

ARTICLE XX Assignment and Subletting

20.01. Lessee may sell, mortgage, pledge, transfer or assign this Lease, in whole or in part, or sublet the whole or any part of the Premises, without the consent of Lessor. Lessee may assign its interest under this Agreement to any subsidiary, affiliated entity, lender or any entity acquiring an interest in all or substantially all of the assets or equity of Lessee without Manager's consent. Any assignee hereunder shall attorn to and be bound by this Agreement. The terms, provisions, covenants, undertakings, agreements, obligations and conditions of this Agreement shall be binding upon and shall inure to the benefit of the successors in interest and the assigns of the parties hereto with the same effect as if mentioned in each instance where the party hereto is named or referred to.

ARTICLE XXI Eminent Domain

21.01. If the Premises or any part thereof shall be permanently taken or condemned or transferred by agreement in lieu of condemnation for any public or quasi-public use or purpose by any competent authority, whether or not this Lease shall be terminated, the entire compensation award therefor, both leasehold and reversion, shall belong to Lessor without any deduction therefrom for any present or future estate of Lessee and Lessee hereby assigns to Lessor all its right, title and interest to any such award. Lessee shall execute all documents required to evidence such result within ten (10) days after receipt of the same. Lessee shall, however, be entitled to claim, prove and receive in such condemnation proceedings such award as may be allowed for trade fixtures and other equipment installed by it, but only if or to the extent such award shall be in addition to the award for the land and the building and other improvements (or portions thereof) containing the Premises and only if or to the extent such award does not diminish any award to Lessor.

21.02. If the entire Premises shall be taken, condemned or transferred as aforesaid, then this Lease shall terminate and shall become null and void from the time possession thereof is required for public use, and from that date, the parties hereto shall be released from further obligation hereunder, but if a portion only of the Premises itself shall be so taken, condemned or transferred, then Lessor may elect to terminate this Lease or, at its own expense, repair and restore the portion not affected by the taking, and thereafter the Rent to be paid by Lessee shall be equitably and proportionately adjusted.

21.03. If a portion of the Retail Facility shall be taken, condemned or transferred as aforesaid and as a result thereof Lessor, in its sole discretion, elects to discontinue the operation of the Retail Facility, Lessor may cancel this Lease by giving Lessee notice of its election and this Lease shall terminate and shall become null and void ninety (90) days after said notice and the provisions with respect to the awards shall be as set forth in Section 21.01.

ARTICLE XXII Default by Lessee

22.01.

- (a). In the event of any failure of Lessee to pay any installment of Rent or additional rent or any other payment required to be made by Lessee when due hereunder, or if Lessee shall be in breach of its obligations included under Section 9.02 or Section 9.04 or if Lessee shall be in breach of its obligations included under the REA, or if Lessee defaults in performing any of the other terms,

Fontainebleau Resort Las Vegas
Affiliate Lease

(26)

conditions or covenants of this Lease to be observed or performed by Lessee for more than thirty (30) days after notice of such other default shall have been given to Lessee, or if Lessee or an agent of Lessee shall falsify any report required to be furnished to Lessor pursuant to the terms of this Lease, or suffer this Lease to be taken under any writ of execution, then, and in any one or more of such events (herein sometimes referred to as an "Event of Default"), Lessor shall have the immediate right to reenter the Premises, either by summary proceedings, by force or otherwise, and to dispossess Lessee and all other occupants therefrom and remove and dispose of all property therein or, at Lessor's election, to store such property in a public warehouse or elsewhere at the cost of, and for the account of, Lessee, all without service of any notice of intention to reenter and with or without resort to legal process (which Lessee hereby expressly waives) and without Lessor being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby. Upon the occurrence of any such Event of Default, Lessor shall also have the right, at its option, in addition to and not in limitation of any other right or remedy, to terminate this Lease by giving Lessee notice of cancellation and upon mailing of said notice, this Lease and the Term shall end and expire as fully and completely as if the date of said notice were the date herein definitely fixed for the end and expiration of this Lease and the Term and thereupon, unless Lessor shall have theretofore elected to reenter the Premises, Lessor shall have the immediate right of reentry, in the manner aforesaid, and Lessee and all other occupants shall quit and surrender the Premises to Lessor, but Lessee shall remain liable as hereinafter provided; provided, however, that if Lessee shall default (i) in the timely payment of any Rent or any item of additional rent as required by ARTICLE V hereof and any such default shall continue or be repeated for two (2) consecutive months, or for a total of four (4) months in any period of twelve (12) months, or (ii) in the performance of any other covenants of this Lease more than six (6) times, in the aggregate, in any period of twelve (12) months, then, notwithstanding that such defaults shall have been cured within the period after notice as above provided, any further similar default shall be deemed to be deliberate and Lessor thereafter may serve said notice of cancellation without affording to Lessee an opportunity to cure such further default.

- (b). If by reason of the occurrence of any such Event of Default, the Term shall end before the date originally fixed herein, or Lessor shall reenter the Premises, or Lessee shall be ejected, dispossessed, or removed therefrom by summary proceedings or in any other manner, Lessor at any time thereafter may relet the Premises, or any part or parts thereof, either in the name of Lessor or as agent for Lessee, for a term or terms which, at Lessor's option, may be less than or exceed the period of the remainder of the Term or which otherwise would have constituted the balance of the Term and grant concessions or free rent. Lessor shall receive the rents from such reletting and shall apply the same, first, to the payment of any indebtedness other than Rent or any item of additional rent due hereunder from Lessee to Lessor; second, to the payment of such expenses as Lessor may have incurred in connection with reentering, ejecting, removing, dispossessing, reletting, altering, repairing, redecorating, subdividing, or otherwise preparing the Premises for reletting, including brokerage and attorneys' fees; and the residue, if any, Lessor shall apply to the fulfillment of the terms, conditions and covenants of Lessee hereunder and Lessee hereby waives all claims to the surplus, if any. Lessee shall be liable for and shall pay Lessor any deficiency between the Rent and all items of additional rent reserved herein and the net avails as aforesaid, of reletting, if any, for each month of

the period which otherwise would have constituted the balance of the Term. Lessee shall pay such deficiency on an accelerated basis as provided under subsection (d) below or, at Lessor's sole option, in monthly installments on the rent days specified in this Lease, and any suit or proceeding brought to collect the deficiency for any month, either during the Term or after any termination thereof, shall not prejudice or preclude in any way the rights of Lessor to collect the deficiency for any subsequent month by a similar suit or proceeding. Lessor shall in no event be liable in any way whatsoever for the failure to relet the Premises or, in the event of such reletting, for failure to collect the rents reserved thereunder. Lessor is hereby authorized and empowered to make such repairs, alterations, decorations, subdivisions or other preparations for the reletting of the Premises as Lessor shall deem fit, advisable and necessary, without in any way releasing Lessee from any liability hereunder, as aforesaid. Lessor shall have a valid and subsisting lien for the payment of all rentals, charges and other sums to be paid by Lessee and reserved hereunder (including all costs and expenses incurred by Lessor in recovering possession of the Premises and the reletting thereof as provided under this Section which shall be deemed to be additional rent) upon Lessee's goods, wares, equipment, signs, fixtures, furniture and other personal property situated in the Premises, and such property shall not be removed therefrom without the consent of Lessor until the arrearages in Rent and all items of additional rent then due to Lessor hereunder shall have first been paid and discharged. Upon the occurrence of an Event of Default by Lessee, Lessor may, in addition to any other remedies provided herein or by law, enter upon the Premises and take possession of any and all goods, wares, equipment, signs, fixtures, furniture and other personal property of Lessee situated in the Premises without liability for trespass or conversion, and sell the same with or without notice at public or private sale, with or without having such property at the sale, at which Lessor or its assigns may purchase, and apply the proceeds thereof less any and all expenses connected with the taking of possession and the sale of the property, as a credit against any sums due from Lessee to Lessor. Any surplus shall be paid to Lessee, and Lessee shall pay any deficiency forthwith, after demand. Lessor, at its option may foreclose said lien in the manner provided by law. The lien herein granted to Lessor shall be in addition to any Lessor's lien that may now or at any time hereafter be provided by law.

- (c). No such reentry or taking possession of the Premises by Lessor shall be construed as an election on its part to terminate this Lease unless notice of such intention be given to Lessee or unless the termination thereof shall result as a matter of law or be decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Lessor may at any time thereafter elect to terminate this Lease for such previous breach.
- (d). If this Lease is terminated pursuant to the provisions of this Section, or terminates pursuant to the provisions of Section 22.02, Lessor may recover from Lessee all damages it may sustain by reason of Lessee's default, including the cost of recovering the Premises and attorneys' fees, and, upon so electing and in lieu of the damages that may be recoverable under subsection (b) above, Lessor shall be entitled to recover from Lessee, as and for Lessor's damages, an amount equal to the difference between the Rent and all items of additional rents reserved hereunder for the period which otherwise would have constituted the balance of Term and the then present rental value of the Premises for such period, both discounted in accordance with accepted financial practice to the then present worth,

at the average rate established and announced for United States Treasury Bills, with a maturity of thirteen (13) weeks at the four (4) weekly auctions held immediately prior to the date of such termination [the four (4) week average bill rate], all of which shall immediately be due and payable by Lessee to Lessor. In determining the rental value of the Premises, the rental realized by any reletting, if such reletting be accomplished by Lessor within a reasonable time after the termination of this Lease, shall be deemed prima facie to be the rental value, but if Lessor shall not undertake to relet or having undertaken to relet, has not accomplished reletting, then it will be conclusively presumed that the Rent and all items of additional rent reserved under this Lease represent the rental value of the Premises for the purposes hereof (in which event Lessor may recover from Lessee, the full total of all Rent and all items of additional rent due hereunder, discounted to present value as hereinbefore provided). Lessor shall, however, account to Lessee for the Rent and additional rents received from persons using or occupying the Premises during the period representing that which would have constituted the balance of the Term, but only at the end of said period, and only if Lessee shall have paid to Lessor its damages as provided herein, and only to the extent of sums recovered from Lessee as Lessor's damages, Lessee waiving any claim to any surplus. Nothing herein contained, however, shall limit or prejudice the right of Lessor to prove and obtain as damages by reason of such termination, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved, whether or not such amount be greater, equal to, or less than the amounts referred to in subsection (b) or in this subsection (d) of this Section.

- (e). Intentionally Omitted.
- (f). The parties hereby waive trial by jury in any action, proceeding or counterclaim brought by either party against the other on any matter whatsoever arising out of, or in any way connected with, this Lease, the relationship of Lessor and Lessee created hereby, Lessee's use or occupancy of the Premises, and any claim for injury or damage. If Lessor commences any action or proceeding under this Lease, including, but not limited to, actions for recovery of Rent and items of additional rent and actions for recovery of possession, Lessee shall not interpose any counterclaim of any nature or description in any such action or proceeding. The foregoing, however, shall not be construed as a waiver of Lessee's right to assert such claim in a separate action or proceeding instituted by Lessee.
- (g). Lessee hereby expressly waives any and all rights of redemption granted by or under any present or future laws, if Lessee shall be evicted or dispossessed from the Premises for any cause, or Lessor reenters the Premises following the occurrence of any Event of Default hereunder, or this Lease is terminated before the expiration date thereof originally fixed herein.
- (h). No waiver of any covenant or condition or of the breach of any covenant or condition of this Lease shall be taken to constitute a waiver of any subsequent breach of such covenant or condition nor to justify or authorize the nonobservance on any other occasion of the same or of any other covenant or condition hereof, nor shall the acceptance of Rent or any additional rent by Lessor at any time when Lessee is in default under any covenant or condition hereof, be construed as a waiver of such default or of Lessor's right to terminate this Lease on account of such default, nor shall any waiver or

indulgence granted by Lessor to Lessee be taken as an estoppel against Lessor, it being expressly understood that if at any time Lessee shall be in default in any of its covenants or conditions hereunder, an acceptance by Lessor of Rent or any additional rent during the continuance of such default or the failure on the part of Lessor promptly to avail itself of such other rights or remedies as Lessor may have, shall not be construed as a waiver of such default, but Lessor may at any time thereafter, if such default continues, terminate this Lease on account of such default in the manner herein provided. Lessor is entitled to accept, receive and cash or deposit any payment made by Lessee for any reason or purpose or in any amount whatsoever, and apply the same, at Lessor's option, to any obligation of Lessee and the same shall not constitute payment of any amount owed except that to which Lessor has applied the same. No endorsement or statement on any check or letter of Lessee shall be deemed an accord and satisfaction or otherwise recognized for any purpose whatsoever. The acceptance of any such check or payment shall be without prejudice to Lessor's right to recover any and all amounts owed by Lessee hereunder and Lessor's right to pursue any other available remedy.

