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ALAMEDA COUNTY

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CLERK OF THE SUPERIOR COURT
By *[Signature]* Deputy

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA
UNLIMITED JURISDICTION

VICTOR FERNANDEZ, and
SEIFEDDIN ABURAS, and each of
them for themselves individually, and
for all other persons similarly
situated,

Case No.: RG13683606

**PLAINTIFFS' FIRST AMENDED
CLASS ACTION COMPLAINT FOR
DAMAGES AND INJUNCTIVE
RELIEF;**

Plaintiffs,

vs.

VILLAS PAPILLON, LLC and
DOES 1-30,

Defendants.

Plaintiffs, VICTOR FERNANDEZ, SEIFEDDIN ABURAS, and each of them for
themselves individually, and for all other persons similarly situated, alleges as follows:

PRELIMINARY STATEMENT

Plaintiffs represent a class of past, present and prospective tenants (hereinafter "Class
Members") of Defendants VILLAS PAPILLON, LLC and DOES 1-30 (hereinafter
"Defendants") which rents approximately 100 apartment units in the City of Fremont, Alameda
County. Plaintiffs are informed and believe and thereon allege that Defendants have owned the
property which is located at 4022 Papillon Terrace, Fremont, CA 94538 (herein "Subject

Fernandez, et. al v. Villas Papillon, LLC
First Amended Complaint for Damages,

1 Premises”) since on or around March 6, 1999.

2 As part of their course of business Defendants collect unlawfully increased rents from the
3 Class Members at the Subject Premises. The collection of rent by the Defendants violates
4 California law and the City of Fremont Municipal Code. As a result of this illegal conduct,
5 Defendants jeopardize the health and safety of their tenants and the community at large, and
6 deprive Class Members of the financial means to acquire alternate housing, and gains an unfair
7 advantage over law-abiding competitors who provide rental housing.

8 ALLEGATIONS

9 1. This is a class action pursuant to Code of Civil Procedure §382 seeking damages,
10 injunctive and other equitable relief on behalf of the Class Members and all persons similarly
11 situated who are, have been and will become tenants of the Defendants, and those who have been
12 or are at risk of being unlawfully deprived of money.

13 2. The “Class Period” is designated as the time period from four years prior of this
14 filing in Superior Court. During the Class Period, Defendants have a consistent policy of
15 increasing rents of the Class Members in violation of the laws of California and the City of
16 Fremont.

17 3. Plaintiffs are informed and believes, and thereon alleges, that Defendants, and
18 DOES 1-30 owned, controlled, and/or managed the units that Class Members resided in during
19 all relevant periods of time in this complaint.

20 4. Pursuant to Civil Code Section 827, landlords may only raise residential tenants
21 rents upon written notice and in compliance with this code. Defendants have consistent policy of
22 increasing rents of the Class Members in violation of this code. Class Members are tenants as
23 defined within Civil Code Section 827. Defendants are landlords as defined within Civil Code
24 Section 827.

25 5. Pursuant to The City of Fremont's Residential Rent Increase Dispute Resolution
26 Ordinance (Hereinafter, “RRIDRO”), landlords within the City of Fremont may only raise
27 residential tenants rents as prescribed by the City of Fremont Municipal Code. Defendants have
28 consistent policy of increasing rents of the Class Members in violation RRIDRO. Class

1 Members are tenants as defined within RRIDRO. Defendants are landlords as defined within
2 RRIDRO.

3 6. Class Members are informed, believe and on that basis allege that commencing at
4 a time well prior to the Class Period, Defendants in collusion with each and all other Defendants,
5 devised and engaged in a course of business conduct designed and intended to violate the Civil
6 Code Section 827 and RRIDRO. During the course of their tenancies all Class Members
7 received notices of change of terms of tenancy which raised the rent in their respective units.
8 Each of the notices of change of terms of tenancy which was given to the Class Members
9 violated the Civil Code Section 827 and RRIDRO. During their tenancies, Class Members have
10 paid rents which were unlawfully raised, or are in jeopardy of paying rents which were
11 unlawfully raised, to the Defendants pursuant to the notices of change of terms of tenancy.
12 Moreover, the amounts of rent which are raised by the Defendants in violation of Civil Code
13 Section 827 and RRIDRO are individually so small that it is economically unfeasible for the
14 Class Members to pursue his/her remedies alone.

15 7. Defendants DOES 1-30 are individuals and/or business entities doing business in
16 the County of Alameda and/or who are contracted to do work in the County of Alameda. Each
17 and every Defendant was at all relevant time the agents and/or employees of other Defendants
18 and acted within the scope of said agency and/or employment. Class Members do not know the
19 true names of Defendants identified as DOES 1-30, but will seek leave to amend this complaint
20 if and when Class Members discovers the identity of any of the Defendants now sued under the
21 fictitious names DOES 1-30.

22 8. In committing the acts complained of herein, each Defendant acted as the
23 authorized agent, employee, and/or representative of each other Defendant. Each act of each
24 Defendants complained of herein was committed within the scope of said agency, employment,
25 or other representation, and each act was ratified by each other Defendant. Each Defendant is
26 liable, in whole or in part, for the damages and injuries suffered by Class Members.

27 9. This court is the proper court because Defendants do business in its jurisdictional
28 area, the damage to Class Members—and the making of the contract which is the subject of this

1 action—occurred within its jurisdictional area.

2 10. Named Plaintiffs and Class Members are informed and believe, and thereon
3 allege, that at all relevant times, Defendants were named Plaintiffs' and Class Members'
4 landlords, and Class Members was the tenant of Defendants as those terms, "landlord" and
5 "tenant" are defined under California Common Law, under California Code of Civil Procedure §
6 1161 et seq. and under California Civil Code § 1980.

7 11. On or about June 24, 2003, SEIFEDDIN ABURAS, as tenant, and Defendants as
8 owner and/or agent and/or lessor, entered into a written agreement to rent the premises located at
9 4051 Budwing Terrace Fremont CA 94538 to SEIFEDDIN ABURAS. A copy of this agreement
10 is attached hereto as Exhibit A. Defendants have increased Plaintiff SEIFEDDIN ABURAS' rent
11 annually throughout the tenancy. All of the increases of rent have been in violation of Civil Code
12 Section 827 and RRIDRO. Plaintiff SEIFEDDIN ABURAS' monthly rent during the year of
13 2013 is \$1,600.00.

