UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NAFEESA HILL, on behalf of herself and others similarly situated,

Plaintiff,

v.

SRM ENTERPRISES, LLC, d/b/a Vanity Grand

Defendants.

Case No. 2:17-cv-01927-MAK

Hon. Mark A. Kearney

ORDER

This matter now comes before the Court upon Defendant SRM Enterprises, Inc.'s Motion to Stay in Favor of Arbitration (Dkt. No. ____). Defendant SRM Enterprise, Inc. moves to compel arbitration in accordance with Section 3 of the Federal Arbitration Act ("FAA"), 9 U.S.C. § 3. Under the FAA, a stay pending the outcome of arbitration is mandatory upon the Court fining an issue referable to arbitration. Dean Witter Reynolds, Inc. v. Byrd, 470 U.S. 213, 218, 105 S. Ct. 1238, 84 L. Ed. 2d 158 (1985).

Because I find that an agreement to arbitrate exists and that Plaintiff's claims fall within the broad scope of such agreement, the motion must be granted. Century Indem. Co. v. Certain Underwriters at Lloyd's, 584 F.3d 513, 522 (3d Cir. 2009).

Therefore, IT IS HEREBY ORDERED that Defendant SRM Enterprises, Inc.'s Motion to Stay in Favor or Arbitration (Dkt. No. ____) is hereby GRANTED. This case is STAYED IN FULL pending the outcome of arbitration.

Dated: _____

_____
Hon. Mark A. Kearney
District Court Judge

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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DEFENDANT SRM ENTERPRISES, INC.'S
MOTION TO STAY IN FAVOR OF ARBITRATION

NOW COMES Defendant SRM Enterprises, LLC ("SRM"), by and through its undersigned counsel of record, and hereby moves the Court for entry of an order staying this case in its entirety pending the outcome of binding arbitration. In support, Defendant states:

1. Defendant brings this motion under Section 3 the Federal Arbitration Act (the "FAA"), being 9 U.S.C. § 3, which provides:

> If any suit or proceeding be brought in any of the courts of the United States upon any issue referable to arbitration under an agreement in writing for such arbitration, the court in which such suit is pending, upon being satisfied that the issue involved in such suit or proceeding is referable to arbitration under such an agreement, shall on application of one of the parties stay the trial of the action until such arbitration has been had in accordance with the terms of the agreement, providing the applicant for the stay is not in default in proceeding with such arbitration.

2. Under the FAA, a stay pending the outcome of arbitration is mandatory upon the Court finding an issue referable to arbitration. Dean Witter Reynolds, Inc. v. Byrd, 470 U.S. 213, 218, 105 S. Ct. 1238, 84 L. Ed. 2d 158 (1985). "[A]ny doubts concerning the scope of

arbitrable issues should be resolved in favor of arbitration." First Options of Chicago, Inc. v. Kaplan, 514 U.S. 938, 945 (1995)

3. Plaintiff Nafeesa Hill ("Hill") is an entertainer who performed dance entertainment on the premises of the Vanity Grand Cabaret ("Vanity Grand") in Philadelphia. Vanity Grand was originally operated by Mag Pass, LLC ("Mag Pass"). In 2016, the managing member, John Meehan, formed a new company, SRM, to take over operating the Vanity Grand. SRM purchased all assets and assumed all liabilities of Mag Pass and continued the operation of Vanity Grand. Plaintiff has only sued SRM.

4. In order to perform at Vanity Grand, Plaintiff entered into an agreement with Mag Pass, which contained a broad and enforceable arbitration clause.

5. SRM is bound by and may enforce the agreement and arbitration clause with Hill: (1) because of the broad scope of the arbitration clause; (2) because the agreement containing the arbitration clause among the assets and liability purchased and assumed by SRM; and (3) because, by design, SRM is a mere continuation of SRM. *See* E.I. DuPont de Nemours and Co. v. Rhone Poulnc Fiber and Resin Intermediates, S.A.S., 269 F.3d 187, 194-95 (3d Cir. 2001) and Invista S.A.R.L. v. Rhodia SA, 625 F.3d 75, 84-85 (3d Cir. 2010).

6. The arbitration clause includes a "delegation clause" which provides that the arbitrator is to decide any challenges regarding the "formation, validity, interpretation, and/or enforceability" of the arbitration clause or the larger agreement. Thus, any challenges raised by Plaintiff to the arbitration clause must be submitted to the arbitrator. Rent-A-Center, West, Inc., v. Jackson, 561 U.S. 63 (2010).

WHEREFORE, for the foregoing reasons, Defendant SRM Enterprises, LLC, respectfully requests that this Honorable Court enter an order staying all proceedings in this

matter pending the outcome of arbitration.

PIETRAGALLO GORDON ALFANO
BOSICK & RASPANTI, LLP

Dated: June 29, 2017

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UNITED STATES DISTRICT COURT
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v.

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Case No. 2:17-cv-01927-MAK

Hon. Mark A. Kearney

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT SRM ENTERPRISES, INC.'S MOTION TO STAY IN FAVOR OF ARBITRATION

INTRODUCTION

Plaintiff Nafeesa Hill (hereinafter "Hill" or "Plaintiff") is an independent professional entertainer who performed exotic dance on the premises of SRM Enterprises, LLC, ("SRM") and its predecessor Mag Pass, LLC, both doing business as Vanity Grand Cabaret ("Vanity Grand" or the "Club"). Hill repeatedly chose to perform at Vanity Grand as an "Independent Employee Entertainer," declined the opportunity to perform at Vanity Grand as an employee, and signed a comprehensive contract pursuant to which she was to provide her services to her customers, entitled "DANCER PERFORMANCE LEASE" (the "Lease").

