UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

SOUTH FLORIDA ENTERTAINMENT, INC., A Florida Corporation, SCOTT PENDLETON, INDIVIDUALLY AND SUSAN PRIOLO, INDIVIDUALLY

PLAINTIFFS,

vs.

SEMINOLE TRIBE OF FLORIDA, D/B/A SEMINOLE PROPERTIES RETAIL,LLC, JOINTLY AND SEVERALLY

DEFENDANTS /

CASE NO.:

VERIFIED COMPLAINT FOR TEMPORARY AND PERMANENT INJUNCTION AND CAUSES OF ACTION FOR DAMAGES IN TORT AND CONTRACT

PLAINTIFF, SOUTH FLORIDA ENTERTAINMENT, INC., a Florida Corporation, (hereinafter "SFLE" or "Plaintiff(s)"), and SCOTT PENDLETON ("PENDLETON"), individually, and SUSAN PRIOLO ("PRIOLO"), individually, Plaintiffs, sue the Defendants, SEMINOLE TRIBE OF FLORIDA, (hereinafter, the "Tribe") doing business as SEMINOLE PROPERTIES RETAIL, LLC, a Maryland Limited Liability Company, (hereinafter, "SPR") (SPR and the Tribe together also collectively referred to as the "Defendants") and allege in separate causes of action:

NATURE OF THE NUMEROUS CAUSES OF ACTION AND SUBJECT MATTER JURISDICTION OF THIS COURT

1. This action, in material part, seeks declaratory relief wherein SFLE and individual Plaintiffs seek to have this Court declare that the Tribe has violated the Indian Civil Rights Act, 25 U.S.C. § § 1301 and 1302 (the "ICRA") and to order further necessary and proper relief in favor of SFLE pursuant to 28 U.S.C. §2202. Among other things, SFLE believes and contends that the Tribe is incapable of meeting its quasi-Constitutional obligation to provide due process of law under the ICRA due to its admitted failure to create and maintain a tribal court system or any other legitimate forum for ensuring compliance with the ICRA and the Constitutional-like protections it is

intended to grant to members and non-Tribal members, alike. SFLE also seeks a declaration concerning whether the Tribe's administration of the issuance of Tribal Liquor Licenses comports with or violates federal law, namely 18 U.S.C. §§1154, 1156 and 1161. SFLE also seeks a judicial declaration that the Tribe has contractually waived sovereign immunity with respect to disputes involving the Tribe, the Seminole Hard Rock Hotel and Casino which it operates and owns, SPR, and its commercial tenants and subtenants, like SFLE as well as the individual Plaintiffs. Moreover, each Plaintiff alleges that the Tribe solely controls SPR, as indicated in several pieces of correspondence with Plaintiffs. Proof of such control is reflected in Plaintiff's Composite Exhibit "C" where the Defendant ***Tribe specifically alleges that it does business as SPR***. The individual's Plaintiffs, PENDLETON and PRIOLO, also allege damages for various tort claims against both Defendants, as stated within the various Counts herein below.

2. In regard to the Plaintiffs various claims in sounding in contract and tort, it is the belief of each Plaintiff that the Tribe and SPR conspired to (a) defraud and otherwise financially damage SFLE, including the individual Plaintiffs, when the Tribe and SPR chose to engage in numerous and material contractual breaches designed to financially damage SFLE so that it would go out of business, in order that SPR regain SFLE'S premises in order to lease it to another party and (b) that by engaging in such a conspiracy, further chose to engage in tortious wrongdoing, causing great emotional and physical injury to SFLE'S primary shareholders and operators of SFLE'S business, Plaintiffs herein, when, without ***prior notice*** to PENDLETON, PRIOLO and/or SFLE, SPR and the TRIBE notified PENDLETON that he was being bared for life from all of the Seminole Indian Casinos, as well as Seminole Paradise Way (the pedestrian walkway to the various shops and restaurants of which SFLE was a tenant), and in so doing deprived PENDELTON of the only way he could obtain access to SFLE'S business operation, which, most notably deprived SFLE of its primary business operator.

3. Notably, SPR specifically approved the lease for the use by SFLE (which was built by SFLE at an expense of more than $1,200,000.00) as a high end billiards hall,

which ultimately SFLE and the Tribe came to believe was an inappropriate entertainment venue for Paradise Casino way patrons. Defendants, individually and collectively, chose to act in bad faith in causing damages to the rights of each Plaintiff by precluding them from earning a living from the profits which SFLE failed to obtain, but for their actions, as further discussed herein below.

4. Plaintiffs, individually and on behalf of SFLE are also seeking declaratory and injunctive relief, to preclude both Defendants from continuing to engage in activities which both materially breach the Lease, and Addendum of Lease, which continues to cause physical and financial harm to each Plaintiff. Plaintiffs therefore request that a temporary and permanent emergency injunction be entered against the defendants for deliberate breach of the terms and conditions of the SFLE'S LEASE AGREEMENT (the "Lease") ("Exhibit A"), along with the ADDENDUM TO LEASE AGREEMENT ("Addendum") (Exhibit "B").

5. Defendants, to the date of this filing continue to engage in patently unlawful acts, including barring PENDLETON for life from the Seminole Hard Rock Casino, (which including "Paradise Way", which is a walkway which leads from the casino to adjacent shops, including but not limited to SFLE'S restaurant and bar known as KnightTime Billiards. Importantly, preventing access by PENDLETON to the Casino as well as the external walkways, precluded PENDLETON from gaining access to the "Paradise Way" walkthrough, which presently bars PENDLETON from access to SFLE, and his business known as KnightTime Billiards ("KnightTime"). All Plaintiff seek to temporarily and permanently seek to enjoin both SPR and the Tribe from continuing to bar PENDLETON from gaining access to SFLE'S facilities.

6. Certain wrongful, and illegal activities of the Defendants include but are not otherwise limited to numerous extortionate attempts to make SFLE'S business so unprofitable by seeking to collect an additional $58,523.41 per year for use of the "patio area" which is already included in Plaintiff's SFLE'S LEASE AGREEMENT (Exhibit "A") and ADDENDUM TO LEASE (Exhibit "B") without cause and/or due process which was denied to both SFLE and Plaintiff PENDLETON, by leaving SFLE effectively unmanaged. Many other breaches of contract have occurred by such wrongful activities

of the Defendants prior to the filing of this lawsuit, including but not limited to charging trash fees in excess of what the lease requires; engaging in fraudulent and deceitful conduct depriving the Plaintiffs from determining the appropriateness of specific common area maintenance ("CAM") fees, which are clearly excessive and unfounded; and otherwise request that the Defendants cease-and-desist from engaging in unlawful activities which deliberately breach both the Lease and Addendum to Lease by Defendant's, all of which have caused financial and personal harm and damage to all Plaintiffs, both corporately and individually.

7. This Court has jurisdiction pursuant to 28 U.S.C. § 1343 and pursuant to 28 U.S.C. §§1331 and 2201 et. seq., in that this action presents a substantial federal question in a dispute between the parties under the ICRA which relates, in part, to the enforcement of a tribal ordinance upon PLAINTIFF, a non-Indian. The specific tribal ordinance relates to the Tribe's attempt to require a separate liquor license, issued by the Tribe, notwithstanding the fact that the Plaintiffs have already received a tribal liquor license permit which was issued prior to the opening of KnightTime Billiards (hereinafter "KnightTime") . The Court has supplemental jurisdiction, pursuant to 28 U S C §1367, over SFLE's claim that the Tribe has contractually waived sovereign immunity, to the extent that such a claim does not present a federal question.

8. This Court also possesses jurisdiction over Plaintiff's pursuant to the Lease and Addendum to Lease agreement attached hereto as Exhibit "A" which states that any and all disputes arising out of the lease be heard in Federal Court.

THE PARTIES, PERSONAL JURISDICTION AND VENUE

9. On or about February 3, 2004 Landlord and Tenant entered into a certain Lease Agreement (the "Lease") and Addendum to Lease (hereinafter sometimes referred to as the "Addendum") dated March 11, 2005 for the premises designated as Space B12.0 (the "Premises") in the shopping center commonly referred to as "Seminole Paradise" for an initial term of ten (10) years (with one (1) renewal option of five (5) years), on the terms and conditions contained in the Lease;

10. Plaintiff, SFLE, is a Florida limited liability company with its principal place of business in Broward County, Florida. The individual Plaintiffs are the sole shareholders

and directors of KnightTime , which is located in a shopping center adjacent and otherwise connected to the Seminole Hard Rock and Casino, and otherwise known as "Seminole Paradise Way". Further, on February 3, 2004, Plaintiff PENDLETON executed a guaranty in favor of Landlord, SPR, whereby PENDLETON personally guaranteed the obligations under the Lease (the "Guaranty") ; and

11. Plaintiffs PRIOLO and PENDLETON have as their principal residence Broward County, Florida.

12. Defendant, the Tribe, is a federally recognized Indian Tribe organized pursuant to Section 16 of the Indian Reorganization Act of 1934, as amended, with its principal tribal offices located in Broward County, Florida. Defendant, SPR, is a limited liability corporation founded in Maryland. However, it conducts business in Broward County, Florida, and otherwise acts in the capacity as SFLE'S landlord. Importantly, on many occasions the Tribe has specifically stated (in legal documents) that the Tribe does business as SPR.

13. On March 11 2005, Plaintiff SFLE entered into an Addendum to Lease agreement with SPR (and in so doing has claimed that the Tribe and SPR agreed that SFLE had the right (as more fully outlined in the Lease Agreement) to extend their outdoor seating to the second "white line of floor tile" (which became part of SFLE's patio bar area for service of alcohol and "finger food"). The extension of SFLE's patio service area, by placing tables and chairs out to the second "white tile line" was and/is critical to the success of Plaintiff, KnightTime's , business activities, since such an extension permitted SFLE to serve drinks and other finger foods to patrons strolling by SFLE's business premises. Expansion out to the "second white line" was critically important for SFLE, since much of its alcoholic sales were made in the specific area in accordance with the Addendum of Lease. Importantly, the original Lease in this specific legal action contemplated the use of the expanded patio area as part and parcel of the original Lease signed by the parties.

14. Venue is proper in this Court because the acts giving rise to this action accrued, in whole or in substantial part, are within this judicial district and the commercial tenancy is located within this judicial district.

15. Congress, which has plenary authority over Indian affairs, has passed laws and entered various treaties with Indian tribes.

16. The ICRA is one such law, providing Constitutional-like rights and protections to tribes, tribe members and non-tribe members. SFLE, along with the individual Plaintiffs, therefore, have standing to bring this action under the ICRA.

THE INDIAN CIVIL RIGHTS ACT

17. The IRCA, also known as the Indian Bill of Rights, imposes upon Indian tribal governments, in the exercise of the power of self-government, certain constitutional restrictions applicable to the federal and state governments. For example, no Indian tribe, in exercising powers of self-government, may deny to any person within its jurisdiction ***the equal protection of its*** laws or deprive any person of liberty or property without due process of law.

18. Many of the Indian tribes organized under Section 16 of the Indian Reorganization Act of 1934 have and maintain two-tiered court systems (i.e. a trial court and appellate court) which are in place to adjudicate the rights of both tribe members and non-tribe members.

19. However, the Tribe does not have a tribal court system and because it maintains no tribal court system has, itself, previously had to turn to the jurisdiction of the federal courts, including the federal court for the United States District Court for the Southern District of Florida, see Case *06-CV-60827-w52*, to resolve commercial disputes with non-Tribe members.

GENERAL ALLEGATIONS

Background and Organizational structure of the Tribe

20. The Tribe was recognized by the U.S. government and adopted its own Constitution in 1957. And, as set forth in paragraphs 12-15, below, the Tribe has purportedly enacted laws for the protection of its members and non-Tribe members.

21. Pursuant to Article III of the Tribe's Constitution and Bylaws ("the Tribe Bylaws"), the governing body of the Tribe consists of the Tribal Council, which presently consists of five members.

22. Pursuant to Article V of the Tribe's Bylaws, the Tribal Council shall exercise its powers "subject to any limitations imposed by the Constitution or the statutes of the United States...." Pursuant to Article IV, §3 of the Tribe's Bylaws, the Tribal Council is also responsible for managing and leasing interests involving tribal lands.

23. Pursuant to what the Tribe has designated as "Amended Article IX Bill of Rights," the Tribe has guaranteed that "**no person** shall be denied freedom of conscience, speech, association or assembly, **or due process of law, or the right to petition for redress of grievances**.

24. Neither the Tribe's Bylaws nor its Constitution provide any process whatsoever for ensuring and guaranteeing the protections it promises to all "persons" (i.e. both Tribe members and non-Tribe members) who find themselves on Tribal property or involved in commercial transactions and/or disputes with the Tribe.

25. The Seminole Tribe of Florida consists of more than 3,100 tribal members and, like other federal Indian tribes is subject to the control and protection of the United States as its trustee. The Tribe also interacts with hundreds of thousands of people on an annual basis in connection with its gaming and commercial operations.

Tourism and Gaming

26. In the 1970's, the Tribe began developing tourism and bingo as a means earning revenue for schools, administration of the Tribe, and governmental infrastructure (except for a court system). Later, the Tribe's revenue was further enhanced by operation of casinos for gaming. Revenue generated from gaming on Indian tribal land throughout the United States is estimated to be around $20 billion per year.

27. For over 20 years, the Tribe has operated casinos on its tribal lands in Hollywood, Tampa, and other locations in Florida. The Tribe's casinos currently generate more than $1 billion dollars per year in revenue. In its suit for Class III gaming rights, see CV-137-RH, pending in the United States for the Northern District of Florida, the Tribe claims that gaming provides 90% of the Tribe's revenues and is allegedly used, in part, for the benefit of non-tribal businesses.

28. Despite the huge amount of revenue granted from gaming and the fact that its gaming operations draw hundreds of thousands of people to its properties each year,

the Tribe has failed to create any court system for its gaming patrons and/or a commercial tenants and the lack of a system for hearing disputes (administrative or otherwise) results in no forum for decisions by the Tribe to be appealed or heard on behalf of those gaming patrons or commercial tenants.

THE DEVELOPMENT OF THE HOLLYWOOD HARD ROCK FACILITY

29. In late 1999 or early 2000, the Tribe solicited potential developers of new gaming facilities, hotels and related facilities to supplement or replace the Tribe's existing facilities in Hollywood and Tampa.

30. Ultimately, The Cordish Company ("Cordish") proposed to develop a hotel and casino facilities in Hollywood (the "Hollywood Project") and Tampa.

31. Cordish promoted itself as a diversified, international real estate development company. It claims to be the largest developer of mixed use retail/entertainment projects in the United States. Cordish claims to be renowned for its public/private partnerships with cities and states and for developing projects that serve as the cornerstone for economic revitalization in depressed areas.

32. On April 19, 2000, Cordish organized Power Plant Entertainment, ("Power Plant"), which proceeded to negotiate an agreement with the Tribe for the development of the Hollywood Project.

33. On July 24, 2000, the Tribe and Power Plant executed a development agreement, which provided for Power Plant to act as exclusive developer, property manager and financial advisor for the Hollywood Project.

34. Power Plant therefore became the developer of the Seminole Hard Rock Hotel and Casinos in Tampa and Hollywood Florida, which it claims are among the most profitable gaming properties in the country.

35. The Tribe has hailed the success of Power Plant's development on behalf of the Tribe:

A. "'it really takes us to the next level'" said Jim Allen, chief executive officer of gaming operations for the Seminole Tribe."[1]

B. "The Tribe and its developer The Cordish Company of Baltimore, estimate that 1,000 new jobs will be created ... on top of the approximately 2,000 at the casino and the 500-room hotel.

C. "'This is not only for the benefit of the tribe, but it's an economic stimulus for the whole area," said Max Osceola, a member of the Seminole Tribal Council."[2]

THE HOLLYWOOD HARD ROCK FACILITY

36. The Hollywood Project opened to the public in May 2004. It included the Hard Rock Hotel and Casino as well as the Seminole Hard Rock Paradise (previously referred to as "Seminole Paradise Way") which is immediately adjacent to the Seminole Hard Rock Hotel Casino. The Seminole Paradise Way consists largely of restaurants and adult-oriented entertainment venues and night clubs. The development, maintenance and management of the Seminole Paradise were to be undertaken by Seminole Properties Retail, (hereinafter, "SPR"), which was/is affiliated (in some form or fashion) with Cordish and Power Plant.

37. Pursuant to the GROUND LEASE dated February 3, 2004, the Tribe and SPR entered into what is commonly referred to as a "Master Lease" or "Ground Lease," which governed the management and operation of commercial tenancies at the Seminole Paradise Way.

38. Under the GROUND LEASE, the Tribe acted as "the Landlord" for the Seminole Paradise, SPR "as the Tenant" and businesses like SFLE were defined as "the Subtenants" of the Seminole Paradise Way.

39. However, Defendant SPR, over the last few months, unsuccessfully sought to require the signature of the Plaintiff SFLE to sign a new "BUSINESS APPLICATION" as

[1] Jerry Barrios, *'Paradise' Found-In A New Hard Rock Complex,* Miami Herald, Aug.27, 2004, at B1, available at 2004 WLNR 19475461.
[2] Holland, supra note 2.

a nontribal member use of trust lands. This document clearly states that the "Tribe" ***is doing business as SPR.***

40. Consistent with Article VI, Section 9 of the Tribe's Bylaws, which provides that the Tribal Council's power includes the right to "[t]o issue or be issued," Section 16.3.1 of the GROUND LEASE provides that the Tribe is waiving Sovereign Immunity, subject to certain terms and conditions, regarding any disputes it has with SPR concerning the operation of the Seminole Paradise Way. Pursuant to §16.3.1(b) of the GROUND LEASE, the "scope of waiver" of sovereign immunity extends not only to the "Tenant" but also "other persons within the scope of this Section." Pursuant to §16.3.1(d), the recipients of the waiver of sovereign immunity include any person deriving benefits under the GROUND LEASE "including, without limitation, subtenants...." SFLE is, obviously, a "Subtenant" under the GROUND LEASE.

41. The commercial tenancy at issue originally was created by virtue of a "Lease Agreement" dated February 3, 2004 between SPR and SFLE, including the Addendum to Lease dated March 11, 2005.

42. The SFLE Lease specifically provides that it was executed and is governed by the terms of the "Master Lease" between the Tribe and SPR dated December 1, 2003. The term "Master Lease" referenced in SFLE's Lease is actually a reference to the "GROUND LEASE" described in paragraph 35, above. The GROUND LEASE defines "Subtenant" as "any Person which is or may hereafter be the subtenant under any Sublease, and the occupant of a portion of the Leased Premise." Thus, the SFLE Lease and the GROUND LEASE (waiving sovereign immunity), are inextricably intertwined and SFLE, along with the individual Plaintiffs is, at the very least, an intended third party beneficiary of the GROUND LEASE, except for the fact that Plaintiff's deny that the Tribe possesses sovereign immunity waiver provisions.

43. In connection with the assignment of the subject tenancy to SFLE on February 3, 2004, the "Permitted Use" section of the SFLE Lease was defined to allow "the operation in a first-class manner of an indoor miniature pool facility... Billiards room, amusement games, and bar...."

44. It was specifically agreed, understood and contemplated between SFLE and SPR that SFLE would incorporate a format consisting of numerous billiard tables, alcoholic service (along with the associated profit therefrom) and sales of cigarettes, for patrons accessing Seminole Paradise Way and the Hard Rock Casino and Hotel.

45. In contemplation of the above-described use of the premises, SFLE, through its shareholders and directors, PRIOLO and PENDLETON expended approximately $1,200,000.00 to acquire, enhance and improve its leasehold property interests at the Seminole Paradise Way and make it suitable for producing the style of entertainment described in paragraph 38, above.

46. As SFLE was in the process of constructing improvements for what would become the KnightTime Billiards, both SPR and the Tribe were fully aware of the intended, anticipated use the premises. SFLE's representatives met with SPR and prior to the "opening" of KnightTime Billiards to introduce themselves, their format for the establishment, and answer any questions they had. Furthermore, the Tribe's own building department specifically approved the plans authorizing certain improvements to the facility for KnightTime Billiards which clearly revealed and described the intended use of the premises.

47. On or about November 15, 2004, the Tribe's building department issued a Temporary Certificate of Occupancy for SFLE. On or about August 12, 2004, the State of Florida granted SFLE a permanent liquor license for the facility.

48. In conjunction with the liquor license issued by the state of Florida to SFLE, the Seminole Tribe issued the same liquor license number as utilized by the state of Florida for issuance of its own tribal liquor license. At no time was SFLE, its directors and shareholders and/or the individual Plaintiffs ever told or otherwise advised that the tribal liquor license was fundamentally terminable at will by the Tribe.

49. SFLE had it's opening on New Year's Eve, December 31, 2004. Management and executive personnel of the Cordish Group, on New Year's Eve, 2004 came on to the premises and expressed their unhappiness and dissatisfaction with the KnightTime Billiards in its entirety (notwithstanding Plaintiff SFLE being given prior approval for all plans and interior improvements by both Cordish and SPR). This latter behavior was

specifically inconsistent with the grant of approval of all architectural and drafting plans submitted by SFLE to Cordish/SPR for approval, approval of which was granted. SPR/Cordish did in fact approve the entire floor plan, layout, and construction of SFLE'S leased property. Moreover, at no time did a member of the Seminole Tribe or the Tribal Council ever complain about the nature of the entertainment or décor of KnightTime Billiards.

50. From approximately August 14, 2004, until the present, SFLE has operated with a valid Florida Liquor License***, including a permanent Tribal Liquor License*** (with no expiration date). The Tribal Liquor License containing the same license number as the liquor license issued to SFLE by the State of Florida. Accordingly, at all times relevant to this lawsuit, Plaintiff SFLE operated with the direct approval of the State of Florida, the Tribe and SPR.

PLAINTIFF'S SFLE'S DISPUTE WITH DEFENDANTS

51. On February 3, 2004 a LEASE AGREEMENT was executed between SPR and the Plaintiff SFLE. A copy of the LEASE AGREEMENT is attached hereto as Exhibit "A". An "Addendum" to the lease was entered into on or about March 11, 2005.

52. On March 11, 2005, SPR, acting individually and on behalf of its principal, the Tribe, modified the LEASE AGREEMENT (such modification being in accordance by both SPR and SFLE at the time of the original Lease signing) by permitting SFLE to have outdoor seating with the right to sell liquor to those who were seated outdoors in front of plaintiff's establishment to a point of reference known as the "second white line" of floor tile (which lies directly in front of SFLE'S venue) and the SFLE patio bar. The express purpose of this modification was to permit SFLE to sell liquor and other items to its patrons that were sitting at tables out to the "second white tile line", said "white tile line" being part of the outdoor pavement of Paradise Way. The right of KnightTime to operate out to this "second white tile line" is specifically incorporated in the Addendum to Lease (Exhibit "B").

53. On or about February 14, 2011 Plaintiff SFLE received a new Tribal BUSINESS APPLICATION, attached hereto as Exhibit "C". The allege purpose of Exhibit "C" was to have SFLE pay to the Tribe and SPR a sum in excess of $58,523.41 per year (in

addition to all those charges listed within the Lease, including CAM and trash pickup) to serve any alcohol and other finger foods on the patio area outside of SFLE'S restaurant.

54. "Exhibit C" was part of a disguised conspiracy between both Defendants to engage in a form of extortion by SPR and the Tribe by making Plaintiff SFLE pay the additional sum of $58,523.41 per year for a use that SPR and the Tribe referred to as the "outside service area", notwithstanding the existence of the Lease and it's Addendum to Lease which specifically granted to SFLE the right to place its own table and chairs, and otherwise serve liquor and "finger foods" to those who were walking by SFLE'S business premises. In other words, the Lease and Addendum to Lease fully incorporated all payments due to SPR for rent and other expenses as outlined within the Lease. Sam Hosn, general manager of the Seminole Hard Rock Casino warned SFLE that failure to execute Exhibit "C", in its entirety,(including the attachment for a "TRIBAL REVOCABLE PERMIT" and "BUSINESS APPLICATION" Incorporated as part of and within Exhibit "C") Plaintiff SFLE would no longer be able to serve liquor in the "patio area", notwithstanding the fact that the ***same identical area*** to serve alcohol and nonalcoholic beverages and food was expressly incorporated into the Addendum to Lease, attached hereto as Exhibit "B", and otherwise legally executed by SPR and SFLE as stated within the Addendum of Lease. Plaintiff SFLE has refused, and continues to refuse to execute such documents, notwithstanding Mr.Hosn's threat that Plaintiff SFLE would no longer be permitted to sell such alcohol beverages and in the patio area, notwithstanding Plaintiff SFLE'S right to do so under its Lease and Addendum to Lease Agreements.