- (i). In the event of any breach or threatened breach by Lessee of any of the terms and provisions of this Lease, Lessor shall have the right to injunctive relief as if no other remedies were provided herein for such breach.
- (j). Any rights and remedies reserved by, or granted to, Lessor under this Lease, at law or in equity, are distinct, separate and cumulative, and the exercise of any one of them shall not be deemed to preclude, waive or prejudice Lessor's right to exercise any or all others.
- (k). Lessee expressly waives any right to assert a defense based on merger and agrees that neither the commencement of any action or proceeding, nor the settlement thereof, nor the entry of judgment therein, shall bar Lessor from bringing any subsequent actions or proceedings from time to time.
- (l). Wherever in this Lease Lessor has reserved or is granted the right of "reentry" into the Premises, the use of such word is not intended, nor shall it be construed, to be limited to its technical legal meaning.
- (m). Lessee waives and releases any claim arising out of or related to the payment of Percentage Rent by any successor tenant in the Premises, to whom Lessor may relet the Premises, but nothing contained herein shall obligate Lessor to relet if Lessee shall default hereunder.
- (n). Except as otherwise specifically required by this Lease, Lessee waives any and all statutory and legal notice requirements.
- (o). Any action, suit or proceeding relating to, arising out of or in connection with the terms, conditions and covenants of this Lease may be brought only in the District Court of Clark County, Nevada. Lessee hereby waives any objection to jurisdiction or venue in any proceeding before said Court.
- (p). If during the Term, as it may be extended, Lessor receives two (2) or more checks from Lessee which are returned by Lessee's bank for insufficient funds, Lessor may require that all checks thereafter be

bank certified or cashier's checks (without limiting Lessor's other remedies). All bank service charges resulting from any bad checks shall be borne by Lessee.

22.02. If at any time after the execution of this Lease, an order for relief is entered in any bankruptcy, insolvency or similar proceeding commenced by or against Lessee or any Surety, or if Lessee or any Surety becomes insolvent or is unable or admits in writing its inability to pay its debts as they become due, or makes an assignment for the benefit of creditors or petitions for or enters into an arrangement with its creditors or a custodian is appointed or takes possession of Lessee's or any such Surety's property, whether or not a judicial proceeding is instituted in connection with such arrangement or in connection with the appointment of such custodian, then Lessor, besides other rights or remedies it may have, shall have the immediate right to terminate this Lease or reenter without terminating this Lease and to dispossess Lessee and all other occupants therefrom and remove and dispose of all property therein or, at Lessor's election, to store such property in a public warehouse or elsewhere at the cost of, and for the account of, Lessee, all without service of any notice of intention to reenter and with or without resort to legal process (which Lessee hereby expressly waives) and without being deemed guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby. In any such event, Lessor may retain as partial damages, and not as a penalty, any prepaid rents and Lessor shall also be entitled to exercise such rights and remedies to recover from Lessee as damages such amounts as are specified in Section 22.01 hereof, unless any statute or rule of law governing the proceedings in which such damages are to be proved shall lawfully limit the amount of such claims capable of being so proved, in which case Lessor shall be entitled to recover, as and for liquidated damages, the maximum amount which may be allowed under any such statute or rule of law. Lessee agrees that if Lessee files a petition for reorganization under the provisions of 11 U.S.C. § 101 et seq. (the "Bankruptcy Code"), and if Lessee does not within sixty (60) days from the entry of an order for relief by the Bankruptcy Court assume or reject the Lease pursuant to the terms of Section 365 of the Bankruptcy Code, then, effective immediately, the Rent due under the Lease shall increase at a rate of ten percent (10%) per month. Lessee may subsequently reduce the amount of Rent due to the amount of Rent in effect prior to any such escalation under this clause by either: (i) assuming the Lease pursuant to Section 365, or (ii) by assuming and assigning Lessee's interest in the Lease to a third party pursuant to Section 365.

ARTICLE XXIII Default by Lessor

23.01. Lessor shall in no event be charged with default in the performance of any of its obligations hereunder unless and until Lessor shall have failed to perform such obligations within thirty (30) days (or within such additional time as is reasonably required to correct any such failure) after notice to Lessor by Lessee properly specifying wherein Lessor has failed to perform any such obligations.

23.02. If the holder of record of any mortgage(s) covering all or any portion of the Retail Facility shall have given prior notice to Lessee that it is the holder thereof and such notice includes the address at which notices to such mortgagee(s) are to be sent, then Lessee shall give to said holder notice simultaneously with any notice given to Lessor to correct any default of Lessor as hereinabove provided. The holder of record of such mortgage(s) shall have the right, but not the obligation, within thirty (30) days after receipt of said notice, to correct or remedy such default before Lessee may take any action under this Lease by reason of such default; provided, however, that if such default cannot by its nature be cured within said thirty (30) days, then Lessee shall not take any action under this Lease by reason of such default provided the correction or remedy of such

default commences within said thirty (30) days and is diligently prosecuted thereafter. Any notice of default given Lessor shall be null and void unless simultaneous notice has been given to said mortgagee(s).

ARTICLE XXIV Estoppel Certificate, Attornment, Subordination and Non-Disturbance

24.01. Within thirty (30) days after the request by Lessor, Lessee shall deliver to Lessor a written and acknowledged statement in favor of Lessor or any prospective purchaser or mortgagee of the Retail Facility or any other part thereof certifying (a) that Lessee is the tenant under this Lease; (b) that Lessor has completed construction of the Premises (or if Lessor has not completed construction of the Premises, then stating the construction items to be completed by Lessor); (c) that all contributions, if any, required by Lessor for improvements to the Premises have been paid in full to Lessee (or if such contributions, if any, have not been paid in full to Lessee, then stating the amount of contribution remaining to be paid to Lessee); (d) that Lessee has accepted possession of and now occupies the Premises; (e) the date on which the Term commenced, the date on which the Rental Commencement Date occurred and the date on which the Term expires; (f) that no defaults exist under this Lease (or if defaults exist, then specifically stating such defaults); (g) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications); (h) the amount of Rent and all items of additional rent payable under this Lease and the dates to which any Rent and all items of additional rent payable under this Lease have been paid; (i) that Lessee is not entitled to any credit, offset or deduction against any Rent and any item of additional rent due under this Lease (or if Lessee is entitled to a credit, offset or deduction, then stating the amount of such credit, offset or deduction and the basis therefor); (j) that there are no actions, whether voluntary or otherwise, pending against Lessee under the bankruptcy or insolvency laws of the United States or any state thereof (or if there are actions pending against Lessee under bankruptcy or insolvency laws of the United States or any state thereof, then stating such actions); and (k) such other matters or information as Lessor may reasonably require. If Lessor submits a completed statement to Lessee requesting Lessee certify to the matters set forth herein, and Lessee fails to return said statement, or fails to object to its contents, within said thirty (30) day period, the matters set forth in the completed statement shall conclusively be deemed to be correct. Any such statement delivered pursuant to this Section may be relied upon by Lessor or any prospective purchaser or mortgagee of the Retail Facility, any part thereof or any interest therein, direct or indirect.

24.02. Lessee shall, if any proceedings are brought for the foreclosure of, or any exercise of the power of sale under any mortgage made by Lessor covering the Premises, attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as Lessor under this Lease, whether this Lease is subordinate to said mortgage or said mortgage is subordinate to this Lease. In such event, the purchaser shall not be liable for any previous act or omission by Lessor under this Lease or bound by any previous prepayments of Rent or items of additional rent for a period greater than thirty (30) days.

24.03. This Lease and all rights of Lessee hereunder hereby are made and shall be subject and subordinate in all respects to (a) the provisions of the REA; (b) the Master Lease and all present and future ground leases of the Retail Facility, or any portion thereof of which the Premises is a part and all renewals, modifications, replacements, supplements, substitutions and extensions thereof, hereinafter collectively referred to as "Superior Lease" and (c) all mortgages or other methods of financing which may now or hereafter encumber

Lessor's interest in the Retail Facility, or any portion thereof of which the Premises is a part and all renewals, modifications, replacements, supplements, substitutions and extensions thereof and all advances made or to be made thereunder hereinafter collectively referred to as "Superior Mortgage". The foregoing provisions shall be self-operative and no further instrument of subordination shall be required. However, in confirmation of such subordination, Lessee shall, if requested, promptly execute and deliver such instrument that Lessor or the holder of any Superior Lease or Superior Mortgage requests to evidence such subordination. Notwithstanding the foregoing provisions, Lessor's lender shall have the right to subordinate or cause to be subordinated the lien of any mortgage or mortgages, or the lien resulting from any other method of financing or refinancing, now or hereafter in force against the Retail Facility, or any portion thereof of which the Premises is a part, or against any buildings hereafter placed upon the Retail Facility of which the Premises is a part, to this Lease, hereinafter referred to as "Subordinate Mortgage". In such event, this Lease shall not be subordinate to the lien of any other mortgage or mortgages, or the lien resulting from any other method of financing or refinancing so long as said Subordinate Mortgage is a lien.

24.04. In the event of the termination of the Master Lease, this Lease shall not terminate or be terminable by Lessee. In the event of any action for foreclosure by Lessor's lender against Lessor's Parcel, this Lease shall not terminate or be terminable by Lessee by reason of the termination of the Master Lease unless Lessee is specifically named and joined in any such action and unless a judgment is obtained therein against Lessee. In the event that the Master Lease is terminated as aforesaid, Lessee shall attorn to the Lessor under the Master Lease or to the purchaser at the sale of Lessor's Parcel on such foreclosure, as the case may be.

24.05. Lessor agrees that so long as the Lease is in full force and effect and Lessee is not in default in the payment of Rent, additional rent or in the performance of any of the other terms, covenants or conditions of the Lease on Lessee's part to be performed (beyond the period, if any specified in the Lease within which Lessee may cure such default), Lessee's possession of the Premises under the Lease shall not be disturbed or interfered with by Lessor in the exercise of any of its foreclosure rights under the Mortgage, including conveyance in lieu of foreclosure.

24.06. Lessee, upon request of any party in interest, shall execute promptly such instruments or certificates to carry out the intent of Sections 24.01, 24.02 and 24.03 above.

24.07. This Lease shall not be recorded without the prior consent of Lessor and if Lessee records this Lease without Lessor's consent, then Lessee shall be deemed in default of this Lease. Upon the request of Lessor, Lessee shall execute a short form of this Lease which may be recorded in Lessor's sole discretion.

ARTICLE XXV Holding Over

25.01. If Lessee or any party claiming under Lessee shall remain in possession of all or any part of the Premises after the expiration of the Term, no tenancy or interest in the Premises shall result therefrom but such holding over shall be an unlawful detainer and all such parties shall be subject to immediate eviction and removal, and Lessee shall pay upon demand to Lessor during any period which Lessee shall hold the Premises after the Term has expired, as rent for said period, a sum equal to all Percentage Rent and all items of additional rent provided for in this Lease plus an amount computed at the rate of double the Rent for such period.