Nevertheless, Plaintiff has filed the present suit claiming she was an employee of Defendant and seeking to recover minimum wages under the Federal Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (the "FLSA"), Pennsylvania Minimum Wage Act, 43 P.S. § 333.101, *et*

seq. ("PMWA"), and the Pennsylvania Wage Payment and Collection Law, 43 P.S. § 260.1, *et seq*. ("WPCL")

The Lease contains a fully enforceable arbitration clause that complies with the Federal Arbitration Act ("FAA," 9 U.S.C. § 1 *et seq*.). That arbitration clause requires that all disputes between Hill and SRM be submitted to binding arbitration. The FAA, therefore, mandates that she must submit her claims to arbitration.

STATEMENT OF FACTS

Hill is an independent professional entertainer who most recently executed a Lease with Vanity Grand on April 9, 2016 (the "2016 Lease"). [Declaration of Sharon Hibbs ("Hibbs Dec."), **Exhibit 1**, at ¶ 13, and Exhibit B thereto (the actual Lease signed by Hill)]. Pursuant to the Lease, Hill secured permission to conduct her business activities on Vanity Grand's premises. [2016 Lease at ¶ 1, Ex. B to **Ex. 1**]. Hill received mandatory payments from her customers for her services denoted in the Lease as "Entertainment Fees" and she further received tips from her customers in addition to those non-discretionary charges. [Id. at ¶ 11]. Hill alleges in this action that, rather than being a leasee of Vanity Grand, she was its employee. She alleges entitlement to minimum wage payments and to other related employee benefits. [Complaint, Doc. 1]. She seeks to retain the substantial monies she retained performing as an independent professional entertainer – which under an employment arrangement would belong to the Club and be used to pay wages – and extract from Defendants minimum wages for each hour she performed, liquidated damages in an equal amount, and attorney fees and costs.

Hill, like all the other entertainers who have performed at Vanity Grand, was given the opportunity to choose between performing as an "Independent Professional Entertainer" (or

"IPE") or as an employee. [Hibbs Dec., **Ex. 1** at ¶ 9]. Hill was provided with a document entitled "BUSINESS STATUS SELECTION BY ENTERTAINER" ("Selection Document"), which set forth the differences between performing at Vanity Grand as an IPE or employee. [Id. at ¶¶ 9-10 and Ex. A thereto (the "2016 Selection Document")]. The "Club management expresse[d] **no opinion**" on the entertainer's choice. [Id. and Ex. A thereto (emphasis in original)]. Hill chose to perform at Vanity Grand as an Independent Professional Entertainer by checking the line for "I would like to apply to be an Independent Professional Entertainer" and signing her name to the 2016 Selection Document. [Id. at Ex. A, p. 3].

Entertainers such as Hill, who elect to perform as an Independent Professional Entertainer, are then provided with a Dancer Performance Lease to review and execute. [Hibbs Dec., **Ex.1**, ¶ 9, 12]. The first paragraph of the Lease informs the entertainer that the Club "**SUGGEST[S] THAT, BEFORE SIGNING, YOU HAVE IT REVIEWED BY AN ATTORNEY, ACCOUNTANT, OR OTHER PERSON OF YOUR CHOICE**" (capitalization and emphasis in original) and entertainers are free to take the Lease with them, if they so choose, to have it reviewed by the professional of her choice. [Id. at ¶ 13 and Ex. B thereto].

Each Lease contained an arbitration provision. The arbitration clause in the most recent 2016 Lease executed by Hill states:

> **EXCEPT FOR ANY ADMINISTRATIVE PROCEEDINGS THAT ARE NOT LEGALLY BARRED BY THIS PARAGRAPH, ANY CONTROVERSY, DISPUTE, OR CLAIM ARISING OUT OF, OR RELATING IN ANY WAY TO, THIS LEASE, ITS TERMINATION, ENTERTAINER PERFORMING AND/OR WORKING AT THE CLUB AT ANY TIME, OR THE TERMINATION OF SUCH PERFORMANCES OR WORK FOR ANY REASON AT ANY TIME (ALL SUCH CONTROVERSIES, DISPUTES AND CLAIMS BEING REFERRED TO COLLECTIVELY IN THIS PARAGRAPH 21 AS SIMPLY A "CLAIM"**

> **OR "CLAIMS"), SHALL BE RESOLVED EXCLUSIVELY BY BINDING ARBITRATION HELD PURSUANT TO THE FEDERAL ARBITRATION ACT (THE "F.A.A.").**
>
> **THIS REQUIREMENT TO ARBITRATE ANY AND ALL NON-ADMINISTRATIVE CLAIMS APPLIES REGARDLESS OF WHETHER SUCH A CLAIM IS BASED UPON CONTRACT, TORT OR OTHER COMMON LAW, STATUTE, REGULATION, ORDINANCE, OR OTHERWISE. SUCH ARBITRATION SHALL OCCUR IN THE COMMONWEALTH OF PENNSYLVANIA, AND SHALL BE ADMINISTERED BY A NEUTRAL ARBITRATOR AGREED UPON BY THE PARTIES, WHO SHALL BE PERMITTED TO AWARD – SUBJECT ONLY TO THE RESTRICTIONS CONTAINED IN THIS PARAGRAPH 21 – ANY RELIEF AVAILABLE IN A COURT. THE PARTIES WAIVE ANY RIGHT TO LITIGATE SUCH CLAIMS IN A COURT OF LAW, AND WAIVE THE RIGHT TO A TRIAL BY JURY.**

[2016 Lease at ¶ 21, Ex. B to Hibbs Dec., **Ex. 1**].