55. On February 24, 2011 the plaintiff SFLE received the following e-mail from the Seminole Paradise Hard Rock Casino. A copy of said e-mails attached hereto as Exhibit "C":

> From : Application for Tribal License to use outdoor areas for serving of Alcoholic Beverages
>
> Date: Thu, 24 Feb 2011 13:49:34 -0500
>
> From: sam.hosn@seminolehardrock.com
>
> CC: Sandra.Dormeus@seminolehardrock.com

Dear Tenant:

Please be advised that we have not received your signed Liquor Ordinance packets as the deadline to return them was on Monday, February 21st. It is imperative that we receive the applications no later than the end of the day today. As a reminder, **The Seminole Tribe of Florida Real Estate office must issue a Tribal Permit for you to use the common areas as depicted on the exhibit with your application. If your amended application is not completed by February 28, 2011 the Tribe will have no choice but to limit the serving of alcohol to areas within the premises ONLY. Please be governed accordingly.**

Thanks

Sam Hosn

General Manager

Seminole Paradise at Hard Rock Hotel & Casino

(954) 585-5117

(954) 583-3337 Fax

The Ultimate Entertainment Experience

56. Every single restaurant, club, bar and night club at the Seminole Paradise serve alcohol and must do so in order to pay its rent, make payroll and hopefully, be profitable. The Tribe and SPR are now requiring that the Plaintiff SFLE either pay an excessive amount of money for a new Tribal Liquor License, or, in the alternative, cease serving alcohol. Without the ability to serve alcohol, the Seminole Paradise subtenants' leasehold interests are virtually worthless. Accordingly, both the Tribe, Tribal Council and SPR intentionally and unfairly agreed, collectively, to unfairly and improperly interfere with SFLE'S Lease and Addendum to Lease agreements, including SFLE'S ability to serve alcohol. Such behavior by these entities was conspiratorial in nature, designed to put SFLE out of business, and otherwise amounted to an intentional deprivation of SPR'S property-leasehold interest.

57. Despite the fact that SPR and the Tribe knew at the ***lease signing*** that tenants, like SFLE, would be required, as a business necessity, to serve alcoholic beverages in the patio area outside the entrance of SFLE (and therefore have SFLE'S business interact with those people strolling on the Seminole Paradise Walkway), Defendants never made any attempt to advise SFLE, as a perspective Tenant, on February 3, 2004 that anything more than a Florida liquor license was necessary to serve alcohol at the Seminole Paradise. Neither SFLE and/or their shareholders were never advised that their tenancies are subjects to the whim and arbitrary decisions of the Tribal Council, and/or SPR, and/or the Tribe. Given the Defendant's behavior in conspiring to put SFLE out of business, SPR and the Tribe's activities against SFLE and the individual Plaintiffs by engaging activities which Defendants knew or should have known would disrupt Plaintiffs business venture, all the while, and with the intention of causing severe financial injury to all Plaintiffs, including causing financial damages by depriving SFLE of the peaceful and quiet enjoyment of the leased premises, without any legal repercussions, since it is always been the opinion of SPR and the Tribe that they are "above the law".

58. Notwithstanding the fact that SPR and/or the Tribe never disclosed the necessity of having a "Tribal Liquor License", in order to "get along" with the Defendants, SFLE nevertheless, when "required" by SPR to obtain a "Tribal Liquor License", SFLE paid a $50.00 fee, filled out an application and then was granted a "Tribal Liquor License", which also just happens to utilize the same liquor license number as the one issued by the state of Florida.

59. The Tribe has a history of routinely and immediately granting both temporary and permanent liquor licenses to subtenants of the Seminole Paradise.

60. Upon strong information and belief, no tenant in the Seminole Paradise Way, with the possible exception of SFLE, has ever been denied a Tribal Liquor License after presenting the proof of a valid Florida liquor license.

61. Upon information and belief, no subtenant (except, possibly, for Plaintiff SFLE) at the Seminole Paradise has ever been ordered to "shut down" pending the issuance of the temporary or permanent "Tribal Liquor License" or otherwise been threatened with

arrest, or otherwise have its principles, including Plaintiff PENDLETON, threatened with arrest and/or otherwise been barred from the Seminole Hard Rock and Casino grounds, including the Seminole Paradise walkway, which is where SFLE operates.

62. In truth and in fact, Plaintiff, PENDLETON, was individually barred from entering either the casino and/or Paradise Way. Since the only entrance to SFLE'S business premises was through the use of Seminole Paradise Way, PENDLETON was and is presently being denied entrance to SFLE'S business.

63. ***At no time*** has the Plaintiff PENDLETON, SFLE and/or PRIOLO ever been given a specific cause and/or reason that PENDLETON was being barred from having access to the Hard Rock Casino, the Seminole Paradise Walkway, and, as a result, complete denial to SFLE'S business.

64. At this juncture, based upon strong information and belief, SFLE'S right to operate with only it's State of Florida Liquor License, in conjunction with SFLE'S prior "Tribal Liquor License" demonstrates that, if SFLE fails to pay the extortionate sum of more than $58,000.00 for "patio usage", the Tribe, SPR, and the Tribal council intend to deny SFLE a new "Tribal Liquor License", so it can deprive SFLE of its ability to function as an ongoing business. Proof of this very fact, as one example, is that Seminole Hard Rock Casino executives, in conjunction with the ongoing conspiracy with SPR and the Tribe, to put SFLE out of business, have, on multiple occasions visited SFLE'S business premises, ***without permission***, for the sole purpose of showing other respective tenants Plaintiff's business premises. Additionally, such behavior has had the intended effect of causing SFLE employees to suffer from emotional distress by having such employees believe that SFLE would likely close its doors as an ongoing business, and that therefore they would have no job from which to earn a living. This behavior, alone, has created enormous instability and uncertainty in the operation of SFLE.

SPR and the Tribe's Conspiracy to Shut SFLE Down

65. Paragraphs 1 through 59 are restated as if set forth verbatim.

66. The following is an outline, by no means complete, of numerous acts in violation of the parties leasehold agreement all performed in conjunction with the knowledge and

acquiescence of the Tribe, each of whom agreed and otherwise conspired to shut down SFLE leasehold property. Such acts include but are not limited to the following:

A. That prior to since the opening of SFLE (as well as prior to the execution of the lease), SPR declared that live music would be provided in an open forum on a stage provided by Cordish/SPR on a regular basis, directly outside of SFLE'S premises. Live music provided by Cordish/SPR was an inducing factor for the entry into the lease in the first instance. This live music forum and stage were directly across from Plaintiff's leasehold. As a result, Plaintiffs were re-assured that their location would possess the strongest possible inducement for patrons to come on to SFLE'S leasehold property and ultimately utilize Plaintiff's leasehold by playing billiards, purchasing cigarettes, and drinking alcohol. However, without notice, SPR chose to remove this music stage and failed to provide live music over approximately the last four years.

B. That advertising is presently being paid for pursuant to the terms of the Lease at the rate of $985 per month by SFLE. This was represented by SPR as directly benefiting (and personally advertising) SFLE's leasehold property. However, the following are examples of the failure of SPR and the Tribe refuse to keep their promise to advertise specifically on behalf of SFLE:

1. In room advertising at the Hard Rock Hotel is provided to all leaseholds. However, the Hard Rock Hotel, operated in conjunction with each of the Defendants refuses to provide any in room advertising for Plaintiffs. Since certain other leasehold venues are advertised within each room, this leaves the Plaintiff SFLE at a competitive disadvantage.
2. Outside signage was agreed to be provided, at no charge, to SFLE. SFLE engaged time and funds to prepare a 15 second advertising spot on the hard rock casinos backlit scrolling advertisement sign, notwithstanding that both SPR and the Tribe advertise virtually all other commercial leaseholds in the Paradise Way Shopping Center, all of which are located adjacent to Plaintiff SFLE leasehold property.

3. In each hotel room free advertising is provided through a brochure for each guest to utilize in determining what stores and/or commercial leaseholds they wish to visit. However, the Defendants, collectively, have refused to advertise SFLE leasehold premises, such notwithstanding Plaintiffs being charged $985 per month for advertising which includes such in room advertising.
4. Permanently barring the operating shareholder and director (not to mention guarantor of the Lease between SPR and SFLE) of SFLE, PENDLETON, for life, from the Seminole Paradise Shopping Center along with the Hard Rock Hotel and Casino (including being barred from all other Seminole Indian properties). No reason has ever been specifically given to any of the Plaintiff's for such a drastic action by SPR and the Tribe. This action effectively blocks PENDLETON from operating SFLE, or otherwise going on SFLE'S business premises, specifically in light of the fact that access to the premises requires access to Paradise Way, from which he has been barred. This draconian measure by SPR, in conjunction and otherwise conspiring with the Tribe and its Tribal Council, is without cause or due process being provided. Accordingly, PENDLETON and SFLE are being deprived of PENDLETON'S ability to enter and operate SFLE.

67. Permanently depriving the Plaintiff SFLE to restrict the use of its tables and chairs on the outside patio area to the "first white tile line" instead of the use of their entire leasehold, which extends out to the "second white tile line" as provided by the Addendum. This behavior caused extensive lost business and profits to plaintiff SFLE, while at the same time it permitted the Tribe and SPR to provide the right of other lessees on Paradise Way, specifically including Martarono's restaurant, to use that space (already rented and paid for by SFLE, as stated in the Lease and Addendum) and otherwise charge Martarono's for additional patio area which the Tribe and SPR would not have been able to rent to Martarano's for its use, due to the lack of patio space, but for depriving SFLE'S of full use of its patio area. In other words, by depriving

the Plaintiffs of approximately 700 sq. ft. of their patio space, by unilaterally taking it away from SFLE approximately 3 years ago, the Defendants were able to add additional rental space to Martorano's restaurant, which would not have been possible but for the unlawful refusal of SPR and the Tribe to continue to permit SFLE to use such patio space out to the "second white tile line", on which SFLE has been paying rent, as set forth in both the Lease and the Addendum.

68. As the Supreme Court stated in Fuentes, v. Shevin, "[f]or more than a century the central meaning of procedural due process has been clear: parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified. It is equally fundamental that the right to notice and an opportunity to be heard 'must be granted at a meaningful time and manner.'

69. The facts set forth herein reveal that the Tribe, along with SPR and its affiliates, intentionally as part of a broader conspiracy to put SFLE out of business, acted with the purpose of depriving SFLE of its property/leasehold interest located on Paradise Way. As a result of the conduct described in this Complaint, SFLE's leasehold/property interest has, in fact, been rendered virtually worthless by the Tribe, SPR and their affiliates. The facts also establish, when one considers the fact that even to this date, SPR and the Tribe have refused to advise PENDLETON as to the cause of why he was permanently barred from entering either the Hard Rock Casino, Paradise Way, and/or SFLE'S business establishment," KnightTime".

70. All plaintiffs, collectively, and specifically, PENDLETON, assert that they have been denied procedural and substantive due process of law, as well as being deprived of equal protection under the law and has been treated differently than all other subtenants on Paradise Way. This wrongful conduct, as outlined in the above paragraphs, includes engaging in a conspiracy in by the Tribe and SPR to put SFLE out of business in any way possible, including barring PENDLETON, who is the primary operator and general manager of KnightTime Billiards, from access to his business at KnightTime. Such conduct by the Defendants clearly constitutes an intentional and egregious violation - - and cavalier disregard- - of the Plaintiffs constitutional rights and

protections, including the fundamental right to due process, which Congress intended the Tribe and SPR to observe and guarantee under the ICRA.

71. The matter at hand does not relate to internal tribal affairs, as it specifically involves the Tribe's acting through and on behalf of SPR, which engages in a commercial relationship with non-Tribe members.

72. Since there is no Tribal court system and no Tribal forum whatsoever for SFLE to seek redress for the grievances set forth in this Complaint, SFLE, including the individual Plaintiffs, has no choice but to turn to this Honorable Court, as the Tribe has admittedly done in the past due to the absence of a Tribal court system. Alternatively, SFLE along with the individual Plaintiffs has exhausted any theoretical "process" for redressing its grievances since the pursuit of any such "process" would be futile, particularly given the fact that both Defendants have refused to state why PENDLETON was barred from The Hard Rock Casino, Paradise Way, and, as a result, PENDLETON was denied access to Plaintiff SFLE'S business.

73. At all times relative to each of every cause of action in this Complaint each of the defendants knew or should have known that SFL E could not function on its own, as an ongoing business entity without the presence of Plaintiff PENDLETON.

74. With respect to the waiver of sovereign immunity contained in § 16.3.1 of the GROUND LEASE, SFLE has complied with all conditions precedent to bringing a claim against the Tribe, including the "Meet and Confer" requirement. Alternatively, compliance with all such conditions precedent has been excused waived or would be futile.

75. SFLE has retained the undersigned law firm and is obligated to pay it a reasonable legal fee AND Court costs.

CAUSES OF ACTION

FIRST CAUSE OF ACTION INJUNCTIVE RELIEF

Plaintiff SFLE, as well as the individual Plaintiffs PENDLETON and PRIOLO sue the Defendants, and here with incorporate paragraphs 1 through 75, as if repeated verbatim and allege:

76. Plaintiffs specifically request that this Court enter a preliminary and permanent injunction against the acts of the Defendants based upon both the foregoing factual allegations made within paragraphs 1 through 75, and otherwise include the following additional facts:

(a) The reason that the injunction is necessary is to permit Plaintiff SFLE to continue to operate its SFLE up to and including the outdoor patio seating, specifically agreed to upon by the parties in their Addendum to include seating and serving of alcoholic beverages up to the "second white line of floor tile";

(b) That this Court require that Plaintiff PENDLETON be entitled to return to the premises of SFLE in order to operate SFLE. Furthermore, Plaintiffs further request that SPR and the Tribe permit physical access to SFLE utilizing both casino and Paradise Way grounds;

(c) That this Court require the Defendants to permit the Plaintiffs accountants to verify the amounts being charged by SPR for CAM and garbage collection fees. In addition, Plaintiffs need to verify the spending of approximately $950.00 a Month, as required by the Lease, which, allegedly, is owed to the defendant SPR for advertising on Plaintiff's behalf. Such monies are required to be paid pursuant to the terms of the Lease.

(d) That this Court Order that the Plaintiff's patio chairs and tables be placed up and to the "second white tile line" as provided in the Lease Addendum.

(e) That this Court enjoin each Defendants from engaging in harassing tactics, including marching in announced or unannounced to show SFLE'S facilities to other prospective tenant;

(f) Prevent SPR, the Tribe and Hard Rock Casino from running, at certain times, "Red Carpet" activities in Paradise Way, where such activities effectively block SFLE'S ability to conduct business. By holding such events, Plaintiffs operations are completely blocked when the Defendants engage in such activities;

(g) That Plaintiff PENDLETON, PRIOLO and SFLE have no other adequate remedy at law, other than a granting of injunctive relief. This is particularly true since PENDLETON is both a shareholder and primary operator of SFLE.

(h) That this Court enter any other relief which it deems just and equitable under the circumstances.

(i) That such an injunction would not impair any right of either the Tribe or SPR, nor is such action adverse to the public interest.

(j) Grave injury to the Plaintiff's will be certain, substantial and irreparable if said injunction is denied.

77. Plaintiffs can factually demonstrate that the requested injunction will maintain the status quo and a preliminary injunction should be issued so as to preserve the rights to Plaintiff operation of its leasehold, as well as permitting PENDLETON back onto SFLE's property. Failure to permit PENDLETON access to SFLE's promotes the strong likelihood that SFLE would be put out of business on a permanent basis and would otherwise suffer immediate and irreparable financial harm to all Plaintiffs. Granting an injunction based upon the allegations made herein would have the salutary impact of preserving the status quo and minimize the harm to all parties pending a full trial on the merits of this cause

78. Plaintiff SFLE has performed the contract as subsequently alleged and was not in default under the Lease and/or Addendum to Lease at any time.

79. Each Defendant knew, or should have otherwise known of the existence of the Lease and Addendum to Lease.

80. Each of the Defendants deliberately engaged in the following wrongful, deliberate, and contumacious conduct, and otherwise deliberately engaged in a conspiracy to put SFLE out of business, all such conduct being detrimental to the interest of SFLE and other individual Plaintiffs in this cause, and all such acts being part of a further attempt to otherwise conspire to put SFLE out of business and otherwise materially breach the terms of its Lease and Addendum with SFLE, including but not limited to the following:

A. Other bad acts by each of the Defendants include but are not limited to: (1) refusing to permit Hard Rock Hotel and Casino gift certificates be redeemed at SFLE. Certain other establishments and commercial leaseholds in the

Paradise Way area are allowed to accept such certificates, which, by the right to accept them, bring additional revenue to a commercial property lease holder. However, the Defendants, in contravention of the terms of its Lease and Addendum with SFLE, have chosen to prevent SFLE from accepting such gift certificates;

B. Defendants are wrongfully engaging in charging unreasonable and excessive CAM and garbage disposal charges in violation of the leasehold agreement and Addendum thereto;

C. Depriving the Plaintiff PENDLETON from being on his leased premises, all of which have led to massive financial damages to himself, SFLE and his partner PRIOLO, since PENDLETON was obligated and charged with the responsibility for running SFLE.

D. Notwithstanding the right of the Plaintiff SFLE to sell cigarettes on their premises, the Tribe and SPR has deliberately have prevented the Plaintiff SFLE from offering cigarettes for sale.

E. As a result of the Defendant's wrongful conduct, both of the individual plaintiffs had suffered extreme emotional and physical distress since they are effectively precluded from operating SFLE.

F. That the Tribe has recently announced that a separate liquor license issued and by the Tribe would be required. Plaintiff, SFLE has complied with all paperwork necessary to obtain a new license, notwithstanding the fact that SFLE is operating under a previously granted Tribal Liquor License which, in accordance with the agreement of the parties, was never to expire. Upon reasonable information and belief, if the Tribe and SPR are permitted to require the attaining of a new Tribal Liquor License, SFLE would be disqualified, and would therefore be required to leave the demised premises, or otherwise denied the right to sell alcohol on their premises, which would lead to huge losses and the ultimate closing of SFLE.

G. Plaintiffs through certain unknown "John Does" who, upon information and belief may be members of the Seminole Tribe and/or Seminole Police

Department and/or employees of the Defendants in this lawsuit, have deliberately intruded on the peaceful and quiet enjoyment of the Plaintiff's SFLE's premises by bringing in or otherwise introducing possible ***future leaseholders*** of SFLE'S leasehold property, including making employees of SFLE provide tours of SFLE'S premises including but not limited to showing perspective future leaseholders SFLE'S real and personal property of SFLE.

81. Plaintiff has incurred unnecessary and unreasonably excessive expenses in attempting to rectify the situation created by Defendants, including the loss of substantial profits Plaintiff could have earned from liquor and cigarette receipts. Moreover, Defendants have deliberately injured Plaintiff's business reputation which has caused the Plaintiff SFLE, and its shareholders, to possibly sell what little is left of the "business" and physical assets of SFLE, without having the ability to sell any "goodwill" that was previously created by SFLE when it had the opportunity to sell alcohol and placed tables and chairs out to the "second white tile line", which has since been deprived over the last three years by the actions of the Defendants.

WHEREFORE, Plaintiffs respectfully request a temporary and permanent restraining order be entered against the defendants based upon the grounds stated within this Count. Further, Plaintiffs request that attorney's fees be awarded for the necessity of instituting this specific action. Plaintiff further requests that this Honorable Court provide any other relief which this Court deems to be appropriate and just given the unique circumstances of this case.

SECOND CAUSE OF ACTION
UNFAIR AND DECEPTIVE TRADE PRACTICES

Each Plaintiff sue the defendants and alleges:

82. The Florida Deceptive and Unfair Trade Practices Act (FDUTPA) makes unlawful "[u]nfair methods of competition or deceptive acts or practices in the conduct of any trade or commerce." [Fla. Stat. § 501.202] This law is known as the "Little FTC Act." The remedies under the FDUTPA are in addition to remedies otherwise available for the same conduct under state or local law. [Fla. Stat. § 501.213] Therefore, the FDUTPA is

supplemental to, and makes no attempt to preempt, local consumer protection ordinances not inconsistent with the FDUTPA. [Fla. Stat. § 501.213]

83. Plaintiffs, individually and SFLE reincorporate paragraphs 1 through 75 and paragraph 84, as if stated herein verbatim.

84. Although not specifically identified in the statute, there are basically three elements that are required to be alleged to establish a claim pursuant to the FDUTPA:

a. For this Court to determine that Defendants, individually and/or collectively, have engaged in a deceptive act or unfair practice; the Plaintiff, SFLE, must establish a violation of:
    i. Any rules promulgated pursuant to the Federal Trade Commission Act, 15 U.S.C.A. §§ 41 et seq.; or
    ii. The standards of unfairness and deception set forth and interpreted by the Federal Trade Commission or the federal courts; or
    iii. Any law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices.
b. causation; AND
c. actual damages.
    i. KC Leisure, Inc. v. Haber, 972 So. 2d 1069 (Fla. 5th DCA 2008). See also
    ii. Bookworld Trade, Inc. v. Daughters of St. Paul, Inc., 2007 WL 4124351, 532 F.Supp.2d 1350 (M.D.Fla. Nov. 16, 2007).

85. Based upon the foregoing allegations, (all of which are included within this Count of the Complaint), Plaintiffs respectfully submit that the engagement by Defendants in so many unfair and deceptive practices (including engaging in a conspiracy to but SFL E out of business as further stated herein above) prove that the Defendants have engaged in numerous deceptive and unfair business practices. In addition, the wrongful and illegal behavior of barring the Plaintiff PENDLETON from SFLE'S premises, clearly establishes both the extent of the unfair and deceptive trade practices; establishes the causative nature of the defendant's activities which otherwise seek to enrich their own

pockets at the expense of SFLE and the individual Plaintiffs; and otherwise establishes damages which are provable and or otherwise in excess of $10,000,000.00, plus interest costs and attorney's fees.

WHEREFORE, Plaintiff's request the following relief:

a. Trial by jury;
b. Compensatory and punitive damages in excess of $10,000,000.00
c. Treble attorney's fees and court costs
d. And all other remedies provided by statute, including treble damages for violating this act.

THIRD CAUSE OF ACTION

TORTIOUS INTERFERENCE WITH A CONTRACTUAL RELATIONSHIP

SFLE and the individual Plaintiffs sue the Defendants and alleges:

86. This is a cause of action for tortious interference with contractual relationship between SFLE and each of the Defendants.

87. Plaintiff SFLE reincorporate paragraphs 1 through 75, and paragraph 80, with the exception of paragraphs 76 and 77, as if such paragraphs are stated herein verbatim.

88. The elements of a cause of action for tortious interference with a contractual relationship are:

e. The existence of a contract, AND
f. The defendants knowledge of the contract, AND
g. The defendants intentional procurement of the contract's breach, AND
h. Absence of any justification or privilege, and amages resulting from the breach.

89. See, McKinney-Green, Inc. v. Davis, 606 So. 2d 393 (Fla. 1st DCA 1992). Florida Telephone Corp. v. Essig, 468 So. 2d 543 (Fla. 5th DCA 1985) (citing Sullivan v. Economic Research Properties, 455 So. 2d 630 (Fla. 5th DCA 1984); McDonald v. McGowan, 402 So. 2d 1197 (Fla. 5th DCA 1981), pet. for rev. dism., 411 So. 2d 380 (Fla.1981); Heavenner, Ogier Services v. R.W. Fla. Region, 418 So. 2d 1074 (Fla. 5th DCA 1982); Insurance Field Services v. White and White Inspection, 384 So. 2d 303

(Fla. 5th DCA 1980)). Accord, Tamiami Trail Tours, Inc. v. J.C. Cotton, 463 So. 2d 1126 (Fla.1985) (elements of cause of action for tortious interference with business relationship)

90. Given the factual allegations contained within this Count, Plaintiff SFLE and individual Plaintiffs submit that the following assertions are true and accurate to the best of their knowledge and belief:

A. That Defendants at all times new of the existence of the Addendum of Lease, dated March 11, 2005;

B. that Defendants deliberately and methodically stole profitable rights and privileges allegedly made as an intrinsic part of the Lease and Addendum by depriving SFLE of the right to operate out to the "second white tile line", and therefore permitting it to charge both the Plaintiff FSLE for additional rent in excess of 700 ft.² which was Plaintiff subsequently deprived of when the patio space was limited by the defendants; that the Tribe deliberately engaged in deceptive trade practices, requiring a Tribal Liquor License to operate while at the same time not advising the Plaintiff that it had such an obligation in the first instance; by preventing the Plaintiffs from fully utilizing all space so rented, defendants actually collected both from Martorano's and the Plaintiff; by the Tribe and SPR actually barring the Plaintiff PENDLETON from being on the premises without providing any written reason for being barred from the premises, all the while knowing that SFLE would likely fail, since it was being deprived of its chief financial and operating officer, PENDLETON.

C. That the Defendants, jointly and severally, engaging in a conspiracy to deprive all the plaintiffs of their rights to do business pursuant to the terms of their Lease and Addendum to Lease, by engaging in numerous bad acts as outlined herein, so as to cause Plaintiff SFLE from conducting its business, as lawfully permitted By Its Lease and Addendum.

Wherefore, plaintiffs request the following relief:

WHEREFORE, Plaintiff's request the following relief:

D. Trial by jury;

E. Compensatory and punitive damages in excess of $2,000,000.00

F. Attorneys fees and court costs;

G. And all other remedies provided by statute, including punitive damages in excess of $7 million.

FOURTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Plaintiffs PRIOLO and PENDLETON sues the Defendants and allege:

91. Individual Plaintiffs reassert as if stated verbatim reincorporate paragraphs 1 through 75, including paragraph 85, with the exception of paragraphs 70 and 71 (paragraphs 70 and 71 being specifically excluded).

92. The tort of intentional infliction of emotional distress exists where a party's conduct is more than simply bad faith or a breach of contract, but where the defaulting party's intentional conduct is outrageous. The Florida Supreme Court summarizes these four elements with reference to the Restatement (Second) of Torts as follows: "***One who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such emotional distress, and if bodily harm to the other results from it, for such bodily harm*** Metropolitan Life Insurance Co. v. McCarson, 467 So. 2d 277 (Fla. 1985) (emphasis added).

