

CONSENT TO SUBLEASE AGREEMENT

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) entered into with MONTGOMERY AIRPORT HOTEL, LTD., a California limited partnership, (LESSEE) and filed in the Office of the City Clerk as Document RR-259434, hereby consents to that certain Sublease Agreement between the above LESSEE (SUBLESSOR) and PATRICIA MCHENRY and LOUIS BACHER (SUBLESSEE) dated May 6, 1987. Said Sublease shall be subordinate to the Master Lease in all respects. The CITY is merely approving the SUBLESSEE and the proposed use, and that all terms and conditions of the Master Lease shall control and supersede any inconsistent or contrary provisions in the Sublease. The CITY is not bound by any term or condition in the Sublease which in any way conflicts with or is additional to the provisions of the Master Lease. In addition, this consent is subject to the following conditions: None.

THE CITY OF SAN DIEGO

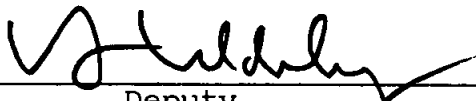
Dated 6/17/87


Deputy City Manager

APPROVED AS TO FORM:

JOHN W. WITT, CITY ATTORNEY

Dated 6/15/87

By 
Deputy

CAB: jn
6/3/87

DOCUMENT NO 769591
FILED JUN 22 1987
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

General Manager of the Hotel or at such other place or places as Licensor from time to time may designate in writing to Licensee a minimum monthly rent in the sum of Three Hundred Dollars (\$300.00) per month payable monthly in advance of the first day of each month. Any rental for a fraction of a calendar month shall be that proportion of the foregoing rent that the number of days of the license term falling in said month is of the number of days of said month.

ARTICLE III

In addition to payment of minimum monthly rent, Licensee shall pay to Licensor monthly in the manner and upon the conditions and at the time hereinafter set forth, during the license term and any extensions thereof (including any period under which Licensee shall hold over after the termination of the license term) additional rent in the amount equal to fifteen percent (15%) of the monthly gross sales (the "percentage rent") as hereinafter defined from all business conducted on the licensed premises by or under Licensee during the terms of this License, but only to the extent that such percentage rent amount exceeds the minimum monthly rental paid to Licensor by Licensee during said month. The term "monthly" as used in this paragraph shall be deemed to be calendar months. Such additional rent shall be payable within ten (10) days after the end of each month. Licensee shall furnish to Licensor (by the 10th of) each month during the term of this License a statement of gross sales on or from the licensed premises during the preceding license month which statement shall be certified to be correct by an officer of Licensee. The Licensee shall maintain such records of gross sales for audit by the Licensor, or for audit by the City of San Diego, as may be requested from time to time. The cost, if any, of such audit shall be at the expense of Licensor, or the City; however, the Licensee shall provide all records, information, and assistance at no cost. In the event such inspection discloses an error of three percent (3%) or more, in any of Licensee's monthly statements of gross sales as adjusted, then in such event the cost of such inspection shall be borne by Licensee.

The term "gross sales" as used herein shall (subject to the exceptions and authorized deductions hereinafter set forth) mean the gross amount received for everything sold upon or from the licensed premises either for cash or credit, with the full amount of credit sales being reported as gross sales in the month in which said credit sales are made. The term "gross sales" as used herein shall not include the amount of sales or excise taxes collected from the customers. Uncollectable credit sales may be deducted from gross sales in the month they are deemed uncollectable.

ARTICLE IV

The Licensor covenants and warrants that it has the lawful right to make this License with prior approval of the City of San Diego and that the Licensee, on paying rent and performing the covenants and agreements herein contained to be paid and performed by Licensee shall and may peacefully have, hold and enjoy said licensed premises for the full term of this License and any extension thereof.

ARTICLE V

The Licensee covenants and agrees to use the licensed premises for a retail sundry store and gift shop, and it is specifically understood that no alcoholic beverages or food sales will be made from the licensed premises. The term "food" shall not include candy, gum, condiments, nuts, cookies crackers and similar and related snack items. Tobacco products shall not be sold at a price which is less than the same or comparable items that are vended in any vending machines located in the Hotel provided that Licensee will be permitted to sell cigarettes at a price not more than five cents (05¢) per pack less than the same brand is sold in any vending machine located in the Holiday Inn, Montgomery Field.

ARTICLE VI

Licensee agrees to keep the gift shop on the licensed premises open between the hours of 7:00 a.m. to 9:00 p.m. each day provided that nothing herein shall prohibit Licensee from keeping said gift shop open for more hours than the minimum hours set forth above. Licensee can only close said gift shop during

the minimum hours set forth above with the written consent of the General Manager of the Hotel or his designated representative.