Despite the clear and unambiguous language of this arbitration agreement, Hill filed her Complaint [Doc. 1] in Court. Defendant has been unable to obtain Hill's consent to submit her claim to arbitration. This Motion now follows.[1]

LEGAL STANDARD

> "Motions to compel arbitration are reviewed under Rule 12(b)(6) '[w]here the affirmative defense of arbitrability of claims is apparent on the face of a complaint (or ... documents relied upon in the complaint).' " Id. (quoting Guidotti v. Legal Helpers Debt Resolution, L.L.C., 716 F.3d 764, 773–74 (3d Cir. 2013)). "If the motion to compel arbitration is not based on a complaint 'with the requisite clarity' to establish arbitrability or 'the opposing party has come forth with reliable evidence that is more than a naked assertion that it did not intend to be bound by the arbitration agreement, even though on the face of the pleadings it

[1] Mag Pass, the original operator of Vanity Grand, transferred all assets and liabilities to SRM by way of an Asset Purchase Agreement dated September 15, 2016 (the "Purchase Agreement"). [Declaration of John Meehan ("Meehan Dec."), **Exhibit 2**, Ex. A thereto]. The Purchase Agreement transfers all assets from Mag Pass to SRM, excluding none. [Purchase Agreement at ¶¶ 1-2, Ex. A to **Ex. 2**]. SRM assumed all liabilities of Mag Pass. [Id. at ¶ 4]. The Purchase Agreement was contingent upon the transfer of the liquor license, which was complete on April 25, 2017. [**Exhibit 2**, Meehan Dec. at ¶ 9]. The purpose of the sale and the Purchase agreement was to eliminate certain investors from the continued operation of Vanity Grand. [Id. at ¶¶ 6, 10].

> appears that it did,' resort to discovery and Rule 56 is proper." Id. (ellipsis omitted) (quoting Guidotti, 716 F.3d at 774).

Colon v. Conchetta, Inc., No. CV 17-0959, 2017 WL 2572517, at *1 (E.D. Pa. June 14, 2017) (ordering a stay in favor of arbitration in dancer misclassification case) (quoting Sanford v. Bracewell & Guilani, LLP, 618 Fed.Appx. 114, 117 (3d Cir. 2015)).

Where, as here, the agreement is integral to the plaintiff's claims, it may be considered under the Rule 12(b)(6) standard. Id. (quoting Hewitt v. Rose Grp., No. 15-5992, 2016 WL 2893350, at *2 n. 1 (E.D. Pa. Mar. 21, 2016) ("it would frustrate the purposes of the Federal Arbitration Act if plaintiffs could avoid having their claims quickly compelled to arbitration simply by failing to mention the existence of a clearly applicable arbitration agreement in their complaints")). The Third Circuit requires a stay rather than dismissal upon a district court finding an issue referable to arbitration, even if all issues are referable to arbitration. Devon Robotics, LLC v. DeViedma, 798 F.3d 136, 143-44 (3d Cir. 2015).

ARGUMENT

I. PLAINTIFF'S CLAIMS ARE SUBJECT TO ARBITRATION

The Federal Arbitration Act states that a written agreement "to settle by arbitration a controversy" arising out of a contract or transactions "shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract." 9 U.S.C. § 2. *See also* Century Indem. Co. v. Certain Underwriters at Lloyd's, 584 F.3d 513, 522 (3d Cir. 2009) (quoting 9 U.S.C. § 2).

The FAA "reflects a liberal federal policy favoring arbitration agreements." Gilmer v. Interstate/Johnson Lane Corp., 500 U.S. 20, 35 (1991) (citing Mitsubishi Motors Corp. v. Soler Crysler-Plymouth, Inc., 473 U.S. 614, 626-627 (1985)). *See also* Moses H. Cone Memorial Hosp. v. Mercury Construction Co., 460 U.S. 1, 24-25 (1983); and AT&T Mobility, LLC v.

Concepcion, 536 U.S. ---, 131 S.Ct. 1740, 1745 (2011). "The FAA was designed to override judicial reluctance to enforce arbitration agreements, relieve court congestion, and to provide parties with a speedier and less costly alternative to litigation." Stout v. J.D. Byrider, 228 F.3d, 709, 714 (6th Cir. 2000). Under the FAA, "***any doubts concerning the scope of arbitrable issues should be resolved in favor of arbitration.***" First Options of Chicago, Inc. v. Kaplan, 514 U.S. 938, 945 (1995) (quoting Moses H. Cone, 460 U.S. at 24-25) (emphasis added).

The FAA leaves no place for the exercise of discretion, but instead, directs district courts to order the parties to proceed to arbitration on all issues as to which an arbitration agreement was signed. *See* 9 U.S.C. §§ 3, 4; *see also* Dean Witter Reynolds, Inc. v. Byrd, 470 U.S. 213, 218, 105 S. Ct. 1238, 84 L. Ed. 2d 158 (1985). Indeed, courts must "'rigorously enforce' arbitration agreements according to their terms …." American Express Corp. v. Italian Colors Rest., --- U.S. ---, 133 S. Ct. 2304, 2309, 186 L. Ed. 2d 417 (2013) (quoting Dean Witter, 470 U.S. at 221). *See also* Concepcion, 131 S. Ct. at 1745.