93. The elements as set forth in the Restatement (Second) of Torts § 46, as adopted in Florida by Metropolitan Life Insurance Co. v. McCarson, 467 So. 2d 277 (Fla. 1985) and Eastern Airlines, Inc. v. King, 557 So.2d 574 (Fla. 1987), are:

A. the wrongdoer's conduct was intentional or reckless; that is, he intended his behavior when he knew or should have known that emotional distress would likely result; and

B. the conduct was outrageous; that is, as to go beyond all bounds of decency, and to be regarded as odious and utterly intolerable in a civilized community; and

C. the conduct caused the emotional distress; and

94. The emotional distress was severe. Although intentional infliction of emotional distress may have similarities to assault, battery, or slander, torts are not identical; intentional infliction of emotional distress is not tort excepted from FTCA's general waiver of sovereign immunity. Truman v United States (1994, CA5 Tex) 26 F3d 592, 65 BNA FEP Cas 659, 65 CCH EPD ¶43188.

95. A claim for intentional infliction of emotional distress is authorized under the Foreign Sovereign Immunities Act (FSIA). 28 U.S.C.A. § 1602 et seq. Saludes v. Republica De Cuba, 655 F. Supp. 2d 1290 (S.D. Fla. 2009).

96. Each individual Plaintiff has suffered emotional distress as result of all of the unethical, unlawful, and reprehensible acts, including engaging in a conspiracy to put Defendant SFLE out of business, and therefore causing each individual plaintiff to lose their ability to earn a livelihood, including their entire financial investment in SFLE. Such wrongful acts, as outlined within the preceding paragraphs, were perpetrated both the Tribe and SPR, as part of a larger conspiracy to put SFLE out of business. As result of such wrongful conduct by the Defendants, each individual Plaintiff has suffered emotional injuries will be fully set forth in testimony at trial. However, it is fair and reasonable to assert that each individual Plaintiff has suffered emotional trauma as result of virtually losing their entire investment in the leasehold premises and SFLE'S business; each individual Plaintiff has been required to take medications to deal with the various nefarious acts of the Tribe and SPR, including but not limited to the unlawfully barring of PENDLETON from the premises of SFLE. Such trauma, by physically barring PENDLETON has led to severe emotional trauma in both individual Plaintiffs, who, notwithstanding Defendant's nefarious activities, nevertheless attempt on a daily basis to keep SFLE in business.

97. WHEREFORE, Plaintiff's request the following relief:

A. Trial by jury;

B. Compensatory and punitive damages in excess of $2,000,000.00

C. Attorneys fees and Court costs;

D. And all other remedies provided by statute.

E. Punitive damages in the sum in excess of $8 million.

FIFTH CAUSE OF ACTION

FRAUD IN THE INDUCEMENT, OR FRAUD IN THE PERFORMANCE

All Plaintiffs sue the Defendants and allege:

98. Plaintiffs reassert as if stated verbatim reincorporate paragraphs 1 through 75, including paragraph 85, with the exception of paragraphs 70 and 71 (paragraphs 70 and 71 being specifically excluded).

99. "The elements of claims for fraud in the inducement, fraud in the performance, fraudulent misrepresentation, and negligent misrepresentation are identical and differ only by the underlying facts supporting each claim."

100. "To state a cause of action for fraud in the inducement, a Plaintiff must allege facts that, if taken as true, would show (1) a false statement concerning a material fact, (2) knowledge by the person making the statement that the representation is false, (3) intent by the person making the statement that the representation induce another to act on it, and (4) reliance on the representation to the injury of the other party." (W.R. Townsend Contracting, Inc. v. Jensen Civil Const., Inc., 728 So. 2d 297 (Fla. 1st DCA 1999, citing Mettler, Inc. v. Ellen Tracy, Inc., 648 So. 2d 253, 255 (Fla. 2d DCA 1994); and also citing C & J Sapp Publishing Co. v. Tandy Corp., 585 So. 2d 290 (Fla. 2d DCA 1991)).

101. That in addition to those wrongful acts discussed within the above paragraphs of this Complaint, Plaintiffs specifically allege in this Count:

A. That each of the Plaintiff's acted in reliance upon the fact that Defendants statements that they would act in good faith in adhering to the terms and conditions of the Lease and Addendum to Lease;

B. That Plaintiff's acted in bad faith since they collectively conspired to remove SFLE from Paradise Way after they decided that each Defendant did not like Plaintiff's concept, notwithstanding the fact that the Defendants approved all plans related to the architecture, floor plan layout, and otherwise decided to

express their dissatisfaction after plaintiff spent in excess of $1,200,000 in construction costs.

C. That Plaintiff's all times were told that the premises were fully leased out on or about the **time** of signing of the lease, February 3, 2005. Such representations that all leaseholds in the Paradise Way were least out, and other leaseholds would start construction almost contemporaneously with the signing of Plaintiffs Lease was false when made, and was otherwise designed to induce the Plaintiff in the construction of SFLE. In so requiring and otherwise misleading Plaintiffs to complete the construction hurriedly, Plaintiffs had workers on the job almost 24 hours a day which substantially increased the cost of their construction.

D. Defendant through SPR (with Cordis acting on SPR's behalf), in conjunction with the Tribe made misleading statements prior to plaintiff SF LE'S execution of the lease (along with the personal guarantee signed by Plaintiff PENDLETON) that (1) Plaintiffs would benefit from having a band play full time in front of, and upon the opening of SFLE, and, thereafter, to bring additional patrons to Paradise Way, by continuing to have a live band play in front of SFLE's establishment. Such a misstatement was false when made, and designed with the intention of inducing Plaintiffs to sign the Lease and Addendum. In truth and in fact, the statement made by SPR's representatives was false, (including the Tribe, in as much as the tribe was doing business as SPR); were material in nature, and designed to induce Plaintiff's to sign the Lease and to begin construction almost immediately after signing the Lease.

E. That but for the false and fraudulent representation of the Defendants, PENDLETON would not have personally guaranteed the leasehold interest.

F. That Defendants specifically agreed not only to have a band play full-time outside of SFLE'S premises, such a statement was an inducing factor to the Plaintiff's in entering into entry the Lease in the first instance. Such a statement was material in nature, false when made, and otherwise designed to induce

plaintiffs to sign a lease with the Defendants. Such a statement was in fact relied upon by Defendants to their financial detriment.

G. That Defendants were also promised, as an inducing factor to Plaintiff's entry into the lease, that Paradise Way was fully rented, which, as result, would bring additional business to Plaintiffs establishment, since there were so many stores which would bring additional people to The Hard Rock Casino and Paradise Way in the first instance. But for this representation, and the material omission of the fact that virtually no other leases were signed with any prospective tenants, led to the premature building and opening of SFLE'S establishment, without any other leaseholds being open or otherwise under construction. But for such representations and omission, plaintiffs would not have built SFL E in the first instance to be ready to open on December 31, 2004. Such representations and omissions were material and nature, false when made, relied upon by each plaintiff, to the financial detriment of each plaintiff.

H. All such statements and omissions, as outlined above, were materially false; were made with the intention of inducing SFLE and the individual Plaintiffs to enter into the Lease and Addendum, and were otherwise designed to defraud the Plaintiffs by making false statements, material in nature, and otherwise relied upon by Plaintiffs to their financial and individual detriment. But for such statements, plaintiffs would not have entered into the Lease and Addendum.

102. WHEREFORE, Plaintiff's request the following relief:

A. Trial by jury;

B. Compensatory and punitive damages in excess of $2,000,000.00 and punitive damages in the sum of $8 million

C. Attorneys fees and court costs;

D. And all other remedies provided by statute and/or applicable case law.

SIXTH CAUSE OF ACTION

FRAUDULENT MISREPRESENTATION

All Plaintiffs sue the Defendants and allege:

103. Plaintiffs reassert as if stated verbatim, reincorporate paragraphs 1 through 75, including paragraph 85, with the exception of paragraphs 70 and 71 (paragraphs 70 and 71 being specifically excluded).

104. "The elements of claims for fraud in the inducement, fraud in the performance, fraudulent misrepresentation, and negligent misrepresentation are identical and differ only by the underlying facts supporting each claim." See, Baggett v. Electricians Credit Union, 620 So. 2d 784, 786 (Fla. 2d DCA 1993) (discussing negligent misrepresentation); and Johnson v. Davis, 480 So. 2d 625, 627 (Fla. 1985) (discussing fraudulent misrepresentation)

WHEREFORE, Plaintiff's request the following relief:

a. Trial by jury;
b. Compensatory and damages in excess of $2,000,000.00 and punitive damages in the sum of $8 million
c. Attorneys fees and applicable court costs;
d. And all other remedies provided by statute or applicable case law.

SEVENTH CAUSE OF ACTION

TORTIOUS INTERFERENCE WITH ADVANTAGEOUS BUSINESS RELATIONSHIP

All Plaintiffs sue the Defendants and allege:

105. Plaintiffs reassert as if stated verbatim, reincorporate paragraphs 1 through 75, including paragraph 85, and paragraphs 100 through 104, with the exception of paragraphs 70 and 71 (paragraphs 70 and 71 being specifically excluded).

106. Florida law recognizes that parties have a protectable interest in their business relationships and supports a cause of action in tort for interfering with such a relationship. The cause of action takes various names in Florida case law, including "tortious interference with business," "intentional interference with business relationship, "tortious interference with business relationship," "tortious interference with a contract," and perhaps even "interference with prospective business relationship." For the sake of

simplicity and clarity, all such causes of action are herein called a tortious interference with an advantageous business relationship.

The elements of a cause of action of a tortious interference with an advantageous business relationship are as follows:

e. the existence of a business relationship, under which the Plaintiff has legal rights (but which is not necessarily evidenced by an enforceable contract); AND

f. the Defendants' knowledge of the relationship; AND

g. an intentional and unjustified interference with the relationship by the DEFENDANT; AND

h. damage to the as a result of the interference.

107. At all times relative to this cause of action, Defendants knew that Plaintiffs relied upon the services of PENDLETON to run SFLE. Defendants knew or should have known that by barring PENDLETON from the Hard Rock Casino and Paradise Way, SFLE was not only likely to financially collapse and be unable to stay open for business, but otherwise new that PENDLETON relied upon his operating skill and ability in order to earn a living for both himself and Plaintiff PRIOLO.

108. As result of the dirty tricks, wrongful interference, and otherwise conspiratorial behavior to shut down SFLE by the Defendants, both PRIOLO'S and PENDLETON'S business relationship with SFLE was wrongfully interfered with to the considerable financial loss of all Plaintiffs.

109. Losing the opportunity for active management by PENDLETON have cost each of the Plaintiff's considerable financial loss. Moreover, inasmuch as PENDLETON was under a fiduciary and business obligation to operate and manage SFLE properly, defendants behavior wrongfully interfered with such management obligations of PENDLETON.

110. PRIOLO was also under a business duty to engage in the proper operation and business conduct of SFLE. As a direct and proximate result of the dirty tricks, wrongful behavior by defendants against all plaintiffs herein, and otherwise interference with the operations of SFLE by PRIOLO, all plaintiffs have suffered significant financial damages

proximately related to the defendants wrongful and dirty tricks, including engaging in a conspiracy to put SFLE out of business.

WHEREFORE, Plaintiff's request the following relief:

i. Trial by jury;

j. Compensatory and damages in excess of $2,000,000.00 and punitive damages in the sum of $8 million

k. Attorneys fees and applicable court costs;

l. And all other remedies provided by statute or applicable case law.

EIGHTH CAUSE OF ACTION

BREACH OF CONTRACT

Plaintiff SFLE sues each of the Defendants and alleges:

111. Plaintiffs reassert as if stated verbatim paragraphs 1 through 75, including paragraph 85, with the exception of paragraphs 70 and 71 (paragraphs 70 and 71 being specifically excluded). Plaintiff also reasserts 100 through 104 as if repeated verbatim.

112. Plaintiff SFLE assert that each of the Defendants breach the Lease and Addendum to Lease which alleges the following elements:

113. SFLE and the Defendants entered into a valid Lease and Addendum to Lease.

114. All conditions precedent have been satisfied by the Plaintiff SFLE or have otherwise been met and/or waived;

115. That actively engaged in wrongful conduct, creating financial damage to SFLE and physical and emotion damage to the individual Plaintiffs, Defendants have been engaged in the following wrongful conduct including:

A. deliberately engaged in conspiratorial acts in violation of the Lease and Addendum to Lease as Incorporated from other paragraphs of this complaint. More specifically, Defendants chose to act in a manner inconsistent with both the Lease and Addendum to Lease by: (1) engaging in acts, including the barring of PENDLETON from SFLE'S premises, including barring him for life from the Hard Rock Casino and Paradise Way; (2) denying PENDLETON and SFLE due process and an opportunity and notice to be heard trying to barring PENDLETON

from SFLE'S premises, which, upon information and belief, defendants believed that SFLE would immediately fail as an ongoing business; (3) engaging in predatory, wrongful acts, deceptive in nature, such as holding "red carpet" welcome to certain VIP guests, with the intention that these "red carpet" welcomes by placing such red carpet and other dates and restrictive structures which effectively deprived SFLE of operating its business; (4) that the defendants knew, or should have known, that such wrongful behavior on their part, including the engagement in a conspiracy to put SFLE out of business would intentionally inflict emotional harm upon the individual Plaintiffs; (5) that the defendants, in believing that they are above the law, deliberately acted to wrongfully and maliciously interfere in a willfully interfere with SFLE's business enterprise, notwithstanding the Lease and Addendum to Lease, otherwise believing that each of the Defendants is above the law and otherwise has a right to act in any manner in detriment to the rights of non-Tribal individuals, notwithstanding the fact that each of the Defendants and their personal representatives knew that such behavior was wrong, harmful, and perform maliciously with the sole intent of putting SFLE out of business, so that the Defendants might re-rent SFLE'S premises to a third-party who would pay more money or otherwise provide additional business for Paradise Way and the Hard Rock Casino.

B. Each of the acts alleged to have occurred within this Complaint by the Defendants have demonstrated a nefarious and wrongful intent to financially damage each and every plaintiff in this action. Each and every one of the acts alleged to have been performed by the defendants against PENDLETON, PRIOLO, and SFLE amounted to a deliberate, material breach of the terms of in the terms and conditions of the leasehold agreement as outlined within the Lease and Addendum to Lease.

116. As an additional and separate breach of contract, Defendants ordered SFLE to move its table and chairs back from the "second white tile line" to the "first white tile line". As a result, Defendant SPR has received approximately $100,000 for rental space for an area which the Defendants have subsequently deprived plaintiff SFLE from

utilizing, notwithstanding the defendants obligation to do so as required by the Addendum of Lease. Further, SFLE also is being charged for CAM and trash removal, notwithstanding the Defendants deprivation of approximately 700 ft.² of highly valuable space in this patio area, which has not only resulted in a financial windfall for the Defendants, but it also cost tremendous financial damage to SFLE since SFLE is unable to serve alcohol and finger foods in the patio area which was otherwise guaranteed for use by SFLE, and which the Defendants now deny the right of SFLE to use. One of the prime motivations behind requiring that Defendants required SFLE to utilize less patio area than otherwise guaranteed it pursuant to the Addendum of Lease, is that by depriving SFLE of such space, Defendants then had the opportunity to grant another lease holder, Martorano's, the right to open a bar in adjacent patio area space. In other words, if SFLE's patio space had not been reduced, Martorano's bar would lack the requisite space to have a bar built in the patio area. Thus, Defendants gained additional revenue for that of specific patio area space, otherwise guaranteed for SFLE use, since Defendants would not add adequate space to permit Martorano to build his patio bar, unless it stole such patio space from SFLE.

117. That is a direct and proximate result of those bad acts attributed to the Defendants herein, Defendants have been deprived of the right of quiet enjoyment; deprived of the right to make a living and otherwise earn a profit, have come at the emotional expense and physical damage caused by each of the individual Plaintiffs, and of otherwise deprived the Plaintiff SFLE of the benefit of its bargain.

WHEREFORE, Plaintiff's request the following relief:

A. Trial by jury;

B. Compensatory damages in excess of $2,000,000.00 and punitive damages in the sum of $8 million for such wrongful behavior which violated the terms and conditions of the parties Lease and Addendum of Lease.

C. Attorneys fees and court costs;

D. And all other remedies provided by statute or applicable case law.

NINTH CAUSE OF ACTION

DECLARATORY JUDGMENT COUNT

Plaintiff, SFLE, PENDLETON and PRIOLO sue Defendants, jointly and severally, for a Declaratory Judgment against both Defendants are wrongfully barring PENDLETON from operating and otherwise coming onto the business premises of SFLE.

118. Plaintiffs further adopt and re-allege the allegations contained in paragraphs 1 through 75 and paragraph 85, 100 through 104 and 109, with the exception of paragraphs 70 and 71 (paragraphs 70 and 71 being specifically excluded), as if repeated verbatim.

119. This is an action for a declaratory judgment and further necessary and proper relief pursuant to 28 U.S.C. §§2201 et seq. and 25 §§ 1301 - 1302 (the ICRA) and 28 U.S.C. 1343.

120. There is a bonafide, actual, present practical need for declaration.

121. The declaration concerns a present, ascertained or ascertainable state of facts or present controversy as to a state of facts.

122. An immunity, power, privilege or right of the parties is dependent upon the facts or the law applicable to the facts.

123. The parties have, or reasonably may have, an actual, present, adverse, and antagonistic interest in the subject matter of this suit, either in fact or law.

124. The antagonistic and adverse interests are all before the court by proper process. 120. The relief sought is not merely giving of legal advice or the answer to questions propounded for curiosity.

125. That this specific relief sought is a declaration by this Court that Plaintiff PENDLETON has been deprived of his due process rights by the Defendants as a result of the Tribe's failure to give PENDLETON any notice of the charges against him; depriving PENDLETON of an opportunity to understand the charges allegedly placed against him which resulted, without notice and/or an opportunity to understand the charges against him, an otherwise fair and impartial hearing, the result of which, without PENDLETON'S knowledge or participation in any forum, resulted in an adjudication by the Tribe that PENDLETON be barred for life from the Hard Rock Casino and Paradise Way, and, in so ordering, permanently barred the Plaintiff PENDLETON from coming on

to the premises of the Hard Rock Casino and/or Paradise Way in order that he might be deprived of his opportunity operate SFLE.

WHEREFORE, PLAINTIFF SFLE requests that the Court provide the following relief:

1. accelerate a speedy hearing on the matter and advance the matter on the Court's calendar as provided by Fed.R.Civ.P. 57.

a. declare that the Tribe has no Tribal court system or process or forum in place for redressing grievances between it and non-Tribe members, including subtenants like SFLE and the hundreds of thousands of people who visit the Tribe's gaming properties on an annual basis;

b. declare that the Tribe has violated the Indian Civil Rights Act and its own Bylaws by depriving SFLE of its property without due process of law and denying PENDLETON equal protection under the law;

c. declare that, based upon the foregoing, this Court has subject matter jurisdiction over the Tribe;

d. declare whether the Tribe is violating federal law in the manner in which it selectively enforces (or fails to enforce) its own liquor "Ordinance;"

e. declare that, pursuant to the GROUND LEASE, the Tribe has waived sovereign immunity with respect to claims SFLE may bring in connection with the conduct described herein;

f. declare that the Tribe has violated its own Bylaws and/or Constitution requiring due process and the right of any person to petition for redress of grievances;

g. enter a mandatory injunction requiring the Tribe to issue SFLE a Tribal Liquor License and enjoin and restrain the Tribe from further acts and conduct designed to deny any non-Tribe member, like SFLE, equal protection under the law;

h. order necessary and appropriate supplemental relief pursuant to 28 USC §2202 and other applicable law, which the Court deems just and

proper, including but not limited to restoring Pendleton's rights to access SFLE'S leasehold property;

i. award SFLE and individual Plaintiffs their attorneys' fees and costs;

TENTH CAUSE OF ACTION
Breach of the Covenant of Good Faith and Fair Dealing

Plaintiff SFLE sues the Defendants and alleges:

126. Every contract executed in this state is deemed to possess a covenant of good faith and fair dealing between the parties.

127. Plaintiffs, corporately and individually assert that the Lease and Addendum to Lease was and has been the subject of respective wrongful and dirty tricks practiced by both SPR and the Tribe which had breached the Lease and Addendum executed by the parties which has been breached as a result of the acts alleged within this Complaint.

128. Plaintiffs further adopt and re-allege the allegations contained in paragraphs 1 through 75 and paragraph 85, 100 through 104 and 109, with the exception of paragraphs 70 and 71 (paragraphs 70 and 71 being specifically excluded), as if repeated verbatim.

Wherefore, Plaintiff requests the following relief:

1. that this Court and/or jury, after jury trial, enter finding that the defendants had breached the covenant of good faith and fair dealing;
2. that the Plaintiffs, individually and corporately have been injured as result of the breach of this fundamental, covenant in excess of $2 million in compensatory damages and $8 million in punitive damages;
3. that this court grant trial by jury;
4. that this court grant any other relief which it deems just and equitable under the circumstances.

ELEVENTH CAUSE OF ACTION

Plaintiff, SFLE and PENDLETON sues the defendants and alleges:

129. That this is an action to declare that the Lease executed by the parties amounts to an adhesion contract, and therefore gives the Plaintiff the right to rescind the Lease in its entirety.

130. Plaintiffs further adopt and re-allege the allegations contained in paragraphs 1 through 75 and paragraph 85, 100 through 104 and 109, with the exception of paragraphs 70 and 71 (paragraphs 70 and 71 being specifically excluded), as if repeated verbatim.

131. Most of terms and conditions, particularly the right to sell the business without interference from the defendants, or otherwise reasonably assign the Lease to an otherwise qualified party, is considered per se onerous, unreasonable and against public policy.

132. That the Lease contract amounts to a contract of adhesion, since there was a disparity in the negotiating positions of the parties. This disparity in the negotiating positions of the party was the result of the following:

A. that the Indians were given the right to conduct gaming business on its reservation without a lack of competition;

B. that a lack of competition resulted since there was no other gaming facility in South Florida adjacent to a hotel facility, which otherwise also offered retail space;

C. that the concept of sovereign immunity, governing Indian reservations, is, seemingly ingrained within the right, as interpreted by the Seminole Indians to permit the tribe to operate in violation of the laws of both the state of Florida and the United States, particularly with respect to assuring the guarantees of both the federal and state Constitution relating to due process, fair dealing, and other business processes which govern virtually all other businesses in this state and nation.

133. That based upon the foregoing, including the numerous breaches of contract perpetrated by each of the Defendants, Plaintiff requests that its Lease be declared unenforceable; that the Defendants be required to return the entire investment in excess of $1,200,000 to the Plaintiff, SFLE, and otherwise release the plaintiff PENDLETON from his personal financial guarantee.

134. That this court also require the disgorgement of a sum in excess of $100,000, otherwise paid for by SF LE as part of its rent, for the failure of the defendants to permit SFLE to fully use the patio area so granted in the Addendum of Lease.

Wherefore, Plaintiff requests the following relief:

1. that this Court and/or jury, after jury trial, enter finding that the defendants had breached the covenant of good faith and fair dealing;
2. that the Plaintiffs, individually and corporately have been injured as result of the breach of this fundamental, covenant in excess of $2 million in compensatory damages and $8 million in punitive damages;
3. that this court grant trial by jury;
4. that this court grant any other relief which it deems just and equitable under the circumstances, including the grant of attorneys fees and costs

State of Florida
County of Broward

BEFORE ME, the undersigned, personally appeared, Scott Pendleton, who provided identification through production of Florida license number P534737601341-0 and who, after administration and upon oath deposes and states that the allegations contained in the foregoing complaint are true and accurate to the best of his knowledge and belief.

Notary Public
my commission expires:

CINDY A. TURNER
Notary Public, State of Florida
Commission# DD943587
My comm. expires Jan. 19, 2014

Scott Pendleton

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Fort Lauderdale, FL 33306
Telephone: 954/491-5033
Facsimile: 954/252-4222

Entertainment, Inc., a_____ _____("**Tenant**").

WITNESSETH:

WHEREAS, the United States of America holds in trust for the Seminole Tribe of Florida (the "Tribe"), a federally recognized Indian tribe organized under 25 U.S.C. §476, Section 16 of the Indian Reorganization Act, that certain land ("**Reservation Land**") which is located in Broward County, Florida, and has been or will be improved with a Shopping Center commonly known as "Seminole Paradise," as more particularly set forth below.

WHEREAS, the Tribe, as master landlord, and Landlord, as master tenant, have entered into a Master Lease dated as of July 1, 2003, as the same may be amended from time to time, with regard to the Shopping Center, pursuant to which Landlord has been authorized to enter into this Lease with Tenant.

NOW, THEREFORE, in consideration of the sum of Ten and 00/100 Dollars ($10.00),and the mutual covenants and agreements herein contained, the parties hereto do hereby covenant and agree as follows:

ARTICLE I
DEFINITIONS AND ATTACHMENTS

Section 1.1 Certain Defined Terms. As used herein, the term:

"Annual Minimum Rent" means Thirty Dollars ($30.00) per square foot of Tenant's Floor Area for the first two (2) Lease Years of the Term; provided that the foregoing amount shall thereafter be increased each Lease Year beginning with the third Lease Year of the Term by three percent (3%) compounded annually.

"Annual Percentage Rent" means a sum equal to the product obtained by multiplying: (a) the Percentage Rent Rate; by (b) the amount by which annual Gross Sales exceed the Breakpoint.

"Associate of Tenant" means any natural person, firm, corporation, association or other entity which has any ownership, participation or other financial interest in Tenant or in which Tenant has any ownership, participation or other financial interest, including, but not limited to, any stockholder, officer, director or partner of Tenant, any subsidiary or parent corporation of Tenant, any person or entity controlling, controlled by or under common control with Tenant, or any franchisor or franchisee of Tenant.

"Breakpoint" means the quotient of Annual Minimum Rent for the Lease Year divided by .07.