ARTICLE XXVI Quiet Enjoyment

26.01. If Lessee pays the Rent and all items of additional rent and performs all of the covenants and agreements to be performed on Lessee's part, Lessee shall, during said period, have the peaceable and quiet enjoyment and possession of the Premises, subject to the terms, conditions and covenants of this Lease and any mortgages or ground leases superior to this Lease, without any manner of hindrance from Lessor or any persons lawfully claiming through Lessor.

ARTICLE XXVII Intentionally Omitted

ARTICLE XXVIII Reimbursement

28.01. All terms, covenants and conditions herein contained, to be performed by Lessee, shall be performed at its sole cost and expense. If Lessor shall pay any sum of money or do any act which requires the payment of money, by reason of the failure of Lessee to perform such term, covenant or condition, the sum of money so paid by Lessor shall be payable by Lessee to Lessor with the next succeeding installment of rent. If Lessee shall fail to pay Lessor any sums when due under this Lease or if Lessor shall pay any sum of money or do any act which requires the payment of money as aforesaid, such sums shall bear interest from the due date or from the respective dates of Lessor's making of the payment, as the case may be, at the lesser of (a) the interest rate announced publicly by Citibank N.A. in New York, New York from time to time as its prime or base rate plus two percent (2%), or (b) the maximum rate permitted by law. All sums payable by Lessee to Lessor under this Lease shall be paid in legal tender of the United States of America without any prior demand or notice and without any deduction or setoff whatsoever and shall be payable at the place designated for the delivery of notices to Lessor at the time of payment unless otherwise designated by Lessor.

ARTICLE XXIX Changes and Additions to Retail Facility

29.01. Lessor and/or Resort Owner shall have the exclusive right to use all or any part of the roof over the Retail Facility and/or Lessor's Parcel for any purpose; to erect in connection with the construction thereof, temporary scaffolds and other aids to construction on the exterior of the Premises or other areas of the Retail Facility, Lessor's Parcel and Resort, provided that access to the Premises shall not be denied, and to install, maintain, use, repair and replace pipes, ducts, conduits and wires leading through the Premises and serving other parts of the Retail Facility or the Resort in locations which will not materially interfere with Lessee's use thereof. In addition to the foregoing, Lessor may make any use it desires of the side and rear walls of the Premises, provided that there shall be no encroachment upon the interior of the Premises. Lessor hereby reserves the right at any time to make alterations or additions to, and to build additional stories on, the building in which the Premises are contained and to build adjoining the same. Lessor also reserves the right to construct other buildings or improvements in the Retail Facility, Lessor's Parcel and Resort from time to time and to make alterations thereof or additions thereto and to build additional stories on such building or buildings and to change the methods of access to and from the Retail Facility, the Resort and the Premises and to incorporate additional land into the Retail Facility and/or Resort and build thereon.

29.02. If Lessor or others exercise any rights reserved under this Article or granted by any other provisions of this Lease and makes any use of, or alterations, modifications, improvements or additions to the Retail Facility, the Resort or the Premises, Lessor shall in no way be responsible or liable for any effect on Lessee's

business or customer traffic of any nature whatsoever, either during or after such use, alterations, modifications, improvements or additions.

ARTICLE XXX Notices

30.01. Any notice, request, demand, approval, consent or other communication which Lessor or Lessee may be required or permitted to give to the other party shall be in writing and shall be mailed or delivered by a nationally recognized courier service providing receipt of delivery to the other party at the Notice Address, or to the Premises if such communication is to Lessee, or to such other Notice Address as either party shall have designated by notice to the other. The delivery date of such shall be the date the same is deposited in an official United States Post Office, postage prepaid, certified or registered mail, return receipt requested, or the date delivered by such courier service with the service fee prepaid.

ARTICLE XXXI Brokerage

31.01. Lessee covenants, warrants and represents to Lessor that no broker was instrumental in consummating this Lease and that Lessee had no conversation or prior negotiations with any broker concerning the renting of the Premises. Lessee shall protect, indemnify, save and hold harmless Lessor against and from all liabilities, claims, losses, costs, damages and expenses, including attorneys' fees, arising out of, resulting from or in connection with a breach of the foregoing covenants, warranties and representations.

ARTICLE XXXII General Provisions

32.01. "Lessor", so far as covenants or obligations on the part of Lessor are concerned, shall be limited to mean and include only the owner of the Retail Facility (or lessee of the Retail Facility under the Master Lease). If the Retail Facility or Master Lease is transferred, the seller (or assignor of the Master Lease) automatically shall be entirely released of all covenants and obligations under this Lease from and after the date of such transfer, provided the transferee (or the sublessee or assignee of the ground or underlying lease as aforesaid) has assumed and agreed to carry out all covenants and obligations of Lessor hereunder. The covenants and obligations contained in this Lease to be performed on the part of Lessor shall be binding upon Lessor, its successors and assigns, only during their respective successive periods of ownership. The covenants and undertakings herein made and entered into by Lessor are solely for the purpose of binding Lessor to the extent specifically of Lessor's interest in the Retail Facility only. No personal liability is assumed by or shall at any time arise or be asserted or enforced against Lessor, or against any general or limited partner of Lessor, or any of their respective agents, employees, officers, partners, successors or assigns, on account of this Lease or on account of the covenants herein contained, either express or implied, all such liability, if any, being expressly waived and released by Lessee and by any persons claiming by, through or under Lessee, and that recourse hereunder, if any, by Lessee, its successors or assigns, shall be limited specifically and exclusively to Lessor's interest in the Retail Facility.

32.02. Lessee's obligations with respect to (a) the payment of Rent and all items of additional rent; (b) the retention of books and records pursuant to ARTICLE V; (c) any provisions of this Lease with respect to indemnities given to Lessor, including, without limitation, the provisions of Section 12.03; and (d) the removal of

all property of Lessee and the repair of all damage to the Premises caused by such removal at the expiration or termination of this Lease, shall survive the expiration or termination of this Lease.

32.03. If any term or provision of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law; provided, however, if Lessee's obligation to pay Percentage Rent or Lessee's obligation to continuously operate its business in the Premises is deemed invalid or unenforceable as determined by Lessor based upon the then existing applicable statutes or case law, then Lessor may at any time thereafter terminate this Lease by giving Lessee notice of its election and this Lease shall terminate and become null and void thirty (30) days after said notice.

32.04. Except as herein otherwise expressly provided, the terms and provisions hereof shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and permitted assigns, respectively, of Lessor and Lessee. Each term and each provision of this Lease to be performed by Lessee shall be construed to be both an independent covenant and a condition.

32.05. The titles of the articles throughout this Lease are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this instrument.

32.06. As used in this indenture of Lease and when required by the context, each number (singular or plural) shall include all numbers, and each gender shall include all genders; and, unless the context otherwise requires, the word "person" shall include "corporation, firm or association".

32.07. The terms, conditions and covenants contained herein are confidential and may not be disclosed by Lessee to any third party, except to its attorney or to the extent required by applicable law, subpoena or similar legal process. Any such disclosure shall constitute an Event of Default.

32.08. Lessor shall be responsible for compliance in the Common Areas with the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) and regulations and guidelines promulgated thereunder ("ADA"). Notwithstanding the foregoing, Lessor may perform, or require that Lessee perform, at Lessee's cost in either case, work required by ADA "path of travel" provisions due to alterations in the Premises. Lessee shall be responsible for compliance with ADA Title III in the Premises, including any leasehold improvements.

ARTICLE XXXIII Warranty and Authority

33.01. Lessee represents and warrants that (a) there are no proceedings pending or, to the knowledge of Lessee, threatened before any court or administrative agency that would materially adversely affect the financial condition of Lessee, the ability of Lessee to enter into this Lease or the validity or enforceability of this Lease; (b) there is no provision of any existing mortgage, indenture, contract or agreement binding on Lessee which would conflict with or in any way prevent the execution, delivery or performance of the terms of this Lease; (c) the financial statements of Lessee provided to Lessor in connection with this Lease are complete and correct and fairly present the financial condition of Lessee as of the date and for the period referred to

therein and have been prepared in accordance with generally accepted accounting principles consistently applied; and (d) there has been no material adverse change in the financial condition of Lessee since the date of such financial statement and, to the knowledge of Lessee, no such material adverse changes are pending or threatened. Lessor is executing this Lease in reliance upon the foregoing representation and warranty and that such representation and warranty is a material element of the consideration inducing Lessor to enter into and execute this Lease. If this Lease is executed by more than one party (whether any such party is an individual or a corporation, partnership, limited partnership, joint venture, sole proprietorship or any other firm, person or entity), the parties executing this Lease shall be jointly and severally liable hereunder. If Lessee is a corporation, then the officers of Lessee executing this Lease on behalf of Lessee represent and warrant that this Lease has been authorized and approved by the Board of Directors of Lessee at a duly held meeting of the Board of Directors of Lessee (or pursuant to a valid unanimous vote or other valid action of the Board of Directors of Lessee).

ARTICLE XXXIV Relocation

34.01. Lessor may not relocate the Premises to other premises in the Retail Facility (the "New Premises") without the prior written consent of Lessee. If such consent is given by Lessee, the following terms and conditions must also be met: (a) the New Premises shall contain a Floor Area which shall not vary more than ten percent (10%) from the Floor Area contained in the Premises; (b) Lessor shall notify Lessee not less than ninety (90) days prior to the date Lessee is required to surrender possession of the Premises; (c) Lessor shall, at Lessor's cost and expense, complete the leasehold improvements in the New Premises, in accordance with Plans and Specifications approved by Lessor with respect to Lessee's original work in the Premises; (d) Lessee shall, within fifteen (15) days after possession of the New Premises has been tendered to Lessee, open for business in the New Premises; and (e) Lessee shall surrender possession of the Premises to Lessor in accordance with the provisions of ARTICLE XVIII within fifteen (15) days after possession of the New Premises has been tendered to Lessee. If the Floor Area of the New Premises differs from the Floor Area of the Premises, then the Rent and additional rent shall be proportionately adjusted. Upon the occurrence of any relocation pursuant to this Article, the parties hereto shall promptly execute an amendment to this Lease reflecting such relocation of Lessee and, if applicable, any adjustments to the Rent and additional rent.

ARTICLE XXXV Intentionally Omitted

ARTICLE XXXVI Parking

36.01. Lessee will use its diligent efforts to require its agents, employees, tenants and concessionaires, and each of their agents and employees to park their respective vehicles in or at such locations in the Common Parking Areas set forth in the REA as may from time to time be designated by Tower Owner. Employee parking for the Retail Parcel and any other parcel in the Resort will be handled in the same way as parking for the employees of Tower Owner is handled (for example, if Tower Owner requires its employees to park offsite, the employees of each other parcel owner and their tenants will have to park offsite). Lessee shall abide by such reasonable non-discriminatory and, to the extent applicable, uniformly enforced rules and regulations as may be promulgated from time to time by Tower Owner for use of parking spaces within the Resort. Tower Owner and Lessor shall not be responsible for any loss or damage to any car, its occupant(s) or its contents by fire, theft, trespassing, vandalism, negligence or willful misconduct of third parties, or any other causes.

The costs of operating maintaining, repairing, insuring, and paying taxes on the Common Parking Area shall be included as part of Lessee's Common Area Maintenance Costs.

ARTICLE XXXVII Relationship of Parties

37.01. Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between Lessor and Lessee. Neither the computation of rent nor any other provisions contained in this Lease nor any act or acts of the parties hereto shall be deemed to create any relationship between Lessor and Lessee other than the relationship of landlord and tenant.