14 12. On or about April 1, 2004, VICTOR FERNANDEZ, as tenant, and Defendants as
15 owner and/or agent and/or lessor, entered into a written agreement to rent the premises located at
16 4067 Budwing Terrace Fremont CA 94538 to VICTOR FERNANDEZ. A copy of this
17 agreement is attached hereto as Exhibit B. Defendants have increased Plaintiff VICTOR
18 FERNANDEZ's rent annually throughout the tenancy. All of the increases of rent have been in
19 violation of Civil Code Section 827 and RRIDRO. Plaintiff VICTOR FERNANDEZ's monthly
20 rent during the year of 2013 is \$1,520.00.

21 13. Defendants named herein were the owners and/or property managers or the agents
22 and/or employees of the owners and/or property managers of the Subject Premises during all time
23 periods relevant herein.

24 14. Class Members suffered emotional distress, physical injury, over-payment of rent,
25 and out-of-pocket expenses as a result of the acts and/or omissions committed by Defendants.

26 **CLASS ALLEGATIONS**

27 15. Named Plaintiffs bring this action on behalf of themselves and as representatives
28 of the Class Members similarly situated who have been proximately damaged or are currently at

1 risk of being damaged by the Defendants, including all former tenants of the Defendants who
2 have paid unlawfully increased amounts of rent.

3 16. This action has been brought and may be properly maintained as a class action
4 under Code of Civil Procedure §382 because there is a well defined community of interest in the
5 litigation and the proposed class is easily ascertainable.

6 a. **Commonality:** The named Plaintiffs, and the Class Members are all tenants, and
7 former tenants of the Defendants who have paid Defendants rents which were
8 unlawfully increased. The Plaintiffs, and the Class Members all share a common
9 question of law and fact which predominate over any question or issue solely
10 affecting individual members including but not necessarily limited to:

11 i. Whether Defendants have raised rents of their tenants in violation
12 of Civil Code Section 827 and RRIDRO.

13 ii. Whether Defendants have collected unlawfully raised rents from
14 the named Plaintiffs and Class Members.

15 iii. Whether the Defendants have breached the covenant of good faith
16 and fair dealing with their tenants by unlawfully raising and collecting
17 their tenants rents at the Subject Premises.

18 iv. Whether the Defendants unlawful raising and collecting rents
19 constitutes an unlawful business practice, unfair business practice or an act
20 prohibited by the Business and Professions Code Section 17200, et seq.

21 b. **Typicality:** The claims of the named Plaintiff are typical of the claims of the
22 Class Members. The named Plaintiffs and all Class Members are sustaining, have
23 sustained, or are at risk of sustaining, injuries and damages arising out of and
24 caused by the Defendants conduct as alleged in the complaint herein.

25 c. **Numerosity:** A class action is the only available method for the fair and efficient
26 adjudication of this controversy, as the Court can resolve the matter in one rather
27 than numerous lawsuits. Plaintiff are informed, believe and allege thereon that the
28 Defendants own and/or rent at least approximately 100 residential units within the

1 County of Alameda, and that the turnover on these units is such that the Class
2 Members are likely to exceed 200. Membership will be determined upon an
3 analysis of the Defendants rental agreements, notices of change of terms of
4 tenancy, notices of eviction, and written communications to the named Plaintiffs
5 and the Class Members.

6 d. **Superiority of Class Action:** The damages suffered by individual named
7 Plaintiffs and Class Members, while not inconsequential, may be relatively small,
8 and the expense and burden of individual litigation by each individual. Moreover,
9 this fact is known by the Defendants, and this reality makes it impractical of Class
10 members to seek redress individually for the wrongful conduct alleged herein. A
11 class action is a superior method of resolving this dispute and securing justice. In
12 addition judicial economy would be enhanced as a multiplicity of lawsuits, undue
13 hardship and expense for both the Court and the litigants will be avoided. In
14 addition, the prosecution of separate actions would create a risk of inconsistent
15 rulings, which might be dispositive of the interests of the other Class Members
16 who are not parties to the adjudications and/or may substantially impede their
17 ability to adequately protect their interests.

18 e. **Adequacy of Representation:** The named Plaintiffs in this action are adequate
19 representatives of the Class in that their claims are typical of those in the Class.
20 They have been damaged as alleged herein and they are willing to go forward.
21 Further, they have retained competent counsel who are ready, willing and able to
22 vigorously prosecute this action.

23 COMMON FACTUAL ALLEGATIONS

24 17. As alleged herein, Class Members are informed, believe and on that basis allege
25 that commencing at a time well prior to the Class Period, Defendants in collusion with each and
26 all other Defendants, devised and engaged in a course of business conduct designed and intended
27 to violate the Civil Code Section 827 and RRIDRO. During the course of their tenancies all
28 Class Members received notices of change of terms of tenancy which raised the rent in their

1 respective units. Each of the notices of change of terms of tenancy which was given to the Class
2 Members violated the Civil Code Section 827 and RRIDRO. During their tenancies, Class
3 Members have paid rents which were unlawfully raised, or are in jeopardy of paying rents which
4 were unlawfully raised, to the Defendants pursuant to the notices of change of terms of tenancy.
5 Moreover, the amounts of rent which are raised by the Defendants in violation of Civil Code
6 Section 827 and RRIDRO are individually so small that it is economically unfeasible for the
7 Class Members to pursue his/her remedies alone.

8 18. All of the named Plaintiffs were and/or are tenants of the Defendants under leases
9 to residential units within this County. All of the named Plaintiffs and the Class Members have
10 paid unlawfully increased rental amounts to the Defendants, or are at risk of paying unlawfully
11 increased rental amounts to the Defendants.