"Building(s)" means the structure(s) constructed or to be constructed by or for Landlord in the location(s) shown on **Exhibit "A"**, as the same may be altered, reduced, expanded or replaced from time to time. Tenant hereby acknowledges that the plans and layout of the Shopping Center being or to be constructed by Landlord may be in accordance with the depiction set forth on **Exhibit "A"** and that Landlord reserves the right to alter, reduce, expand or replace same in its sole and absolute discretion.

"Building Floor Area" means the aggregate number of square feet of leasable floor area in the Building(s), which, with respect to any such floor area which has been leased to any rent-paying tenant, shall be determined in accordance with the provisions of such rent-paying tenant's lease for such space, and which, with respect to any such floor area not so leased, shall consist of all such leasable floor area in the Building(s) designed for the exclusive use and occupancy of rent-paying tenants. Building Floor Area shall not include Common Areas, outdoor sales areas, non-selling mezzanine and basement areas, storage areas leased separately from retail areas and areas used for management and promotion offices.

"Common Areas" means those areas, improvements and facilities which may from time to time be furnished, operated, or managed by Landlord, or by any designee of Landlord, for the nonexclusive general common use of tenants and other occupants of the Shopping Center, their officers, agents, employees and customers.

"Competing Business" means each business in which Tenant or any Associate of Tenant has any ownership, participation, or financial interest, directly or indirectly, whether as a stockholder, partner, co-venturer, lender, manager, contractor, employee, consultant, agent or otherwise, and which business (i) is in competition with or similar to the business conducted by Tenant at the Shopping Center, and (ii) is located within a distance of ten (10) miles from that point in the outermost boundary of the Shopping Center which is closest to the premises at which such similar or competing business is conducted. The term "Competing Business" shall not apply to any business described in the foregoing sentence which is open and in operation as of the date of this Lease.

"Consumer Price Index" means the Consumer Price Index, which is pre
Bureau of Labor Statistics, U.S. Department of Labor, and which index is computed
100. This index is the overall summary Consumer Price Index entitled "All Items
Labor Statistics changes the base period index for its summary Consumer Price Inde

which is the Current Consumer Price Index and the denominator of which is the Prior Year Consumer Price Index. As used herein, (A) the term "**Current Consumer Price Index**" means the Consumer Price Index published for the calendar month immediately preceding the calendar month in which the subject Adjustment Year commences, and (B) the term "**Prior Year Consumer Price Index**" means the Consumer Price Index published for the calendar month immediately preceding the calendar month in which the Lease Year immediately preceding the subject Adjustment Year commenced. In each case, if the Consumer Price Index is not published for any calendar month referred to above, then the Consumer Price Index published for the calendar month closest thereto shall apply.

"**Default Rate**" means an annual rate of interest equal to twelve percent (12%) per annum.

"**Delivery of Possession**" means the date of substantial completion of Landlord's Work (as defined herein) and delivery of the Premises to Tenant.

"**Effective Date**" means the day and year first above written. The words "the date hereof", "the date of this Lease", or words of similar import referring to the date on which this Lease is made shall mean the Effective Date.

"**Event of Default**" shall have the meaning ascribed to it in Section 17.1.

"**Expansion**" means each expansion, alteration or modification of the Shopping Center, following construction of the Building of which the Premises forms a part.

"**Expansion Contribution**" – Intentionally deleted.

"**Expiration Date**" means the last day of the Term or if such date is other than the last day of the month, then the Expiration Date shall be the last day of the month in which such aforesaid date occurs.

"**Force Majeure**" means any labor dispute, Act of God, war, riot, unavailability of services or materials, governmental action or other occurrence beyond the reasonable control of Landlord or Tenant, as the case may be, which delays such party's performance of any of its obligations under this Lease. Except where this Lease states expressly that performance by either party of a specific obligation is subject to delay by Force Majeure, timely performance by such party of its obligations, including the timely payment of Rent, shall not be subject to any Force Majeure.

"**Gross Sales**" has the meaning ascribed to it in Section 5.4.

"**Guarantor**" means Scott Pendleton.

"**Grand Opening Date**" means the date and time designated from time to time by Landlord for the initial opening for business of the Shopping Center.

"**Initial Term**" means the period commencing on the Rent Commencement Date and, unless sooner terminated in accordance with the provisions of this Lease, terminating on the tenth (10th) anniversary of the day immediately preceding the first full calendar month following the Rent Commencement Date.

"**Landlord Notice Address**" means: 601 East Pratt Street, 6th Floor, Baltimore, MD 21202; Attn: General Counsel.

"**Landlord's Operating Costs**" shall have the meaning ascribed to it in Section 10.5.

"**Landlord's Work**" means the work to be performed by Landlord to complete the Premises as described on **Exhibit "C"** hereto.

"**Laws**" means Federal laws and the tribal laws of the Tribe.

"**Lease Year**" means each twelve (12) consecutive calendar months period or portion thereof occurring during the Term, provided that the first Lease Year shall commence on the Rent Commencement Date and shall end at the close of the twelfth (12th) full calendar month following the Rent Commencement Date.

"**Mortgage**" means any leasehold mortgage or other security interest on any ground lease on the Reservation Land, whether in existence on the date hereof or created hereafter.

"**Mortgagee**" means the party or parties having the benefit of any Mortgage beneficiary, noteholder or otherwise.

"**Opening Contribution**" means the sum of One Dollar ($1.00) multiplied b

"**Operating Hours**" means (i) 3:00 p.m. to 2:00a.m. daily, or (ii) such other

own, but Tenant shall not market the Premises for dancing nor provide a dance floor nor shall the Premises be operated in a manner where dancing is anything but a spontaneous by-product of patron reaction to background music.

"Plans" means the plans and specifications for completion of the improvements to the Premises to be prepared by Tenant in accordance with Tenant's obligations under the Work Exhibits and revised as required by Landlord. Upon any final approval by Landlord of such Plans, the term "Plans" shall mean the Plans in the form so approved.

"Premises" means the portion of the Building(s) depicted on **Exhibit "B"** and designated as Space **B12.0** containing approximately five thousand three hundred seventy (5,370) square feet of Tenant's Floor Area. The actual Tenant's Floor Area of the Premises shall be determined by measurement pursuant to Section 2.2. For purposes of Sections 5.3 through 5.7 only, the term **"Premises"** shall include, in addition to the premises referred to above, the premises at which each Competing Business is conducted.

"Promotion Fund Contribution" means the sum of Two Dollars ($2.00) multiplied by Tenant's Floor Area.

"Promotion Year" means the period following the Grand Opening Date and ending at the end of the first Lease Year of the Term and thereafter each year coinciding with each successive Lease Year or portion thereof occurring during the Term.

"Proportionate Share" means, with respect to Taxes and Landlord's Operating Costs (including but not limited to insurance costs), an amount equal to a fraction the numerator of which is Tenant's Floor Area and the denominator of which is the Building(s) Floor Area, as such Building(s) may be altered, reduced, expanded or replaced from time to time (exclusive of the building areas utilized for non-retail exhibits; recreational purposes; museum space operated by a not-for-profit entity; the building areas occupied by anchor buildings and outparcels whether the anchors and outparcels are occupied or vacant) which are occupied or producing rent. An "anchor" is any operation, land, building, store or business whether occupied or vacant which leases or occupies 20,000 square feet or more of space in the Shopping Center. An "outparcel" is any operation, land, building, store or business whether occupied or vacant that is not an anchor store that is separate from and non-contiguous to the Shopping Center.

"Renewal Term" shall mean one (1) five (5) year renewal, as and to the extent set forth in Section 3.4.

"Rent" shall have the meaning ascribed to it in Section 5.1.

"Rent Commencement Date" means the earlier of: (a) ninety (90) days after Delivery of Possession (as defined herein) or (b) the date Tenant opens for business in the Premises. If Landlord has an official Grand Opening, Tenant may delay its opening to coincide with such Grand Opening and the Rent Commencement Date shall be delayed until the earlier of such Grand Opening date or the date Tenant opens for business in the Premises.

"Security Deposit" means the sum of Sixteen Thousand Five Hundred Fifty-Seven and 50/100 Dollars ($16,557.50).

"Shopping Center" means the commercial development, consisting of the Common Areas and the Building(s), located or to be located on the Reservation Land, in Broward County, Florida, as described on **Exhibit "A"** hereto .

"Submission Date" means the date by which Tenant is required to submit its initial Plans to Landlord, which date shall be the date sixty (60) days following the date Tenant receives the Lease Outline Drawing, but in no event later than thirty (30) days before the Grand Opening Date.

"Taxes" shall have the meaning ascribed to it in Section 6.1.

"Tax Year" means each twelve (12) month period (deemed, for the purpose of Article VI, to have 365 days) established as the real estate tax year by applicable governmental authority.

"Term" shall mean the Initial Term and the Renewal Term (if any and only to the extent same is properly exercised).

"Tenant's Floor Area" means the aggregate number of square feet contained in the Premises, as measured in accordance with Section 2.2.

2381 NE 14th St. Causeway, #214, Pompano Beach, FL 33062

"Tenant's Notice Address" means ~~1100 SW 30th Avenue, Pompano Beach, Florida 33069~~.

KnightTime Billiards

"Tenant's Trade Name" means ~~Trick Shots~~.

"Tenant's Work" means the work to be performed by Tenant to complete the Premises as described in **Exhibit "D"** hereto.

"Work Schedules" means, collectively, **Exhibit "D"** and **Exhibit "E"** referred to in Section 1.2, including all modifications and amendments thereto agreed to by Landlord and Tenant in writing and all drawings and documents prepared pursuant thereto.

Section 1.2 Attachments. The following documents are attached hereto, and such documents, as well as all drawings and documents prepared pursuant thereto, shall be deemed to be a part hereof: **Exhibit "A"** - Drawing Showing Location of the Building(s); **Exhibit "B"** - Drawing Showing Location of the Premises; **Exhibit "C"** –

Section 2.1 Demised Premises; Quiet Enjoyment. Landlord hereby leases to Tenant, and Tenant hereby rents from Landlord, the Premises for the Term and at the Rent hereinafter described. Landlord warrants that so long as Tenant is not in default hereunder, Tenant shall have peaceful and quiet use and possession of the Premises, subject to the terms and conditions of this Lease, any Mortgage, and all matters of record or other agreements to which this Lease is or may hereafter be subordinated, free of all claims of Landlord or by through or under Landlord.

Section 2.2 Measurement of Premises. On or before the Rent Commencement Date, Landlord shall cause the Premises to be measured in the manner hereafter provided and shall give Tenant notice of the Tenant's Floor Area so determined. The Premises shall be measured (a) with respect to the front and rear width thereof, from the center of the demising wall of the adjacent tenant premises, or, if not adjoining any other tenant premises, from the exterior face of the adjacent exterior or corridor wall, and (b) with respect to the depth thereof, from the front lease line to the center of the demising wall of the adjacent tenant premises, or, if not adjoining any other tenant premises on the rear wall, to the exterior face of the rear exterior wall, or corridor wall; and in no case shall there be any deduction for columns or other structural elements or mechanical systems (including equipment and related duct work) within any tenant's premises. Tenant may, at its sole cost and expense, request that Landlord's architect or engineer re-measure the Premises and certify the same to the parties. At the election of Landlord, the Tenant's Floor Area may be determined from a measurement of Landlord's plans and specifications for the Building(s) and the Premises (if Tenant disagrees with the measurement from plans, a field measurement shall be performed).

ARTICLE III
TERM

Section 3.1 Term. The Term of this Lease shall commence on the Rent Commencement Date and shall terminate on the Expiration Date. Unless this Lease expressly grants any renewal right to Tenant, Tenant shall have no right to renew this Lease beyond the Initial Term. Landlord and Tenant agree, upon demand of the other, to execute a declaration certifying the Rent Commencement Date and the Expiration Date of the Term within ten (10) days following the Rent Commencement Date in the form attached hereto as **Exhibit "G"**.

Section 3.2 Expiration. Unless extended pursuant to Section 3.4 or by further written agreement of the parties, this Lease shall expire on the Expiration Date without the necessity of any notice from either Landlord or Tenant to terminate the same, and Tenant hereby waives notice to vacate or quit the Premises and agrees that Landlord shall be entitled to the benefit of all applicable Laws permitting the summary recovery of possession of the Premises from a tenant holding over. For the period of two (2) months prior to the expiration of the Term, Landlord shall have the right to display on the exterior of the Premises a "For Rent" sign and during such period Landlord may show the Premises and all parts thereof to prospective tenants during normal business hours (but Landlord shall let store personnel know in advance).

Section 3.3 Holding Over. If Tenant does not surrender the Premises at the end of the Term, the tenancy under this Lease shall become a month-to-month tenancy, at will, upon all the terms and conditions contained in this Lease, except that all Rent shall be at a rate twice the Rent in effect during the last month of the Term. Except upon the occurrence of an Event of Default, in which case the provisions of this Lease concerning termination after the occurrence of an Event of Default shall control, such tenancy shall be terminable by either party on thirty (30) days' written notice to the other party (but Landlord shall comply with law in obtaining possession). Nothing contained in this Section 3.3 shall affect or limit any of Landlord's rights or remedies under any provision of this Lease.

Section 3.4 Renewal Term. Tenant shall be entitled to extend the Term for the Renewal Term, which Renewal Term shall commence at the expiration of the Initial Term, by and only by giving to Landlord express, written notice of Tenant's desire to exercise such renewal option (the "**Renewal Notice**") during the period that begins on the third (3rd) anniversary of the Rent Commencement Date and that terminates one hundred eighty (180) prior to expiration of the Initial Term (time being of the essence); provided, however, that, in the sole discretion of Landlord, such renewal shall not be effective: (i) if an Event of Default exists on the date Landlord receives the Renewal Notice or when the Renewal Term otherwise is to commence; or (ii) unless Tenant then is in possession of the Premises doing business therein in accordance with the terms and provisions of this Lease on the date Landlord receives the Renewal Notice or when the Renewal Term otherwise is to commence; or (iii) unless during the last twelve (12) months of the Initial Term, Tenant, at its expense, refurbished the Premises to the reasonable satisfaction of Landlord to the end that the Premises is in first class condition on the scheduled first day of the Renewal Term. Such renewal shall be upon the terms and subject to the conditions set forth herein, except that (i) after the proper exercise of the Renewal Term, [illegible] right to extend the Term; and (ii) the provisions of Section 7.1 shall be deemed void and [illegible] Landlord shall not be obligated to perform any additional Landlord's Work. If Tenant [illegible] written notice of exercise as provided above, this Lease shall automatically terminate on [illegible] reason whatsoever the Initial Term is terminated, the foregoing renewal option shall al[illegible] contemporaneously therewith.

staffed no later than the Rent Commencement Date. Tenant shall occupy the Premises from and after the Rent Commencement Date and thereafter will continuously use the Premises for the Permitted Use and for no other purpose whatsoever. Tenant acknowledges that Tenant does not have any exclusive rights in the Shopping Center with respect to the sale of merchandise or the provisions of services or otherwise, and other tenants or occupants of the Shopping Center (i) may sell the same or similar items as Tenant is permitted to sell under this Lease or (ii) may provide the same or similar services as Tenant is permitted to provided under this Lease.

Section 4.2 Storage and Office Areas. Tenant shall use no more than ten percent (10%) of Tenant's Floor Area for storage and office purposes and such storage and office use shall be incidental to the Permitted Use.

Section 4.3 Tenant's Trade Name. Tenant shall conduct business in the Premises only in Tenant's Trade Name.

Section 4.4 Operating Hours. Tenant shall cause its business to be conducted and operated in such manner as shall assure the transaction of a maximum volume of business at the Premises. The continuous occupancy and use of the Premises by Tenant is of the essence to this Lease. Tenant shall cause the Premises to be open daily for business during all Operating Hours. If Tenant shall fail to cause its business to be operated during the hours required by the preceding sentence, or as otherwise required by Landlord, in addition to any other remedy available to Landlord under this Lease and/or under applicable Laws: (i) Landlord may elect to terminate this Lease on thirty (30) days notice unless Tenant cures within such period, and (ii) Tenant shall pay to Landlord, as liquidated damages for such breach, a sum equal to Fifty Dollars ($50.00) for each hour or portion thereof during which Tenant shall fail to so operate (except that the liquidated damages shall not apply until Landlord has twice notified Tenant, it being agreed that each day on which a violation occurs shall be deemed a separate violation).

ARTICLE V
RENT

Section 5.1 Rent Payable. Tenant covenants and agrees to pay to Landlord as rent ("**Rent**") for the Premises, the sum of the following: (a) Annual Minimum Rent; (b) Annual Percentage Rent; (c) all additional sums, charges or amounts of whatever nature which Tenant is required to pay to Landlord in accordance with the provisions of this Lease, whether or not such sums, charges or amounts are referred to as additional rent (collectively referred to as "**Additional Rent**"); and (d) all sales tax, tax on rents and any other such tax (including, without limitation, intangible personal property tax) imposed on payments due Landlord under this Lease, should any governmental taxing authority or other applicable Federal, tribal or Florida governmental authority levy, assess or impose any tax, excise or assessment (other than income, inheritance or franchise tax) upon or against the Rent payable by Tenant to Landlord, either by way of substitution for or in addition to any existing tax on land, buildings or otherwise. Tenant shall be responsible for and shall pay any tax, excise or assessment or shall reimburse the Landlord for the amount thereof, as the case may be. Annual Minimum Rent and the Breakpoint shall be reduced proportionately for any Lease Year of less than twelve (12) calendar months. Subsequent to the date that Tenant initially opens for business in the Premises, Tenant's Breakpoint shall be reduced by one-three hundred sixtieth (1/360th) for each day or portion thereof that Tenant does not operate its business in the Premises pursuant to Article IV.

Section 5.2 Annual Minimum Rent. Annual Minimum Rent shall be payable, beginning on the Rent Commencement Date, in twelve (12) equal installments in advance on the first day of each calendar month during the Term. The first month's installment of Annual Minimum Rent is due upon the Effective Date.

Section 5.3 Annual Percentage Rent. Annual Percentage Rent shall be determined and paid by Tenant in accordance with the provisions of this Section 5.3. During each Lease Year, commencing with the calendar month that follows the calendar month that Gross Sales for such Lease Year first exceeds the Breakpoint for such Lease Year, on or before the twentieth (20^{th}) day of such calendar month and each calendar month thereafter during such Lease Year (and the first calendar month of the next twelve month period), Tenant shall pay Landlord, as a monthly installment of Percentage Rent, an amount equal to the product obtained by multiplying the Percentage Rent Rate by the Gross Sales made during such previous calendar month, to the extent such year-to-date Gross Sales exceed the Breakpoint for such Lease Year and to the extent such installment of Percentage Rent for such Gross Sales had not been previously paid by Tenant to Landlord. As soon as practicable but, in any event, no later than ninety (90) days after the end of each Lease Year, Annual Percentage Rent paid or payable for such Lease Year will be determined based on the total Gross Sales for such Lease Year. If the Annual Percentage Rent so determined differs from the amount actually paid by Tenant for such Lease Year, the deficiency or overpayment shall be Adjusted within ten (10) days after determination of the total Gross Sales for such Lease Year.

Section 5.4 "Gross Sales" Defined. "Gross Sales" means the actual sales pr
merchandise sold, leased, licensed or delivered and the actual charges for all services per
subtenant, licensee or concessionaire in, at, from, or arising out of the use of the Premises,
cash or credit, or otherwise, without reserve or deduction for inability or failure to collec
without limitation, sales and services (a) where the orders therefore originate in, at, from, c

Tenant where such exchange is made solely for the convenient operation of Tenant's business and not for the purpose of consummating a sale made in, at, or from the Premises, or for the purpose of depriving Landlord of the benefit of a sale made in, at, or from the Premises, or for the purposes of depriving Landlord of the benefit of a sale which would otherwise be made in or at the Premises; (ii) returns to shippers or manufacturers; (iii) cash or credit refunds to customers or transactions (not to exceed the actual selling price of the item returned), otherwise included in Gross Sales; (iv) sales of trade fixtures, machinery and equipment after use thereof by Tenant in the conduct of Tenant's business but which sale is not otherwise in the normal course of Tenant's business; (v) amounts collected and paid by Tenant to any applicable governmental authority for any sales or excise tax on goods sold at the Premises; and (vi) the amount of any discount on sales to bona fide employees of Tenant employed at the Premises, not to exceed one percent (1%) of annual Gross Sales.

Section 5.5 Statements of Gross Sales.

(a) Within twenty (20) days after the close of each calendar month of the Term (time being of the essence), beginning with the first full calendar month after the Rent Commencement Date, Tenant shall deliver to Landlord a written report signed by Tenant's chief financial officer, certifying the Gross Sales made in such calendar month.

(b) Within sixty (60) days after the close of each Lease Year (time being of the essence) and after the Expiration of the Lease, Tenant shall deliver to Landlord a statement of Gross Sales for the preceding Lease Year, or portion thereof, which shall reflect all Gross Sales for such Lease Year or portion thereof. The annual statement shall be accompanied by the signed certificate of the chief financial officer of Tenant stating that: (i) he has examined the report of Gross Sales for such Lease Year; (ii) his examination included such tests of Tenant's books and records as necessary or appropriate under the circumstances to account for all Gross Sales; (iii) such report presents accurately and completely all Gross Sales for such Lease Year; and (iv) the Gross Sales as so reported conform with and are computed in compliance with the definition of Gross Sales contained in Section 5.4 hereof. Such annual report and accompanying certification are hereinafter referred to as the "**Annual Certified Statement**."

(c) If Tenant fails to prepare and deliver any statement of Gross Sales required by this Section 5.5, within the time or times specified above and fails to cure within ten (10) days of written notice of such failure, Landlord may elect to do one or more of the following:

(i) Landlord may elect to treat Tenant's failure as an Event of Default.

(ii) Landlord may elect to cause an audit of all original books and records of Tenant as required to be preserved by Tenant under Section 5.6 and prepare the statement or statements which Tenant has failed to prepare and deliver. The statement or statements prepared by Landlord or its agents shall be conclusive and binding on Tenant. Tenant shall pay all expenses of such audit and of the preparation of any such statement and any and all such sums shown by such audit to be due as Percentage Rent. Audits shall be conducted within three years of receipt of all required statements.

(iii) Landlord may elect to estimate Tenant's annual Gross Sales for such Lease Year (Landlord's estimate shall be reasonable and Tenant may dispute said estimate within thirty (30) days of receipt). In making such estimate Landlord may take into account such factors as Landlord deems relevant, provided that in any event Landlord may base its estimate on the highest monthly Gross Sales previously reported by Tenant, or determined by prior examination under Section 5.6 (b). Landlord's estimate shall be binding on Tenant and determinative of annual Gross Sales and Annual Percentage Rent due for the Lease Year in question.

In addition to the above, if Tenant fails to prepare and deliver any statement of Gross Sales required by this Section 5.5, within the time or times specified above, within ten (10) days of Landlord's demand therefor, Tenant shall pay Landlord a late charge equal to Two Hundred Fifty Dollars ($250) for each such late statement to reimburse Landlord for its additional administrative costs unless the failure is beyond the reasonable control of Tenant such as force majeure.

Section 5.6 Tenant's Records; Examination.

(a) For the purpose of permitting verification by Landlord of any amounts due as Annual Percentage Rent, Tenant will (i) cause the business upon the Premises to be operated so that a duplicate sales slip, invoice or non-resettable cash register receipt, serially numbered, or such other device for recording sales as Landlord approves, shall be issued with each sale or transaction, whether for cash, credit or exchange; and (ii) keep and preserve, at the Tenant Notice Address, for at least three (3) years after each Lease Year, a general ledg journals, and such sales records and other supporting documentation, together with ori records, which shall disclose all information required to determine Gross Sales.

(b) At any time and from time to time after thirty (30) days notice Mortgagee, their agents and accountants shall have the right to examine any and all o

connection with the examination of Tenant's records (provided Tenant shall in any event pay such costs if the examination results from Tenant's failure to timely submit any Annual Certified Statement); and (iii) within fifteen (15) days after notice from Landlord, Tenant shall demonstrate to Landlord's absolute satisfaction that it has implemented a record keeping system adequate to reflect and to permit Landlord to verify Gross Sales. Notwithstanding anything herein to the contrary, if Landlord determines that any deficiency in Tenant's records or discrepancies in Gross Sales reported by Tenant is a result of any bad faith by Tenant, or if Tenant fails to timely deliver its monthly statement of Gross Sales on more than five (5) occasions during the Term, Landlord shall have the right immediately to declare an Event of Default.

Section 5.7 Payment of Rent.

(a) Tenant shall pay all Rent to Landlord when due and payable, without any setoff, deduction or prior demand therefor whatsoever. If Tenant shall fail to pay any Rent within ten (10) days after the same is due, Tenant shall be obligated to pay a late charge equal to the greater of Two Hundred Fifty Dollars ($250) or five percent (5%) of any Rent payment not paid when due to reimburse Landlord for its additional administrative costs (notwithstanding the foregoing, Landlord shall provide written notice and a ten (10) day cure period prior to imposition of a late charge except that once Landlord has sent two such notices in a twelve month period, further notices shall not be required fot the next twelve months). In addition, any Rent which is not paid within ten (10) days after the same is due shall bear interest at the Default Rate from the first day due until paid. All Additional Rent which shall be due shall be payable, unless otherwise provided herein, with the next installment of Annual Minimum Rent.

(b) Rent, reports and statements required of Tenant shall be paid and delivered to Landlord at the Landlord Notice Address or at such other place as Landlord may from time to time designate in a notice to Tenant. Any payment by Tenant or acceptance by Landlord of Rent in a lesser amount than due shall be treated as a payment on account. The acceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, that such lesser amount is payment in full, shall be given no effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant. If on more than one (1) occasion during the Term any check for Rent shall not be honored by the bank on which it is drawn, Landlord may thereafter require that all future payments from Tenant be made by certified check.