ARTICLE XXXVIII Third Party Beneficiary

38.01. Lessee acknowledges that Tower Owner is a third-party beneficiary of this Lease with respect to all provisions in this Lease that incorporate the requirements of any of Sections 6.2, 6.6(b), 6.6(c), 6.7 and 16.3 of the REA and that Tower Owner has the right, but not the obligation, to take all appropriate action to enforce such provisions (by any and all remedies available to it or to Lessor, at law, equity or under this Lease) to the extent any action or inaction by Lessee results in a breach or default by Lessor under the REA, except that Tower Owner shall not have the right to initiate any eviction proceedings against Lessee.

Complete Agreement

THIS WRITING CONTAINS THE ENTIRE AGREEMENT BETWEEN THE PARTIES HERETO, AND NO AGENT, REPRESENTATIVE, SALESMAN OR OFFICER OF LESSOR HERETO HAS AUTHORITY TO MAKE, OR HAS MADE, ANY STATEMENT, AGREEMENT OR REPRESENTATION, EITHER ORAL OR WRITTEN, IN CONNECTION HEREWITH, MODIFYING, ADDING OR CHANGING THE TERMS AND CONDITIONS HEREIN SET FORTH. NEITHER LESSOR NOR ANY AGENT OR REPRESENTATIVE OF LESSOR, INCLUDING ANY LEASING AGENT ACTING ON BEHALF OF LESSOR, HAS MADE, AND LESSEE HAS NOT RELIED UPON, ANY REPRESENTATIONS OR ASSURANCES AS TO LESSEE'S PROJECTED OR LIKELY SALES VOLUME, CUSTOMER TRAFFIC OR PROFITABILITY. TO THE EXTENT ANY PROJECTIONS, MATERIALS OR DISCUSSIONS HAVE RELATED TO LESSEE'S PROJECTED OR LIKELY SALES VOLUME, CUSTOMER TRAFFIC OR PROFITABILITY, LESSEE UNDERSTANDS THAT ANY AND ALL SUCH PROJECTIONS, MATERIALS AND DISCUSSIONS ARE BASED SOLELY UPON LESSOR'S EXPERIENCES AT OTHER PROPERTIES OR UPON STANDARDIZED MARKETING STUDIES, AND THAT SUCH PROJECTIONS, MATERIALS AND DISCUSSIONS SHALL NOT BE CONSTRUED AS A PROMISE OR GUARANTEE THAT LESSEE SHALL REALIZE THE SAME OR SIMILAR RESULTS. NO MODIFICATION OF THIS LEASE SHALL BE BINDING UNLESS SUCH MODIFICATION SHALL BE IN WRITING AND SIGNED BY THE PARTIES HERETO. LESSEE HEREBY FURTHER RECOGNIZES AND AGREES THAT THE SUBMISSION OF THIS LEASE FOR EXAMINATION BY LESSEE DOES NOT CONSTITUTE AN OFFER OR AN OPTION TO LEASE THE PREMISES, NOR IS IT INTENDED AS A RESERVATION OF THE PREMISES FOR THE BENEFIT OF LESSEE, NOR SHALL THIS LEASE HAVE ANY FORCE OR VALIDITY UNTIL AND UNLESS A COPY OF IT IS RETURNED TO LESSEE DULY EXECUTED BY LESSOR.

Fontainebleau Resort Las Vegas
Affiliate Lease

(38)

(SIGNATURE PAGES FOLLOW)

Fontainebleau Resort Las Vegas
Affiliate Lease

(39)

IN TESTIMONY WHEREOF, Lessor and Lessee have caused this Lease to be signed as of the _____ day of _____, 2007.

Signed in the presence of:

LESSOR:

Print Name: _____

By: _____

Name: _____

Title: _____

Print Name: _____

LESSEE:

Print Name: _____

By: _____

Name: _____

Title: _____

Print Name: _____

Acknowledgment Page Follows

Lessor's Acknowledgment

STATE OF)
) SS
COUNTY OF)

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, _____ known by me, and has proved to my satisfaction to be the person described in and who executed the foregoing instrument as _____ of _____, who acknowledged that she did sign and seal the foregoing instrument for, and on behalf of said limited liability company, and that the same is her free act and deed as such officer and the free act and deed of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at _____, this ___ day of _____, 2007.

My Commission Expires:

NOTARY PUBLIC

Lessee's Acknowledgment

STATE OF)
) SS
COUNTY OF)

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, _____, who is personally known by me or has produced _____ as identification and has proved to my satisfaction to be the person described in and who executed the foregoing instrument as _____ of _____, a _____ corporation, who acknowledged that he/she did sign and seal the foregoing instrument for, and on behalf of said corporation, being thereunto duly authorized by its Board of Directors and that the same is his/her free act and deed as such officer and the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at _____, this ___ day of _____, 2007.

My Commission Expires:

NOTARY PUBLIC

EXHIBIT A-1

LESSOR'S WORK DONE AT LESSOR'S EXPENSE

Lessor's work which shall conform to all applicable governing codes shall be limited to the following work:

- A. STRUCTURE: Lessor will provide a shell structure.
 - 1. COLUMNS: Unprimed structural steel members Columns shall be fireproofed.
 - 2. OVERHEAD STRUCTURE: As required to support second floor and/or roof above. All of Lessee's HVAC unit locations are subject to Lessor's final approval. Lessor shall provide chilled /heating hot water stubbed and capped with valves ONLY. Lessee's HVAC units shall meet Lessor's Store Design and Construction manual for such units.

- B. ROOF: Insulated roof system.

- C. WALLS AND PARTITIONS:
 - 1. Exterior walls shall be structural steel studs or such other materials selected by Lessor.
 - 2. Exterior walls of shell construction are exposed when in Lessee's areas.
 - 3. Interior finishes on Lessor's exterior and demising walls and/or columns in demised premises shall be provided by the Lessee.

- D. FLOORS: – No Floor. 6" 3000 psi concrete slab provided by Lessor. Floors shall be depressed in leased spaces to accommodate floor finishes provided by Lessee.

- E. CEILINGS: Will be left exposed to the structural systems overhead.

- F. UTILITIES, VENTILATION AND EXHAUST AIR:
 - 1. The following utilities shall be stubbed into Lessee's Premises by Lessor:
 - a. Domestic water, water line main is located overhead;
 - b. Sprinkler system to be stubbed and a individual control valve provided at each space only;
 - c. Sanitary sewer, 4" Sewer line main is located beneath the floor;
 - d. Electrical (empty conduit only);
 - e. Telephone (1" empty conduit only);
 - f. 4" Grease waste line main is located beneath floor at restaurant locations only;
 - g. Natural Gas to be stubbed and capped with valve above ceilings at restaurant locations only;

 - h. Lessor shall provide a duct main for ventilation based on 20 sf/person based on the total SF when tenant space is below the building roof line only;
 - i. Lessor shall provide make-up air duct and shaft at 3 cfm/sf for 30% of the total floor area of the restaurants when tenant space is below the roof line only.
 - 2. Lessor shall not be responsible for Lessee's and/or its contractor's verification of all utilities and the placement location of the mechanical equipment prior to the start of its work.

G. STOREFRONT EXTERIOR: Lessor shall provide all items relating to the buildings' exterior decorative facade/piers with the exception of the area between the Lessor's building façade piers which is designated for Lessee's storefront glazing/finish system.

SPECIAL EQUIPMENT: Lessor shall provide for the Fire Alarm system one speaker/strobe combination for each space. Any additional equipment and devices that may be required, shall be preformed by the Lessor's contractor at Lessee's expense.

EXHIBIT A-2

LESSEE'S WORK DONE AT LESSEE'S EXPENSE

Lessee understands that this is a LEED project and shall comply with all requirements for credits. Lessee's work shall comply with American Society of Heating Refrigeration and Air Conditioning Engineers (ASHRAE) Standard 90.1-2004

A. Owner has established environmental objectives and implementation strategies for the project based upon the LEED Green Building Rating System™ for New Construction & Major Renovations (LEED-NC) Version 2.2, Second Edition September 2006, as developed by the U.S. Green Building Council (USGBC), 1015, 18th Street, NW, Suite 508, Washington, DC 20036, Internet Address: www.usgbc.org. The project may also use elements of the USGBC Core & Shell and LEED Commercial Interiors Rating Systems.

1. A copy of the environmental objectives and implementation strategies for this project is on file at the office of the Owner's LEED Consultant, K2 Integrated Project Solutions, 5512 South Fort Apache Road, Suite 100, Las Vegas, NV 89148. E-mail Address: chris@k2ips.com.
- B. Documentation submittals are specified in the Project Specifications Manual. Refer to Division 1 Section 01 3 25 "LEED Requirements" and individual specification sections. Documentation is to assure compliance with the Environmental Objectives and is instrumental in the auditing of this project for compliance to these Environmental Objectives and Implementation Strategies. Secure and deliver to the Owner's LEED Consultant, K2 Integrated Project Solutions. Sales tax documentation is required for compliance with the local sales tax deferral and exemption established for the project by the State of Nevada.
- C. Suggestions and input from Lessee's Contractor and Subcontractors for implementing these goals are encouraged. A team approach is encouraged.
- D. Any questions concerning the LEED requirements should be directed to Owner's LEED Consultant, K2 Integrated Project Solutions.

Lessee's work shall conform to all applicable governing codes and shall include, but not be limited to, the following: Lessee to construct and equip the Premises in accordance with the requirements of the Lessor's Store Design and Construction Manual and complete plans and specifications approved in writing by Lessor prior to commencement of said construction as provided for in this Lease. All Mechanical, Electrical, Lighting and Plumbing works shall comply with the American Society of Heating Refrigeration and Air Conditioning Engineers (ASHRAE) Standard 90.1-2004, without amendments. Lessee must follow the provisions of Lessor's Store Design and Construction Manual in the submission of preliminary and final construction plans to Lessor. Upon approval by Lessor of Lessee's final plans and specifications, Lessee shall furnish or cause its contractor to furnish to Lessor a Performance and Labor and Material Payment bond in the form of AIA Document A312, 1987, Ed., that allows Lessor to complete construction to bring

the space into conformance with the approved plans and specifications in an amount equal to the total cost of Lessee's construction. Said bond shall name Lessor as an additional beneficiary and shall be issued by a surety authorized to write bonds for the U.S. Government. In the event Lessee shall fail to furnish or fail to cause its contractor to furnish to Lessor said Performance and Labor and Material Payment bond, then Lessee and/or its contractors will not be given permission to start construction in the Premises. All of the following work shall be performed by Lessee (unless otherwise expressly provided), at Lessee's expense. Lessee to comply with project's Construction Waste Management Plan.

A. STRUCTURE:

1. FLOOR: Hard troweled finished concrete surface to be furnished and installed by Lessor. Slab capacity shall be in accordance with Lessor's Store Design and Construction Manual and LOD Package.
2. OVERHEAD STRUCTURE: Structural modifications (including floor and/or roof penetrations) required by Lessee shall be subject to Lessor's approval, and shall be performed by Lessor's contractor at Lessee's expense. Major structural modifications must be performed by Lessor's contractor at Lessee's expense. The cost to Lessee shall be Lessor's cost, including labor and materials, plus fifteen percent (15%) for administration. If there is an upper level above the Premises, lower level tenants are allowed a miscellaneous loading equivalent to 5 pounds per square foot on the upper level floor system.
3. ROOF: No Lessee required penetrations of the roofing system shall be allowed.
4. STOREFRONT SYSTEM: Lessee shall be responsible for extending a tenant storefront system/finish consistent with tenant's flagship level storefront above Lessor's building mounted canopies/arcade in designated areas with coordinated door locations. Lessee is required to refer to Lessor's Tenant Criteria Manual for storefront build out guidelines.
5. Main line sanitary cleanouts and piping are installed as a necessary function of the sanitary sewer system. These cleanouts do not occur in all tenant spaces and those spaces in which they occur shall be clearly identified. The cleanouts shall be a complete installation by Lessor, and it shall be Lessee's responsibility to install finish floor covering material to these main line sanitary cleanouts in a workmanlike manner (Lessee will be responsible for additional cleanouts needed for their engineered system).
6. All floor coverings.