In its recent decision in Italian Colors, the Supreme Court has also noted that "courts must '*rigorously enforce' arbitration agreements according to their terms*, … including terms that 'specify *with whom* [the parties] choose to arbitrate their disputes,' … and 'the rules under which the arbitration will be conducted.'" 133 S.Ct. at 2309 (*quoting* Dean Witter, 470 U.S. at 221, *and* Stolt-Nielson S. A. v. AnimalFeeds Int'l Corp., 559 U.S. 662, 683 (2010)). Further, the Court held that this rule "holds true for claims that allege a violation of a federal statute, unless the FAA's mandate has been overridden by a contrary congressional command." Italian Colors, 133 S. Ct. at 2309 (internal quotations omitted). Accordingly, all Plaintiff's claims are subject to binding arbitration in accordance with their Agreement.

"The FAA preempts any contradictory provision of state law." Stutler v. T.K. Contractors, 484 F.3d 343, 345 (6th Cir. 2006) (citing Circuit City Stores v. Adams, 532 U.S. 105, 111-112 (2001)). More specifically, "Federal law preempts state law on issues of arbitrability." Three Valleys Municipal Water District v. E.F. Hutton & Co., Inc., 925 F.2d 1136, 1139 (9th Cir. 1991) (citing Moses H. Cone, 460 U.S. at 24).

Employment agreements are subject to arbitration under the FAA.[2] *See, e.g.*, Gilmer, 500 U.S. at 26-35; and Circuit City Stores, 532 U.S. at 109-124. In addition, Plaintiff's state law claims (Complaint, Dkt. 1, ¶¶ 94-125) are equally subject to arbitration. Circuit City, 532 U.S. at 124 – 125 (citing Southland Corp. v. Keating, 465 U.S. 1 (1984); and Allied-Bruce Terminex Companies v. Dobson, 513 U.S. 265 (1995)). In Circuit City, the plaintiff had argued that "a state statute ought not be denied state judicial enforcement while awaiting the outcome of arbitration." 532 U.S. at 123 – 124. The Court rejected the argument. Id. at 124. Hence, any Pennsylvania statutory or common law claims are subject to the arbitration requirement as contained in the Lease.

As the Third Circuit has observed, however, "[b]efore compelling a party to arbitrate pursuant to the FAA, a court must determine that (1) there is an agreement to arbitrate and (2) the dispute at issue falls within the scope of that agreement." Century Indem., 584 F.3d at 522 (citing Kirleis v. Dickie, McCamey & Chilcote, P.C., 560 F.3d 156, 160 (3d Cir.2009)). In deciding whether the parties have agreed to arbitrate, the court is to apply "ordinary state law principles that govern the formation of contracts." Id. at 524 (quoting First Options of Chicago,

[2] This comment by the Defendants should not be construed as an acknowledgement or concession that the Plaintiff was, in fact, an employee. Defendants specifically and vehemently argues to the contrary. This statement is made in light of Plaintiff's claim in this lawsuit that she performed as an employee of the Defendant, irrespective of the terms of the Lease to the contrary that she signed.

Inc. v. Kaplan, 514 U.S. 938, 944 (1995)). *See* Schwartz v. Comcast Corp., 256 Fed.Appx. 515, 518 (3d Cir.2007). Under Pennsylvania law, to determine whether a contract was formed, a court must look to: (1) whether both parties manifested an intention to be bound by the agreement; (2) whether the terms of the agreement are sufficiently definite to be enforced; and (3) whether there was consideration. Id. at 533, *citing* Shovel Transfer & Storage, Inc. v. Pa. Liquor Control Bd., 559 Pa. 56, 739 A.2d 133, 136 (Pa. 1999). Sims v. EQT Corp., CIV.A. 13-1235, 2014 WL 4384593 (W.D. Pa. 2014).

A. Plaintiff's Lease Requires Her to Arbitrate Disputes with SRM

As to the first prong of the Third Circuit test, there is clearly an agreement to arbitrate as it is contained in the written agreement that Plaintiff signed. Although the agreement was with Mag Pass when signed, SRM may enforce the agreement for three reasons: (1) future owners are within the scope of the arbitration clause; (2) SRM assumed the Lease by way of the Purchase Agreement; and (3) SRM is a mere continuation of Mag Pass.

First, SRM is within the scope of the person with whom Hill agreed to arbitrate her disputes. As stated above, "*any doubts concerning the scope of arbitrable issues should be resolved in favor of arbitration.*" First Options of Chicago, *supra* (emphasis added). Specifically, when setting forth that claims must be asserted on an individual basis, the language further explains that disputes include claims "AGAINST ANY PERSONS OR ENTITIES ASSOCIATED WITH THE OTHER PARTY, INCLUDING BUT NOT LIMITED TO PAST, PRESENT, AND FUTURE OWNERS, DIRECTORS, MANAGERS, OFFICERS, EMPLOYEES, CONSULTANTS, AND/OR AGENTS." [Lease at ¶ 21(B), Ex. B to **Ex. 1**]. Thus, SRM, is entitled to enforce the arbitration agreement as a *future owner* and as a third party beneficiary.