Section 5.8 Security Deposit. On the Effective Date , Tenant shall pay to Landlord the Security Deposit, which shall be retained by Landlord as security for Tenant's obligation to (i) pay Rent and (ii) perform of all of its other obligation under this Lease. On the occurrence of an Event of Default, or, if prior to the Rent Commencement Date Landlord determines that Tenant is not timely paying its bills in connection with the construction of the Tenant's Work, Landlord shall be entitled, at its sole discretion, to apply any or all of the Security Deposit in payment of (i) any Rent then due and owing, (ii) any reasonable expenses incurred by Landlord in the performance of Tenant's delinquent obligation under this Lease, (iii) any reasonable damages incurred by Landlord by reason of such default (including reasonable attorneys' fees), and/or (iv) past due bills in connection with the construction of the Tenant's Work, in which event Tenant shall, immediately on its receipt of a written demand therefor from Landlord, pay to Landlord a sum equaling the amount so applied, so as to restore the Security Deposit to its original amount. Notwithstanding the foregoing, to the extent that the Security Deposit (or any portion thereof) is applied as provided immediately above, Tenant's liability with regard to occurrences under clauses (i)–(iv) of this section shall be discharged by such application only to the extent of the sums so applied, and Tenant shall remain liable for any amounts that such sum shall be insufficient to pay. After the termination of this Lease, any of the Security Deposit that is not so applied or retained in accordance with the provisions of this Sections shall be returned to Tenant. The Security Deposit shall not bear interest while being held by Landlord hereunder, and Landlord is not required to keep the same in a separate account. Nothing herein contained shall require Landlord to exhaust its remedies against Tenant before resorting to the Security Deposit.

Section 5.9 Competing Business. Upon the opening for business of a Competing Business, Landlord or Landlord's authorized representative or agent shall have the right at all reasonable times during the Term and for a period of at least one year after the expiration of the Term, to inspect, audit, copy and/or make extracts of the books, source documents, records and accounts pertaining to such other Competing Business, in accordance with the provisions of Section 5.6, for the purpose of determining or verifying any Rent due Landlord. Moreover, in the event Tenant fails to supply to Landlord sales records with respect to any such Competing Business, Landlord shall have the right to estimate the sales for such Competing Business based upon Tenant's Gross Sales in the Premises, and the additional Annual Percentage Rent generated from the inclusion of such estimated sales in Tenant's Gross Sales shall be deemed Rent to be paid by Tenant in accordance with the provisions of Section 5.3.

Section 5.10 Automatic Transfer. Intentionally deleted.

Section 5.11 Landlord's Expenses. If Landlord pays any monies or incurs any re
breach of this Lease by Tenant or to do anything in this Lease required to be done by Ten
expense (including, but not limited to, reasonable attorneys' fees and court costs), as a
perform any of Tenant's obligations under this Lease, all amounts so paid or incurred s
considered Additional Rent payable in full by Tenant with the first monthly installmer
thereafter becoming due and payable, and may be collected as Rent.

Section 6.1 Tenant to Pay Proportionate Share of Taxes. Tenant shall pay for each Tax Year during the Term, as Additional Rent, its Proportionate Share of all Taxes. "Taxes" means, collectively, all real estate taxes, ad valorem taxes and assessments, general and special assessments, taxes on real estate Rent receipts (if in lieu of real estate taxes), taxes on Landlord's gross receipts (if in lieu of real estate taxes), taxes and other impositions imposed by any applicable governmental authority, which are in replacement of or in addition to all or any part of ad valorem taxes as sources of revenue, or any other tax imposed upon or levied against real estate or upon owners or occupants of real estate as such rather than persons generally, including taxes imposed on leasehold improvements and/or occupancy rights which are assessed with respect to or are allocable to the Shopping Center, including the Reservation Land, the Building(s), and all other improvements situated thereon, together with the reasonable cost (including fees of attorneys, consultants and appraisers) of any negotiation, contest or appeal pursued by Landlord in an effort to reduce any such tax, assessment or charge, and all of Landlord's reasonable administrative costs in relation to the foregoing. For the Tax Year in which the Term commences or terminates, the provisions of this Section shall apply, but Tenant's Proportionate Share of Taxes for such year shall be subject to a pro rata adjustment based upon the number of days of such Tax Year that fall within the Term. As of the date of this Lease, there are no real estate taxes affecting the Shopping Center.

Section 6.2 Payment of Proportionate Share of Taxes. Tenant's Proportionate Share of Taxes shall be paid by Tenant in equal monthly installments in such amounts as are estimated and billed for each Tax Year by Landlord, each such installment being due on the first day of each calendar month, commencing on the Rent Commencement Date. At any time during a Tax Year, Landlord may re-estimate Tenant's Proportionate Share of Taxes and adjust Tenant's monthly installments payable thereafter during the Tax Year to reflect more accurately Tenant's Proportionate Share of Taxes as re-estimated by Landlord. Within one hundred twenty (120) days after Landlord's receipt of the final tax bill for each Tax Year, Landlord will deliver to Tenant a statement of the amount of Taxes with respect to such Tax Year and the amount of Tenant's Proportionate Share thereof. Any overpayment or deficiency in Tenant's payment of its Proportionate Share of Taxes for such Tax Year shall be Adjusted within thirty (30) days after Tenant's receipt of such statement. The failure of Landlord to provide such certification within the time prescribed above shall not relieve Tenant of any of its obligations hereunder. Any discounts that are obtained through early payment or otherwise shall be reflected in Tenant's Proportionate Share.

Section 6.3 Other Taxes Payable by Tenant. In addition to Tenant's Proportionate Share of Taxes, Tenant shall pay, prior to the time the same become delinquent, to the applicable Federal, tribal and/or Florida governmental authority, any and all sales, excise, property and other taxes levied, imposed or assessed with respect to (i) the occupancy by Tenant of space on Reservation Land, (ii) the operation of Tenant's business, (iii) Tenant's inventory, furniture, trade fixtures, apparatus, equipment, and all leasehold improvements installed by Tenant or by Landlord on behalf of Tenant (except to the extent such leasehold improvements shall be covered by Taxes referred to in Section 6.1) and any other property of Tenant, and/or (iv) utility services provided to Tenant at the Premises, including, without limitation, Broward County taxes on electricity, gas, water and telecommunication services.

ARTICLE VII
IMPROVEMENTS

Section 7.1 Landlord's Improvements. Upon final approval of Tenant's Plans as hereafter provided, and subject to delays due to any Force Majeure or due to Tenant's employees, agents, contractors or representatives, Landlord will, as promptly as reasonably possible perform Landlord's Work. Failure of Landlord to complete Landlord's Work within any deadline therefore will not give rise to any claim for damages by Tenant against Landlord or against Landlord's contractor or permit Tenant to rescind or terminate this Lease except as expressly otherwise provided in Section 22.1.

Section 7.2 Tenant's Improvements.

(a) Not later than the Submission Date, Tenant shall provide Landlord with its initial Plans for Landlord's review and approval. The initial Plans shall be prepared in conformance with the Work Schedules and with applicable Laws. Landlord shall promptly review the initial Plans and any revisions thereof and shall notify Tenant of any required changes. Landlord shall complete its review of submissions within ten (10) days of receipt. If Tenant fails to submit its initial Plans by the Submission Date or fails to submit any revised Plans by the dates required by Landlord, then, in any of such events, if such failure continues for more than ten (10) days after notice from Landlord, Landlord may at its option terminate this Lease by notice to Tenant in which event this Lease shall terminate as of the date thirty (30) days after Landlord's notice unless Tenant cures its failure to submit within such period. Upon any such termination, Tenant shall reimburse Landlord on demand for all reasonable costs incurred by Landlord in reviewing the Plans and in connection with any of Landlord's Work. No deviation from the final Plans ap made by Tenant without Landlord's prior written consent. Approval of the Plans by Lan assumption of any responsibility by Landlord or Landlord's architect for their accurac compliance with any applicable Laws, and Tenant shall be solely responsible for such ite

(b) Upon Delivery of Possession, Tenant shall, at its sole cost and expe

Section 7.3 Effect of Opening For Business. By opening the Premises for business, Tenant shall be deemed to have accepted the Premises as then constructed and agreed that all of Landlord's Work has been fully performed, except for any written "punchlist" items submitted by Tenant no later than seven (7) days after the Rent Commencement Date and agreed to by Landlord to be performed after the Rent Commencement Date.

Section 7.4 Mechanic's Liens. No work performed by Tenant pursuant to this Lease, whether in the nature of erection, construction, alteration or repair, shall be deemed to be at the request of or for the use or benefit of Landlord or the Tribe. Tenant shall promptly and fully pay all persons furnishing labor or materials with respect to any work performed by Tenant or its contractor on or about the Premises. Prior to the commencement of any work by or through Tenant at the Premises, Tenant shall notify its contractors and subcontractors, and each of them will agree, in writing, that they do not have the power or right to lien the Premises, the Shopping Center, or Landlord's or the Tribe's interest therein, and in connection therewith, Tenant shall place such other reasonable contractual provisions as Landlord may request in all contracts for work or materials between Tenant and any third parties with regard to the Premises. Tenant hereby acknowledges and agrees that it does not have the right or power to file any lien whatsoever against the Premises, the Shopping Center, or Landlord's or the Tribe's interest therein.

Section 7.5 Tenant's Leasehold Improvements and Trade Fixtures.

(a) All leasehold improvements installed in the Premises at any time, whether by or on behalf of Tenant or by or on behalf of Landlord, and all trade fixtures and apparatus installed in the Premises and initially paid for by Landlord, shall not be removed from the Premises at any time, unless such removal is consented to in advance by Landlord; and at the expiration of this Lease (either on the Expiration Date or upon such earlier termination as provided in this Lease), all such leasehold improvements and such trade fixtures and apparatus shall be deemed to be part of the Premises, shall not be removed by Tenant when it vacates the Premises, and title thereto shall vest solely in Landlord without payment of any nature to Tenant.

(b) All trade fixtures and apparatus (as distinguished from leasehold improvements and trade fixtures and apparatus initially paid for by Landlord) paid for by Tenant and installed in the Premises shall remain the property of Tenant and shall be removable at any time on or before the Expiration of the Lease; provided that (i) Tenant shall not at such time be in default of any terms or covenants of this Lease, (ii) Tenant shall repair any damage to the Premises caused by the removal of said trade fixtures and apparatus and shall restore the Premises to substantially the same condition as existed prior to the installation of said trade fixtures and apparatus, and (iii) to the extent such removal is performed more than thirty (30) days prior to the Expiration of the Lease, Tenant immediately replaces the removed property with a trade fixture(s) or apparatus(a) of like kind and equal or greater quality and value. If Tenant is in default, Landlord shall have the benefit of any applicable lien or security interest that may now or at any time hereafter be provided under this Lease and/or by applicable Laws on Tenant's property located in the Premises.

Section 7.6 Tenant Construction Allowance. Landlord hereby agrees to pay to Tenant a construction allowance of Twenty ($20.00) per square foot of Tenant's Floor Area for the Tenant Improvements being performed by Tenant in the Premises pursuant to Exhibit "D" ("Tenant Construction Allowance"). Landlord shall pay the Tenant Construction Allowance in periodic payments as set forth below with any remaining amount in a lump sum payment which will be paid within sixty (60) days after the last to occur of the following: (a) the Tenant Improvements have been completed; (b) Tenant has obtained a certificate of occupancy for the Premises and has provided a copy of same to Landlord; (c) Tenant has opened the Premises for business to the public in accordance with the provisions of this Lease; (d) Tenant has delivered to Landlord an executed Tenant Estoppel Certificate (e) Tenant has delivered to Landlord lien waivers for all work performed or material supplied; (f) Tenant has paid Landlord its first month's Annual Minimum Rent and other charges; and(g)Tenant has provided Landlord with a written notice requesting payment of the Tenant Construction Allowance. Up to three (3) progress payments shall be made at one-third completion levels upon submission of the above as applicable as to the level of completion.

ARTICLE VIII
OPERATIONS

Section 8.1 Operations by Tenant.

(a) Tenant will at its expense (i) keep the inside and outside of all glass in the doors and windows of the Premises clean; (ii) keep all the walls and interior and exterior store surfaces of the Premises clean; (iii) replace promptly any cracked or broken glass of the Premises with glass of like kind and quality; (iv) maintain the Premises in a clean, orderly and sanitary condition and free of insect, rodents, vermin and other pests rubbish and other refuse in rat-proof containers within the interior of the Premises unti garbage, trash, rubbish and refuse, on a daily basis, in designated receptacles provide mechanical apparatus free of vibration and noise which may be transmitted beyond the P windows of the Premises and exterior signs and turn the same off to the extent require sufficient and seasonal inventory and have sufficient number of personnel to maximize s

rubbish or other refuse within or without the Premises; (iv) cause or permit odors, which are in Landlord's opinion objectionable, to emanate or to be dispelled from the Premises; (v) solicit business in the parking area or any other Common Areas; (vi) distribute handbills or other advertising matter to, in or upon any automobiles parked in the parking areas or in any other Common Areas without Landlord's prior written consent ; (vii) permit the parking of vehicles so as to unreasonably interfere with the use of any driveway, corridor, footwalk, parking area, mall or other Common Areas; (viii) receive or ship articles of any kind outside the designated loading areas for the Premises; (ix) use the mall, sidewalks, corridor or any other Common Area adjacent to the Premises for the sale or display of any merchandise or for any other business, occupation or undertaking; (x) conduct or permit to be conducted any auction, fictitious fire sale, going out of business sale, bankruptcy sale, unless directed by a court order, or other similar type of sale in or connected with the Premises (but this provision shall not restrict the absolute freedom of Tenant in determining its own selling prices, nor shall it preclude the conduct of periodic seasonal, promotional or clearance sales); (xi) use or permit the use of any portion of the Premises for any unlawful purpose or for any activity of a type which is not generally considered appropriate for shopping centers operated in accordance with good and generally accepted standards of operations in the South Florida area; (xii) place a load upon any floor which exceeds the floor load which the floor was designed to carry; (xiii) operate its heating or air-conditioning in such a manner as to overload systems or drain from the Common Areas or from the premises of any other tenant or other occupant of the Shopping Center; or (xiv) use or operate any vending devices or machines, video games, or electronic amusement devices or equipment except as are generally used in Tenant's other locations and as shown on Tenant's plans; or (xv) sell, distribute, display or offer for sale any roach clip, water pipe, bong, toke, coke spoon, cigarette papers, hypodermic syringe or other paraphernalia commonly used in the ingestion of drugs, or any pornographic, lewd, suggestive, or "adult" newspaper, book, magazine, film, picture, representation or merchandise of any kind.

Section 8.2 Signs and Advertising. Tenant will not place or suffer to be placed or maintained on the exterior of the Premises any sign, advertising matter or any other thing of any kind, and will not place or maintain any decoration, letter or advertising matter on the glass of any window or door of the Premises unless the same is placed and maintained in accordance with the terms of the Work Schedules. Tenant will, at its sole cost and expense, maintain such sign, decoration, lettering, advertising matter or other thing as may be permitted hereunder in good condition and repair at all times.

Section 8.3 Painting and Displays by Tenant. Tenant will not paint or decorate any part of the exterior of the Premises, or any part of the interior, without first obtaining Landlord's written approval, which approval may be withheld in Landlord's sole and absolute discretion. Subject to the other provisions of this Section, Landlord shall not unreasonably withhold its consent to any painting or decoration of the interior of the Premises. Tenant will install and maintain at all times, subject to the other provisions of this Section, displays of merchandise in the show windows (if any) of the Premises. All articles, and the arrangement, style, color and general appearance thereof, in the interior of the Premises including, without limitation, window displays, advertising matter, signs, merchandise and store fixtures, shall be professionally designed and prepared and in keeping with the character and standards of the Shopping Center, as determined by Landlord. Landlord reserves the right to require Tenant to correct any non-conformity. The provisions of this Section 8.3 notwithstanding, Tenant shall have the right to make cosmetic changes and to redecorate the Premises without the prior consent of Landlord so long as the following conditions are met: (i) the proposed redecorating does not affect the storefront or storefront sign of the Premises, or the roof, foundation, or structural supports of the building of which the Premises is a part; (ii) the redecorating does not materially change the appearance of the Premises or substitute lesser quality material for material originally approved by Landlord: (iii) Tenant submits an information copy of all redecorating plans and a sample board to Landlord at least thirty (30) days prior to the date any such work commences; and (iv) the total cost of all work involved does not exceed TenThousand and 00/100 Dollars ($10,000.00).

Section 8.4 Environmental Matters.

(a) Tenant shall maintain the Premises, and its operations thereon, in compliance with all applicable Laws and the published orders, decrees, rules, regulations, ordinances, resolutions, policies and guidelines of all governmental authorities having jurisdiction over the Shopping Center with regard to the environment, human health or safety (herein "**Environmental Laws**") which apply to the Premises or its use. Tenant shall cure in compliance with Environmental Laws any hazardous substances, hazardous wastes, toxic substances, pollutants or contaminants (as those terms are defined in any of the Environmental Laws, hereinafter "**Hazardous Substances**") discharged by Tenant or its agents, employees, representatives, contractors, invitees, or licensees (herein "**Tenant Related Parties**") on, at or under the Premises, but Tenant shall not be responsible for curing any Hazardous Substances existing on the commencement date of the Lease or caused by Landlord during the term of the Lease. Landlord shall be responsible for and indemnify Tenant on account of environmental violations existing prior to delivery to Tenant.

(b) Tenant shall promptly supply Landlord with any notices, correspond[illegible] nature made by Tenant to, or received by Tenant from, any applicable governmental authori[illegible] (or lack of compliance) with Environmental Laws.

(c) Tenant shall not install any underground or aboveground storage ta[illegible] Landlord's prior written permission, which may be withheld in Landlord's sole discretion

Landlord for the full period after expiration or earlier termination until the governmental entities with jurisdiction confirm, in writing, that the violation of Environmental Laws has been cured and the Tenant fulfills its obligations under this Lease.

(f) In the event a lien shall be filed against the Premises by any applicable governmental authority pursuant to Environmental Laws arising from Hazardous Substances for which Tenant is responsible pursuant to this Lease, then Tenant shall immediately pay the claim and remove the lien from the Premises.

(g) Tenant shall indemnify, defend and hold Landlord harmless from any and all fines, suits, procedures, claims, liabilities, costs and actions of any kind, including reasonable counsel fees (including those incurred to enforce this indemnity or for any other purpose) arising out of or in any way related to (1) any spills or discharges of Hazardous Substances at the Premises for which Tenant is responsible pursuant to this Lease or (2) Tenant's failure to comply with the provisions of this Lease. Tenant's obligations and liabilities under this Agreement survive the expiration or earlier termination of this Lease, and shall continue for so long as Landlord remains responsible or liable under Environmental Laws or otherwise for either any spills or discharges of Hazardous Substances or for any violations of Environmental Laws which occurred during Tenant's possession of the Premises, unless caused by Landlord. Tenant's failure to abide by the terms of this Section shall be enforceable by injunction.

Section 8.5 Trash Service. Tenant shall keep any garbage, trash, rubbish or other refuse in rat-proof containers within the interior of the Premises and shall deposit such garbage, trash, rubbish and refuse, on a daily basis, in designated receptacles and/or compactors provided by Landlord. Landlord shall provide a trash removal service for the Shopping Center from designated receptacles and/or compactors. All costs related to Landlord's service to remove trash from the Shopping Center, including the costs of maintaining, repairing and replacing the trash receptacles and compactors, shall be deemed to be part of Landlord's Operating Costs.

ARTICLE IX
REPAIRS AND ALTERATIONS

Section 9.1 Repairs to be Made by Landlord. Subject to Article XIV, Landlord, at its expense, will make, or cause to be made: (a) repairs to any electrical, mechanical, sprinkler and other systems serving the Premises if and to the extent such systems were installed by Landlord and serve other tenant premises in addition to the Premises and provided repairs and alterations are not occasioned or required by Tenant's Permitted Use, or by any act or omission of Tenant, its agents, concessionaires, officers, employees, licensees, invitees or contractors, in which case the cost of such repairs shall be the sole obligation of Tenant; and (b) structural repairs to the exterior walls, structural roof and structural floor (excluding floor coverings) which collectively enclose the Premises (excluding, however, all doors, door frames, storefronts, windows and glass) and the structural columns which enclose or are located in the Premises; provided Tenant shall give Landlord notice of the necessity for such repairs; and provided further that such repairs are not necessitated by any act or omission of Tenant, its agents, concessionaires, officers, employees, licensees, invitees or contractors, in which case the cost of such repairs shall be the sole obligation of Tenant.

Section 9.2 Repairs to be Made by Tenant. Tenant, at its expense, will maintain and make all repairs and replacements to the Premises and to all systems, installations, equipment and facilities therein, other than those repairs required to be made by Landlord pursuant to the provisions of Section 9.1. Tenant, at its expense, shall contract for periodic maintenance for the heating, ventilating and air conditioning unit(s) and exhaust system (if applicable) serving the Premises with a reputable service company approved by Landlord. Upon request, Tenant shall supply Landlord with a copy of all such contracts. Tenant will surrender the Premises in as good condition as when received, excepting depreciation caused by ordinary wear and tear and damage by casualty (other than such damage by casualty caused by the act or omission of Tenant, its agents, concessionaires, officers, employees, contractors, licensees or invitees).

Section 9.3 Alterations by Tenant. Tenant will not make any alterations, renovations, penetrations, improvements or installations of any kind in, on, or to the Premises or any part thereof (collectively, "**Alterations**") unless and until Tenant shall have submitted to Landlord plans and specifications therefore, prepared at Tenant's expense by an architect or other duly qualified person, and shall have obtained Landlord's written approval thereof. Landlord shall respond to a request for approval within fifteen (15) days of receipt. In the case of any Alterations involving (i) the storefront or signs, (ii) structural elements, (iii) mechanical, electrical or other systems serving or effecting portions of the Shopping Center other than or in addition to the Premises, (iv) cutting or drilling or (v) or other Alterations which are in Landlord's reasonable judgment material and/or detrimental to the Premises, Landlord may withhold its approval in its sole and absolute discretion. With respect to Alterations not set forth in (i) through (v) above, Tenant must seek Landlord's approval and if such approval is granted, Tenant shall cause the work described in such plans and specifications to be performed, at its sole cost and expense, promptly, and in a good and w licensed contractors approved by Landlord, without interference with or disruption to the o occupants of the Shopping Center, and in compliance with all applicable Laws.

Section 9.4 Changes and Additions to Shopping Center, Including Buildi Landlord reserves the right at any time and from time to time: (a) to make, and permit oth

scaffolds and other aids to construction on the exterior of the Premises; and (d) to install, maintain, use, repair and replace within, over, under or though the Premises, pipes, ducts, conduits, wires and all other mechanical equipment serving other parts of the Shopping Center. Notwithstanding the foregoing, after Tenant has completed Tenant's initial construction in the Premises, Landlord shall use reasonable efforts to install any pipes, ducts, conduits, etc. within stock rooms, above the ceiling, or other non-sales areas of the Premises and shall use commercially reasonable efforts to reduce interference with Tenant's business in exercising its rights pursuant to this Section..

ARTICLE X
COMMON AREAS

Section 10.1 Use of Common Areas. Landlord grants to Tenant and its agents, employees and customers, a nonexclusive license to use, beginning on the Rent Commencement Date, provided an Event of Default does not exist, the Common Areas in common with others during the Term, subject to all provisions of this Lease governing the use, maintenance and control thereof.

Section 10.2 Management and Operation of Common Areas. Landlord will operate and maintain or will cause to be operated and maintained the Common Areas in a manner deemed by Landlord to be reasonable and appropriate, and Landlord will have the right (a) to establish, modify and enforce reasonable rules and regulations with respect to the Common Areas; (b) to enter into, modify and terminate easements and other agreements pertaining to the use and maintenance of the Common Areas; (c) to enforce parking charges (by operation of meters or otherwise) with appropriate provisions for parking ticket validation by tenants on any parking areas of the Shopping Center; (d) to close all or any portion of said parking areas or other Common Areas to such extent as may, in the opinion of Landlord, be necessary to prevent a dedication thereof or the accrual of any rights to any person or to the public therein; (e) to close temporarily any or all portions of the Common Areas; and (f) to do and perform such other acts in and to said areas and improvements as Landlord shall determine to be advisable. In exercising such rights, Landlord shall use commercially reasonable efforts to reduce interference with Tenant's business and ingress, egress and visibility shall be maintained from the area immediately in front of the Premises. Landlord shall have the right, from time to time, in connection with special events produced, sponsored, presented or authorized by Landlord, to limit access to all or part of the Common Areas and the Shopping Center to persons that have paid an admissions charge for access to such areas and or are otherwise authorized by Landlord to enter such areas.

Section 10.3 Employee Parking Areas. Tenant and its employees shall park their cars only in such areas, if any, as may be designated for that purpose by Landlord. Tenant shall furnish Landlord with state automobile license numbers used by Tenant or its employees within five (5) days after taking possession of the Premises and shall thereafter notify Landlord by the first day of each January, April, July and October of any changes in such information. If Tenant or its employees park their cars in the Common Areas, but outside the designated parking areas, if any, Landlord shall have the right to charge Tenant, as Additional Rent, the sum of Fifty Dollars ($50.00) per day per car parked in violation of this Section. Tenant shall notify its employees in writing of the provisions of this Section. Landlord may elect to have violating vehicles towed, at the owner's expense, without incurring any liability to Tenant.

