or all of the following shall constitute a default ("Default") under this Agreement:

1. Lamps Plus' material Default of the Covenant.

2. The City's material Default of its obligations pursuant to Section 2.02 hereof.

3. The filing of a petition in bankruptcy by or against Lamps Plus or appointment of a receiver or trustee for Lamps Plus, or an assignment by Lamps Plus for the benefit of creditors, or any adjudication that Lamps Plus is insolvent by a court, and failure of Lamps Plus to cause such petition, appointment or assignment to be removed or discharged within sixty (60) days from the date of such adjudication.

Section 1.07 Cure. In the event of any Default under the terms of this Agreement, the nondefaulting Party shall give written notice to the defaulting Party. The defaulting Party shall commence and diligently thereafter pursue the curing of the Default within thirty (30) days after receipt of notice of such Default; provided, however, if such a cure cannot reasonably be completed within such thirty (30) day period, such failure shall not be a Default so long as such Party promptly commences a cure within thirty (30) day period and thereafter diligently prosecutes such cure to completion.

Section 1.08 Remedies. Failure to cure, as specified above, shall be a Default hereunder. Nothing herein is intended to limit or restrict whatever specific performance or other equitable remedies either Party may have in accordance with applicable law; provided, however, that notwithstanding any other provision of this Agreement, the City shall not have the remedy of specific performance to enforce Lamps Plus's Default of the Covenant, or any portion thereof.

Section 1.09 Liquidated Damages. Lamps Plus and the City acknowledge that if Lamps Plus is in Default of, and fails to cure, its obligations under Section 2.01 A(ii) hereof, and such Default is not a result of a Force Majeure event as defined in Section 5.06 hereof, that Default will result in damages being sustained by the City. Lamps Plus and the City further acknowledge that such damages are, and will continue to be, impracticable and difficult to

determine. As liquidated damages and not as a penalty therefor, in the event of such Default, and if the City provides notice of such Default within five (5) years of the date Lamps Plus commences operations, Lamps Plus shall pay to the City a sum equal to the amount of one hundred percent (100%) of the payments made by the City to Lamps Plus, pursuant to Section 2.02 A hereof, as of the date of the Default. For each year after such five (5) year period that the City provides notice of such Default, the amount of liquidated damages shall be reduced by twenty percent (20%) of such amount.

ARTICLE IV

ASSIGNMENT

Section 1.10 Prohibition against Assignment of Agreement.

A. The qualifications and identity of Lamps Plus are of particular concern to the City. It is because of these unique qualifications and the identity of Lamps Plus that the City has entered into this Agreement. No voluntary or involuntary successor-in-interest of Lamps Plus shall acquire any rights or powers under this Agreement, except as expressly set forth herein.

B. Except as otherwise provided in this Agreement, Lamps Plus shall not assign all or any part of this Agreement, without prior written approval of the City which shall not be unreasonably withheld.

C. Lamps Plus may, subject to the prior written approval of the City, assign this Agreement to a separate ownership entity which would assume all of the obligations of Lamps Plus hereunder. Notwithstanding the foregoing, if the aforementioned separate ownership entity is a limited liability entity (such as, without limitation, a limited partnership or limited liability company) in which Lamps Plus owns majority of the voting and ownership interests, or majority of the general partners' interest (an "Approved Assignee"), no approval by the City shall be required for such assignment; provided, however, in the event of a proposed transfer of any interest in such Approved Assignee whereby Lamps Plus would cease to own a majority of such shares of voting and ownership interests, or general partners' interest (except as a result of transfer by inheritance), such transfer shall be deemed an assignment to which the prior written approval of the City shall be required.

D. Lamps Plus may, with prior written notice to the City, but without the City's prior consent, assign this Agreement or any obligation of Lamps Plus under this Agreement, to a subsidiary or affiliate of Lamps Plus. In addition, Lamps Plus may, with prior notice to the City, but without the City's prior consent, assign this Agreement to an entity with which Lamps Plus or the parent of Lamps Plus or any subsidiary or affiliate of Lamps Plus might merge or consolidate.