Second, SRM is a non-signatory bound to the arbitration clause. Non-signatories may be bound to arbitrate disputes and may avail themselves of an arbitration agreement, where they are bound under common law principles of contract or agency law. E.I. DuPont de Nemours and Co. v. Rhone Poulnc Fiber and Resin Intermediates, S.A.S., 269 F.3d 187, 194-95 (3d Cir. 2001). Five principles by which a non-signatory may be bound to an agreement to arbitrate include: "(1) incorporation by reference, (2) assumption, (3) agency, (4) veil-piercing/alter ego, and (5) estoppel." Invista S.A.R.L. v. Rhodia SA, 625 F.3d 75, 84-85 (3d Cir. 2010) (quoting Trippe Manufacturing Co. v. Niles Audio Corp., 401 F.3d 529, 532 (3d Cir. 2005)). Non-parties may also be bound as third party beneficiaries. E.I. DuPont de Nemours, 269 F.3d at 195.

Just like any other rights and duties under a contract with Mag Pass, SRM assumed those duties under the Purchase Agreement. [**Ex. 2**, Mehan Dec., ¶¶ 10, 12 and Ex. A thereto, ¶¶ 1-2, 4]. *See, e.g*, Pennsylvania Co. for Insurances on Lives and Granting Annuities, to Use of Belmont v. Lebanon Building & Loan Ass'n, 10 A.2d 418, 419 n.2 (Pa. 1940) (noting that contact rights may be freely assigned absent an exception to that general rule).

Third, since SRM is simply a continuation of Mag Pass, it may also enforce the agreement to arbitrate. Invista S.A.R.L., 625 F.3d at 84-85. A mere continuation is a species of alter ego where a successor company is bound to the obligations of the former company. Davlyn Mfg. Co. v. H&M Auto Parts, Inc., 414 F.Supp.2d 523, 531-32 (E.D. Pa. 2005), DCK/TTEC v. Postel, No. 14-cv-1719, 2015 WL 2341284 (W.D. Pa. May 14, 2015).

A mere continuation exists where:

> (1) There is a continuation of the enterprise of the seller corporation, so that there is continuity of management, personnel, physical location, assets, and general business operations.

> (2) There is a continuity of shareholders which results from the purchasing corporation paying for the acquired assets with shares of its own stock, this stock ultimately coming to be held by the shareholders of the seller corporation so that they become a constituent part of the purchasing corporation.
>
> (3) The seller corporation ceases its ordinary business operations, liquidates, and dissolves as soon as legally and practically possible.
>
> (4) The purchasing corporation assumes those obligations of the seller ordinarily necessary for the uninterrupted continuation of normal business operations of the seller corporation.

Berg Chilling Sys., Inc., v. Hull Corp., 435 P.3d 455, 468–69 (3d Cir. 2006) (emphasis added) (citing Philadelphia Electric Co. v. Hercules, Inc., 762 F.2d 303, 310 (3d Cir.1985)).

SRM is a continuation of the same enterprise at the same location with the same personal, assets, and business operations. [**Ex. 2**, Meehan Dec., ¶ 10. There is a continuity of owners because John Meehan is or was an owner/member of both companies. [Id. at ¶¶ 3-4, 7]. Mag Pass has ceased operation, has no assets, and has or will dissolve as soon as possible. [Id. at ¶11]. SRM assumed all liabilities including those needed to transfer the uninterrupted operation of Vanity Grand from Mag Pass to SRM. [Id. at ¶ 10].

Therefore, by design, SRM is a mere continuation of Mag Pass, which is bound to the Lease and the arbitration provisions therein. SRM may therefore enforce the arbitration provisions of the Lease against Hill, even as a non-signatory to that Lease.

B. Plaintiff's Claims Fall Within The Broad Scope Of The Arbitration Provision

As to the second prong, the dispute clearly falls within the scope of the Agreement. By its terms, the agreement applies to:

> "**ANY CONTROVERSY, DISPUTE, OR CLAIM ARISING OUT OF, OR RELATING IN ANY WAY TO, THIS LEASE, ITS TERMINATION, ENTERTAINER PERFORMING AND/OR WORKING AT THE CLUB AT**

ANY TIME, OR THE TERMINATION OF SUCH PERFORMANCES OR WORK FOR ANY REASON AT ANY TIME . . . . REGARDLESS OF WHETHER SUCH A CLAIM IS BASED UPON CONTRACT, TORT OR OTHER COMMON LAW, STATUTE, REGULATION, ORDINANCE, OR OTHERWISE"

[Lease at ¶ 21, Ex. B to **Ex. 1**].

Plaintiff's underlying assertion for all her claims that she was misclassified as a non-employee falls within the express language of the arbitration clauses, her statutory claims fall within the express language of the arbitration clause, and her claims otherwise fall within the "any dispute" language set forth in the Agreement.[3] Under the broad liberal standard for analyzing the scope of arbitration, all of Plaintiff's claims are clearly subject to arbitration.

Thus: (1) both parties clearly manifested an intention to be bound to the Lease by executing the same; (2) the Lease's arbitration terms in Paragraph 21 are adequately definite to be enforced; and (3) the parties' mutual covenants to arbitrate all disputes provides adequate consideration for the agreement to arbitrate (*Blair v. Scott Specialty Gases*, 283 F.3d 959, 603 (3d Cir. 2002) (considering arbitration agreement under Pennsylvania law)). Therefore, Hill's claims must be stayed in favor of arbitration.