Section 10.4 Tenant to Pay Proportionate Share of Landlord's Operating Costs. Tenant will pay Landlord, as Additional Rent, Tenant's Proportionate Share of Landlord's Operating Costs for each Operating Year. Such Proportionate Share shall be paid by Tenant in monthly installments in such amounts as are estimated and billed by Landlord for each Operating Year, each installment being due on the first day of each calendar month, commencing on the Rent Commencement Date. At any time during each Operating Year, Landlord may re-estimate Tenant's Proportionate Share of Landlord's Operating Costs and adjust Tenant's monthly installments payable thereafter during such Operating Year to reflect more accurately Tenant's Proportionate Share of Landlord's Operating Costs as re-estimated by Landlord. Within one hundred twenty (120) days or such additional time (in Landlord's determination) after the end of each Operating Year, Landlord shall deliver to Tenant a statement of Landlord's Operating Costs for such Operating Year and the amount of Tenant's Proportionate Share thereof. Any overpayment or deficiency in Tenant's payment of its Proportionate Share of Landlord's Operating Costs for such Operating Year shall be adjusted within thirty (30) days after Tenant's receipt of such statement. Failure of Landlord to provide the statement called for hereunder within the time prescribed shall not relieve Tenant of its obligations hereunder.

Except as set forth below, Tenant shall not have the right to examine, inspect or audit Landlord's records pertaining to Landlord's Operating Costs. Notwithstanding anything contained herein or any presumptions to the contrary, said statement and all information contained therein or otherwise delivered to Tenant by Landlord, or its employees, agents and/or representatives regarding Landlord's Operating Costs, including without limitation, relating in any way to exclusions, deductions and Tenant's Proportionate Share, is strictly confidential informati use and review. Except as needed with attorneys, accountants and financial advisors, Te exchange or in any way disseminate such statement, or any of the information contained deduced there from, or otherwise delivered by Landlord to Tenant, to any outside party of T without the prior written consent of Landlord, which consent Landlord may withhold in its and then only upon the prior execution by the intended recipient of a confidentiality agre form and substance acceptable to Landlord. In the event Tenant's Proportionate Share of

during such audit shall be kept private and confidential. No subtenant shall have any right to conduct an audit and no assignee shall have any right to conduct an audit of any period prior to the effective date of assignment. In no event shall Landlord be required to submit to an audit if such audit is to be conducted by a person, firm or entity whose fee is based, in whole or in part, on the results of the audit.

Section 10.5 "Landlord's Operating Costs" Defined. The term **"Landlord's Operating Costs"** includes all the costs and expenses incurred by or on behalf of Landlord in operating, managing, insuring, securing and maintaining the Shopping Center including, without limitation, all costs and expenses of the following: (a) operating, maintaining, repairing, and replacing signs, security systems, lighting, and similar fixtures or equipment; (b) operating, maintaining, repairing, and managing any parking facilities, transit facilities and park or pedestrian resting areas in or serving the Shopping Center; (c) cleaning, painting, policing and providing security for the Common Areas (including cost of uniforms, equipment and employment taxes); (d) installing, maintaining, operating and renting of signs; (e) repairing, maintaining and replacing sprinkler systems and alarm systems; (f) removing trash and debris from the Common Areas to Landlord's receptacles and compactors; (g) regulating traffic; (h) purchasing, repairing, maintaining and replacing machinery and equipment used in the operation and maintenance of the Common Areas, and paying all personal property taxes, if any, and other charges incurred in connection with such equipment; (i) maintaining, repairing and/or replacing pavement, curbs, walkways, landscaping, seating areas, fountains, pools, drainage systems, grease trap systems, roofs, pipes, ducts, conduits, and similar items and lighting facilities; (j) planting, replanting and replacing trees, flowers, shrubbery and planters in the Common Areas; (k) providing music or entertainment services and sound systems for the Shopping Center, including furnishing electricity therefor; (l) providing water services, if any, furnished by Landlord for the nonexclusive use of all tenants; (m) providing parcel pick-up and delivery services to the Shopping Center; (n) maintaining reserves in commercially reasonable amounts for repair, maintenance and replacement of the Common Areas and its equipment; (o) costs of providing light and power to the Common Areas; (p) insuring (including, but not limited to, fire and extended coverage and other insurance on the Common Areas and the Shopping Center, the costs of providing security to the Shopping Center, pest control at the Shopping Center, insurance protecting Landlord and the Tribe against liability for personal injury, death and property damage, liquor liability and workers' compensation insurance), (q) administrative costs (including reasonable salaries, benefits and employment taxes) attributable to personnel involved in the daily accounting (including auditing fees related to the operation of the Shopping Center), maintenance and management of the Shopping Center; and (r) an overhead charge equal to fifteen percent (15%) of the total costs and expenses incurred in connection with the above described items. Any provision of the Lease to the contrary notwithstanding, it is agreed that Tenant's Proportionate Share of Operating Costs after the first Lease Year shall not exceed the amount payable by Tenant for the immediately preceding Lease Year by more than five percent (5%) on a cumulative basis; provided, however, that this limitation, at Landlord's option in each Lease Year, shall not apply to insurance premiums and the cost of utility consumption.

ARTICLE XI
PROMOTION AND ADVERTISING

Section 11.1 Promotion Fund; Program. Landlord will maintain a bank account, separate from all of its other bank accounts, into which Landlord shall deposit the Promotion Fund Contribution paid by Tenant as well as similar contributions which Landlord may receive from time to time from other tenants of the Shopping Center. The aggregate of such funds on hand from time to time are referred to herein as the **"Promotion Fund"**. The Promotion Fund shall be used by Landlord to pay the reasonable costs and expenses associated with the formulation and carrying out by Landlord or its designee of a program(s) for the promotion and advertising of the Shopping Center and transporting prospective customers to the Shopping Center, including, without limitation, the reasonable salary of a promotion and advertising director and related administrative personnel, rent and insurance. Such programs may include, without limitation, tabloids, direct mail pieces, special events, shows, displays, signs, marquees, decor, seasonal events, institutional advertising, promotional literature and other activities intended to promote and advertise the Shopping Center and a program(s) designed to cause bus and jitney services to discharge and pick-up potential customers. Tenant hereby authorizes Landlord to use Tenant's trade name and a brief description of Tenant's business in connection with the promotion and advertising program(s).

Section 11.2 Tenant's Contributions to Promotion Fund. Tenant shall pay to Landlord the Promotion Fund Contribution for each Promotion Year in monthly installments as billed by Landlord for each Promotion Year, each installment being due on the first day of each month. The Promotion Fund Contribution shall be adjusted annually, as of the first day of each Promotion Year, for any change in the Consumer Price Index. The annual Promotion Fund Contribution due from Tenant for the first Promotion Year falling within the Term shall be prorated if the Rent Commencement Date occurs after the commencement of such Promotion Year. Upon bi[illegible] billing shall not occur prior to the 90th day prior to the Grand Opening Date as determine[illegible] shall pay to Landlord the Opening Contribution. The Opening Contribution shall be us[illegible] reasonable costs of promotion and advertising of the Shopping Center.

Section 11.3 Tenant's Advertising. Tenant shall advertise and promote the Premis[illegible] shall attend, cooperate with and participate in any media events, special events or mar[illegible]

Section 12.1 Water, Electricity, Telephone and Sanitary Sewer. Landlord will provide at points in or near the Premises the facilities necessary to enable Tenant to obtain for the Premises water, electricity, telephone and sanitary sewer service, as more specifically described in the Work Schedules. Landlord, at its sole discretion, shall have the right, from time to time, to alter the method and source of supply of such utilities to the Premises, provided that the foregoing shall not diminish the availability of such utilities in the Premises. Tenant agrees to execute and deliver to Landlord such documentation as may be required to effect such alterations. Tenant shall arrange with the appropriate public utility or authority, in Tenant's name and at its expense, and through meters installed by Tenant to measure consumption directly from the Premises, for the supply of utility services to the Premises and shall pay all charges therefor directly to the appropriate utility providing the services. Tenant will not overload the electrical wiring serving the Premises or within the Premises, and will install at its expense, subject to the provisions of this Lease governing alterations by Tenant, any additional electrical wiring which may be required in connection with Tenant's operations.

Section 12.2 Fire Protection Sprinkler Systems. Landlord will provide, install and maintain a fire protection sprinkler system in the Premises as more specifically described in the Work Schedules, which system shall remain the property of Landlord. The fire protection sprinkler system of the Shopping Center, including the fire protection sprinkler system located in the Premises, is part of the Common Areas.

Section 12.3 Discontinuance and Interruptions of Utility Services. Landlord shall not be liable to Tenant in damages or otherwise if any utility shall become unavailable from any public utility company, public authority or any other person or entity (including Landlord) supplying or distributing such utility, or for any interruption in any utility service (including, without limitation, any water, heating, ventilation, or air-conditioning) and the same shall not constitute a termination of this Lease or an eviction, actual or constructive, of Tenant. Notwithstanding anything herein to the contrary, in the event any utility service to the Premises shall be interrupted for a period of more than three (3) business days due solely to the negligent act or omission of Landlord and Tenant is unable to operate its business, then the Annual Minimum Rent and all additional rents and charges hereunder shall thereafter abate until such services are restored such that Tenant is able to operate its business.

ARTICLE XIII
INDEMNITY AND INSURANCE

Section 13.1 Indemnities.

(a) Tenant shall and does hereby indemnify Landlord and the Tribe and agrees to save it them harmless and, at Landlord's option, defend it them from and against any and all claims, actions, damages, liabilities and expenses (including attorneys' and other professional fees), court costs, judgments, settlement payments, and fines paid, incurred or suffered by Landlord and/or the Tribe in connection with loss of life, personal injury and/or damage to property or the environment suffered by third parties arising from or out of the occupancy or use by Tenant of the Premises or any part thereof or any other part of the Shopping Center, occasioned wholly or in part by any act or omission of Tenant, its officers, agents, contractors, employees or invitees, or arising, directly or indirectly, wholly or in part, from any conduct, activity, act, omission, or operation involving the use, handling, generation, treatment, storage, disposal, other management or Release of any Hazardous Materials, in from or to the Premises, whether or not Tenant may have acted negligently with respect to such Hazardous Substances. Tenant's obligations pursuant to this Section shall survive any termination of this Lease with respect to any act, omission or occurrence which took place prior to such termination.

(b) Landlord shall and does hereby indemnify Tenant and agrees to save it harmless from and against any and all claims, actions, damages, liabilities and expenses (including reasonable attorneys' and other professional fees), court costs, judgments, settlement payments, and fines paid, incurred or suffered by Tenant in connection with loss of life, personal injury and/or damage to property suffered by third parties arising from or out of the use of any portion of the Common Areas by Landlord and which is occasioned wholly or in part by any act or omission of Landlord, its officers, agents, contractors or employees.

Section 13.2 Landlord Not Responsible for Acts of Others. Landlord shall not be responsible or liable to Tenant, or to those claiming by, through or under Tenant, for any loss or damage which may be occasioned by or through the acts or omissions of persons occupying space adjoining the Premises or any part of the premises adjacent to or connecting with the Premises or any other part of the Shopping Center, or otherwise, or the acts or omissions of such persons' respective employees, agents, representatives, contractors, licensees or invitees, or for any loss or damage resulting to Tenant, or those claiming by, through or under Tenant, including, without limit invitees, or its or their property, from the breaking, bursting, stoppage or leaking of electric gas, sewer or steam pipes. Tenant agrees to use and occupy the Premises, and to use such ot Center as Tenant is herein given the right to use, at Tenant's own risk.

Landlord shall not be liable or responsible for storage or disposition of any

installed in the Premises by Landlord for Tenant's benefit, or by Tenant, including any items originally paid for by any tenant finish allowance given to Tenant, pursuant to the Work Schedules or otherwise; (c) if and to the extent required by any applicable Laws, worker's compensation or similar insurance in form and amounts required by such applicable Laws; (d) product liability insurance having coverage for liability of not less than Two Million Dollars ($2,000,000.00) per occurrence; (e) if Tenant shall be engaged in the sale of any alcoholic beverages, Innkeeper's Liability Coverage (commonly known as Dram Shop Insurance); and (f) such other insurance as is required by applicable Laws and/or Landlord. If, by reason of changed economic conditions or changes to insurance limits applicable to the shopping center industry generally or the Permitted Use in particular, the insurance amounts set forth above become inadequate in Landlord's reasonable judgment, Tenant shall increase such amounts to limits as may be reasonably requested by Landlord consistent with standard insurance practice.

Section 13.4 Tenant's Contractor's Insurance. Tenant shall require any contractor of Tenant performing work on the Premises to carry and maintain, at no expense to Landlord: (a) comprehensive general liability insurance, including contractors liability coverage, contractual liability coverage, completed operations coverage, broad form property damage endorsement and contractor's protective liability coverage, providing protection with limits for each occurrence of not less than Five Hundred Thousand Dollars ($500,000.00); and (b) worker's compensation or similar insurance in form and amounts required by any applicable Laws.

Section 13.5 Policy Requirements. The company or companies writing any insurance which Tenant is required to carry and maintain or cause to be carried and maintained, as well as the form of such insurance, shall at all times be subject to Landlord's reasonable approval provided that such insurance shall in no event provide coverages less than required under this Lease and all such companies shall be licensed and admitted to do business in the State of Florida and shall have a Rating Classification of at least A and Financial Size category of at least Class XII in Best's Insurance Reports. Public liability and all-risk casualty insurance policies evidencing such insurance shall name Landlord, the Tribe, or its designee as additional insured or loss payee as required by Landlord and shall also contain a provision by which the insurer agrees that such policy shall not be canceled except after thirty (30) days' written notice to Landlord or its designee. Each such policy, or a certificate thereof, shall be deposited with Landlord by Tenant promptly upon commencement of Tenant's obligation to procure the same. Tenant shall renew or replace each such policy prior to the expiration thereof, and deliver evidence of such renewal to Landlord promptly upon Tenant's receipt of same. Tenant's failure to maintain the insurance required shall be deemed an Event of Default (as defined herein).

Section 13.6 Increase in Insurance Premiums. Tenant will not do or omit to do or suffer to be kept, anything in, upon or about the Premises which will violate Landlord's policies of hazard or liability insurance or which will prevent Landlord from procuring such policies in companies acceptable to Landlord or will cause the premium rates for any such insurance to be increased beyond the minimum rate from time to time otherwise applicable. In the event of any breach of this Section, in addition to any other remedies available to Landlord, Tenant will pay, as Additional Rent, the amount of any such increase, together with all costs associated therewith, upon Landlord's demand.

Section 13.7 Waiver of Right-of Recovery. Neither Landlord nor Tenant shall be liable to the other or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any building, structure or other tangible property, or losses under workmen's compensation laws and benefits, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees, if and to the extent such loss or damage is covered by insurance.

ARTICLE XIV
DAMAGE AND DESTRUCTION

Section 14.1 Obligations to Repair and Reconstruct.

(a) If the Premises are damaged by fire or other casualty not caused by Tenant, its agents, servants and/or employees, (any of such causes being referred to herein as a "**Casualty**"), but the Premises shall not be rendered wholly or partially untenantable, Landlord shall cause the damage to the Premises, to the extent of Landlord's Work (excluding the matters referred to in the last sentence of this paragraph) and insurance proceeds received by Landlord, to be repaired as nearly as practicable to its condition prior to the Casualty and there shall be no abatement of Rent. If, as a result of a Casualty not caused by Tenant, its agents, servants and/or employees (or as a result of Landlord's demolition of the Building(s) or any portion thereof following a Casualty for the purpose of reconstruction), the Premises shall be rendered wholly or partially untenantable, then Landlord shall cause the damage to the Premises to be repaired as set forth in the preceding sentence, and Annual Minimum Rent and Additional Rent (other than any Additional Rent due Landlord by reason of Tenant's failure to perform any of its obligations hereunder) shall be abated, and Tenant's Breakpoint shall be reduced, proportionately on a square foot basis as to the portion untenantable during the period of such untenantability. Anything herein to the contrary not not be liable for interruption to Tenant's business or for damage to or replacement or repair (including, without limitation, inventory, trade fixtures, floor coverings, furniture and o Tenant under the provision of this Lease) or of any leasehold improvements installed in the of Tenant pursuant to the Work Schedules or otherwise.

damaged to the extent of twenty-five percent (25%) or more of floor area of such building, then in any of such events, Landlord may elect to terminate this Lease by giving to Tenant notice of such election within ninety (90) days after the occurrence of the fire or other casualty causing the damage. If such notice is given, the rights and obligations of the parties shall cease as of the date of such notice, and Rent (other than Additional Rent due Landlord by reason of Tenant's failure to perform any of its obligations hereunder) shall be adjusted as of the date of such termination. If (b) above occurs, Tenant may terminate this Lease by written notice to Landlord sent within thirty (30) days of the casualty, effective thirty (30) days from the date of the notice.

ARTICLE XV
Reserved

ARTICLE XVI
ASSIGNMENT AND SUBLETTING

Section 16.1 Landlord's Consent Required. Tenant will not, directly or indirectly, assign, transfer or dispose of this Lease, in whole or in part, nor sublet all or any part of the Premises, nor license concessions or lease departments therein, nor pledge or encumber by mortgage or other instruments its interest in this Lease without Landlord's prior written consent, which consent may be withheld by Landlord in its sole and absolute discretion. This prohibition includes any subletting or assignment which would otherwise occur by operation of law, merger, consolidation, reorganization, transfer or other change of Tenant's corporate or proprietary structure, or an assignment or subletting to or by a receiver or trustee in any federal or state bankruptcy, insolvency, or other proceedings. Consent by Landlord to any assignment or subletting shall not constitute a waiver of the foregoing prohibition with respect to any subsequent assignment or subletting. Tenant shall pay and reimburse to Landlord the reasonable costs and expenses incurred by Landlord to cover Landlord's administrative cost, counsel fee (not to exceed $750.00) in connection with any permitted assignment or subletting and any and all additional reasonable costs and expenses incurred hereunder. Notwithstanding any assignment or subletting, and notwithstanding the acceptance of Rent and/or any other amounts from any assignee or sublessee, Tenant shall remain fully liable for the payment of Rent and all other sums due and to become due under this Lease and for the performance of all covenants, terms and agreements on the part of Tenant to be performed or observed hereunder.

Section 16.2 Transfer of Shares or Interest. If Tenant is a corporation or is a partnership one or more of the general partners of which is a corporation (other than a corporation the outstanding voting stock of which is listed on a "National Securities Exchange," as defined in the Securities Exchange Act of 1934), or is a partnership (having no corporate partners) or a limited liability company, and if at any time after execution of this Lease any part or all of the corporate shares of Tenant or of any such general partner, or of any general partnership interest in the partnership, or of any interest in the limited liability company, shall be transferred by sale, assignment, bequest, inheritance, operation of law or other disposition (including, but not limited to, such a transfer to or by a receiver or trustee in federal or state bankruptcy, insolvency, or other proceedings) so as to result in a change in the present control of any said corporation, partnership or limited liability company, by the person or persons owning a majority of said corporate shares or interest as of the date hereof, such transfer shall constitute an assignment for purposes of Section 16.1.

Section 16.3 Acceptance of Rent from Transferee. The acceptance by Landlord of the payment of Rent or any other amount due and payable hereunder by Tenant, following any assignment or other transfer prohibited by this Article XVI shall not be deemed to be a waiver of any right or remedy of Landlord hereunder.

Section 16.4 Intracorporate, Family Stock and Intercorporate Transfers. Intracorporate transfers: Notwithstanding anything herein to the contrary, provided Tenant shall not be in default under this Lease, Tenant shall have the right, without Landlord's prior written consent, to assign the Lease (or the stock of Tenant) to any wholly-owned subsidiary, or to any parent corporation of Tenant, or to any affiliated corporation, or to any subsidiary of any parent, subsidiary or affiliated corporation of Tenant, or to transfer stock in Tenant among family members of existing stockholders, subject, however, to the following express conditions:

(a) No such assignment shall be deemed to release Tenant or any Guarantor from continuing liability;

(b) Any assignee must expressly assume in writing all of the covenants, duties and obligations of Tenant under the Lease; and

(c) Tenant's assignee must continue to operate the Premises under Section 1.1 and in full compliance with the use and occupancy

INTERCORPORATE TRANSFERS: Notwithstanding anything herein to th shall not be in default under this Lease, Tenant shall have the right with Landlord's pri unreasonably withheld, to assign this Lease (or to sell or transfer Tenant's stock) in

(iii) After any such assignment or transfer, the Premises shall be operated under the Trade Name then existing;

(iv) Tenant shall remain jointly and severally liable for all the covenants, duties and obligations of Tenant under this Lease and any such assignee or transferee shall expressly assume all the covenants, duties and obligations of Tenant under this Lease; and,

(v) Such assignee or transferee must have the ability to maintain the same quality and type of business operation theretofore conducted by Tenant.

Tenant shall furnish to Landlord evidence of the foregoing and other documentation reasonably requested by Landlord at least thirty (30) prior to the date of such proposed transfer; notify Landlord of the notice address of the proposed assignee or transferee, and pay to Landlord the transfer fee set forth in Section 16.1 of this Lease.

ARTICLE XVII
DEFAULT

Section 17.1 "Event of Default" Defined. Any one or more of the following events shall constitute an "**Event of Default**":

(a) Tenant shall make an assignment of any of its property for the benefit of creditors or shall file a voluntary petition under any bankruptcy or insolvency law; or if an involuntary petition, under any bankruptcy or insolvency law, shall be filed against Tenant and such involuntary petition is not dismissed within sixty (60) days after the filing thereof; or

(b) Any Guarantor shall make an assignment of any of its property for the benefit of creditors or shall file a voluntary petition under any bankruptcy or insolvency law; or if an involuntary petition, under any bankruptcy or insolvency law, shall be filed against any Guarantor and such involuntary petition is not dismissed within sixty (60) days after the filing thereof; or

(c) A permanent receiver, trustee or liquidator shall be appointed for Tenant, any Guarantor, for the property of Tenant, for the property of any Guarantor and such receiver, trustee or liquidator shall not have been discharged within thirty (30) days from the date of his appointment; or

(d) The admission in writing by Tenant or Guarantor of its inability to pay its debt when due; or

(e) The failure of Tenant to pay any Rent or other sum of money within fifteen (15) days after the same is due hereunder; or

(f) Tenant shall default in the due keeping, observing or performance of any covenant, agreement, term, provision or condition of this Lease on the part of Tenant to be kept, observed or performed (other than a default involving the payment of money or as provided in Section 17.1(e) above), which default is not cured within ten (10) days after the giving of notice thereof by Landlord, unless such default is of such nature that it cannot be cured within such ten (10) day period, in which case no Event of Default shall occur so long as Tenant shall commence the curing of the default within such ten (10) day period and shall thereafter diligently and continuously prosecute the curing of same and shall cure same within ninety (90) days after the giving of notice thereof by Landlord; provided, however, if Tenant shall default in the performance of any such covenant or agreement of this Lease two (2) or more times in any twelve (12) month period, then notwithstanding that each of such defaults shall have been cured by Tenant, any further similar default shall be deemed an Event of Default without the ability of cure; or

(g) Tenant shall: (i) use the Premises or any portion thereof for a purpose not permitted under Section 4.1 above, or (ii) assign this Lease or sublet the Premises in violation of Article XVI above, or (iii) fail to maintain any insurance coverage required pursuant to Article XIII above; or

(h) Any event shall occur or any contingency shall arise whereby this Lease or the estate hereby granted or the unexpired balance of the Term hereof would, by operation of law or otherwise, devolve upon or pass to any person, firm, association or corporation other than Tenant except as expressly permitted hereunder or whenever Tenant shall desert or abandon the Premises or the same shall become vacant for a period longer than seven (7) days (whether the keys be surrendered or not and whether the Rent be paid or not); or

(i) The ceasing by Tenant, in whole or in part at any time after the Rent C
the Premises or any part thereof for the continuous operation of the business of Tenant ther
(herein referred to as "**Abandonment**") and the failure by Tenant to have recommenced op
Premises, fully stocked with merchandise and fully staffed and otherwise in compliance wi
days after notice from Landlord, provided that if any Abandonment occurs on more than

instance (except where expressly provided for below or as required by applicable Laws) may do any one or more of the following:

(a) Landlord or Landlord's agents may immediately or at any time thereafter, re-enter into or upon the Premises, or any part thereof, using lawful means, without being liable to indictment, prosecution or damages therefor, and may repossess the same, and may remove any persons therefrom, to the end that Landlord may have, hold and enjoy the Premises again as and of its first estate and interest therein. The words "re-enter", "re-entry", and "re-entered" as used in this Lease are not restricted to their technical legal meanings; and/or

(b) Declare to be immediately due and payable an amount equal to the Present Worth (as hereinafter defined), as of the date of such Event of Default, of the following: (i) the Annual Minimum Rent due for the remainder of the Term, plus (ii) (A) the average Annual Percentage Rent payable hereunder for the three (3) Lease Years immediately preceding such Event of Default, or for the entire preceding portion of the Term, if less than three (3) Lease Years have elapsed, extrapolated to an annualized amount if the expired portion of the Term is less than twelve (12) months and (B) the Additional Rent payable in the immediately preceding Lease Year, or portion thereof, if less than twelve (12) months of the Term has elapsed, extrapolated to an annualized amount assuming a 3% annual increase, all multiplied by the number of Lease Years and fraction of a Lease Year then constituting the unexpired Term or portion thereof. "Present Worth" shall be computed by discounting such amount to present worth at a discount rate equal to one percentage point above the "Discount Rate" then in effect at the Federal Reserve Bank of New York. Accelerated payments payable hereunder shall not constitute a penalty or forfeiture or liquidated damages, but shall merely constitute payment of Rent in advance; and/or

(c) Terminate this Lease by giving written notice of such termination to Tenant and recover possession through lawful means, which termination shall be effective as of the date of such notice or any later date therefor specified by Landlord therein, provided, that Landlord shall not be deemed to have accepted any Abandonment or surrender of all or any portion of the Premises by Tenant unless Landlord has terminated this Lease pursuant to this Section 17.2 (c) regardless of whether Landlord has reentered or relet any or all of the Premises or exercised any or all of Landlord's other rights under the provisions of this section or applicable Laws; and/or

(d) In Landlord's own name, as agent for Tenant, relet any or all of the Premises for any or all of the remainder of the Term or for a period exceeding such remainder, on such terms and subject to such conditions as are acceptable to Landlord in its sole and absolute discretion and collect and receive the rents therefor. Anything contained in the provisions of this Lease or applicable Laws to the contrary notwithstanding, (i) Landlord shall not have any duty or obligation to relet any or all of the Premises as the result of any Event of Default, or any liability to Tenant or any other person for any failure to do so or to collect any rent or other sum due from any such reletting; (ii) Tenant shall have no right in or to any surplus which may be derived by Landlord from any such reletting, in the event that the proceeds of such reletting exceed any Rent, installment thereof or other sum owed by Tenant to Landlord hereunder; and (iii) Tenant's liability hereunder shall not be diminished or affected by any such failure to relet or the giving of any initial or other concessions or "free-rent" or reduced rent period in the event of any such reletting. In the event of any such reletting, Tenant shall pay to Landlord, at the times and in the manner specified by the provisions of Section 5.7, unless Landlord has elected to accelerate Rent as provided in Section 17.2 (b), (i) the installments of the Annual Minimum Rent, Annual Percentage Rent (determined as set forth in Section 17.2 (b)) and any Additional Rent accruing during such remainder, less any income from such reletting of any or all of the Premises, plus (ii) the reasonable cost to Landlord of any such reletting (including, attorneys' fees, leasing or brokerage commissions, free rent concessions, repair or improvement expenses and the expense of any other actions taken in connection with such reletting), plus (iii) any other sums for which Tenant is liable under the provisions of this Lease, and Tenant hereby waives any and all rights which it may have under applicable Laws, the exercise of which would be inconsistent with the foregoing provisions of this Section 17.2 (d); and/or

(e) Cure such Event of Default in any manner deemed appropriate by Landlord, in Landlord's sole discretion, with the total reasonable cost of such cure, together with interest thereon at the Default Rate from the date of such expenditure, being payable by Tenant to Landlord as Additional Rent upon Landlord's demand therefor; and/or

(f) Pursue any combination of such remedies and/or any other right or remedy available to Landlord on account of such Event of Default under this Lease and/or under applicable Laws.