B. WALLS AND PARTITIONS:

1. Demising Partitions between tenants and/or between tenant and corridor shall be furnished and installed by Lessor at Lessee's expense and shall meet all applicable government codes, including fire rating. Walls to be insulated by Lessor with a minimum of R-10 insulation at Lessee's expense or as required by code, whichever is greater.

2. Walls may or may not coincide with column centerlines; columns being thicker than the walls will extend into Lessee's areas. All treatments, finishes, or furring desired by Lessee shall be by Lessee.
3. No deduction in leased area is allowed for columns.
4. No penetration of any exterior walls shall be allowed.
5. Interior partitions shall be constructed of noncombustible materials in accordance with applicable sections of the code. If codes permit noncombustible wood, all materials shall bear the Underwriter's Laboratories stamp indicating material is treated and labeled. Lessee shall provide certifications that all materials are in accordance with applicable code.
6. No exposed studs and/or concrete masonry units are permitted (except exposed concrete masonry units permitted in stock areas not visible to the public).
7. All painting and decorating of interior walls and ceilings.
 - a. Select low-VOC paints, coatings, lacquers, curing compounds, floor coatings, wood preservatives and faux finishes per Green Seal's standard GS-11.
8. Expansion joints are installed as a necessary function of the structure. These joints do not occur in all tenant spaces and those spaces in which they occur shall be clearly identified. It shall be Lessee's responsibility to design for expansion in the construction of the Premises in the event an expansion joint is located in the Premises.

C. DOORS:

1. To the extent the design of the Shopping Center permits the same, Lessee will furnish and install service/exit door(s) in an exterior building wall(s) or corridor wall(s), including lockset, security bar and tenant identification sign.
2. Lessee will furnish and install all other doors necessary for the access to, exiting from, and operation of the Premises.
3. All wood doors on the Premises shall have cores that are free of any added urea-formaldehyde. Provide submittals of doors to be used showing evidence that the doors comply.

D. CEILINGS:

1. . . Lessee shall perform all interior finishes beyond the exposed structural systems, including coves, soffits, drops and ceilings. Ceilings to be constructed of Underwriter's Laboratories approved noncombustible materials.
2. Certain pipes, conduits, ducts, and utilities are passing through tenant spaces and are supported by the overhead structure.
3. Combustible materials of any nature will not be permitted above finished ceilings.
4. In addition to the certain pipes, conduits, ducts, etc. covered under item No. 2 above, if there is an upper level above the Premises, lower level tenants agree and recognize that the upper level tenants will have certain plumbing lines, conduits or other related items located in the ceiling space of the lower level tenant's leased space. Lower level tenants further agree and recognize that upper level tenants have the right to install the above mentioned lines, conduits or other related items from within the lower level tenant's space. The lower level tenant shall cooperate with the upper level tenant for the installation of these items. In the event the tenants cannot agree to a reasonable solution, Lessor shall arbitrate and Lessor's judgment shall be final.
5. Fireproofing that is altered or destroyed by Lessee or its contractors shall be replaced by a contractor designated by Lessor at Lessee's expense, using the same material.

E. UTILITIES, FRESH AIR, EXHAUST AIR:

1. Lessee shall provide all connections to the following utilities, including payment of all fees and installation of all meters, equipment, connections and extensions to make a complete, approved and operating system:
 - a. Domestic water system. Water line main is located overhead;
 - b. Fire sprinkler system;
 - c. Sanitary sewer system. 4" Sewer line main is located beneath the floor;
 - d. 4" Grease waste line main is located beneath floor at restaurant locations only;.
 - e. Natural Gas to be stubbed and capped with valve above ceilings at restaurant locations only.
3. Lessor shall provide a duct main for general exhaust based 300 cfm at retail spaces and 500cfm at restaurants when tenant space is below the building roof (pool level).
4. Lessor shall provide make-up air duct and shaft at 3 cfm/sf for 30% of the total floor area of the restaurants when tenant space is below the building roof (pool level).
5. Lessee shall provide individual outside air for ventilation when tenant space is above the building roof (pool level).

6. Lessor shall provide routing for grease duct. Lessee to provide grease duct (including fire protection) to a pollution control unit for the exhaust with a maintenance contract to service and clean the units as mandated by the Lessor.
7. Beauty salons, pet shops or any other areas on lower level which require special exhaust and make-up air systems shall be responsible for providing all necessary equipment and materials to accommodate these systems. These special exhaust systems must be extended through the roof. System design subject to approval of Lessor.
8. Penetrating exterior walls for mechanical equipment will not be permitted.
9. Lessee shall provide for CO2 sensors which to provide alert to ensure the ventilation systems maintain design minimum ventilation requirements.
10. If there is an upper level above the Premises, Lessee must run sanitary sewer vents to the vent stub provided by Lessor within leased space. If there is no upper level above the Premises, Lessee will extend vent(s) from their plumbing system and through the roof as required.
11. Utility lines may pass through the Premises to service other tenants and building areas.

F. HEATING, VENTILATING AND AIR-CONDITIONING:

1. Lessee shall design and install the heating, ventilating and air-conditioning system in accordance with all governmental codes and requirements. Design of the HVAC systems must comply with the American Society of Heating Refrigeration and Air Conditioning Engineers (ASHRAE) Standard 90.1-2004, without amendments. Lessee shall provide evidence of the systems compliance with this standard.
2. Lessee shall utilize Lessor furnished central chilled water and heating hot water systems based upon the following design criteria: chilled water entering of 45 degrees Fahrenheit/chilled water leaving of 60 degrees Fahrenheit; heating hot water entering of 180 degrees Fahrenheit/heating hot water leaving of 140 degrees Fahrenheit.
3. Air Distribution System:
 - a. Lessee shall provide a complete HVAC system in the Premises, consisting of fan coil unit/units, duct work, diffusers, piping, automatic temperature controls, supply, return and outside air ductwork with required grilles, registers, diffusers and fire dampers when required.
 - b. Fan-coil units shall be located in an accessible manner within the Premises. Units shall be suspended from the structural framing system above the ceiling space within practical physical limits. Larger units shall be floor mounted when suspension is impractical or when weight dictates.

- c. Roof mounted equipment if required (package units or condensing units) shall be located by Lessee on over-designed structural areas provided by Lessor (unless otherwise designated). Any modifications to such structural areas shall be subject to Lessor's approval, and shall be completed by Lessor's contractor (see provisions of Item II.A.2. above), at Lessee's expense.
 - d. Roof mounted equipment (package units or condensing units) shall be located on full perimeter prefabricated unit curbs and shall be provided by Lessor's contractor at Lessee's expense, which such curbs are subject to Lessor's approval. Flashing of such curbs shall comply with Item II.A.3. above. Mounting systems requiring penetrations through the roof deck, or wood runners will not be permitted. Mechanical equipment shall be CFC free and comply with LEED Energy and Atmosphere credit EAc4, Enhanced Refrigeration Management. Refer to the LEED-NC 2.2 Reference Guide for compliant refrigerants.
4. Commissioning:
- a. Lessee shall provide for commissioning of the HVAC system in the Premises. Verify that the energy related systems are installed, calibrated and perform as intended. Provide evidence of the Commissioning Process. The following Commissioning Process activities shall be completed:
 - 1. Designate an individual as the Commissioning Authority to lead the commissioning process activities.
 - 2. Clearly document the owner's project requirements and the basis of design for the Premise's energy related systems.
 - 3. Develop and incorporate commissioning requirements into the construction documents.
 - 4. Develop and utilize a Commissioning Plan. Forward plan to Lessor.
 - 5. Verify that the installation and performance of the energy consuming systems meet the owner's project requirements and basis of design.
 - 6. Complete a Commissioning Report.
 - b. The energy related systems to be included in the commissioning process activities include:
 - 1. Heating, ventilating, air conditioning and refrigeration systems and associated controls.
 - 2. Lighting controls
 - 3. Domestic hot water systems.
 - c. Submittals – Provide documentation as follows:
 - 1. Signed statement declaring that the commissioning requirements for the Premise's energy related systems have been successfully executed.

2. Signed statement declaring that the 6 Commissioning Process Activities have been completed.
 3. A narrative and diagrams indication how the HVAC system works.
 4. A copy of the Commissioning Plan and the Commissioning Report.
5. Mechanical system design shall comply with ASHRAE Standard 90.1-(2004).
- G. PLUMBING: All plumbing and fixtures including a minimum six (6) gallon water heater or instant tankless type for toilet rooms to be provided by Lessee if required. Plumbing fixtures for the building shall not exceed the following guidelines for plumbing fixture performance:
- i. Water Closets: 1.28 gpf
 - ii. Urinals: .5 gpf
 - iii. Lavatory Faucets: 1.8 gpm
 - iv. Showerheads: 1.6 gpm
 - v. Kitchen Faucets: 1.6 gpm
- H. TOILET FACILITIES: Lessee shall provide one ADA complete toilet room(s), including separate rooms for each sex if required by code equipped with a floor drain and all required fixtures, partitions, floor and wall finishes, ventilation, etc. In the event that the occupancy requires only one (1) toilet room, rough-in provisions shall be made for the second toilet room. Handicapped facilities shall be provided per requirements of state and local building codes and all other authorities having jurisdiction. Plumbing Fixtures shall comply with the guidelines for plumbing fixtures listed above in Section "G".
- I. FIRE PROTECTION SYSTEM: Lessee shall provide complete fire sprinkler system, including all branch lines, heads, etc. (pursuant to Part I, Section F1 (b) hereof) subject to Lessor's, Lessor's insurance rating bureau's and State Rating Bureau's approvals and subject to State and local building codes and all other authorities having jurisdiction. A completed "Sprinkler Contractor's Material and Test Certificate" must be submitted to Lessor as outlined in the Lessor's Store Design and Construction Manual. In the event Lessee has not commenced installation of the sprinkler system in the Premises within sixty (60) days prior to the scheduled Grand Opening of the Shopping Center or in the opinion of Lessor, Lessee will be unable to complete the installation of the sprinkler system in the Premises prior to the scheduled Grand Opening of the Shopping Center, then Lessor may elect to (but is not obligated to) install, at Lessee's expense, a sprinkler system in accordance with applicable building codes and in accordance with the requirements of Lessor's insurance company and rating bureau.
- J. ELECTRIC EQUIPMENT: Lessee shall provide all necessary equipment, including but not limited to light fixtures, meters, wiring, disconnects, distribution panels, transformers, lamps, equipment, etc., including installation, connections and support. Lighting fixtures with exposed fluorescent tubes are not permitted in sales areas or areas accessible to the public, except as permitted in the Store Design and Construction Manual.