ARTICLE II

MISCELLANEOUS PROVISIONS

Section 2.01 Compliance With Bradley-Burns Uniform Local Sales and Use Tax Law.

A. Lamps Plus shall carry out the operation of its E-Commerce transactions through the Distribution Center in substantial conformity with the Sales Tax Law.

B. Lamps Plus hereby expressly waives and releases any and all rights, claims and causes of action it may have now, or in the future, to recover any costs or damages from the City pursuant to California Labor Code Section 1781 in the event that any governmental authority or any court classifies the development and operation of the Distribution Center, or any related improvements made to the Property or the Facility by Lamps Plus as a public work or public project. Lamps Plus makes this express waiver with full knowledge of California Civil Code Section 1542 and hereby waives any and all rights it may have thereunder. Civil Code Section 1542 as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

Nothing in this Section 5.01 shall be construed to require Lamps Plus to comply with any laws, regulations or standards which would be applicable in the absence of this Agreement.

Section 2.02 Notices. All notices under this Agreement shall be given in writing by personal delivery, by certified mail or registered United States mail, return receipt requested, postage prepaid, or by facsimile on a business day during business hours in the location where received, and if not then on the next business day, as the case may be. Mailed notices shall be addressed as set forth below, but either party may change its address by giving written notice thereof to the other in accordance with the provisions of this section.

CITY:

City of Redlands
Attention: City Manager
P.O. Box 3005
Redlands, CA 92373

LAMPS PLUS:

Lamps Plus, Inc.
Attention: Clark Linstone
Chief Financial Officer
2025 Plummer Street
Chatsworth, CA 91311

With a copy to:

City of Redlands
Attention: City Attorney
City of Redlands
P.O. Box 3005
Redlands, CA 92373

With a copy to:

Buchalter, Nemer, Fields & Younger
Attention: Philip Wolman, Partner
1000 Wilshire Blvd., Suite 1500
Los Angeles, CA 90017-2457

Section 2.03 Entire Agreement. This Agreement constitutes the entire agreement between the City and Lamps Plus concerning the subject matter hereof, and supersedes all prior agreements and understands whether written or verbal. This agreement may not be modified or amended except in a writing signed by the Parties.

Section 2.04 Attorney's Fees. In the event any action is commenced to enforce or interpret any term or condition of this Agreement the prevailing party in such action, in addition to any costs and other relief, shall be entitled to recover its reasonable attorneys' fees, including fees for use of in-house counsel by a Party.

Section 2.05 Indemnity. Lamps Plus shall defend (with counsel of Lamps Plus's choosing), indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against any and all third party claims, losses, proceedings, damages, causes of action, liability, cost and expenses (including reasonable attorneys' fees) arising from or in connection with or caused by an act, omission or negligence of Lamps Plus and its contractors, agents and employees in connection with the E-commerce functions and operations of the Distribution Center (other than to the extent arising as a result of the City's negligence or willful misconduct). The City shall fully cooperate in the defense of any such actions and upon the written request of Lamps Plus shall provide to Lamps Plus such documents and records in the possession of the City that are relevant to such actions. Notwithstanding the foregoing, should any third party bring any such action or proceeding Lamps Plus shall have the right to terminate this Agreement; and as of such date of termination, all unaccrued liabilities of the parties under this Agreement shall cease except for Lamps Plus' obligation of indemnity owed to the City as provided in this Section 5.05. For purposes of clarification, should Lamps Plus exercise its termination right as provided in this section, the same shall not be considered a Default and the City shall have no claim against Lamps Plus for liquidated damages under Section 3.04.

Section 2.06 Force Majeure. Time for performance hereunder shall be extended by any period of delay caused by circumstances beyond the reasonable control of the Party claiming the delay despite the Party's diligent efforts, other than financial ability, provided the Party claiming the delay provides written notice to the other Party within reasonable period following commencement of any such circumstances which circumstances shall include, without limitation, fire/casualty losses; strikes; litigation; unusually severe weather; inability to secure necessary labor, materials, or tools; environmental remediation, including governmental review and processing of environmental remediation; delays of any contractor, subcontractor or supplier; delay caused by the other Party, and acts of God (collectively, "Force Majeure").