Section 17.3 Agreements and Matters Concerning Events of Default.

(a) The provisions of Section 17.2 shall not limit or prejudice Landlord's right to prove for and obtain as damages, by reason of an Event of Default, an amount equal to the maximum allowed by applicable Laws

(b) No termination, Abandonment, reletting or re-entry by Landlord as a shall relieve Tenant of any of its liabilities and obligations under this Lease, including the Tenant shall remain liable to Landlord for all damages resulting from any Event of Default, any damage resulting from the breach by Tenant of any of its obligation under this Lease to which Tenant is obligated to pay hereunder.

interest shall be Additional Rent.

(e) Tenant, for itself and all persons claiming through or under Tenant waives any and all right of redemption or re-entry or repossession in case Tenant is dispossessed by a judgment, order or warrant issued in any proceedings under applicable Laws or in case of re-entry or repossession by Landlord or in case of any expiration or termination of this Lease.

(f) In the event of a breach or threatened breach on the part of Tenant with respect to any of the covenants, agreements, terms, provisions or conditions on the part of or on behalf of Tenant to be kept, observed or performed, Landlord shall also have the right to seek injunctive relief.

(g) The specified remedies to which Landlord may resort hereunder are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Landlord may be entitled under applicable Laws at any time, and Landlord may invoke any remedy allowed under applicable Laws as if specific remedies were not herein provided for.

(h) In the event of: (i) the termination of this Lease under the provisions of Section 17.2; or (ii) the re-entry of the Premises by Landlord under the provisions of Section 17.2; or (iii) the termination of this Lease (or re-entry) by or under any proceedings or otherwise under applicable Laws by reason of default hereunder on the part of Tenant, Landlord shall be entitled to retain all monies, if any, paid by Tenant to Landlord, whether as advance Rent, security or otherwise, but such monies shall be credited by Landlord against any Rent due from Tenant at the time of such termination or reentry or, at Landlord's option, against any damages payable by Tenant under Section 17.2 hereof or pursuant to applicable Laws.

(i) Notwithstanding anything in this Lease to the contrary and regardless of whether an Event of Default shall have occurred, Landlord, without notice to Tenant, may perform, on behalf of and at the expense of Tenant, any obligation of Tenant under this Lease which Tenant has failed to perform, the reasonable cost of which performance by Landlord together with interest thereon at the Default Rate from the date of such expenditure shall be deemed Additional Rent and shall be payable by Tenant to Landlord upon demand if Landlord, in its good faith judgment, believes it, the Shopping Center or any other tenant or occupant thereof, would be materially injured by failure to take rapid action as a result of Tenant's failure to perform such obligation of Tenant or if the unperformed obligation of Tenant creates, in Landlord's good faith judgment, an emergency.

(j) Upon the occurrence of an Event of Default, Landlord may charge Tenant, as Additional Rent, a reasonable Event of Default processing fee, not to exceed Two Hundred Fifty Dollars ($250) per Event of Default.

(k) All reasonable costs and expenses incurred by Landlord (Landlord shall provide notice to Tenant of such costs within a commercially reasonable time), including, without limitation, reasonable attorneys' fees, in enforcing any of its rights and remedies under this Lease shall be deemed to be Additional Rent and shall be repaid to Landlord by Tenant upon demand, together with interest at the Default Rate from the date incurred by Landlord to the date paid in full.

(l) Enforcement proceedings for the recovery of such damages, or any installments thereof, may be brought by Landlord from time to time at its election, and nothing contained herein shall be deemed to require Landlord to postpone such enforcement until the date when the Term would have expired if it had not been terminated under the provisions of Section 17.2, or under any provision of applicable Laws, or had Landlord not re-entered the Premises.

ARTICLE XVIII
SUBORDINATION AND ATTORNMENT

Section 18.1 Subordination. This Lease is subject and subordinate in all respects to all ground leases and Mortgages which may now or hereafter affect the Shopping Center and/or the Premises and/or any part thereof and/or Landlord's interest therein, and to each advance made and/or hereafter to be made under any such Mortgages, and to all renewals, modifications, consolidations, replacements and extensions thereof and all substitutions of and for such ground leases and Mortgages. This Section 18.1 shall be self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, Tenant shall execute and deliver promptly any commercially reasonable instrument that Landlord and/or any ground lessor, Mortgagee and/or their respective successors in interest may request.

Section 18.2 Attornment. Tenant agrees, at the election and upon demand of any ground lessor or Mortgagee in possession of the Shopping Center to attorn, from time to time, to any such ground les terms and conditions set forth herein for the remainder of the Term. The foregoing provisi of any such ground lessor or Mortgagee, shall apply to the tenancy of Tenant, and shall be s demand, without requiring any further instrument to give effect to said provisions. Tenant any such ground lessor or Mortgagee, agrees to execute, from time to time, an instrun foregoing provisions, satisfactory to such ground lessor or Mortgagee, in which Tena

Section 18.3 Further Assurances. Tenant agrees that, upon the request of Landlord, Tenant will execute, acknowledge and deliver such document or instrument as may be requested by any ground lessor or the holder of any Mortgage or leasehold mortgage confirming or agreeing that this Lease is assigned to such Mortgagee as collateral security for such Mortgage or leasehold mortgage and agreeing to abide by such assignment, provided that a copy of such assignment has in fact been delivered to Tenant.

Section 18.4 Quiet Enjoyment. Landlord covenants that if and for so long as Tenant pays the Rent and performs its other obligations in accordance with this Lease, Tenant shall at all times during the Term peaceably have, hold and enjoy the Premises without any interruption or disturbance from Landlord or anyone lawfully or equitably claiming through or under Landlord, subject to the provisions of this Lease and subject to any mortgage or ground lease affecting the Premises or the Shopping Center.

ARTICLE XIX
NOTICES

Section 19.1 Notices. All notices consents, approvals, requests, or demands ("**Notices**") which may or are to be required or permitted to be given hereunder or pursuant to applicable laws, may be given by a party or its attorney to either other party and shall be in writing. All Notices shall be sent by United States mail, registered or certified, return receipt requested, postage prepaid, or by hand delivery or by recognized overnight courier, addressed to Tenant at the address set forth in Section 1.1, or to such other place as Tenant may from time to time designate in a Notice to Landlord and addressed to Landlord at the address set forth in Section 1.1 (or to such other place as Landlord may from time to time designate), and to such other person or place as Landlord may from time to time designate in a Notice to Tenant. All Notices shall be deemed delivered three (3) days after deposit in a designated postal depository if sent by mail, upon delivery to the address of the addressee if hand delivered, or one (1) business day after delivery to the overnight courier if sent by courier.

Section 19.2 Notice to Mortgagees. If any Mortgagee shall notify Tenant that it is the holder of a Mortgage affecting the Premises, no notice, request or demand thereafter sent by Tenant to Landlord shall be effective unless and until a copy of the same shall also be sent to such Mortgagee in the manner prescribed in the above Section and to such address as such Mortgagee shall designate.

ARTICLE XX
BANKRUPTCY OR INSOLVENCY

Section 20.1 Tenant's Interest Not Transferable. Neither Tenant's interest in this Lease, nor any estate hereby created in Tenant nor any interest herein or therein, shall pass to any trustee, except as may specifically be provided pursuant to 11 U.S.C. 101 et seq. (the "Bankruptcy Code"), or to any receiver or assignee for the benefit of creditors or otherwise by operation of law except as may specifically be provided pursuant to the Bankruptcy Code.

Section 20.2 Termination. In the event the interest or estate created in Tenant hereby shall be taken in execution or by other process of law, or if Tenant's Guarantor, if any, or his executors, administrators, or assigns, if any, shall be adjudicated insolvent or bankrupt pursuant to the provisions of any state or federal law, or if a receiver or trustee of the property of Tenant or Tenant's Guarantor, if any, shall be appointed by reason of the insolvency or inability of Tenant or Tenant's Guarantor, if any, to pay its debts, or if any assignment shall be made of the property of Tenant or Tenant's Guarantor, if any, for the benefit of creditors, then, and in any such events, at Landlord's option, this Lease and all rights of Tenant shall automatically cease and terminate with the same force and effect as though the date of such event were the date originally set forth herein and fixed for the expiration of the Term, and/or Tenant shall vacate and surrender the Premises but shall remain liable as herein provided.

Section 20.3 Tenant's Obligation to Avoid Creditors' Proceedings. Tenant or Tenant's Guarantor, if any, shall not cause or give cause for the appointment of a trustee or receiver of the assets of Tenant or Tenant's Guarantor, if any, and shall not make any assignment for the benefit of creditors, or become or be adjudicated insolvent. The allowance of any petition under any insolvency law, except under the Bankruptcy Code, or the appointment of a trustee or receiver of Tenant or Tenant's Guarantor, if any, or of the assets of either of them, shall be conclusive evidence that Tenant caused, or gave cause, therefor, unless such allowance of the petition, or the appointment of a trustee or receiver, is vacated within thirty (30) days after such allowance or appointment. Any act described in this Section 20.3 shall be deemed a material breach of Tenant's obligations hereunder, and, at Landlord's option, this Lease shall thereupon automatically terminate. Landlord does, in addition, reserve any and all other remedies provi
all applicable Laws.

Section 20.4 Rights and Obligations Under the Bankruptcy Code.

(a) Upon the filing of a petition by or against Tenant under the Bankruptcy C
as debtor in possession, and

such shorter term as Landlord, in its sole discretion, may deem reasonable, so long as notice of such period is given) of the filing of a petition under any other Chapter of the Bankruptcy Code; (iv) to give Landlord at least forty-five (45) days' prior written notice of any proceeding related to any assumption of this Lease; (v) to give at least thirty (30) days prior written notice of any abandonment of the Premises, with any such abandonment to be deemed a rejection of this Lease and an abandonment of any property not previously moved from the Premises; (vi) to do all other things of benefit to Landlord otherwise required under the Bankruptcy Code; (vii) to be deemed to have rejected this Lease in the event of the failure to comply with any of the above; and (viii) to have consented to the entry of an order by an appropriate United States Bankruptcy Court providing all of the above, upon proper notice and hearing of the entry of same.

(b) No default of this Lease by Tenant, either prior to or subsequent to the filing of such a petition, shall be deemed to have been waived unless expressly done so in writing by Landlord. It is understood and agreed that this is a lease of real property in a shopping center and that, therefore, Section 365(b)(3) of the Bankruptcy Code is applicable to any proposed assumption of this Lease in a bankruptcy case. Included within and in addition to any other conditions or obligations imposed upon Tenant or its successor in the event of assumption and/or assignments are the following: (i) the cure of any monetary defaults and the reimbursement of any pecuniary loss immediately upon entry of a court order providing for assumption and/or assignment; (ii) the deposit of a sum equal to two (2) months rent to be held by Landlord as a security deposit; (iii) the use of the Premises as set forth in Article IV and the quality, quantity and/or lines of merchandise of any goods or services required to be offered for sale are unchanged; (iv) the debtor, debtor in possession, trustee, or assignee of such entity demonstrates in writing that it has sufficient background including, but not limited to, substantial retailing experience in shopping centers of comparable size and financial ability to operate a retail establishment of the Premises in the manner contemplated in this Lease, and meets all other reasonable criteria of Landlord as did Tenant upon execution of this Lease; (v) the prior written consent of any Mortgagee to which this Lease has been assigned as collateral security; and (vi) the Premises, at all times, remains a single store and no physical changes of any kind may be made to the Premises unless in compliance with the applicable provisions of this Lease. Any person or entity to which this Lease is assigned pursuant to the provisions of the Bankruptcy Code shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on and after the date of such assignment. Any such assignee shall, upon demand, execute and deliver to Landlord an instrument confirming such assumption.

ARTICLE XXI
ARBITRATION

Intentionally deleted

ARTICLE XXII
MISCELLANEOUS

Section 22.1 Parties' Option to Terminate Lease. Notwithstanding any provisions herein to the contrary, if for any reason Delivery of Possession does not occur by September 1, 2005, Landlord or Tenant may elect to terminate this Lease by giving notice of such election to the other party. In the event Delivery of Possession occurs within thirty (30) days following Landlord's receipt of a notice of termination by Tenant, such notice shall be deemed null and void and Tenant shall accept possession of the Premises and this Lease shall remain in full force and effect. If such notice is given, this Lease and the rights and obligations of the parties hereunder shall thereupon cease and terminate without need for the execution of any further or other instrument, but, if Landlord shall request, Tenant shall execute an instrument, in recordable form, whereby Tenant releases and surrenders all right, title and interest which it may have in and to the Premises under this Lease or otherwise. If Tenant fails to execute such instrument in good faith within thirty (30) days after submission of such instrument to it by Landlord, Landlord is hereby authorized to execute and record such instrument evidencing such release. In such case, Tenant hereby irrevocably appoints Landlord as its attorney-in-fact with full power and authority, and as holding a power coupled with an interest, to execute, deliver and record in the name of Tenant any such instruments.

Section 22.2 Estoppel Certificates. At any time and from time to time, within twenty (20) days after Landlord shall request the same, Tenant will execute, acknowledge and deliver to Landlord and to such Mortgagee or other party as may be designated by Landlord, a certificate in the form attached hereto as **Exhibit "F"** respect to the matters set forth on **Exhibit "F"** and such other matters relating to this Lease or the status of performance of obligations of the parties hereunder as may be reasonably requested by Landlord. In the event that Tenant fails to provide such certificate within twenty (20) days after request by Landlord therefor, Tenant shall be deemed to have approved the contents of any such certificate submitted to Tenant by Landlord and Landlord is hereby authorized to so certify. In such case, Tenant hereby irrevocably appoints Landlord as its attorney-in-fact with full power and authority, and as holding a power coupled with an interest, to execute, deliver and record in the name of Tenant any such certificates.

Section 22.3 Inspections by Landlord. Landlord, its agents, employees and cont
enter all parts of the Premises after twenty-four (24) hours prior notice (unless Landlord de
emergency exists, in which case no prior notice shall be required), to inspect the same an
provision of this Lease.

Section 22.5 Successors and Assigns; Collateral Assignment. This Lease and the covenants and conditions herein contained shall inure to the benefit of and be binding upon Landlord, Tenant and their respective successors and assigns, provided, however, no rights shall inure to the benefit of any assignee or successor of Tenant to the extent such assignee or successor acquired any purported interest herein in violation of Article XVI. Upon any sale or other transfer by Landlord of its interest in the Premises, and assumption of possession of the Premises by the transferee, such transferee shall be solely responsible for all obligations of Landlord under this Lease accruing thereafter and Landlord shall be fully and forever released of its obligations hereunder. In connection with any Mortgage, Landlord shall be entitled to collaterally assign and/or to grant a security interest on rents payable hereunder to Mortgagee.

Section 22.6 Compliance with Laws and Regulations. Tenant, at its sole cost and expense, shall comply with and shall cause the Premises to comply with (a) all applicable Laws affecting the Premises or any part thereof, or the use thereof, including, but not limited to, those which require the making of any unforeseen or extraordinary changes, whether or not any such Laws which may be hereafter enacted involve a change of policy on the part of the governmental body enacting the same, and (b) all rules, orders and regulations of the National Board of Fire Underwriters or Landlord's fire insurance rating organization or other bodies exercising similar functions in connection with the prevention of fire or the correction of hazardous conditions which apply to the Premises. Landlord's Work shall comply with applicable law to the extent of Landlord's Work.

Section 22.7 Captions and Headings. The table of contents and the article and section captions and headings are for convenience of reference only and in no way shall be used to construe or modify the provisions set forth in this Lease.

Section 22.8 Joint and Several Liability. Intentionally deleted.

Section 22.9 Broker's Commission. Each of the parties represents and warrants that it has not engaged any broker, agent or finder which is entitled to any brokerage commissions, finders' fees or other compensation in connection with the execution of this Lease, and agrees to indemnify the other against, and hold it harmless from, all liability, including, without limitation, attorneys' fees, arising from any such claim by any person alleged to have been engaged by the indemnifying party.

Section 22.10 No Discrimination. Tenant will not discriminate in the conduct and operation of its business in the Premises against any person or group of persons because of the race, creed, color, sex, age, national origin or ancestry of such person or group of persons.

Section 22.11 No Joint Venture. Any intention to create a joint venture or partnership relation between the parties hereto is hereby expressly disclaimed. The provision of this Lease in regard to the payment by Tenant and the acceptance by Landlord of Annual Percentage Rent is a reservation for rent for the use of the Premises and not a participation by Landlord in the income or profits of Tenant as such.

Section 22.12 No Option. The submission of this Lease to Tenant for examination does not constitute a reservation of or option for the Premises, and this Lease shall become effective only upon execution and delivery thereof by both parties. Landlord and Tenant agree that the Lease has been freely negotiated by Landlord and Tenant and in the event of any ambiguity, controversy, dispute or disagreement over the interpretation, validity or enforceability of this Lease or any of its covenants, terms or conditions, no inference, presumption or conclusion whatsoever shall be drawn against Landlord by virtue of Landlord having drafted this Lease.

Section 22.13 Merger, No Warranty and No Modification. This writing is intended by the parties as a final expression of their agreement and as a complete and exclusive statement of the terms thereof, all negotiations, considerations and representations between the parties having been incorporated herein. No course of prior dealings between the parties or their officers, employees, agents or affiliates shall be relevant or admissible to supplement, explain or vary any of the terms of this Lease. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement between the parties or their affiliates shall not be relevant or admissible to determine the meaning of any of the terms of this Lease. No representations, understandings, or agreements have been made or relied upon in the making of this Lease other than those specifically set forth herein. Landlord makes no representation or warranty whatsoever, express or implied, orally or in writing as to the configuration, tenant mix or any future construction in the Shopping Center and any plans or discussions were for informational purposes only and not intended to be relied upon by Tenant. Tenant acknowledges that it has not relied upon any such representations or warranties in connection with the execution of this Lease. This Lease can be modified only by a writing signed by both Landlord and Tenant.

Section 22.14 Severability. If any term or provision, or any portion thereof, of this Lease, or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the re application of such term or provision to persons or circumstances other than those as to unenforceable, shall not be affected thereby, and each term and provision of this Lease shal the fullest extent permitted by applicable Laws.

Section 22.15 Third Party Beneficiary. Nothing contained in this Lease shall

construed in accordance with the laws of the State of Florida. Any action or proceeding arising hereunder shall be brought in the courts of the State of Florida; provided, that if such action or proceeding arises under the constitution, laws or treaties of the United States of America, or if there is a diversity of citizenship between the parties thereto, so that it is brought in a United States District Court, it shall be brought in the United States District Court for the District of Florida. **Landlord and Tenant hereby mutually waive any and all rights which either may have to request a jury trial in any proceeding at law or in equity in any court of competent jurisdiction.**

Section 22.18 Performance of Landlord's Obligations by Mortgagee. Tenant shall accept performance of any of Landlord's obligations hereunder by any Mortgagee.

Section 22.19 Right to Relocate Tenant. At anytime and from time to time throughout the Term, Landlord shall have the right to relocate the Premises (or substitute premises) to another premises in the Shopping Center. In the event Landlord makes such election, (a) Landlord shall notify Tenant of such election in writing at least ninety (90) days prior to the date on which such relocation shall be required to occur, (b) the new premises shall be no smaller than the existing Premises. (c) Landlord shall pay the entire cost of moving Tenant's fixtures, equipment and inventory to the new premises, (d) this Lease shall remain in effect pursuant to its terms (including Rent) with respect to the substitute premises except that Landlord and Tenant shall enter into an amendment of this Lease agreeing to and evidencing the relocation of the Premises. In addition, Landlord shall construct the new premises to a condition similar in quality to the improvements in the Premises and pay for a reasonable supply of new stationary and business cards reflecting the new Premises. Alternatively, Tenant may terminate this Lease by notice to Landlord given within thirty (30) days of Landlord's notice and effective on the date Landlord proposed to move Tenant; if Tenant gives notice of termination, Landlord shall have thirty (30) days to rescind its notice of relocation, in which event Tenant's notice of termination shall be void and the Lease shall continue as if no notice to relocate had been given.

Section 22.20 Exculpation. If Tenant shall recover any judgment against Landlord in connection with this Lease, such judgment shall be satisfied only out of Landlord's interest in the Shopping Center and Shopping Center assets or of the proceeds of sale received upon the execution of such judgment and levy thereon against the right, title and interest of Landlord in the Shopping Center and neither Landlord nor any of the partners, shareholders or members comprising Landlord shall be personally liable for any deficiency. The covenants of this Lease shall run with the land and all personal liability of Landlord shall cease in the event of sale or transfer of its interest.

If Tenant claims or asserts that Landlord has violated or failed to perform a covenant of Landlord not to unreasonably withhold or delay Landlord's consent or approval, Tenant 's sole remedy shall be an action for specific performance, declaratory judgment or injunction and in no event shall Tenant be entitled to any money damages for a breach of such covenant and in no event shall Tenant claim or assert any claim for any money damages in any action or by way of set off, defense or counterclaim and Tenant hereby specifically waives the right to any money damages or other remedies.

Section 22.21 Security Interest. As security for the payment of all Rent and other amounts becoming due, Tenant hereby grants to Landlord a lien and security interest in the following described collateral, which Tenant owns or shall hereafter acquire or create, immediately upon the acquisition or creation thereof: (a) all goods and inventory at any time located in, or in transit to or from, identified for delivery to the Premises prior to and during the Term of the Lease; (b) all fixtures, equipment and other personal property, including trade fixtures, placed in the Premises at any time during the Term of the Lease; and (c) all proceeds of the foregoing, and proceeds of hazard insurance and condemnation awards of all of the foregoing described properties or interests in properties, including all products of, and accessions to, such properties or interests in properties (collectively, the "**Collateral**"). Such lien and security interest shall be a first and prior lien and security interest as and against the claims of any other creditors of Tenant, and Tenant so warrants to Landlord. Tenant agrees, within twenty (20) days after submission thereof by Landlord, to execute and deliver to Landlord all financing statements (including continuation statements) and other instruments requested by Landlord to evidence and/or perfect the security interest granted hereby. Failure of Tenant to execute any such statements or instruments within such twenty (20) day period, shall constitute a breach of the Lease. Tenant hereby authorizes Landlord to file and record such financing statements and/or instruments in all locations deemed desirable or necessary by Landlord in order to perfect the security interest granted herein. Upon the happening of any Event of Default, or at any time thereafter while such default has not been cured, Landlord shall have all the remedies of a secured party under applicable Laws, including, the Seminole Tribe's Secured Transaction Ordinance, and Landlord may enter upon the Premises and remove any or all of such Collateral therefrom. The security interest created in such Collateral hereby shall be terminated if all Rent and other amounts due under the Lease is paid in full and Tenant is not otherwise in default under the Lease upon the natural expiration of the Term. Landlord agrees to subordinate to bona-fide, third-party, purchase money lenders.

Section 22.22 Survival. To the extent any covenants or obligations of either pa express terms of this Lease or by reasonable implication, are intended to survive termination survive such termination.