II. CHALLENGES TO THE ARBITRATION CLAUSE AND QUESTIONS AS TO THE SCOPE OF ARBITRATION MUST BE SUBMITTED TO THE ARBITRATOR.

Any challenge Hill asserts to the validity or enforceability of her agreement to arbitrate must be submitted to the arbitrator according to the express terms of the Lease. Paragraph 21(A) of the Lease [Ex. B to **Ex. 1**] states: "**THE ARBITRATOR SHALL HAVE EXCLUSIVE**

[3] The case at bar is distinguishable from the Third Circuit's non-precedential unpublished opinion in Herzfeld v. 1416 Chancellor, Inc., 666 Fed.Appx. 124 (3d Cir. Nov. 7, 2016), where the agreement to arbitrate was limited solely to matters arising under the exotic dancer's lease agreement with her venue, as the scope of the arbitration clause in this matter is broader than scope of the clause in Herzfeld.

AUTHORITY TO RESOLVE ANY DISPUTES OVER THE FORMATION, VALIDITY, INTERPRETATION, AND/OR ENFORCEABILITY OF ANY PART OF THIS LEASE, INCLUDING THE ARBITRATION PROVISIONS CONTAINED IN THIS PARAGRAPH 21". (Emphasis in original).

This tool for saving judicial resources from the typical "kitchen sink" challenges to arbitration clauses was approved by the U.S. Supreme Court in Rent-A-Center, West, Inc., v. Jackson, 561 U.S. 63 (2010). There, the arbitration provision in that dispute similarly read: "The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability or formation of this Agreement including, but not limited to, any claim that all or any part of this Agreement is void or voidable." Id. at 66. The Court described this "delegation provision," and explained:

> The delegation provision is an agreement to arbitrate threshold issues concerning the arbitration agreement. We have recognized that parties can agree to arbitrate "gateway" questions of "arbitrability," such as whether the parties have agreed to arbitrate or whether their agreement covers a particular controversy. See, *e.g.*, Howsam, 537 U.S., at 83–85, 123 S.Ct. 588; Green Tree Financial Corp. v. Bazzle, 539 U.S. 444, 452, 123 S.Ct. 2402, 156 L.Ed.2d 414 (2003) (plurality opinion). This line of cases merely reflects the principle that arbitration is a matter of contract.[1] See First options of Chicago, Inc. v. Kaplan, 514 U.S. 938, 943, 115 S.Ct. 1920, 131 L.Ed.2d 985 (1995). An agreement to arbitrate a gateway issue is simply an additional, antecedent agreement the party seeking arbitration asks the federal court to enforce, and the FAA operates on this additional arbitration agreement just as it Hills on any other. The additional agreement is valid under § 2 "save upon such grounds as exist at law or in equity for the revocation of any contract," and federal courts can enforce the agreement by staying federal litigation under § 3 and compelling arbitration under § 4.

Id. at 68-70 (footnote omitted). Where the parties clearly delegate threshold issues regarding arbitration to the arbitrator, a court "must compel the arbitration of arbitrability issues in all instances in order to effectuate the parties' intent regarding arbitration." Belnap v. Iasis

Healthcare, 844 F.3d 1272, 1286 (10th Cir. 2017). *See also* Pocalyko v. Baker Tilly Virchow Crouse, LLP, Case No. 16-cv-3637, 2016 WL 6962875 (E.D. Pa. Nov. 29, 2016); and Kocjancic v. Bayview Asset Management, LLC, Case No. 14-cv-4037, 2014 WL 5786900 (E.D. Pa. Nov. 6, 2014). Therefore, any challenges raised by her must be forwarded to the arbitrator.[4]

CONCLUSION

WHEREFORE, for the foregoing reasons, Defendant SRM Enterprises, LLC, respectfully requests that this Honorable Court enter an order staying all proceedings in this matter pending the outcome of arbitration.

PIETRAGALLO GORDON ALFANO
BOSICK & RASPANTI, LLP

Dated: June 29, 2017

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[4] Presumably, Hill will contend that the arbitration clause is unconscionable, even in the face of a tidal wave of contrary case law. As the eminent Judge Frank H. Easterbrook of the Seventh Circuit has noted, the argument that arbitration clauses contained in standard-form contracts are unconscionable has been rejected "as often as it has been raised." Oblix, Inc. v. Winiecki, 374 F.3d 488, 491 (7th Cir. 2004). *See also* Concepcion, 131 S.Ct. 1740 (FAA preempts California judicial rule that arbitration agreements with class action waivers are unconscionable under state law); Marmet Health Care Center v. Brown, ---U.S.---, 132 S.Ct. 1201 (2012) (FAA preempts West Virginia's judicial rule that arbitration agreements in nursing home admission agreements are unenforceable under state law).

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NAFEESA HILL, on behalf of herself and others similarly situated,

Plaintiff,

v.

SRM ENTERPRISES, LLC, d/b/a Vanity Grand

Defendants.

Case No. 1:16-cv-10877

Hon. Thomas L. Ludington
Hon. Patrica T. Morris, *referral*

DECLARATION OF SHARON HIBBS

In accordance with 28 U.S.C. § 1746, I SHARON HIBBS, hereby declare:

1. I am an adult resident of the State of New Jersey.

2. I make this affidavit upon personal information, unless specifically stated to the contrary.

3. I am employed as a manager at SRM Enterprises, LLC, d/b/a *Vanity Grand Cabaret* at 6130 Passyunk Ave., Philadelphia, Pennsylvania. I have been a manager for SRM Enterprises, LLC, for the entire time it has operated.