12 19. As a direct and proximate result of the Defendants unlawful conduct, as set forth
13 in this complaint, named Plaintiffs and Class Members have sustained damages and/or are
14 entitled to the relief as described above, including but not limited to, (1) a return of all rents
15 which were unlawfully obtained by the Defendants; (2) statutory interest on such amounts
16 according to proof; (3) additional statutory damages of each Plaintiff and per Class Member due
17 the acts and omission of the Defendants according to proof; (4) attorneys fees pursuant to
18 contract and statute; (5) injunctive relief according to proof, including restorative damages of
19 money wrongfully retained by Defendants, and interest thereon.

20 20. In addition to the foregoing, this action will result in the enforcement of important
21 rights affecting the public interest, to wit: the right of the tenants of residential units to have their
22 residential rental amounts determined in a lawful manner and free of harassment and
23 intimidation. The successful conclusion of this litigation will confer a significant benefit on the
24 general public and a large class of persons. Accordingly, Plaintiffs and Class Members are
25 entitled to an award of attorneys' fees pursuant to California code of Civil Procedure Section
26 1021.5. The necessity and financial burden of the private enforcement are such as to make such
27 an award appropriate. Such fees should not, in the interest of justice, be paid out of the recovery.

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1 21. During the month of November 2013 Defendants approached all class members,
2 including class representatives, and attempted to and/or did enforce the illegal rent increases.
3 Defendants attempts to and/or acts to enforce the illegal rent increases include offering to return
4 portions of the illegally increased rents while retaining portions of the illegally increased rents.
5 All of said acts by the Defendants constituted a violation of the Fremont Municipal Code,
6 Chapter 9.60. Moreover, said actions constituted an illegal rent increase in violation of the
7 Fremont Municipal Code, Chapter 9.60.

8 22. Wherefore named Plaintiffs and Class Members pray for the damages stated
9 below.

10
11 **FIRST CAUSE OF ACTION**
12 **BREACH OF CONTRACT - CAL. CIVIL CODE §3300 et seq.**
13 **(Named Plaintiff and Class Members v. All Defendants)**

14 23. Named Plaintiffs and Class Members re-alleges and incorporates into this cause of
15 action the allegations of paragraphs 1 through 22, as if the same were set out at length herein.

16 24. Named Plaintiffs and Class Members and Defendants entered into a written
17 residential rental agreement. Defendants were obligated to perform under the terms of this
18 agreement. Named Plaintiffs and Class Members performed or was excused from performing
19 their obligations under the contract. A covenant of good faith and fair dealing is contained in
20 every residential rental lease and/or agreement in the State of California pursuant to state statute
21 and common law.

22 25. Defendants breached the terms of said agreement on multiple occasions during the
23 term of preceding the filing of this complaint by unlawfully raising the Named Plaintiffs and
24 Class Members rents. Said conduct also breached the covenant of good faith and fair dealing
25 contained in all the relevant rental agreements.

26 26. As a result of all Defendants' conduct named Plaintiffs and Class Members
27 suffered damages including overpayment of rent, out of pocket expenses, physical and mental
28 discomfort, and other damages to be ascertained at trial.

 27. Wherefore named Plaintiffs and Class Members prays for the damages stated
below.

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SECOND CAUSE OF ACTION
VIOLATION OF TITLE 9, CHAPTER 9.60 OF THE FREMONT MUNICIPAL CODE
(Named Plaintiff and Class Members v. All Defendants)

28. Named Plaintiffs and Class Members re-alleges and incorporates into this cause of action the allegations of paragraphs 1 through 22, as if the same were set out at length herein.

29. As tenants of residential property located in Fremont, California and subject to The City of Fremont's Residential Rent Increase Dispute Resolution Ordinance (Hereinafter, "RRIDRO"), Named Plaintiffs and Class Members are entitled to bring an action against all Defendants who have violated said Ordinance to their detriment.

30. RRIDRO provides safeguards for tenants in Fremont from illegal rent increases. Pursuant to the RRIDRO every landlord of residential rental property may only increase rents as proscribed by the Ordinance, including providing notice of said increase which contains the required information as detailed in the RRIDRO. Any rent increase accomplished in violation of the RRIDRO shall be void. Moreover, pursuant to the RRIDRO when a landlord wrongfully or illegally increases a tenants rent, a Plaintiff is entitled to bring an action for damages for any illegal rent increase amounts which were paid.

31. Defendants have violated the RRIDRO, by illegally increasing the named Plaintiffs' and Class Members rent throughout their tenancies, said rental increases failed to comply with RRIDRO, and did not advise named Plaintiff's and Class Members of their rights to dispute Defendants rent increases, or advising them of the RRIDRO.

32. Named Plaintiffs' and Class Members were harmed by these violations in that they were forced to pay illegal rent increase amounts. Named Plaintiffs' have also been force to hire an attorney to enforce their rights.

33. Wherefore named Plaintiffs and Class Members prays for the damages stated below.

THIRD CAUSE OF ACTION
UNFAIR BUSINESS PRACTICE - VIOLATION OF CALIFORNIA BUSINESS AND
PROFESSIONS CODE §§17200, et seq., 17500
(Named Plaintiff and Class Members v. All Defendants)

34. Named Plaintiffs and Class Members re-allege and incorporate into this cause of action the allegations of paragraphs 1 through 22, as if the same were set out at length herein.

1 35. Named Plaintiffs and Class Members bring this cause of action on named
2 Plaintiffs' own behalf, on behalf of the Class Members and all persons similarly situated, and on
3 behalf of the People of the State of California.

4 36. By reason of Defendants' failure to comply with state and local law for the
5 management of real property, Defendants' conduct constitutes an unfair and/or unlawful business
6 practice as set forth in California Business and Professions Code §17200 - §17208. Specifically,
7 Defendants conducted business activities in violation of the legal mandates as alleged herein.

8 37. The conduct of the Defendants, as alleged in this complaint, constitutes unfair
9 and/or unlawful business practices. Plaintiffs are informed and believe and thereon allege that it
10 is the regular practice of Defendants to intentionally disregard the rights of tenants and violate
11 applicable laws relating to tenancies in their buildings in ways that include, but are not limited to,
12 unlawfully raising and collecting tenants rents.