Section 22.23 Additional Rent. Any amounts to be paid by Tenant to Landlord p this Lease, whether such payments are to be periodic and recurring or not, shall be deemed t

Section 22.26 Representation by Counsel. THE TENANT HEREBY ACKNOWLEDGES AND, BY EXECUTING THIS LEASE BELOW, AGREES THAT TENANT (a) HAS REVIEWED AND UNDERSTANDS ALL OF THE PROVISIONS OF THIS LEASE AND (b) HAS EITHER REVIEWED THIS LEASE WITH AN ATTORNEY OR HAS HAD THE OPPORTUNITY TO DO SO.

Section 22.27 Exhibits not a Representation. Unless expressly set forth to the contrary in this Lease, any site plans or tenant lists set forth in this Lease or in Exhibits to this Lease are not intended, in any way, to constitute a representation or warranty by, or on behalf of, Landlord (a) as to the past, current or future layout of the Shopping Center or (b) as to the past, existing or future tenants or occupants in the Shopping Center. Any site plans or listing of tenants or occupants in the Shopping Center set forth in this Lease, including the Exhibits, are for the sole purpose of showing the approximate location of the Premises in the Shopping Center and are to be used for no other purposes whatsoever. The labeling of any past, current or future tenants or occupants in the Shopping Center on any Exhibit to this Lease are not intended to represent or warrant that such listed tenants or occupants have been, are or will be tenants or occupants in the Shopping Center.

Section 22.28 Counterparts. This Lease may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single instrument.

Section 22.29 Hotel Charges/Points of Sale Systems. Tenant agrees to allow the registered guests of the adjacent hotel to charge purchases at Tenant's Premises to the registered guest's room upon presentation of proof of registration at the hotel. Tenant shall use its best efforts to allow its point of sale system to tie in to the point of sale system at the hotel so that such charges are properly posted to the guest's account. Tenant shall be promptly reimbursed for such charges.

Section 22.30 Acceptance of Reward Program. Tenant agrees to accept and honor rewards issued by the adjacent hotel and casino to its guests and to bill the hotel and/or casino for the same pursuant to the discount schedule to be reasonably agreed upon.

Section 22.31 Employee Code of Conduct. Tenant shall require its employees to abide by a commercially reasonable Code of Conduct which shall be issued by Landlord from time to time.

Section 22.32. National Contracts. To the extent practical, Tenant shall participate in any national contracts for goods which has been secured by Landlord.

IN WITNESS WHEREOF, the parties hereto intended to be legally bound hereby have executed this Lease under seal as of the Effective Date.

[SIGNATURES ON NEXT PAGE]

The foregoing instrument was acknowledged before me this 3rd day of Feb, 2004, by Scott Perlstein as V. Pres of South Fl. Ent., on behalf of said Corporation. He/She is personally known to me or has produced _____ as identification.

Judith A. Dolan
Commission # DD 049465
Expires Aug. 13, 2005
Bonded Thru
Atlantic Bonding Co., Inc.

Judith A. Dolan
Name: _____
Notary Public, State of _____
Commission No. _____

My commission expires:

[Notarial Seal]

\\MIA-SRV01\MAYOLL\1308309v02\S1HX02!.DOC\5/3/01\23014.010400

Name:

Name:

Name:

Name:

By: (SEAL)
Name:
Title:

TENANT: South Florida Entertainment , Inc.

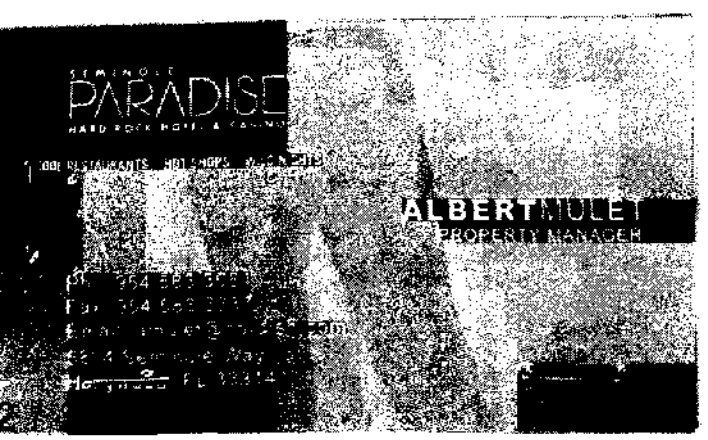
By: (SEAL)
Name:
Title:

KnightTime Billiards
5739 Seminole Way
Fort Lauderdale, FL 33314
954-587-6155

3/11/2005

This is to confirm our discussion that South Florida Entertainment, Inc. / KnightTime Billiards is permitted to have their outdoor seating set up between the second white line of floor tile and their patio bar. This is an agreeable area of outdoor seating by both parties as stated in their lease dated 2/4/2004.

Albert Mulet/Albert Mulet
Name
Seminole Properties Retail, LLC
Company
Property Manager
Title



Exhibit

BUSINESS APPLICATION

BUREAU OF INDIAN AFFAIRS
SEMINOLE TRIBE OF FLORIDA

APPLICATION FOR NON-TRIBAL MEMBER USE OF TRUST LANDS

APPLICANT: _____ _____
BUSINESS NAME YEARS OPEN

ADDRESS: _____
STREET

_____
CITY STATE ZIP CODE

PHONE NUMBER(S): (___) _____ (___) _____

PURPOSE OR TYPE OF BUSINESS:

LAND LOCATION: ADDRESS: _____

SECTION _____ TOWNSHIP _____ RANGE _____

BIG CYPRESS ( ) BRIGHTON ( ) HOLLYWOOD ( ) IMMOKALEE ( ) TAMPA ( )

LAND DESCRIPTION: (Attach legal description, location sketch, aerial photo, or other description using landmarks and approximate distances to clearly establish location.)

LAND CHARACTERISTICS: ACREAGE REQUESTED: _____ ACRES

IMPROVED PASTURE ( ) NATIVE PASTURE ( )
OTHER ( ) _____

TERMS REQUESTED:

I understand that should a lease / permit be issued to me, my interest in and use of trust lands shall be subject to the Regulations of the Bureau of Indian Affairs and all regulations, policies, resolutions and ordinances of the Seminole Tribe of Florida now in effect or as may be adopted or enacted in the future.

_____ _____
WITNESS (1) SIGNATURE

_____ _____
WITNESS (2) DATE

OFFICE USE ONLY

	DATE	COMMENTS
RECEIVED:		
LAND USE COORDINATOR	_____	_____
COMMUNITY PLANNING	_____	_____
ERMD (NEPA)	_____	_____
LAND USE COMMISSION	_____	_____
TRIBAL COUNCIL	_____	_____

Revised: 1/5/10

Exhibit "A"

EXHIBIT "A"

Document No. P -

TRIBAL REVOCABLE PERMIT

PERMITTOR: SEMINOLE TRIBE OF FLORIDA D/B/A SEMINOLE PROPERTIES RETAIL, LLC
5804 Seminole Way
Hollywood, FL 33314

PERMITTEE: SOUTH FLORIDA ENTERTAINMENT, INC D/B/A: KNIGHTTIME BILLIARDS
5739 Seminole Way
Hollywood, FL 33314

LOCATION: See "Outside Service Area" attached Exhibit "A" and by reference made a part hereto.

RESERVATION: Hollywood Seminole Indian Reservation

PURPOSE: Food and Alcoholic and Non-Alcoholic Beverage Service

PERMIT BEGINS: March 1, 2011
PERMIT EXPIRES: March 31, 2013

PERMIT FEES: The Permit Fee for use of the Outside Service Area shall be calculated based on the rent per square foot paid in the South Florida Entertainment, Inc. D/B/A KnightTime Billiards Business Lease x the total square footage of the Outside Service Area as follows: 33.77/sq.ft x 1,733 sq.ft. = $58,523.41 per year; payable $4,876.95 monthly as an addition to the Business Lease rent payment

LIABILITY INSURANCE:

A. COVERAGE REQUIRED: $1,000,000 Per Occurrence Public Liability Policy and Vehicle Coverage
$1,000,000 Per Occurrence Liquor Liability

POLICY MUST NAME AS INSURED: South Florida Entertainment, Inc D/B/A: KnightTime Billiards

POLICY MUST NAME AS INSUREDS:
1. Seminole Properties Retail, LLC
2. Seminole Tribe of Florida
3. Secretary of the Interior

THIS PAGE AND THE ATTACHED PROVISIONS # 1 THROUGH #18 CONSTITUTE THE PERMIT. THE PERMIT IS NOT A LEASE AND IS NOT TO BE TAKEN OR CONSTRUED AS GRANTING ANY LEASEHOLD INTEREST OR RIGHT IN OR TO THE LOCATION OR LAND DESCRIBED HEREIN. THE PERMIT IS TEMPORARY AND REVOCABLE OR TERMINABLE AT THE DISCRETION OF THE PERMITTOR AT ANY TIME UPON WRITTEN NOTICE, AND IN ANY EVENT NOT TO EXTEND BEYON

1. The Permittor named herein hereby grants permission to the Permittee named herein to enter upon and use the Trust property described herein, hereinafter referred to as "lands". The use of the lands by the Permittee shall be solely for the purpose(s) described herein and for no other purpose whatsoever.

2. This permit shall become effective and begin on the date specified herein and shall expire on the date specified herein, unless earlier terminated:

   A. Upon notice as specified herein, or
   B. At the option of Permittor, upon written notice of Permittee's failure to comply with or to abide by any or all of the provisions contained herein or the rules, regulations and ordinances of the Permittor and said noncompliance shall continue uncured for the period of ten days after written notice thereof.

3. Permit fees as specified herein shall be paid by the Permittee in guaranteed funds: money orders, cashier's checks, personal checks or certified checks. All fees will be made payable to the Permittor. Advance payments shall serve as good and sufficient bond for the faithful performance by Permittee. In the event the Permit is terminated or revoked prior to its expiration through failure of the Permittee to comply with or abide by any or all of the provisions herein or the applicable rules, regulations and ordinances, then advance payments shall become property of the Permittor.

4. No representation or warranty is made by the Permittor as to the availability of electric, water, sewer, telephone and other utility services, or as to the suitability of the lands for the purpose(s) stated herein. Permittee, by executing the Permit, accepts said lands in their present condition and state of repair "as is" and understands it is Permittee's sole responsibility to arrange and pay for any necessary utility connections and services, including emergency back-up power sources and any fuel necessary to operate generators.

5. Permittee agrees to exercise the privileges granted herein at Permittee's own sole risk and agrees to indemnify and save harmless Permittor and its respective officers, directors, agents and employees, for all liability, loss, cost and expense, including attorney's fees, which may be sustained by Permittor to any person, natural or artificial, by reason of the death of or injury to any person or damage to any property whether or not due to or caused by the negligence of Permittor, arising out of or in connection with the occupancy and use of the lands by Permittee and Permittee's contractors, agents or employees; and Permittee agrees to defend at its sole cost and expense and at no cost and expense to Permittor any and all suits or action instituted against Permittor, for the imposition of such liability, loss, cost and expense.

6. Permittee shall, during the period of the Permit, maintain at its sole expense a liability insurance policy with minimum limits as stated herein for bodily injury, death and property damage arising out of a single occurrence. Said policy shall be endorsed to insure against obligations assumed by Permittee in the indemnity (Provision #5) and shall name the Permittor as additional insured. A Certificate of Insurance, using forms acceptable to the Permittor, shall be furnished to the Permittor evidencing that said policy of insurance is in force and will not be canceled or materially changed so as to affect the interests of Permittor until ten (10) days written notice has been furnished to Permittor.

7. Unless otherwise expressly authorized and provided in the Permit and undertaken pursuant thereto, no portion of the lands shall be excavated, removed, altered, obstructed, improved, surfaced or paved without the prior written consent of the Permittor, and no building, well, irrigation system, drainage system, structure, obstruction or improvement shall be located, constructed, maintained or operated over, under, upon or across the lands.

1. Improvements expressly authorized and provided in the Permit and undertaken pursuant thereto may be removed from the lands by Permittee subject to the following conditions:

   A. That all permit fees shall have been paid in accordance with the Permit.
   B. That said improvements shall be removed from the lands within thirty (30) days following the expiration, termination or revocation of the Permit. Failure of the Permittee to remove said improvements within this time period shall constitute a forfeiture of ownership thereof and said improvements shall thereafter become the property of Permittor.
   C. That no improvements shall be removed where such removal may result in damage to the lands or damage any permanent improvements thereon.

2. Any and all improvements made or placed on the lands which are not expressly authorized and provided in the Permit and undertaken pursuant thereto shall remain on the lands at the expiration, termination or revocation of the Permit, and said improvements shall thereafter become the property of Permittor.

3. Permittee understands and agrees that the use of the lands pursuant to the Permit is subordinate and inferior to the rights and interest of the Permittor in and to the lands and agrees to notify its employees, agents and contractors accordingly. Permittor specifically reserve the right to maintain its facilities located on the lands; to make improvements and add additional facilities; to maintain, construct or alter roads; to maintain any facilities, devices or improvements on the lands which aid in or are necessary to the business or operations of Permittor; and the right to enter upon the lands at all times for such purposes. Permittee understands that in the exercise of such rights and interest, Permittor and from time to time may require Permittee to relocate, alter or remove its facilities and equipment, and other improvements made by Permittee pursuant to the Permit which interfere with or prevent Permittor, in its sole opinion and discretion, from properly and safely constructing, improving and maintaining its facilities. Permittee agrees to relocate, alter or remove said facilities, equipment, and other improvements within thirty (30) days of receiving notices from Permittor to do so. Such relocation, alteration or removal shall be made at the sole costs and expense of Permittee and at no cost and expense to Permittor and; provided, however, should Permittee, for any reason, fail to make such relocation, alteration or removal, Permittor retain the right to enter upon the lands and make such relocation, alteration or removal of Permittee's facilities, equipment, parking spaces and areas, and other improvements and Permittee hereby agrees to reimburse Permittor for all its costs and expense incurred in connection therewith upon demand.

4. Permittee agrees that it will not use the lands in any manner which, in the sole discretion of Permittor, that may cause or tend to cause a hazardous or unsafe condition to exist. Permittee agrees that in the event it should create such a hazardous or unsafe condition or situation which restricts, impairs, interferes with, or hinders the use of the lands by Permittor or the exercise by Permittor of any of its rights, then upon notification by Permittor, Permittee shall, within twenty-four (24) hours, at its sole cost and expense, correct such condition or situation; provided however that Permittor retain the right to enter upon the lands and correct any such condition or situation at any time and, by its execution hereof, Permittee hereby agrees to reimburse Permittor for all of its costs and expense incurred in connection therewith upon demand.

5. Permittee shall commit no waste to the lands and agrees, at all times, to maintain and keep the lands clean and free of garbage, trash and debris, and upon the expiration, termination or revocation of the Permit, to leave the lands in a similar condition.

6. Permittee understands and agrees that certain uses of the lands are specifically prohibited; such uses include but are not limited to the following:

   A. The possession and use of controlled substances and hazardous or toxic materials.
   B. Use as a transient or residential dwelling place, unless specifically provided otherwise herein.
   C. Any conduct or purpose or use which is in violation of the applicable law. Permittee agrees to notify its employees, agents and contractors and invitees accordingly.

7. The use of the lands by Permittee shall be at the sole risk and expense of Permittee, and the Permittor is specifically relieved of any responsibility for damage or loss to Permittee resulting from Permittee's use of the lands.

8. Notwithstanding any provision contained herein, Permittee agrees to reimburse Permittor for all costs and expense for any damage to the facilities of Permittor resulting from Permittee's use of the lands and agrees that if, in the sole discretion of Permittor, it becomes necessary as a result of Permittee's use of the lands for Permittor to relocate, rearrange or change any of its facilities, to promptly reimburse Permittor for all costs and expense involved with such relocation, rearrangement or change.

9. While the lands are in trust or restricted status, all the Permittee's obligations under the Permit are to the United States as well as the Permittor.

10. Nothing contained in the Permit shall operate to delay or prevent a termination of Federal trust responsibilities with respect to the lands by the issuance of a fee patent or otherwise during the term of the Permit; however, such termination shall not serve to abrogate the Permit. The Permittee and Permittor shall be notified of any such change in the status of the lands.

11. This Permit is personal to the Permittee and shall not be assigned or transferred, in whole or in part.

- SIGNATURES ON NEXT PAGE -

ATTEST:

(1) _____
Signature

_____
Print Name

(2) _____
Signature

_____
Print Name

PERMITTEE:
SOUTH FLORIDA ENTERTAINMENT, INC
D/B/A: KNIGHTTIME BILLIARDS

By: _____

Name/Title: _____

Date: _____

ATTEST:

(1) _____
Signature

_____
Print Name

(2) _____
Signature

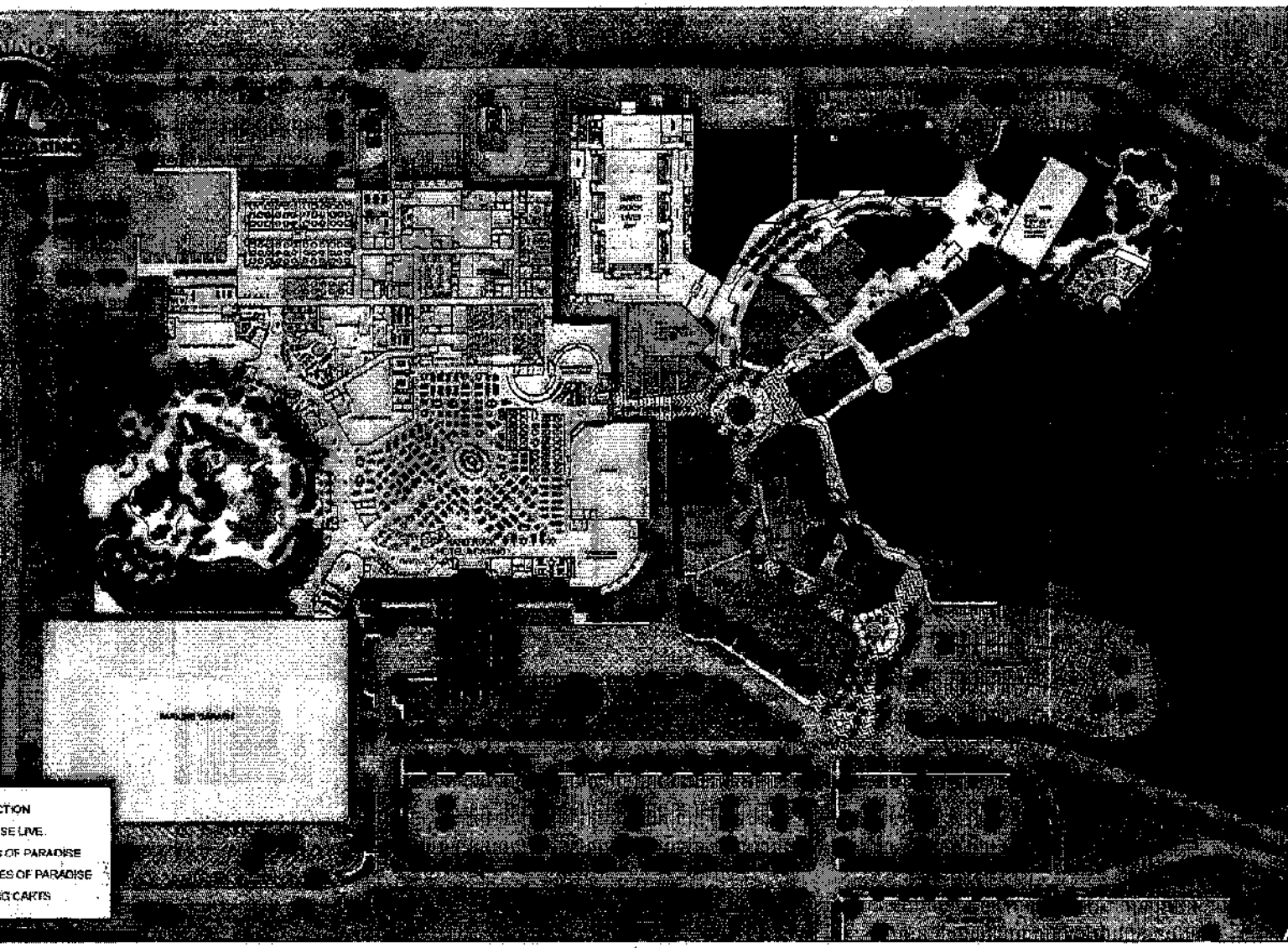
_____
Print Name

PERMITTOR:
SEMINOLE TRIBE OF FLORIDA D/B/A
SEMINOLE PROPERTIES RETAIL, LLC

By: _____

Name/Title: _____

Pursuant to Resolution No. C- _____

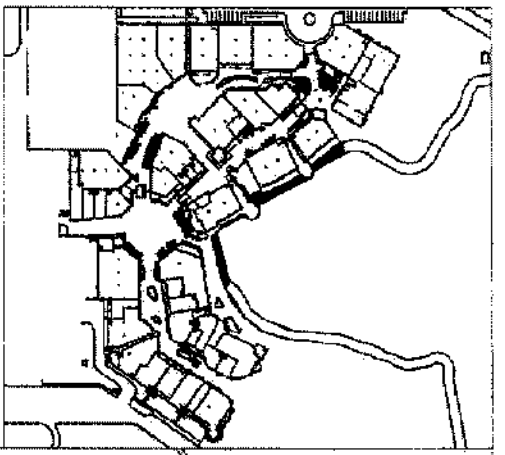


SEMINOLE PARADISE
AT THE HARD ROCK HOTEL - FT. LAUDERDALE, FLORIDA

EXHIBIT "A"

SEMINOLE PARADISE
HOLLYWOOD, FLORIDA

SPACE 5739
NET AREA: 5552 S.F.



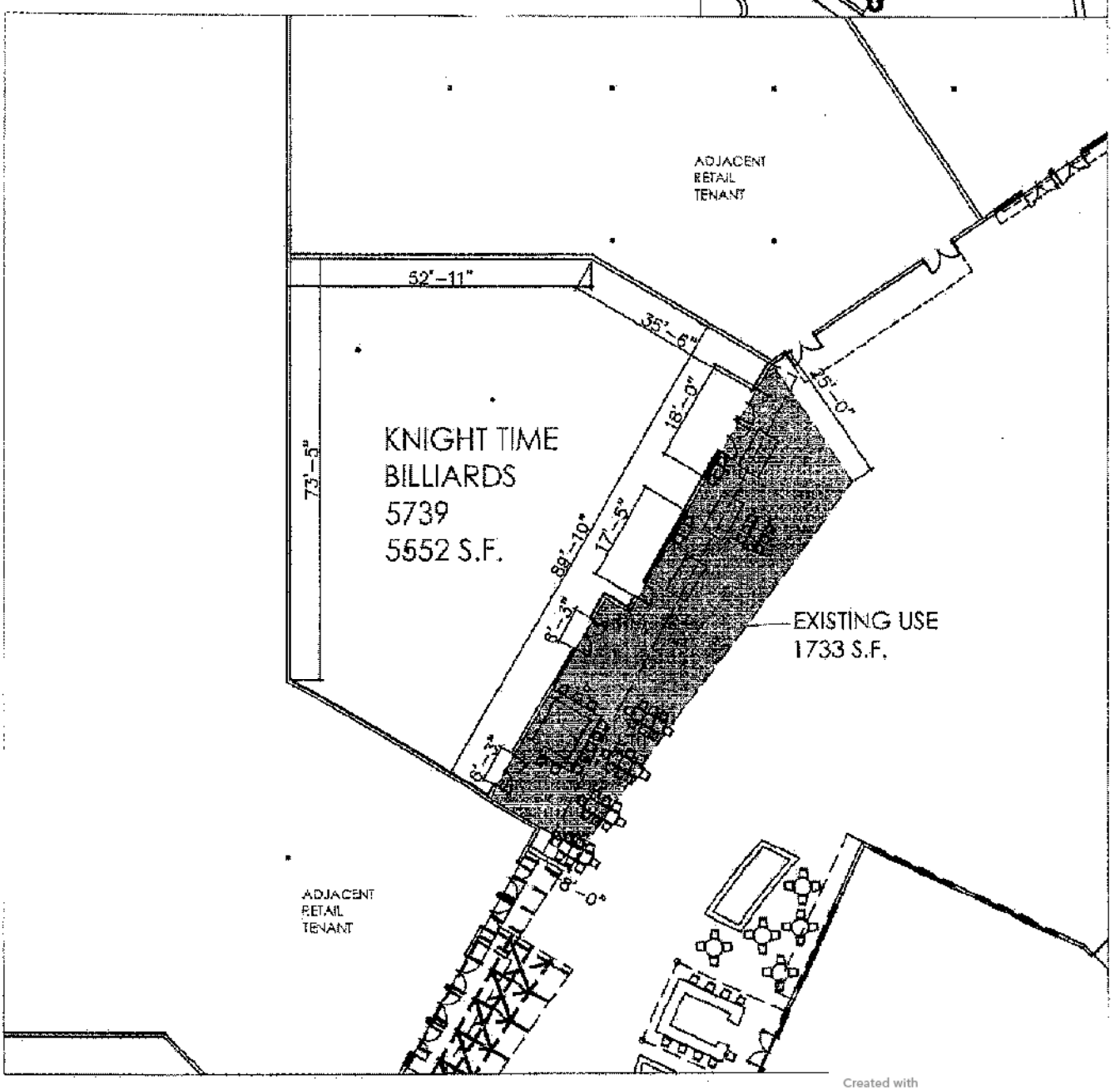


EXHIBIT "