- K. **ELECTRIC CONDUIT:** Lessor will furnish empty conduit ONLY from Lessor's electrical distribution equipment to the Lessee space. Lessor shall provide circuit breaker in the Lessor's electrical distribution equipment. Any modifications shall be the responsibility of the Lessee.
- L. **TELEPHONE CONDUIT:** Lessor will furnish and install empty telephone conduit from Lessor's designated areas to the Premises. All conduits and wires for telephone service in the Premises shall be by Lessee. Lessee shall make all necessary arrangements with telephone company for service.
- M. **SPECIAL EQUIPMENT:** Alarm systems, devices or other protective devices; public address system; fire extinguishers; conveyors; escalators; dumbwaiters; time clocks; delivery door buzzers; dry chemical fire protection systems; pilot light for heating, ventilating and air-conditioning equipment; etc. Satellite dishes or antennae shall not be permitted without Lessor's approval, and no satellite or antennae equipment may be visible from ground level. Lessee shall employ Lessor's Fire Protection contractor to perform all work associated with the fire protection system. Do not install fire suppression systems that contain ozone-depleting substances (CFC's HCFC's or Halon).
- N. **LIGHTING:**
1. All lighting designs shall comply with the Lighting Power Density requirements of ASHRAE 90.1-2004, Chapter 9, Lighting. The lighting systems and equipment shall comply with 9.1, General; 9.4 Mandatory Provisions; and the prescriptive requirements of either
 - a. 9.5 Building Area Method, or
 - b. 9.6, Space-by-Space Method
 2. Provide lighting controls per 9.4 Mandatory Provisions. Install lighting controls and light responsive sensors to conserve power when occupants are not present and as daylight levels change throughout the time of day and year.
 3. Include in preliminary design all lamp sources, fitting schedule and intended control. Some cases may require fixture submittal sheets and/or photometrics. Include lighting fixture schedule showing fixture types, lamps, wattages, quantities and manufacturer's catalog numbers and cut sheets.
- O. **ROOF OPENINGS:** All roof openings, reinforcing, curbs, flashing, etc. for heating, ventilating, air-conditioning, plumbing and electrical equipment. All Lessee required penetrations of the roofing system shall be held to a minimum. Lessee shall employ Lessor's Roofing Contractor to perform all work associated with the roofing system, including but not limited to all roof openings, flashings, patching of roof membrane, etc. Installation of prefabricated curbs for roof-mounted equipment, as well as reinforcing of roof structure if required due to Lessee's roof openings, shall be performed by Lessor's contractor at Lessee's expense.
- P. **SIGNS:** Shall be in accordance with Lessor's storefront design criteria and sign restrictions, outlined in the Lessor's Store Design and Construction Manual.

- Q. **WATER USE REDUCTION:** Any landscaping or plantings should limit water consumption. Planting a dry garden or using native, drought-tolerant species which have low water demands is recommended.
- R. **STORAGE AND COLLECTION OF RECYCLABLES:** Tenants can participate in Owner's recycling program. The Owner will be recycling cardboard, paper, glass, aluminum and plastics as part of their LEED commitment.
- S. **MATERIALS SELECTION:**
1. **Recycled Content Products** – Give preference to products with recycled content such as systems furniture, seating, countertops, upholstery and drapery fabrics, paneling, wall covering, carpet fiber & backing, ceramic and glass tiles, gypsum board, insulation and ceiling tiles.
 2. **Local/Regional Materials** – Give preference to materials and products that are extracted, processed and manufactured within 500 miles of Las Vegas.
 3. **Low-Emitting Materials:**
 - a. Select low-VOC adhesives for installing carpet, wall panels or flooring
 - b. Select low-VOC paints, coatings, lacquers, curing compounds, floor coatings, wood preservatives and faux finishes per Green Seal's standard GS-11.
 - c. Select composite wood products, such as MDF and particleboard, with no added urea-formaldehyde.
 - d. Select carpet systems that meet the Carpet & Rug Institute's (CRI) Green Label Plus program.
 - e. Inquire from manufacturers as to whether they have tested their products for VOC emissions.
- T. **SMOKING** – The Resort will be a non-smoking facility, with the exception of the Casino proper. The smoking area shall be at least 25 feet from adjacent areas. Designated smoking areas will be available outside at least 25 feet from any building entryways, operable windows and air intakes.
- U. **CONSTRUCTION INDOOR AIR QUALITY (IAQ) MANAGEMENT PLAN** – The Owner has established a Construction IAQ Management Plan for the project. Lessee's Contractors and Subcontractors shall comply with the requirements of this plan. The compliance requirements follow the SMACNA guidelines. Plan is available for review. Lessee's Contractor will be required to:
1. **Develop own IAQ Management Plan for Premises.** Plan should include:
 - a. **HVAC Protection:**
 1. Seal ducts and equipment with plastic during construction
 2. Use high-efficiency (MERV 8) filters during construction and replace all filtration media prior to occupancy.
 - b. **Source Control** – Specify low-VOC emitting materials

- c. Pathway Interruptions – Isolate areas of work where VOC emitting materials or dust generating activities are occurring.
 - d. Housekeeping – Use HEPA vacuum cleaners and green cleaning products.
 - e. Scheduling – Sequence construction to avoid disruption to occupied spaces and minimize impact on air quality. Sequence the installation of materials, installing the soft, porous materials last.
2. Smoking will not be permitted during the construction of the Premises.
- V. FIXTURES: All store fixtures, cases, paneling, cornices, etc.
- W. Lessee's contractor shall use Union Labor on all work performed on site. Lessee shall perform and cause Lessee's contractor and subcontractors to perform Lessee's work in a manner so as not to damage, delay or interfere with the prosecution or completion of any work being performed by Lessor or its contractors in the Premises or in or about any other portion of the Shopping Center, and shall comply with all construction procedures and regulations prescribed in, or pursuant to, this Exhibit A-2 or Lessor's Store Design and Construction Manual for the prosecution of Lessee's work and the coordination of such work with any work being performed by Lessor and its contractors. Lessor, in its sole discretion, and for any reason, shall have the right to order Lessee to terminate any construction work being performed by or on behalf of Lessee in the Premises. Upon notification from Lessor to Lessee to cease any such work, Lessee shall forthwith remove from the Premises all agents, employees and contractors of Lessee performing such work until such time as Lessor shall have given its consent for the resumption of such construction work and Lessee shall have no claim for damages of any nature whatsoever against Lessor in connection therewith.
- X. Lessee and/or its contractor and/or subcontractors shall obtain and pay for all permits and comply with all building codes, ordinances, ADA requirements, OSHA regulations, regulations and requirements of Fire Insurance Rating Bureau, etc. Lessor's approval of Lessee's plans and specifications does not release Lessee from this obligation.
- Y. Lessee shall require its contractor and subcontractors to furnish Lessor Certificates of Insurance evidencing liability coverage prior to Lessee's contractor and subcontractors performing any work in the Premises. Such contractor and subcontractors shall procure and have in effect:
1. Workers Compensation coverage as required by the state in which the Premises is located and Employers Liability coverage with a limit of not less than One Million Dollars (\$1,000,000) per accident and per employee;
 2. Commercial General Liability Insurance on an Occurrence form including Products/Completed Operations with a limit of not less than Four Million Dollars (\$4,000,000) and Personal Injury coverage with a limit of not less than Two Million Dollars (\$2,000,000) per occurrence;
 3. Umbrella or Excess insurance in an amount of not less than Five Million Dollars (\$5,000,000); and

4. Automobile Liability coverage with a limit of not less than One Million Dollars (\$1,000,000) Combined Single Limit.

All insurance policies hereunder (except Workers Compensation coverage) shall name Lessor, Lessor's property manager and Lessor's designee(s) as additional insureds, and shall be considered primary insurance applying without the contribution of any other insurance which may be available to Lessor, Lessor's property manager or Lessor's designee(s). Lessee shall indemnify and hold harmless Lessor and all other additional insureds from and against any claims, actions or damages resulting from acts or neglects of Lessee, its agents, employees, contractor or subcontractors in the performance of Lessee's work.

- Z. Lessee and/or its contractors and/or subcontractors are limited to performing their work including any office or storage for construction purposes within the Premises only. Lessee and/or its contractors and/or subcontractors shall each be responsible for daily removal from the Shopping Center of all trash, rubbish and surplus materials resulting from construction, fixturing and merchandising of the Premises. Lessee is cautioned against having trash accumulated within its space. Should this develop, Lessor's Tenant Coordinator will remove Lessee's and Lessee's contractors' trash, and the charge to Lessee will be based on market rate plus a fifteen percent (15%) administrative fee.
- AA. Lessee and/or its contractors and/or subcontractors are responsible for temporary utilities for their work including payment of utility charges. Lessor may make provision for temporary electric within the Shopping Center at Lessor's discretion and providing sufficient capacity is available, Lessee and/or its contractors may avail themselves of this temporary service under the following conditions:
 1. That service is available only during working hours designated by Lessor.
 2. That termination of this service is at Lessor's sole election.
 3. Service charge for temporary power is \$0.03 per square foot per month, plus \$1,000.00 as a one-time security deposit. If at the conclusion of construction, Lessee makes all required payments to Lessor, the security deposit amount of \$1,000.00 shall be returned to the Lessee.
 4. Lessor is not responsible for interruption of said services.
 5. One hook-up per premises up to 5,000 square feet.
 6. If Lessor does not elect to provide such temporary service, Lessee must make his own arrangement for same.
- BB. Upon approval by Lessor of Lessee's final plans and specifications, Lessee shall cause construction to promptly commence and will use every effort to cause the Premises to be completed (including the use of double shift labor if necessary) in order to open for business in accordance with the terms of this Lease.
- CC. Lessor shall install at Lessee's expense temporary walls to close off the Premises from the common areas to screen the Premises from public view during construction. .

DD. Lessee and/or its contractor must present to Lessor's Tenant Coordinator at the project one (1) complete set of plans and specifications approved by Lessor and applicable governing authorities including, without limitations, copies of building permits, before permission will be given to start construction in the Premises. Upon completion of construction, Lessee and/or its agent or contractor will obtain final inspection of the Premises by building authorities to obtain necessary certificate of occupancy. Lessee shall deliver a copy of any such certificate to Lessor.

EXHIBIT B

PREMISES

EXHIBIT H

FORM OF TENANT LEASE

DRAFT

DATE: April 25, 2007

FONTAINEBLEAU LAS VEGAS
RETAIL LEASE FORM

INDEX OF LEASE

Between

FONTAINEBLEAU LAS VEGAS RETAIL, LLC

a Delaware limited liability company

and

a _____

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Fontainebleau Las Vegas
Master Retail Lease Form
4125644v1

(i)

DRAFT

DATE: April 25, 2007

FONTAINEBLEAU LAS VEGAS
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Fontainebleau Las Vegas
Master Retail Lease Form
4125644v1

(ii)

FONTAINEBLEAU RESORT LAS VEGAS
RETAIL LEASE FORM

LEASE

THIS LEASE, made and entered into by and between FONTAINEBLEAU LAS VEGAS RETAIL, LLC, a Delaware limited liability company as "Lessor", and _____, a _____ corporation, as "Lessee."

WITNESSETH:

IN CONSIDERATION of the payments of rents and other charges provided for herein and the covenants and conditions hereinafter set forth, Lessor and Lessee hereby covenant and agree as follows:

ARTICLE I Basic Lease Information

1.01. This ARTICLE I is an integral part of this Lease. The following, whenever used in this Lease, shall have the meanings set forth in this Section:

- (a). **Retail Parcel:** That certain airspace contained within that certain Parcel Map recorded on pages _____ in the records of the County of Clark, State of Nevada, consisting of approximately 286,550 square feet of Floor Area leased to Lessor pursuant to the Master Lease and which Lessor and others have constructed or intend to construct or cause to be constructed, comprising a portion of the Fontainebleau Las Vegas Resort, which portion specifically excludes any hotel, gaming, residential, parking, or central energy plant facility.
- (b). **Premises:** Room No. _____ of the Retail Facility (ARTICLE III).
- (c). **Floor Area of Premises:** _____ square feet on the _____ level of the Retail Facility, irregular in shape (ARTICLE II).
- (d). **Term:** _____ (____) Lease Years following the Rental Commencement Date (ARTICLE IV).
- (e). **Rental Commencement Date:** Ninety (90) days from the date Lessor delivers possession of the Premises to Lessee, or upon the date Lessee opens for business, whichever shall first occur (ARTICLE IV).
- (f). **Minimum Rent:** the annual Minimum Rent, payable in advance in the amount of the monthly Minimum Rent installment, shall be as set forth below:

Lease Years	-	\$	/Yr.	\$	/Mo.
Lease Years	-	\$	/Yr.	\$	/Mo.
Lease Years	-	\$	/Yr.	\$	/Mo.