4. Prior being a manager for SRM Enterprises, LLC, I was a manager for Mag Pass, LLC, d/b/a *Vanity Grand Cabaret* at 6130 Passyunk Ave., Philadelphia.

I began my employment as a manager for Mag Pass, LLC on or about January 1, 2016.

5. As used in this declaration, I will refer to the operation of Vanity Grand Cabaret as "Vanity Grand" or the "Club," regardless of whether it was operated by Mag Pass, LLC or SRM Enterprises, LLC. I will specifically refer to Mag Pass, LLC as "Mag Pass" and SRM Enterprises, LLC as "SRM."

6. I am familiar with Vanity Grand's records and recordkeeping. SRM currently maintains all entertainer records previously maintained by Mag Pass.

7. All entertainers who perform at Vanity Grand are given the opportunity to choose between performing at the Club either as an employee or as an Independent Professional Entertainer. Entertainers, such Nafeesa Hill ("Hill"), who choose to perform as Independent Professional Entertainers, then perform at the Club under the terms of a "Dancer Performance Lease" (a "DPL" or "Lease"). All Independent Professional Entertainers must enter into a Lease prior to performing at the Club. Leases are generally for a term of no more than one year and expire on March 31st of each year.

8. Entertainers who desire to perform Vanity Grand are required to audition for the opportunity. Auditions are generally held from 8:00 pm to Midnight when business is typically slow, currently Thursday, Friday, or Saturday but previously Wednesday or Saturday.

9. Before an entertainer auditions, the Club makes a copy of her identification card and she completes an "Entertainer Information Sheet" and a Business Status Selection by Entertainer document (a "Selection Document"). Once the manager was satisfied that the individual possessed the requisite skill to perform as an entertainer, she is offered the opportunity to perform at the Club. If an entertainer chooses to perform as an Independent Professional Entertainer, she meets with me to complete a Lease. If an entertainer selects to perform as an employee, I arrange for her to meet with Ashley Ebbeson to complete the Club's new hire paperwork. An entertainer's choice as to whether to perform as an Independent Professional Entertainer or as an Employee Entertainer has no effect on whether she is offered the opportunity to perform at the Club. Neither Vanity Grand nor its staff care what selection an entertainer makes.

10. A true and accurate copy of the most recent Business Status Selection by Entertainer executed by Hill on April 9, 2016 (the "2016 BSD") is attached hereto as **Exhibit A**.

11. Independent Professional Entertainers who wish to continue to perform at the Club after their current Lease expires, complete new paperwork either near the expiration date or when they next show up to perform. Prior to the expiration of the current Lease, I post a notice informing the entertainers of a voluntary meeting to complete the new paperwork. Entertainers may complete their new paperwork at

such a meeting or when they next show up to perform after their existing Lease expires, whichever the entertainer chooses.

12. Before any Independent Professional Entertainer completes a new lease, she is first again provided with a Business Status Selection document and provided the opportunity to perform at Vanity Grand either as an Employee Entertainer or as an Independent Professional Entertainer. Entertainer, like Hill, who choose to perform as an Independent Professional Entertainer are provided with the new Lease. Entertainers who select to perform as Employee Entertainers would meet with Ashley Ebbeson to complete new hire paperwork.

13. A true and accurate copy of the Lease executed by Hill on April 9, 2016 (the "2016 Lease") is attached hereto as **Exhibit B**. The entertainer is given as much time as needed to review the Lease and the manager is available to answer any questions the entertainer may have. The first paragraph of the Lease informs the entertainer that the Club, "**SUGGEST[S] THAT, BEFORE SIGNING, YOU HAVE THIS CONTRACT REVIEWED BY AN ATTORNEY, ACCOUNTANT, OR OTHER PERSON OF YOUR CHOICE**" (capitalization and emphasis in original) and entertainers are free to take the Lease with them, if they so choose, to have it reviewed by the professional of her choice. Entertainers are also offered the opportunity to take a copy of the complete Lease with them.

14. If at any time an entertainer chooses to perform as an employee, she would be provided with and required to complete the Club's standard new hire paperwork and would perform under the terms set forth for an employee in the Selection Document.

15. Attached hereto as **Exhibit C** is a true and accurate copy of the August 8, 2015 Business Status Selection By Entertainer (the "2015 Selection Document") executed by Hill. Attached hereto as **Exhibit D** is a true and accurate copy of the August 8, 2015 Dancer Performance Lease (the "2015 Lease") executed by Hill.

16. Selection Documents and Leases for entertainers, such as **Exhibits A-D** hereto, are created and maintained by Vanity Grand in its ordinary course of business on the date stated therein.

17. **Exhibits A-D** have been modified, as necessary, to redact Hill's stage name and contact information.

I certify under penalty of perjury that the forgoing is true and correct.

Executed on: 06/26/2017

Sharon Hibbs

Sharon Hibbs

BUSINESS STATUS SELECTION BY ENTERTAINER

In light of your desire to perform as an entertainer at this Club, we would like you to select the business arrangement under which you are interested in performing. *If* the Club decides that it would like to extend to you the opportunity to perform here, you can do so either as: 1) an INDEPENDENT PROFESSIONAL ENTERTAINER; or 2) an EMPLOYEE.