ARTICLE VII

The Licensee shall not assign the License hereby created or sublease the licensed premises or any part thereof or contract for management for the licensed premises with any third party without the written consent of Licensor, which consent shall not be unreasonably withheld.

Licensee shall not make any alternations, changes or improvements on the Licensed premises without the written consent of the Licensor, which consent shall not be unreasonably withheld.

Licensee covenants and agrees that they will, during the term of this License, keep and maintain the licensed premises in good condition and repair, damage by fire or other casualty excepted. Licensee agrees to keep the licensed premises in a first-class state of cleanliness and neatness at all times.

ARTICLE VIII

Licensor shall furnish at Licensor's expense (a) all electricity used by Licensee for incandescent lighting, (b) adequate room heating, (c) adequate refrigerated air, and (d) water, but not the cost of extending such services other than shown on building plans.

Licensee shall contract in his own name and pay for any other utilities used by Licensee. Licensee shall see that all utilities are properly tuned off prior to the close of business each day.

ARTICLE IX

Licensee shall insure its public liability risks including products and/or completed operations risks in an amount not less than One Hundred Thousand Dollars (\$100,000.00) per occurrence and with insurers satisfactory to Licensor, and shall name Licensor in such policies as among the insured. Licensee shall insure its goods and fixtures against risk of fire with a company designated by Licensor. Licensee shall furnish Licensor a Certificate of Insurance evidencing said public liability and fire coverage.

ARTICLE X

Each of the parties hereto hereby waives any and all right of recovery against the other for loss occurring to its property at the leased premises, as a result of fire lightning, windstorm, hail, explosion, riot, riot attending strike, civil commotion, aircraft, vehicle and smoke, and hereby agrees to hold the other harmless on account thereof.

ARTICLE XI

Licensee shall pay all taxes levied and assessed against Licensee's stocks, goods, display shelves, vending machines, office equipment, fixtures and any other personal property situated by Licensee in said Holiday Inn.

ARTICLE XII

Licensee agrees, except for claims arising out of acts caused by negligence of Licensor or its representatives, to indemnify and hold harmless Licensor against and from any and all claims by or on behalf of any person or persons firm or firms, corporation or corporations, arising from the conduct or management of or from any work or thing whatsoever done in and on the licensed property or arising from any breach or default on the part of Licensee in the performance of any covenant or agreement on the part of the Licensee to be performed, pursuant to the terms of this License, or arising from any accidents injury or damage whatsoever caused to any person, firm or corporation occurring during the term of this Licence, in or about the licensed property, and from and against all costs, expenses and liabilities incurred in or in connection with any such claim or action or proceeding brought thereon: and in case any action or proceeding be brought against Licensor by reason of any such claim, Licensee, upon notice from Licensor, covenants at Licensee's cost and expense to defend or cause to be defended such action or proceeding.

Licensee covenants and agrees to pay, and to indemnify, Licensor against all legal costs and charges including counsel fees lawfully and reasonably incurred in obtaining possession of the leased property after default in surrendering possession upon expiration or earlier termination of the term of this License.

ARTICLE XIII

In the event the Licensee at any time shall fail to pay any installment of rent in the manner provided under this License within ten (10) days after notice that the same was not paid when due, or in the event Licensee shall fail to perform or observe any other covenant agreement, condition, restriction, duty or undertaking hereunder for twenty (20) days after notice thereof from Licensor, or in the event this License or the licensed premises or the Licensee's business conducted therein or the effects thereof shall pass into the hands of any court or of any trustee, receiver or other officer designated by any court or by any referee in bankruptcy, and upon the occurrence of any such event without other or further notice to or demand upon the Licensee or anyone claiming through or under the Licensee and without any formal act on the Licensor's part the Licensor shall be entitled at the Licensor's option to enter and take immediate and exclusive possession of the licensed premises, without legal process, and without notice or demand and to expel the Licensee and all persons claiming through or under the Licensee; and after demand made therefor the Licensee and those claiming through or under them shall be deemed guilty of unlawful detainer and subject to such summary legal action as may be provided by law for the recovery of premises illegally withheld.

ARTICLE XIV

Licensee shall furnish all fixtures, shelving, display counters, lighting and equipment at his own expense (except the utilities which Licensor has specifically agreed to furnish) and provide Licensor with evidence that the same have been paid for.