(ARTICLE V).

- (g). **Percentage Rent Rate and Percentage Break Point:**

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Lease Years	-	% on sales over \$
Lease Years	-	% on sales over \$
Lease Years	-	% on sales over \$

(ARTICLE V).

(h). **Real Estate Tax Payment:** _____ and ___/100 Dollars (\$_____) for the first Lease Year, subject to adjustment as set forth herein. (ARTICLE VI).

(i). **CAM Payment:** _____ and ___/100 Dollars (\$_____) for the first Lease Year, subject to adjustment as set forth herein. (ARTICLE XIII).

(j). **Utilities Payment:** _____ and ___/100 Dollars (\$_____) for the first Lease Year, subject to adjustment as set forth herein and subject to adjustment if the service is separately metered for Premises. (ARTICLE XIX).

(k). **HVAC System Payment:** _____ and ___/100 Dollars (\$_____) for the first Lease Year, subject to adjustment as set forth herein and subject to adjustment if the service is separately metered for Premises. (ARTICLE XIX).

(l). **Trade Name:** _____ (ARTICLE IX).

(m). **Permitted Use:** The retail sale of

_____ and for no other purpose (ARTICLE IX).

(n). **Marketing Payment:** _____ and ___/100 Dollars (\$_____) per year for each square foot of Floor Area, subject to adjustment as set forth herein (ARTICLE X).

(o). **Media Payment:** _____ and ___/100 Dollars (\$_____) per year for each square foot of Floor Area or _____ Dollars (\$_____) per year, whichever is greater, subject to adjustment as set forth herein (ARTICLE X).

(p). **Grand Opening Fee:** _____ and ___/100 Dollars (\$_____) for each square foot of Floor Area, or _____ Thousand Dollars (\$_____), whichever is greater (ARTICLE X).

(q). **Security Deposit:** _____ (\$,_____), payable by Lessee simultaneously with Lessee's execution of this Lease (ARTICLE XXVII).

(r). **Notice Address:**

(i) **Lessor:** FONTAINEBLEAU LAS VEGAS RETAIL, LLC, 2827 Paradise Road, Las Vegas, NV 89109; Attention: Jim Freeman

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with a copy to: 19950 West Country Club Drive, Aventura, FL 33180; Attention: Eric Salzinger

with a copy to: Fontainebleau Resorts, LLC, 2827 Paradise Road, Las Vegas, NV 81909;
Attention : General Counsel

(ii) Lessee:

(for legal notices) _____ Attn: _____;

(for billing purposes) _____ Attn: _____;
(ARTICLE XXX).

(s). Construction Allowance: _____ and 00/100 Dollars
(\$ _____) (ARTICLE VIII).

1.02. Reference to Articles and Exhibits appearing in Section 1.01 are intended to designate some of the other places in this Lease where additional provisions applicable to the particular Lease provision appear. These references are for convenience only and shall not be deemed all inclusive. Each reference in this Lease to any of the Lease provisions contained in Section 1.01 shall be construed to incorporate all of the terms provided for under such provisions and such provisions shall be read in conjunction with all other provisions of this Lease applicable thereto. If there is any conflict between any of the Lease provisions set forth in Section 1.01 and any other provisions of this Lease, the latter shall control.

ARTICLE II Definition of Terms

2.01. The following, whenever used in this Lease, shall have the meanings set forth in this Section:

- (a). "Affiliate" shall mean a Person that Controls, is directly or indirectly Controlled by, or is under common ownership or Control with, another Person.
- (b). "Common Areas" shall mean all those portions of the Resort (as defined below) designated as Common Area in the REA (as defined below). Unless specifically provided otherwise in this Lease, the Common Area shall be maintained, repaired, operated and restored by Tower Owner.
- (c). "Common Area Improvements" shall mean any improvements constructed in the Common Area and all deletions, additions and modifications thereto.
- (d). "Competitor" shall mean a Person that (i) owns or operates (or is an Affiliate of an entity that owns or operates) a hotel located in the metropolitan area of Las Vegas, Nevada or any casino and/or (ii) is a union pension fund.
- (e). "Control" shall mean ownership of a Person in excess of 50% and/or the power, exercisable jointly or severally, to manage and direct a Person through the direct or indirect ownership of partnership interest, stock, trust powers, or other beneficial interests and/or management or voting rights.

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- (f). "Construction Allowance" shall mean the dollar allowance provided by Lessor for Lessee to construct certain tenant improvements on the Premises.
- (g). "Design Criteria" shall mean the criteria for the "look and feel," design and quality for the construction and renovation of Improvements on the Site.
- (h). "Floor Area" shall mean the floor space in the specified Parcel, whether or not roofed or occupied or leased, excluding non-leasable areas such as equipment rooms, subterranean area, balconies, mezzanines and the like, but only to the extent the same are not actually leased or leasable, measured from the exterior faces or exterior lines of the exterior walls (including basement walls) and from the center line (as opposed to exterior face) of the party and interior common walls.
- (i). "Gaming Activity" shall mean the Nevada Gaming Control Act, as modified in Chapter 463 of the Nevada Revised Statutes, as amended from time to time, and the regulations of the Nevada Gaming Commission promulgated thereunder, as amended from time to time, and any use, operation, business, or other activity which requires a license, approval, authorization, registration or a finding of suitability from any Gaming Authority.
- (j). "Gaming Authority" shall mean the Nevada Gaming Commission, the Nevada State Gaming Control Board, the Clark County Liquor and Gaming License Board and any other federal or state agency or authority having jurisdiction over Gaming Activities in the State of Nevada.
- (k). "Gaming Facility" shall mean a facility or facilities devoted substantially to the operation of Gaming Activities as licensed by the Gaming Authority.
- (l). "Gaming Laws" shall mean any statute, regulation, rule, mandate, opinion or similar authority promulgated by a Gaming Authority.
- (m). "Lease Year" shall mean each twelve (12) month period beginning with the Rental Commencement Date, and each anniversary thereof, provided the Rental Commencement Date occurs on the first day of a month. If the Rental Commencement Date occurs on a day other than the first day of a month, then the first Lease Year shall begin on the first day of the month following the Rental Commencement Date. "Partial Lease Year" shall mean any period of less than twelve (12) full calendar months.
- (n). "Lessor's Parcel" shall mean that portion or portions of the airspace in the Retail Facility and the improvements thereon which at any time in question Lessor owns or leases as tenant under an air rights or master lease or sublease, it being understood that Lessor may not own or control portions of the Retail Facility.
- (i). "Material Contracts" shall mean any contract for Lessee's Work that is either (i) greater than ten percent (10%) of the overall cost of Lessee's Work, or (ii) greater than one hundred thousand dollars (\$100,000).

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- (o). "Master Lease" shall mean that certain lease agreement dated as of _____, 2007 by and between Fontainebleau Las Vegas, LLC and Fontainebleau Las Vegas II, LLC (collectively, "Tower Owner") and Fontainebleau Las Vegas Retail, LLC ("Lessor"), pursuant to which Tower Owner has agreed to lease to Lessor that certain Retail Parcel to permit the construction, ownership, operation and maintenance by Lessor of the Retail Improvements within the Retail Parcel.
- (p). "NRS" shall mean Nevada Revised Statutes, as amended from time to time.
- (q). "Opening Date" means the date on which all material amenities of the Resort are open for business to gaming and lodging customers.
- (r). "Person" shall mean an individual, fiduciary, partnership, limited liability company, firm, association, corporation, or any other entity.
- (s). "Plans and Specifications" shall mean all drawings, plans and specifications which describe and show the labor, materials, equipment, fixtures and furnishings necessary for the construction of tenant improvements.
- (t). "REA" shall mean that certain Construction, Operation and Reciprocal Easement Agreement dated as of _____, 2007 by and between Tower Owner and Lessor and recorded in the real estate records of Clark County, Nevada as Document No. _____.
- (u). "Resort" shall mean the land and improvement comprising the entire mixed-use complex developed and operated as the Fontainebleau Las Vegas Resort as described in the REA.
- (v). "Resort Owner" shall mean Fontainebleau Las Vegas, LLC.
- (w). "Retail Facility" shall mean the facilities and Retail Improvements located on the Retail Parcel which shall be devoted to retail use, which shall consist of approximately 286,550 square feet of Floor Area, and which in conjunction with certain common areas and the casino shall have the nature of an enclosed retail and entertainment mixed-use facility located with various vertical penetrations above and below such elevations, all as more particularly described in the REA.
- (x). "Retail Improvements" shall mean all improvements constructed in or on the Retail Parcel including any present or future construction or alteration thereof in accordance with the terms of the REA, as the same may exist from time to time, but excluding those improvements, if any, designated as Common Area Improvements.
- (y). "Signage Standards" shall mean the signage design standards and guidelines for signage in the Retail Facility as set forth from time to time by Lessor.
- (z). "Store Architect" shall mean such architect(s) or engineer(s) duly licensed to practice in the State of Nevada as may from time to time be retained by Lessee with respect to architectural and

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engineering matters relating to the construction of Lessee's Work (as defined in Section 8.01) within the Premises and approved by Lessor.

(aa). "Store Contractor" shall mean such contractor(s) duly licensed to practice in the State of Nevada as may from time to time be retained by Lessee with respect to architectural and engineering matters relating to the construction of Lessee's Work within the Premises and approved by Lessor.

(bb). "Tower" shall mean the entire Resort other than the Retail Parcel.

ARTICLE III Premises

3.01. Lessor hereby leases to Lessee and Lessee hereby rents from Lessor the Premises (to be) constructed as a part of the Retail Facility. Lessor's determination of Floor Area shall be final, binding and conclusive.

3.02. Lessee acknowledges that the construction, development and operation of the Resort and its various components is subject to the terms and provisions of the REA.

ARTICLE IV Term

4.01. To have and to hold for the Term unless sooner terminated as herein provided. Upon the request of Lessor, Lessor and Lessee shall execute an agreement stipulating the Rental Commencement Date and the expiration date of the Term.

4.02. If the Rental Commencement Date does not occur within three (3) years of the date hereof, then this Lease automatically shall become null and void and neither party shall have any liability nor obligation to the other hereunder. Lessor shall have no liability to Lessee for any delay in delivery of possession of the Premises.

4.03. [For Leases entered into prior to the Opening] Lessee shall cooperate with Lessor and will do all things necessary to complete the Premises by the scheduled Opening. If requested by Lessor, Lessee shall defer the opening of the Premises until said scheduled Opening. In such event, notwithstanding the provisions of Section 1.01(e), the Retail Facility Grand Opening shall be deemed to be the Rental Commencement Date.

ARTICLE V Minimum Rent and Percentage Rent

5.01. Lessee shall pay to Lessor from and after the Rental Commencement Date the Minimum Rent in monthly installments, all in advance, on the first day of every calendar month during the Term. If the Rental Commencement Date should occur on a day other than the first day of the month or if the Term ends on a day other than the last day of the month, Lessee shall pay Minimum Rent and all items of additional rent prorated

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based upon the number of rental days in such fractional month divided by the actual number of days contained in such month.

5.02. In addition to the payment of Minimum Rent, Lessee shall pay to Lessor for each Lease Year and Partial Lease Year, an amount, equal to the Percentage Rent Rate for such Lease Year applied against that portion of Adjusted Gross Sales during such Lease Year or Partial Lease Year in excess of the Percentage Break Point for such Lease Year ("Percentage Rent"). In the event of a Partial Lease Year, the Percentage Break Point shall be determined by multiplying (x) the Percentage Break Point for the first Lease Year in the event of a Partial Lease Year prior to the first Lease Year or last Lease Year in the event of a Partial Lease Year subsequent to the last Lease Year, as the case may be, by (y) a fraction, the numerator of which shall be the number of days contained in such Partial Lease Year and the denominator of which shall be 365 days. If Minimum Rent for any Lease Year or Partial Lease Year is reduced or abated for any reason, the Percentage Break Point shall be reduced in direct proportion to the reduction or abatement of Minimum Rent for the period of time that such reduction or abatement of Minimum Rent is in effect.