13 38. The conduct of the Defendants, and each of them, is continuing and constitutes an
14 ongoing threat and deterrent to the current tenants at the Subject Premises. For that reason,
15 among others, an injunction in the from set forth in the below prayer, which incorporated herein
16 by reference, against the continuation of such conduct is reasonable, equitable and appropriate
17 and should be ordered.

18 39. Because this conduct is continuing in nature as alleged, there is no adequate
19 remedy at law with respect to the ongoing business activities of the Defendants, thus
20 necessitating injunctive relief to protect those tenants and other landlords who conduct their
21 business fairly, honestly and in compliance with applicable laws.

22 40. At all times herein relevant, Defendants were conducting business under the laws
23 of the State of California, the County of Alameda, and the City of Fremont. In conducting said
24 business, Defendants were obligated to comply with the laws of the State of California, the
25 County of Alameda, and the City of Fremont.

26 41. As a direct and proximate result of Defendants' conduct, Defendants have accrued
27 unjust enrichment.

28 42. Wherefore named Plaintiffs and Class Members pray for the relief stated below.

1
2 **PRAYER**

3 WHEREFORE Plaintiff prays for judgment as follows as to all Defendants:

4 A. For an Order certifying the proosed and/or any other appropriate sub-classes
5 under the Code of Civil Procedure Section 382.

6 B. For an award to the named Plaintiffs and Class Members of damages for
7 all of the unlawfully increased and collected rents within the Class Period, including statutory
8 interest thereon and statutory damages to each member of the Class in amounts to be proven at
9 trial.

10 C. That Defendants be restrained, enjoined and ordered to disgorge all profits
11 obtained by them and to pay restitution to Plaintiffs and Class Members and others similarly
12 situated, together with statutory interest thereon, on account of their violations of Business and
13 Professions Code §§17200-17208.

14 D. That the Defendants be restrained and enjoined to cease and desist from
15 further unlawful activities in violation of Business and Professions Code §17200, et. seq.
16 including orders for the publication of this injunction, and its dissemination to all current tenants.

17 E. That the Court appoint an independent Trustee/Receiver to accept and
18 retain all rents collected by the Defendants to prevent the continued collection of unlawfully
19 increased rent.

20 F. For general damages according to proof for each cause of action;

21 G. For special damages according to proof for each cause of action;

22 H. For compensatory damages according to proof;

23 I. For incidental expenses, past, present and future,

24 J. For interest on the amount of losses incurred at the prevailing legal rate;

25 K. For attorney's fees according to contract and statute pursuant to CCP
§1021.5;

26 L. For treble damages pursuant to Civil Code §1947.11

27 M. For costs of suit incurred herein;

28 N. For pre-judgment interest;

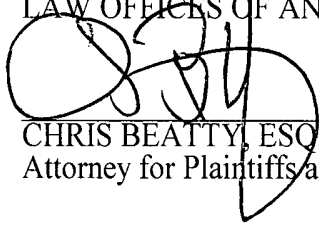
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O. For statutory penalties;

P. For such other and further relief which this Court deems just and proper.

Dated: May 20, 2014

LAW OFFICES OF ANDREW WOLFF, PC



CHRIS BEATTY, ESQ.
Attorney for Plaintiffs and Class Members

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EXHIBIT A

RENTAL AGREEMENT
VILLAS PAPILLON
Apartment No 4051

This agreement is entered into between Villas Papillon, (hereafter landlord) and the following individuals, jointly and severally (hereafter collectively Resident(s)) **SEIFEDDIN ABDELREHIM ABURAS AND WIDAD ABDEL RAHIM ABURAS**
LEASED PREMISES: Landlord rents to resident(s) the premises located at: **4051 BUDWING TERRACE FREMONT, CA 94538**, County of Alameda, California (hereafter "the premises") for use As a residence and for no other purpose, beginning on: **JUNE 24, 2003**. This agreement shall be a **six-month (6) lease**, beginning on: **JUNE 24, 2003** and ending on: **DECEMBER 23, 2003**. Resident(s) agree to give thirty days (30) written notice pursuant to California Civil Code section 1946. And pay last month's rent by cashier's check or money order only upon said 30 days written notice.