Licensee shall conduct its business and so control its employees in a manner that said business of Licensee or the conduct of said employees shall not conflict with or be detrimental to the operation of the Hotel. Licensee is to be responsible for and require that its employees maintain a good relationship with guests in the Hotel and that the public image of its business shall in no manner be detrimental to the operation of said Hotel or good business practices.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, entered into this 6th day of May, 1987, by and between MONTGOMERY AIRPORT HOTEL, LTD., a California Limited Partnership, having its principal office at 3802 S. Topeka Blvd., Suite 800, Topeka, Kansas 66609 (hereinafter called the "Licensor"), and PATRICIA MC HENRY and LOUIS BACHER of 6539 D Paseo Frontera, Carlsbad, California 92009 (hereinafter jointly and severally referred to as the "Licensee").

WHEREAS, the Licensor has a Master Lease with the City of San Diego approved by Council Resolution R-259434 dated October 17, 1983 (the "Master Lease") which for the construction and operation of a hotel complex on lots 14 and 15, Montgomery Field, attached as Exhibit B; and

WHEREAS, The Licensee acknowledges the existence of the Master Lease between Montgomery Airport Hotel, Ltd. and the City of San Diego and acknowledges that this License Agreement is subject to all terms included in the Master Lease.

WITNESSETH:

ARTICLE I

Licensor does hereby grant to Licensee the exclusive right and privilege of conducting a gift shop business in the area marked "gift shop" as shown on Exhibit "A" annexed hereto and made a part hereof in the Holiday Inn, Montgomery Field located at 8110 Aero Drive, San Diego, CA ("Hotel") for a term of one (1) year commencing the 1st day of May, 1987 and ending one (1) year thereafter, providing that said term shall automatically be extended for four (4) additional terms of one (1) each upon the same terms and conditions herein set forth unless either party hereto notifies the other in the manner provided in Article XIX hereof, of its intention not to renew at least sixty (60) days before the end of the initial term or any renewal term hereof.

ARTICLE II

As rent for the use of the premises the Licensee covenants and agrees to pay to the Licensor at the office of the

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ARTICLE XV

Licensee shall abide by the terms of the Holiday Inn Franchise for said Hotel and its operating rules and regulations insofar as the same pertains to the licensed premises.

ARTICLE XVI

Licensee shall at the expiration of this License term or any extensions thereof deliver the licensed premises to the Licensor in as good condition as received, normal wear and tear excepted. Licensee shall restore the premises to its original condition after removing his equipment, fixtures and furnishings.

ARTICLE XVII

If after the expiration of this License, or any extension or renewal thereof by option as herein agreed or otherwise, Licensee shall remain in possession of said premises and continue to pay rent without a written agreement as to such possession and the Licensee shall be regarded as a Licensee for month-to-month at a monthly rental payable in advance, equivalent to the last month's rent hereunder. Should Licensee hold over after the expiration of the term hereby granted, or any renewal or extension thereof, whether by option or otherwise, Licensee hereby agrees to vacate such premises to Licensor upon thirty (30) days written notice from Licensor to Licensee.

ARTICLE XVIII

Time is and shall be taken as the essence of this License as to all terms, provisions, conditions, and restrictions hereof and all covenants, agreement, and undertakings of the Licensee hereunder.

All covenants conditions and agreements herein contained shall run with the premises hereby licensed and shall be binding upon and insure to the benefit of the Licensor and Licensee and to their respective successors and assigns.

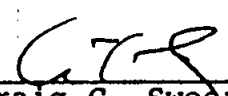
ARTICLE XIX

All notices to Licensor shall be deemed to have been given if served by certified United States Mail, return receipt requested, postage prepaid, addressed to Licensor at 3802 S. Topeka Blvd., Suite 800, Topeka, Kansas 66609, and all notices

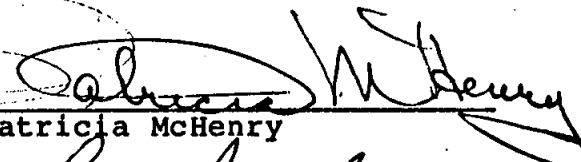
to Licensee shall be deemed to have been given if served by certified United States Mail return receipt requested, postage prepaid, addressed to Licensee at 3802 S. Topeka Blvd., Suite 800, Topeka, Kansas 66609.

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement in triplicate the day and year first above written.

MONTGOMERY AIRPORT HOTEL, LTD.
by Landmark Hotel Corporation,
Managing General Partner


By: Craig C. Sweeney
Vice President

LICENSOR


Patricia McHenry


Louis Bacher

LICENSEE