Section 2.07 Interpretation. In this Agreement the neuter gender includes the feminine and masculine, and the singular number includes the plural and the words "person" and "party" include corporation, partnership, firm, trust or association where the context so requires. The Parties agree that each Party and its counsel have reviewed this Agreement and that any rule of construction of the effect that ambiguities are to be resolved against the drafting Party shall not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

Section 2.08 Time of the Essence. Time is of the essence of this Agreement and the Parties' obligations under this Agreement.

Section 2.09 Authority to Execute. The person or persons executing this Agreement on behalf of Lamps Plus warrant and represent that they have authority to execute the Agreement on behalf of Lamps Plus and warrant and represent that they have the authority to bind Lamps Plus to the performance of its obligations hereunder.

Section 2.10 Release of City Officials. No elected official, officer, employee or agent of the City shall be personally liable to Lamps Plus, or any successors-in-interest of Lamps Plus, in the event of any Default or breach by the City or for any amount which may become due to Lamps Plus or its successors, or on any obligations under the terms of this Agreement. Lamps Plus hereby waives and releases any claim it may have against the elected officials, officers, employees' and agents of the City with respect to any Default or breach by the City or for any amount which may be come due to Lamps Plus or its successors, or on any obligations under the terms of this Agreement. Lamps Plus makes such release with full knowledge of California Civil Code Section 1542, and hereby waives any and all rights thereunder to the extent of this release. Civil Code 1542 provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

Section 2.11 Headings. The headings to the sections of this Agreement have been inserted for convenience only and shall not, to any extent, have the effect of modifying, amending or changing the expressed terms and provisions of the Agreement.

Section 2.12 Venue. In the event of any litigation under this Agreement, all such actions shall be instituted in the Superior Court of the County of San Bernardino, State of California, or in the United States District Court, Central District of California, Eastern Division.

Section 2.13 Applicable Law. This Agreement shall be governed by and constructed in accordance with the laws of the State of California, without giving effect to its conflict of law principles.

Section 2.14 Successors and Assigns. The provisions of this Agreement shall be binding upon, and inure to the benefit of, the City and Lamps Plus and their respective successors and assigns.

Section 2.15 No Joint Venture. Nothing contained in this Agreement shall be constructed to render the City in any way, or for any purpose, a partner, joint venture, or associated in any relationship with Lamps Plus nor shall this Agreement be constructed to authorize any Party to act as an agent for the other.

Section 2.16 No Third Party Beneficiaries. No provisions, term or condition of this Agreement is intended to, nor shall be constructed as conferring any benefit to, any third party, person or entity.

Section 2.17 Waiver. The waiver by the City or Lamps Plus of any breach by the other Party of any term, covenant or condition contained in this Agreement shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. Any Party's acceptance of any performance by the other Party after the due date of such performance shall not be deemed to be a waiver by any Party or any proceeding breach by the other Party of any term, covenant or condition of the Agreement, regardless of such party's knowledge of such proceeding breach at the time of acceptance of such performance.

Section 2.18 Severability. Each provision, term, condition, covenant and/or restriction, in whole and in part, of this Agreement shall be considered severable. In the event any provision, term, condition, covenant and/or restriction, in whole and/or part, of this Agreement is declared invalid, unconstitutional or void for any reason, such provision, term, condition, covenant and/or restriction of this Agreement, and the remainder of this Agreement shall continue in full force and effect unless to do so would deprive one of the Parties of a material benefit of its bargain under this Agreement.

Section 2.19 Counterparts. This Agreement may be executed and acknowledged in multiple counterparts each of which shall be deemed an original, but all of which shall constitute one Agreement, binding on the Parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first written above.

CITY OF REDLANDS



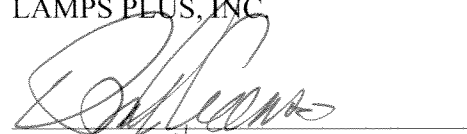
Mayor

ATTEST:



City Clerk

LAMPS PLUS, INC



By: DENNIS SWANSON
Title: PRESIDENT