1. **RENT:** Resident(s) shall pay to Landlord, as rent for said premises, the sum of **\$ 1250.00** each month, in advance, on or before the first day of each month at **4022 PAPILLON Terrace, Fremont, Ca 94538**. If in any month the rent is paid after the 3rd of the month a **\$50.00** late fee will be assessed, payment must be made in the form of a cashier's check or money order. If Landlord serves Resident(s) with a three-day notice to pay rent or surrender possession, which Landlord may do so after the first day of the month, any payment tendered following said notice must be in the form of a cashier's check or money order. If any check given by the Resident (S) is, for any reason whatsoever, returned by the bank upon which it is drawn, a **\$25.00 NSF** fee is charged as well as the late fee. All subsequent payments for balance of resident(s) occupancy of the premises (including the payment necessary to replace the dishonored check) must be in the form of a cashier's check or money order unless Landlord agrees, in writing, to waive this requirement. It is Resident (S) responsibility to be certain that each payment is actually received by Landlord on or before its due date in this connection it is recommended that Resident(s) personally deliver the payment to the leasing office and request a receipt. Use of rental payment drop box is for Resident(s)' convenience- the risk of receipt of funds by Landlord when such box is used is Resident(s)' and not Landlord's.
2. **RENTAL PRO-RATION:** Resident(s) shall pay to Landlord, before taking occupancy of the premises, one full month's rent in addition to a security deposit (see paragraph # 6). The pro-rated rent in the amount of **\$ 292.00** is due on **JULY 1, 2003**. Commencing on: **AUGUST 1, 2003** a full months rent shall be due each month on or before the first day of the month set forth in paragraph # 3 above. In the event of a conflict between the amount set forth in this paragraph and the amount which an arithmetic computation would yield based upon the rental rate set forth in paragraph # 3 divided by thirty with the result multiplied by the number of days in the pro-ration period, the amount determined by said arithmetic computation shall govern (i.e., the amount set forth in this paragraph is computed incorrectly, any such arithmetic error shall not be binding- the amount owing shall be the amount resulting from correct arithmetic computation of the pro-rate). In all instances where a pro-rated amount of rent is computed during this Residency, a thirty-day month shall be assumed irrespective of the actual number of days in the month for which the pro-ration is computed.
3. **OCCUPANCY:** The premises shall be occupied only by the Resident(s) named above and following persons: (**NONE**)
No other persons have permission to occupy the premises unless such permission is in writing and signed by the Landlord or it's authorized agent. The acceptance of rent from any other individual shall be deemed the guest or invitee of the named Resident(s) named above, and shall not constitute permission for the person making payment to occupy the premises. Should any person not named in the above make any claim to right of possession of the premises, any such person shall be deemed the guest or invitee of the named Resident(s) and their claim to right of possession shall be denied. Any person named above in this paragraph # 5 who is not also named above as a Resident and/or who is not a signatory to this agreement shall be deemed to occupy the premises under named Resident(s) who are signatories to this agreement and shall thus be deemed the invitees of said Resident(s). Accordingly, should any such individual not be named in any unlawful detainer action to regain possession of the premises, and should any such individual thereafter make a claim to right of possession of the premises, that claim shall be denied on the basis that said individual is the invitee of the named Resident(s) and does not have an independent claim to right of possession of the premises. Guests staying longer than 15 days without written consent of the Owner/agent shall constitute a material breach of this agreement.
4. **SECURITY DEPOSIT:** Resident(s) shall pay to Landlord, as security, the sum of **\$ 800.00**. This sum shall be applied and accounted for in accordance with the provisions of California Civil Code section 1950.5 and other applicable statutes. Landlord shall not be obligated to pay Resident(s) interest in connection with such security. It is understood that the security deposit is applicable to all Resident(s) jointly, and need not be accounted for until the permissible statutory period for such time as all Resident(s) have vacated the premises. Any refund due at such time will be made payable jointly to all resident(s) and shall be the responsibility of all Resident(s) to work out between themselves the manner of dividing said deposit.
5. **UTILITIES:** Payment of all utility charges shall be the responsibility of the Resident(s), with the exception of water and trash collection, which shall be paid by the Landlord. With respect to the utility charges listed above to be paid by Landlord Resident(s) shall not make excessive or unreasonable use of said utilities.
6. **ROOMMATES, JOINTLY AND SEVERAL LIABILITIES:** All persons signing this agreement, as Resident(s) shall remain jointly and severally liable for all obligations arising hereunder. Resident(s) agree that the entire rent for each month is due and payable on or before the first of each month. Should rent be paid with more than one check, all checks are to be submitted together. Residents agree that if for any reason one resident vacates prior to the others, the security deposit on hand will be held on the apartment until such time that the apartment is fully vacated. Resident(s) agree that management is to qualify any new roommate prior to occupying the premises.
7. **NOTICES:** Any notice, which Landlord gives to Resident(s), shall be deemed properly served whether or not actually received by Resident(s) if served in the manner in Code of Civil Procedure section 1162. If Landlord fails to serve the notice in accordance with the provisions of Code of Civil Procedure section 1162, but Resident(s) actually receive the notice, the actual receipt shall be deemed to cure any defects in the manner of service and the notice shall be deemed properly and personally served. Service upon any of the Resident(s) of the premises shall be deemed valid service upon all Resident(s) - it is not necessary to individually serve each Resident.
8. **PARKING:** Parking spaces are designated for resident(s) only on the premises. They are to be used for parking of Resident(s) passenger automobiles. Said space shall not be used for washing, painting or repair of vehicles. Resident(s) is responsible for oil leaks and other vehicle discharge and for any cleaning thereof deemed necessary by Owner/agent. Guests may not park on the premises. Resident acknowledges that any vehicle found abandoned, inoperable, or illegally parked on the premises will be subject to tow. Resident(s) assumes all responsibility for towing charges incurred.
9. **ACCESS TO PREMISES:** The parties agree that the provisions of California Civil Code section 1954 (and any other applicable statutes or amendments which might be enacted subsequent to execution of this agreement) govern the rights and duties relating to Landlord's access to leased premises. Resident(s) agree to comply with said statutory provisions and to permit Landlord access to the premises in accordance with said provisions. Resident(s) agree that, should they deny Landlord access to the premises when Landlord is in compliance with statutory requirements and entitled to access, any such denial of access shall be deemed a material and incurable breach of this agreement and shall entitle Landlord to serve Resident(s) with a three day notice terminating the residency.
10. **USE OF PREMISES:** Resident(s) agree that the premises are rented for residential use only. Resident(s) shall not use the premises as a business address, nor shall Resident(s) conduct any business activities on the premises. Conducting business activities includes, without limitation, using the premises as a mailing address for a business enterprise, having a business telephone line in the premises, having business clients meet with Resident(s) at the premises, having business stationary setting forth the address of the premises as a business address, assembling or manufacturing any product upon the premises, or otherwise holding out the premises as the address of any business. Resident(s) additionally agree not to permit the premises to be used for any illegal purpose, nor engage in any illegal acts upon the premises or upon the grounds of the apartment property. Resident(s) agree not to have any illegal narcotics in the premises or on the grounds of the apartment property. The violation of this provision shall be deemed a material and incurable breach of this agreement and shall entitle Landlord to serve Resident(s) a three-day notice terminating residency.
11. **ASSIGNMENT AND SUBLETTING:** Resident(s) shall not assign this agreement nor sublet all or any part of the leased premises. Permitting any person not named as an occupant or as a Resident in this agreement to occupy the leased premises shall be deemed an improper subletting of the leased premises and shall subject the residency to termination. Any attempted subletting or assignment in violation of this provision shall be void.