5.03. "Adjusted Gross Sales", as used herein, shall mean the amount of gross sales, income, receipts, revenues, charges, monies or other things of value, of, in connection with and for all merchandise, services or other operations or businesses sold, licensed or rendered at, from or arising out of the Premises by Lessee or any subtenants, licensees or concessionaires, whether for cash or on a charge, credit or time basis, without reserve or deduction for inability or failure to collect, including, without limitation, such sales, income, receipts, revenues and services (a) where orders originate or are accepted by Lessee in the Premises but delivery or performance thereof is made from or at any place other than the Premises; (b) pursuant to mail, catalogue, telegraph, telephone, video, computer or other electronic or other technology based system whether existing now or developed in the future where customers' orders are accepted or filled at or in the Premises; (c) by means of mechanical, electronic and other vending machines in the Premises; (d) for the extension of credit to customers; and (e) which Lessee in the normal and customary course of business would credit or attribute to its business upon the Premises or any part or parts thereof, adjusted by the deduction, if originally included in gross sales, or exclusion, as the case may be, from gross sales of the following, provided that separate records are maintained for such deductions or exclusions: (a) amounts of refunds, allowances made on merchandise claimed to be defective or unsatisfactory or discounts to customers, provided that if such refunds, allowances or discounts are in the form of credits to customers, such credits shall be included in gross sales when used; (b) exchanges of merchandise between stores of Lessee where such exchanges are made solely for the operation of Lessee's business and not for the purpose of consummating a sale which has been made at or from the Premises or for the purpose of depriving Lessor of the benefit of such sale which otherwise would have been made at or from the Premises; (c) returns to shippers and manufacturers for credit; (d) sale of trade fixtures or store operating equipment after use thereof in the conduct of Lessee's business in the Premises; (e) all sums and credits received in settlement of claims for loss or damage to merchandise; and (f) amount of any sales, excise or any other applicable tax levied upon retail sales and payable over to the appropriate governmental authority provided that specific record of the amount of such sales, excise or any other applicable tax is made at the time of each sale and the amount thereof is expressly charged to the customer. To insure that the Premises will produce the maximum volume of Adjusted Gross

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Sales, Lessee shall not divert elsewhere any business, trade or commerce which would ordinarily be transacted by Lessee at, from or arising out of the Premises.

5.04. Percentage Rent for each Lease Year and Partial Lease Year shall become due and payable on the fifteenth (15th) day of the month immediately following the month during which Adjusted Gross Sales exceeds the Percentage Break Point for such Lease Year or Partial Lease Year and thereafter shall be paid monthly on the fifteenth (15th) day of each month on all additional Adjusted Gross Sales made during the remainder of such Lease Year or Partial Lease Year. Lessee or Lessee's store manager or designated representative shall submit to Lessor or Lessor's representative, on or before the fifth (5th) day of each month of each Lease Year or Partial Lease Year, a written unaudited statement of Adjusted Gross Sales showing Lessee's gross sales, itemized deductions and exclusions for the preceding calendar month, signed by Lessee. In addition, Lessee or Lessee's store manager or designated representative shall submit to Lessor, on or before the fifteenth (15th) day following the end of each Lease Year and Partial Lease Year, a written statement of Adjusted Gross Sales showing Lessee's gross sales, itemized deductions and exclusions for the preceding Lease Year or Partial Lease Year, signed by Lessee, and certified under oath to be complete and correct. If Lessee shall fail to prepare and deliver any statement of Adjusted Gross Sales required herein, then Lessor may estimate Lessee's Adjusted Gross Sales for such period, which such estimate shall be binding and conclusive on Lessee unless Lessor elects to audit all books and records of Lessee as hereinafter provided in this Section. Such estimate shall be based on Lessee's statement containing the highest Adjusted Gross Sales for the comparable period occurring during the three (3) years immediately preceding such failure plus ten percent (10%). In addition, if Lessee shall fail to prepare and deliver any statement of Adjusted Gross Sales required herein, then Lessor, upon ten (10) days' notice to Lessee, may elect to audit all books and records of Lessee as provided in Section 5.05 hereof and to prepare the statement or statements which Lessee has failed to prepare and deliver. Such audit shall be made and such statement or statements shall be prepared by an accountant selected by Lessor. Any statement so prepared shall be binding and conclusive on Lessee and Lessee shall pay on demand all expenses of such audit and of the preparation of any such statements and all sums, if any, as may be shown by such audit to be due as Percentage Rent.

5.05. Lessee shall, and shall cause any sublessees or concessionaires to, keep and maintain upon the Premises or at its principal office, books, and records in accordance with generally accepted accounting principles consistently applied, in which shall be recorded Adjusted Gross Sales for the Premises for each Lease Year and Partial Lease Year. The books and records of account also shall include all federal, state and local tax returns and all pertinent original sales records which shall be separately maintained for the Premises and shall include such sales records which would normally be examined by an independent accountant pursuant to accepted auditing standards in performing an audit of sales. Such books and records shall be open to the inspection of Lessor and Lessor's duly authorized agents at all reasonable times, during business hours, at any time during the Term and for a period which expires upon the later to occur of the resolution of any dispute between Lessor and Lessee with respect to any examination of such books and records or one (1) year after the termination of this Lease. If Lessor examines such records and any statement of Adjusted Gross Sales should be found to be understated by more than two percent (2%) in any Lease Year or Partial Lease Year, then Lessee, in addition to paying the Percentage Rent due for such understatement, shall pay to Lessor the cost of such examination upon demand. If such examination discloses that Lessee has overpaid

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Percentage Rent, then the excess shall be credited on the next succeeding payment due pursuant to this Article. The cost of such examination shall be determined on a time and expense basis and the rate per hour shall not exceed that charged for similar personnel by a national firm of independent Certified Public Accountants. If Lessee fails to keep and maintain sufficient books and records in order to ascertain Adjusted Gross Sales made in the opinion of Lessor's accountant, then Lessor shall have the right, at Lessor's option, to collect additional rent equal to twenty-five percent (25%) of the Minimum Rent reserved for such period that Lessee fails to keep and maintain sufficient books and records. Such additional rent shall be deemed to be liquidated damages in lieu of any Percentage Rent that might have been earned by Lessor for such period.

5.06. If Lessee shall not owe Percentage Rent in an amount equal to at least twenty-five percent (25%) of the Minimum Rent with respect to at least one (1) of either the fourth (4th) or fifth (5th) Lease Year of the Term, then Lessor may elect to terminate this Lease by notice to Lessee given within six (6) months after the end of the fifth (5th) Lease Year. This Lease shall terminate and be null and void ninety (90) days after delivery of such notice. Lessee may render such notice of termination inoperative if Lessee shall, within thirty (30) days after receipt of such notice, agree in writing to increase the Minimum Rent payable for the sixth (6th) Lease Year and each Lease Year thereafter by an amount equal to twenty-five percent (25%) of the Minimum Rent payable for the sixth (6th) Lease Year and each Lease Year thereafter.

5.07. If Lessee shall fail to pay any installment of Minimum Rent, Percentage Rent or any item of additional rent within five (5) days after the date the same become due and payable, then Lessee shall pay to Lessor a late payment service charge ("Late Charge") covering administrative and overhead expenses equal to the greater of (a) Two Hundred Fifty and 00/100 Dollars (\$250.00), or (b) five cents (5¢) per each dollar so overdue. Provision herein for payment of the Late Charge shall not be construed to extend the date for payment of any sums required to be paid by Lessee hereunder or to relieve Lessee of its obligation to pay all such sums at the times herein stipulated.

5.08. All sums, other than Minimum Rent, payable under any provisions of this Lease shall be deemed additional rent and, upon failure of Lessee to pay any such sum, Lessor shall be entitled to exercise any and all rights and remedies contained herein or at law for the failure to pay Minimum Rent.

ARTICLE VI Real Estate Tax Payment

6.01. Lessee shall pay to Lessor a portion of the real estate taxes each Lease Year from and after the Rental Commencement Date (Lessee's share for a Lease Year being the "Real Estate Tax Payment"). The term "real estate taxes" shall include all real estate taxes, assessments, water and sewer rents (except water meter charges and sewer rent based thereon) and other governmental impositions and charges of every kind and nature whatsoever, extraordinary as well as ordinary, general and special, foreseen and unforeseen, and each and every installment thereof (including any interest on amounts which may be paid in installments) which, during the Term, is levied, assessed, imposed, become due and payable, or liens upon, or arising in connection with, the use, occupancy or possession of or become due and payable out of, or for, the Retail Facility and all costs incurred by Lessor and others in reviewing, contesting and negotiating the same.

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6.02. Lessee's Real Estate Tax Payment will be \$_____ for the first Lease Year and shall be adjusted annually as follows: Beginning on the first day of the second Lease Year in the Term and continuing on the first day of each Lease Year thereafter (each an "Adjustment Date") during the Term, Lessee's Real Estate Tax Payment shall be increased for that Lease Year to an amount equal to one hundred _____ percent (10_%) of the annual Real Estate Tax Payment for the prior Lease Year (i.e., the Real Estate Tax Payment for the prior Lease Year multiplied by 1.0__).

6.03. In the event that the Retail Parcel or any portion thereof becomes separately assessed, Lessee's payment shall be computed by multiplying the total amount of the real estate taxes assessed on the parcel each year by a fraction, the numerator of which shall be the Floor Area of the Premises and the denominator of which shall be the average of the total square feet of all of the Floor Area of the separately assessed parcel.

6.04. Lessee hereby waives any right it may have by statute or otherwise to protest real estate taxes. Lessee shall pay Lessor one-twelfth (1/12) of the Real Estate Tax Payment on the first (1st) day of each calendar month during the Lease Year. If the first day of a Lease Year should occur on a day other than the first day of the month or if the Lease Year ends on a day other than the last day of the month, Lessee shall pay the Real Estate Tax Payment prorated based upon the number of rental days in such fractional month divided by the actual number of days contained in such month.

ARTICLE VII Lessor's Work in the Premises

7.01. Lessor shall construct the Premises substantially in accordance with its construction obligations set forth in Exhibit A-1 "Lessor's Work Done at Lessor's Expense" ("Lessor's Work"). Lessor shall commence and complete Lessor's Work as soon as may practicably be done, but Lessor shall not be liable in any manner whatsoever for its failure to do so. Lessee releases Lessor and its contractors from any claim whatsoever for damages against Lessor or its contractors for any delay in the date on which the Premises is anticipated to be ready for delivery to Lessee. Lessee's taking possession of the Premises shall be conclusive evidence of Lessee's acceptance thereof in good order and satisfactory condition.

ARTICLE VIII Lessee's Work and Approval of Lessee's Plans and Specifications

8.01. Promptly after Lessor notifies Lessee that Lessor's Work is complete, Lessee shall commence and thereafter complete with due diligence its construction work and installation of fixtures in accordance with: (i) its construction obligations set forth in Exhibit A-2; (ii) the performance and project cost milestones as determined by the Store Architect ; (iii) the Plans and Specifications approved by Lessor as provided for herein; (iv) and the REA ("Lessee's Work").

8.02. Lessee may, but only with the consent of Lessor, enter the Premises for preliminary work prior to the completion of Lessor's Work, provided that: (a) Lessee's Work shall be done in such manner so as not to interfere with the completion of Lessor's Work; (b) Lessee's Work does not interfere with any of Lessor's or Tower Owner's labor agreements; (c) Lessee agrees that all architectural and engineering matters for Lessee's Work will be performed by a Store Architect; (d) Lessee agrees that it shall use Turnberry West