

AMENDMENT TO NINETY-NINE YEAR LAND RECREATIONAL LEASE

THIS AMENDMENT TO NINETY-NINE YEAR LAND RECREATIONAL LEASE (the "Lease") is made and entered into as of October 21, 2008, by and between **Sandal Cove Association, Inc.**, a Florida corporation ("Tenant") and **Gerald R. Custer and E. Nancy Custer** ("Landlord").

RECITALS

WHEREAS, Landlord and Tenant entered into the Lease on or about May 23, 1973 with respect to the Premises (as defined in the Lease), as amended by that certain Lease Modification Agreement dated March 22, 1974;

WHEREAS, Tenant and Landlord have differed as to the rent escalation provisions contained in Article IV, Section C of the Lease;

WHEREAS, the present rental paid by the Tenant is \$1,992 per month, and Landlord maintains that it should have been increased pursuant to the terms of the Lease; i

WHEREAS, Tenant and Landlord are scheduled to arbitrate their differences before the American Arbitration Association on December 1, 2008, but agreed to mediate their dispute in an attempt to arrive at a compromise; and

WHEREAS, the parties have concluded their negotiations with a compromise resolution resulting in this Amendment

WITNESSETH

NOW, THEREFORE, in consideration of the premises, the mutual covenants of the parties herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, Landlord and Tenant, hereby agree as follows:

1. **Recitals and Definitions.** The foregoing recitals are true and correct, and are incorporated into this Amendment and the Lease by reference herein. Capitalized terms not defined herein shall have the meaning ascribed to them in the Lease.

2. **Adjustment of the Rent and Certain Lease Modifications.** Notwithstanding anything in the Lease to the contrary:

- a. **Rent.** All sums due from Tenant to Landlord pursuant to the Lease as amended by this Second Amendment shall be considered "Rent."
- b. **Past Due Rent.** The parties agree that Tenant owes nothing for any past due rent through the date of this Amendment, and Landlord waives any claim therefore.

- c. Increased Rental Rate. Commencing as of November 1, 2008, the Monthly Rent amount described in Article IV of the Lease shall increase to \$4,000.00, to be paid by Tenant to Landlord on the first of each successive month thereafter.
- d. Rent Adjustment. On July 1, 2010, and every five years thereafter (on July 1st), the Rent shall increase by ten percent (10%). The provisions of Article IV, Section 3 of the Lease are hereby declared null and void.

3. Miscellaneous.

- a. Ratification of Lease. In the event of any conflict between this Amendment and the Lease, the terms and conditions of this Amendment shall govern. Except as modified herein, the Lease remains in full force and effect and the Lease is hereby ratified and confirmed. Tenant hereby affirms its rights and obligations under the Lease as modified by this Amendment, and confirms that the Lease as modified by this Amendment is valid, binding and legally enforceable.
- b. Representation of Tenant. Tenant represents and warrants that Tenant is duly formed and in good standing, and has full corporate power and authority, as the case may be, to enter into this Second Amendment and has taken all corporate action necessary to carry out the transaction contemplated herein, so that when executed, this Second Amendment constitutes a valid and binding obligation enforceable in accordance with its terms. Tenant shall provide Landlord with corporate resolutions or other proof in a form acceptable to Landlord, authorizing the execution of this Second Amendment at the time of such execution.
- c. Entire Agreement. The Lease as modified herein, is intended by the parties as the final expression of their agreement and as a complete and exclusive statement of the terms thereof, all negotiations, considerations and representations between the parties having been incorporated herein or therein. No course of prior dealings between the parties, their officers, employees, agents, or affiliates shall be deemed relevant or admissible to supplement, explain or vary any of the terms and provisions of the Lease as modified herein and/or the Loan Documents. No representations, understandings or agreements have been made or relied upon in the making of this Second Amendment other than set forth herein. Any changes, amendments or modifications to the Lease as modified herein shall only be valid and effective upon execution of a written agreement by both parties.
- d. No Construction Against Drafting Party. Landlord and Tenant acknowledge that each of them and their counsel have had an opportunity to review this Amendment and that this Amendment will not be construed against either party.

[Execution Page to Follow.]

IN WITNESS WHEREOF, the Landlord and Tenant have executed this Second Amendment as of the Second Amendment Effective Date.

Robin Miller
Print Name: Robin Miller

LANDLORD
[Signature]
GERALD R. CUSTER

[Signature]
Print Name: Joe Marcantony

[Signature]
E. NANCY CUSTER

Robin Miller
Print Name: Robin Miller

TENANT
SANDAL COVE ASSOCIATION, INC.
[Signature]
John Purcell, President

[Signature]
Print Name: Joe Marcantony

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 21st day of October, 2008, by Gerald R. Custer and E. Nancy Custer, as Landlords, and John Purcell, on behalf of the Tenant. All parties produced a Florida driver license as identification.

[Signature]
John J. Agliano
Notary Public State of Florida
Commission Expires: _____