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12. **ALTERATIONS:** Except as provided by law, Resident(s) agrees not to make any alterations or improvements to the premises without prior written consent of the Landlord.
13. **LIABILITY:** Landlord shall not be liable to Resident(s) or any guests or invitees of Resident(s) for any damage or losses to person or property arising from any cause including, but not limited to, theft, burglary, assault, vandalism, fire, flood, water leaks, rain, hail, ice, snow, smoke, lightning, wind, explosion, interruption of utilities, earthquake, or any other cause not directly caused by willful acts of Landlord. Generally, except under certain circumstances, the Landlord is NOT legally responsible for loss to resident's personal property, possessions or personal liability, and OWNER'S INSURANCE WILL NOT COVER such losses or damages. If damages or injury to owner's property is caused by Resident(s) or Resident's guests, invitees, child/children, the owner's insurance company may have the right to attempt under subrogation clause to recover from Resident(s) payments made under owner's insurance policy. Resident(s) agree to obtain Renter's Insurance in an amount sufficient to cover any personal possessions of Resident(s) together with a reasonable level of liability coverage for the actions of Resident(s) or Resident(s)' guests or invitees.
14. **MEGAN'S LAW DATABASE:** The California department of Justice, Sheriff's department, police departments serving jurisdictions of 200,000 or more and many other local law enforcement authorities maintain for public access a data base of the locations of persons required to register pursuant to paragraph (1) of subdivision (a) of section 290.4 of the Penal Code. The database is updated on a quarterly basis and is a source of information about the presence of these individuals in any neighborhood. The Department of Justice also maintains a Sex Offender identification Line through which inquiries about individuals may be made. This is a "900" telephone service. Callers must have specific information about individuals they are checking. Information regarding neighborhoods is not available through the "900" telephone service.
15. **HOUSE RULES:** Resident(s) acknowledges receipt of a copy of the House Rules, which Rules are incorporated into and made a part of this agreement. Resident(s) agrees to abide by said House Rules in all respects. Any House Rules may be changed on thirty days notice, and Resident(s) agrees to abide by such changes. Any failure to comply with House Rules shall be deemed a breach of this agreement.
16. **PETS:** No pets are permitted without prior written consent of the Landlord. Any such consent may be revoked at any time, with or without cause, by giving ten(10) days written notice. Except to the extent written permission is given, pets may not be brought upon the premises, whether such pets belong to Resident(s) or any other person. The presence of any pets as to which written permission has not been given and is not currently in-force, even if such pets are "just visiting", shall be deemed a material and incurable breach of this agreement and shall be cause for the service of a three day notice terminating the residency.
17. **SATELLITE DISHES:** If Resident(s) chooses to install an individual satellite dish at the unit, it must be one meter (approximately 3 feet, 3 inches) or less in diameter or a traditional stick antenna. Resident(s) may not install a satellite dish or antenna in any such common areas, drill holes through walls, roofs, balcony railings, or glass, or mount a satellite dish/antenna in a manner that will cause more than ordinary wear and tear.
18. **HOLD HARMLESS:** Resident(s) agrees to indemnify and hold Landlord harmless and to indemnify Landlord for any costs of defense from any claims arising out of any death or injury to any person, or any damage to property, if such injury or damage is caused directly or indirectly by act, omission, negligence, or fault of Resident(s) or Resident(s) guest(s) or invitee(s).
19. **LEAD BASED PAINT DISCLOSURE:** Landlord has no knowledge of lead-based paint and/or lead-based paint hazards in the premises. Resident(s) has received the pamphlet; protect your family from lead in your home. Initial _____.
20. **ATTORNEY'S FEES:** In the event of any litigation relating to this agreement or the rights or liabilities of any party arising hereunder, Resident(s) shall pay to Landlord its attorney's fees and court costs incurred in such litigation, not to exceed a maximum total of \$800.00 fees.
21. **WAIVER:** Landlord's failure on any occasion to require strict compliance with any provision of this agreement or to exercise any rights arising hereunder shall not be deemed a waiver of Landlord's right to subsequently enforce any such provision or insist upon any such right. The fact that Landlord may have accepted late payments on one or more occasions shall not be deemed a waiver of Landlord's right to insist upon timely payment of rent nor to exercise any remedy available for late payment of rent. Acceptance of rent following a breach of this agreement shall not constitute a waiver of such breach. No custom or practice, which may develop between parties in the course of the residency, shall be construed to waive or lessen the right of Landlord to enforce any provision of this agreement.
22. **TIME IS OF THE ESSENCE:** Time is of the essence with respect to the provisions of this agreement. This provision shall be interpreted in its strictest sense irrespective of the relative hardship to the parties.
23. **ENTIRE AGREEMENT:** this agreement sets forth the entire agreement between the parties with respect to the matters set forth herein. It shall not be altered nor modified unless such alterations or modification is in writing and signed by all signatories hereto. No verbal agreements or representations have been made or relied upon by either party or any agent or employee of either party, and neither party nor any agent or employee of either party is entitled to alter any provisions of this agreement by verbal representations or agreements to be made subsequent to the execution of this agreement. The foregoing notwithstanding, should Resident(s) hold over after the expiration of the lease term on a month-to-month holdover basis. Landlord may change any provision of this agreement without consent of Resident(s) in the manner prescribed by California Civil Code section 827.
24. **SIGNATORIES:** The undersigned Resident(s), whether or not in actual possession of the premises, are jointly and responsible for all obligations arising hereunder (see paragraph # 9 above). This agreement shall not be considered to be in full force and effect until signed.
25. **CALIF. SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT.** California health and Safety Code, section 25249.5. Under California Safe Drinking Water and Toxic Enforcement Act. Known as Proposition 65; This act requires that notice be given of the presence of any chemicals known to cause cancer. The ambiguously worded act applies to certain chemicals in products ranging from foods, drugs, and cosmetics to building materials. The latest list contains over 150 different chemicals. The majority of apartments have acoustic ceilings, and the majority of acoustic ceilings have a small percentage of asbestos content. Above a certain limit asbestos can cause cancer. In addition to acoustic ceilings, asbestos-containing materials were commonly used in paper tape, insulation, furnace ducts and certain types of floor tiles. Please note: Detectable amounts of chemicals known to the State of California to cause cancer, birth defects or the reproductive harm may be found in and/or around this facility. (Proposition 65, California health and Safety Code, Section 25249.5). You are prohibited from making any alterations in your apartment such as replacement of light fixtures or puncturing holes for ceiling hooks, which may cause a disturbance to the ceiling. In keeping our commitment to safety, if you believe any repair or alteration to the ceiling is necessary or if your ceiling shows signs of flaking, please contact the Resident Manager.
26. **CONDITION OF PREMISES:** Resident(s) shall keep the premises and furniture, furnishings, appliances, fixtures, if any, which are rented for Resident(s)' exclusive use, in good order and condition and pay for any repairs to maintain the property caused by Resident(s)' negligence or misuse. Or that of Resident(s) guest(s) or invitees. Landlord shall otherwise maintain the property.

Resident Sif Al R Date 6/24/03 Resident _____ Date _____
Resident Widad ABUR Date _____ Resident _____ Date _____

Manager Patricia Collins Date 6/24/03

CCC
P.O. Box 361301
Milpitas, CA 95035

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EXHIBIT B

This agreement is entered into between Villas Papillon, (hereafter landlord) and the following individuals, jointly and severally (hereafter collectively Resident(s)): **ESPERANZA SOTELO AND VICTOR HUGO FERNANDEZ**.
LEASED PREMISES: Landlord rents to resident(s) the premises located at **4067 BUDWING TERRACE**, Fremont, 94538, County of Alameda, California (hereafter "the premises") for use as a residence and for no other purpose, beginning on **APRIL 01, 2004**. This agreement shall be a **ELEVEN (11) MONTH LEASE**, beginning on **APRIL 01, 2004** and ending on **FEBRUARY 28, 2005**. Resident(s) agree to give thirty days (30) written notice pursuant to California Civil Code section 1946. And pay last month's rent by cashier's check or money order only upon said 30 days written notice.

1. **RENT:** Resident(s) shall pay to Landlord, as rent for said premises, the sum of \$ 1095.00 each month, in advance, on or before the first day of each month at 4067 BUDWING Terrace, Fremont, Ca 94538. If in any month the rent is paid after the 3rd of the month a \$50.00 late fee will be assessed and payment must be made in the form of a cashier's check or money order. If Landlord serves Resident(s) with a three-day notice to pay rent or surrender possession, which Landlord may do so after the first day of the month, any payment tendered following said notice must be in the form of a cashier's check or money order. If any check given by the Resident(s) is, for any reason whatsoever, returned by the bank upon which it is drawn, a \$ 25.00 NSF fee is charged as well as the late fee. All subsequent payments for balance of resident(s) occupancy of the premises (including the payment necessary to replace the dishonored check) must be in the form of a cashier's check or money order unless Landlord agrees, in writing, to waive this requirement. It is Resident(s) responsibility to be certain that each payment is actually received by Landlord on or before its due date. It is recommended that Resident(s) personally deliver the payment to the leasing office and request a receipt. Use of rental payment drop box is for Resident(s) convenience; the risk of receipt of funds by Landlord when such box is used is Resident(s) and not Landlord's.
2. **RENTAL PRO-RATION:** Resident(s) shall pay to Landlord, before taking occupancy of the premises, one full month's rent in addition to a security deposit (see paragraph # 6). The pro-rated rent in the amount of \$1095.00 is due on **MAY 1, 2004**. Commencing on **JUNE 01, 2004** a full month's rent shall be due each month on or before the first day of the month set forth in paragraph # 3 above. In the event of a conflict between the amount set forth in this paragraph and the amount which an arithmetic computation would yield based upon the rental rate set forth in paragraph # 3 divided by thirty with the result multiplied by the number of days in the pro-ration period, the amount determined by said arithmetic computation shall govern. (i.e., the amount set forth in this paragraph is computed incorrectly, any such arithmetic error shall not be binding; the amount owing shall be the amount resulting from correct arithmetic computation of the pro-rate). In all instances where a pro-rated amount of rent is computed during this Residency, a thirty-day month shall be assumed irrespective of the actual number of days in the month for which the pro-ration is computed.
3. **OCCUPANCY:** Only the Resident(s) named above and following persons shall occupy the premises: **JONATHAN LEON FERNANDEZ**. No other persons have permission to occupy the premises unless such permission is in writing and signed by the Landlord or its authorized agent. The acceptance of rent from any other individual shall be deemed the guest or invitee of the named Resident(s) named above, and shall not constitute permission for the person making payment to occupy the premises. Should any person not named in the above make any claim to right of possession of the premises, any such person shall be deemed the guest or invitee of the named Resident(s) and their claim to right of possession shall be denied. Any person named above in this paragraph # 5 who is not also named above as a Resident and/or who is not a signatory to this agreement shall be deemed to occupy the premises under named Resident(s) who are signatories to this agreement and shall thus be deemed the invitees of said Resident(s). Accordingly, should any such individual not be named in any unlawful detainer action to regain possession of the premises, and should any such individual thereafter make a claim to right of possession of the premises, that claim shall be denied on the basis that said individual is the invitee of the named Resident(s) and does not have an independent claim to right of possession of the premises. Guests staying longer than 15 days without written consent of the Owner/agent shall constitute a material breach of this agreement.
4. **SECURITY DEPOSIT:** Resident(s) shall pay to Landlord, as security, the sum of \$800.00. This sum shall be applied and accounted for in accordance with the provisions of California Civil Code section 1950.5 and other applicable statutes. Landlord shall not be obligated to pay Resident(s) interest in connection with such security. It is understood that the security deposit is applicable to all Resident(s) jointly, and need not be accounted for until the permissible statutory period for such time as all Resident(s) have vacated the premises. Any refund due at such time will be made payable jointly to all resident(s) and shall be the responsibility of all Resident(s) to work out between themselves the manner of dividing said deposit.
5. **UTILITIES:** Payment of all utility charges shall be the responsibility of the Resident(s), with the exception of water and trash collection, which shall be paid by the Landlord. With respect to the utility charges listed above to be paid by Landlord Resident(s) shall not make excessive or unreasonable use of said utilities.
6. **ROOMMATES, JOINTLY AND SEVERAL LIABILITIES:** All persons signing this agreement, as Resident(s) shall remain jointly and severally liable for all obligations arising hereunder. Resident(s) agree that the entire rent for each month is due and payable on or before the first of each month. Should rent be paid with more than one check, all checks are to be submitted together. Residents agree, that if for any reason one resident vacates prior to the others, the security deposit on hand will be held on the apartment until such time that the apartment is fully vacated. Resident(s) agree that management is to qualify any new roommate prior to occupying the premises.
7. **NOTICES:** Any notice, which Landlord gives to Resident(s), shall be deemed properly served whether or not actually received by Resident(s) if served in the manner in Code of Civil Procedure section 1162. If Landlord fails to serve the notice in accordance with the provisions of Code of Civil Procedure section 1162, but Resident(s) actually receive the notice, the actual receipt shall be deemed to cure any defects in the manner of service and the notice shall be deemed properly and personally served. Service upon any of the Resident(s) of the premises shall be deemed valid service upon all Resident(s) - it is not necessary to individually serve each Resident.
8. **PARKING:** Parking spaces are designated for resident(s) only on the premises. They are to be used for parking of Resident(s) passenger automobiles. Said space shall not be used for washing, painting or repair of vehicles. Resident(s) is responsible for oil leaks and other vehicle discharge and for any cleaning thereof deemed necessary by Owner/agent. Guests may not park on the premises. Resident acknowledges that any vehicle found abandoned, inoperable, or illegally parked on the premises will be subject to tow. Resident(s) assumes all responsibility for towing charges incurred.
9. **ACCESS TO PREMISES:** The parties agree that the provisions of California Civil Code section 1954 (and any other applicable statutes or amendments which might be enacted subsequent to execution of this agreement) govern the rights and duties relating to Landlord's access to leased premises. Resident(s) agree to comply with said statutory provisions and to permit Landlord access to the premises in accordance with said provisions. Resident(s) agree that, should they deny Landlord access to the premises when Landlord is in compliance with statutory requirements and entitled to access, any such denial of access shall be deemed a material and incurable breach of this agreement and shall entitle Landlord to serve Resident(s) with a three-day notice terminating the residency.

12. **ALTERATIONS:** Except as provided by law, Resident(s) agree not to make any alterations or improvements to the premises without the written consent of Landlord.
13. **LIABILITY:** Landlord shall not be liable to Resident(s) or any guest(s) or invitees of Resident(s) for any damage or losses to person or property arising from any cause including, but not limited to, theft, burglary, assault, vandalism, fire, flood, water leaks, rain, hail, ice, snow, smoke, lightning, wind, explosion, interruption of utilities, earthquake, or any other cause not directly caused by willful acts of Landlord. Generally, except under certain circumstances, the Landlord is NOT legally responsible for loss to resident's personal property, possessions or personal liability, and OWNER'S INSURANCE WILL NOT COVER such losses or damages. If damages or injury to owner's property is caused by Resident(s) or Resident's guests, invitees, child/children, the owner's insurance company may have the right to attempt under subrogation clause to recover from Resident(s) payments made under owner's insurance policy. Resident(s) agree to obtain Renter's Insurance in an amount sufficient to cover any personal possessions of Resident(s) together with a reasonable level of liability coverage for the actions of Resident(s) or Resident(s)' guests or invitees.
14. **MEGAN'S LAW/DATABASE:** The California department of Justice, Sheriff's department, police departments serving jurisdictions of 200,000 or more and may other local law enforcement authorities maintain for public access a data base of the locations of persons required to register pursuant to paragraph (1) of subdivision (a) of section 290.4 of the Penal Code. The database is updated on a quarterly basis and is a source of information about the presence of these individuals in any neighborhood. The Department of Justice also maintains a Sex Offender identification Line through which inquiries about individuals may be made. This is a "900" telephone service. Callers must have specific information about individuals they are checking. Information regarding neighborhoods is not available through the "900" telephone service.
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19. **LEAD BASED PAINT DISCLOSURE:** Landlord has no knowledge of lead-based paint and/or lead-based paint hazards in the premises. Resident(s) has received the pamphlet, protect your family from lead in your home. Initial _____
20. **ATTORNEY'S FEES:** In the event of any litigation relating to this agreement or the rights or liabilities of any party arising hereunder, Resident(s) shall pay to Landlord its attorney's fees and court costs incurred in such litigation, not to exceed a maximum total of \$300.00 fees.
21. **WAIVER:** Landlord's failure on any occasion to require strict compliance with any provision of this agreement or to exercise any rights arising hereunder shall not be deemed a waiver of Landlord's right to subsequently enforce any such provision or insist upon any such right. The fact that Landlord may have accepted late payments on one or more occasions shall not be deemed a waiver of Landlord's right to insist upon timely payment of rent nor to exercise any remedy available for late payment of rent. Acceptance of rent following a breach of this agreement shall not constitute a waiver of such breach. No custom or practice, which may develop between parties in the course of the residency, shall be construed to waive or lessen the right of Landlord to enforce any provision of this agreement.
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23. **ENTIRE AGREEMENT:** This agreement sets forth the entire agreement between the parties with respect to the matters set forth herein. It shall not be altered nor modified unless such alterations or modification is in writing and signed by all signatories hereto. No verbal agreements or representations have been made or relied upon by either party or any agent or employee of either party, and neither party nor any agent or employee of either party is entitled to alter any provisions of this agreement by verbal representations or agreements to be made subsequent to the execution of this agreement. The forgoing notwithstanding, should Resident(s) hold over after the expiration of the lease term on a month-to-month holdover basis. Landlord may change any provision of this agreement without consent of Resident(s) in the manner prescribed by California Civil Code section 827.
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26. **CONDITION OF PREMISES:** Resident(s) shall keep the premises and furniture, furnishings, appliances, fixtures, if any, which are rented for Resident(s) exclusive use, in good order and condition and pay for any repairs to maintain the property caused by Resident(s) negligence or misuse. Or that of Resident(s) guest(s) or invitees. Landlord shall otherwise maintain the property. Subject to the provisions of California Civil Code section 1954 (and applicable statutes or amendments which might be enacted subsequent to the execution of this agreement) Landlord will require access to the premises for purpose of general or specific maintenance inspections. Resident(s) will be provided with a check list of those items required to be cleaned and or repaired by tenant in a form. Resident will be given 10 days to complete cleaning and repairs to satisfaction of Landlord. Resident(s) agree, that Resident(s) failure to timely and