We have listed below some of the general distinctions between performing here as an Independent Professional Entertainer or as an Employee. This document is not intended to provide legal or tax advice, and is merely a summary of general information. Please feel free to consult with any persons of your choice, including legal and accounting professionals, on these matters prior to making your selection. In addition, if you would like to see a copy of the contract that the Club uses for Independent Professional Entertainers (called a "Dancer Performance Lease") prior to making your decision, please just ask and we will be happy to provide you with a copy to review.

After reviewing this information, we would like you to select the circumstances under which you would be willing to perform. The Club management expresses **no opinion** on this matter. This is **your choice** to make.

Making this selection does **not** constitute an offer of employment or an offer by the Club to enter into an Independent Professional Entertainer agreement with you. After review of your application documents and qualifications, you will be notified as to whether the Club is interested in permitting you to perform at this location. If it is, the Club will rely upon the choice you have made at the end of this document and will offer you the opportunity to enter into the business arrangement that you selected.

INDEPENDENT PROFESSIONAL ENTERTAINER STATUS	VS.	**EMPLOYEE STATUS**
1. As an Independent Professional Entertainer, you will enter into a written contract with the Club which will be for a certain period of time; which will specify in writing the rights, duties and obligations of both you and the Club; and which cannot be changed except upon the mutual agreement of both you and Club Management. The Club will not be able to terminate your contract during the specified period except upon the limited reasons identified in the contract.		1. As an Employee, you will not have any contract with the Club. Rather, your employment will be "at will," meaning that your employment can be terminated by the Club at any time, without cause and without prior notice. The Club will have the right to change the terms of your employment at its discretion at any time.
2. As an Independent Professional Entertainer, all of your earnings will come from your customers either directly or through payments made to Club personnel. YOU WILL NOT RECEIVE FROM THE CLUB EITHER AN HOURLY WAGE OR A SALARY. You will charge your customers for your dance performances; the money that you receive from those performances, either by way of dance fees (discussed in number 4 below) or tips (discussed in number 3 immediately below), will be your money that you will be able to take home at the end of the day. You will, however, pay certain fees to the Club for having the right to perform here, and be assessed certain administrative charges. You can review a copy of the contract that the Club uses in order to see the current amount of those fees and charges.		2. As an Employee, you will be paid every Friday on an hourly basis at a rate equal to the current applicable tip-credited minimum wage. Under such an employment relationship, you would be paid, in accordance with § 203(m) of the Fair Labor Standards Act and applicable state law, the legally permitted "tip-credited" wage (currently $2.83 per hour). The Club would then increase your wages by taking the allowable tip-credit (currently $4.42 per hour), which cannot exceed the amount of tips actually received by you. If, in a workweek, you did not earn at least the full minimum wage through wages and retained tips (currently $7.25 per hour), the **Club** would pay you the difference so that you would earn the full minimum wage for each hour worked. These "tip credit" provisions would not apply unless you were informed of them.
3. As an Independent Professional Entertainer, all tips that you earn (gratuities paid by a customer ***over and above*** the established dance fees, as well as stage tips) are yours to keep. You will not be required to share your tips with, or "tip out," anyone.		3. As an Employee, you would be entitled to retain all tips that you collect (gratuities paid by a customer ***over and above*** the posted dance fees as well as stage tips, but ***not*** the mandatory dance fees you charge for personal performances – see number 4 below), although you will be required to pay 15% of your tips into a "tip pool" that would be distributed to non-dancer regularly tipped employees.

 Date: 4/9/2016 Initials NH

Declaration of Sharon Hibbs
Re: Motion to Stay

EXHIBIT A
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INDEPENDENT PROFESSIONAL ENTERTAINER STATUS	VS.	EMPLOYEE STATUS
4. As an Independent Professional Entertainer, the dance fees you charge your customers belong to you, and are yours to keep, subject only to certain lease and administrative fees.		4. As an Employee, the dance fees you charge customers belong to the Club. You will have to turn them over to Management before the end of your shift.
5. As an Independent Professional Entertainer, you will be responsible for taking care of and paying all taxes and other withholdings due on your income.		5. As an Employee, the Club will take out of your pay all taxes and other withholdings required by law.
6. As an Independent Professional Entertainer, you keep track of your own income. You do not report your dance fees or tip income to the Club. You can take tax deductions for travel, advertising, makeup, costumes, props, tanning, health clubs, cosmetic surgery, etc., as allowed by law.		6. As an Employee, you must, by law, report ALL of your tip income to the Club. You cannot deduct from your taxes the incidental expenses of your employment. In addition, the Club is required by law to pay to the IRS, out of the wages due to you, taxes owed on your tip income. If you make a substantial amount in tips, this could then result in your receiving a "zero" paycheck. If you have questions about this, consult an accountant.
7. As an Independent Professional Entertainer, you may perform wherever you choose, and may perform at other clubs while you are under contract with this Club.		7. As an Employee, the Club can prohibit you from performing at other establishments.
8. As an Independent Professional Entertainer, you will determine the days and time you perform at the Club consistent with the entertainment sessions for which you have contracted. In addition, you can work as many hours per day as you desire, although you will receive no "overtime" pay from the Club.		8. As an Employee, the Club will select your schedule (both days and times) for you. In general, you will be limited to working a maximum of 29 hours per week, and the Club will not permit you to work any "overtime." However, at the discretion of Management you may be required to work overtime, and you will be paid time and one-half for any excess hours that you work as required by law.
9. As an Independent Professional Entertainer, whether you take any breaks, when you take your breaks, and the number and duration of any breaks, are totally up to you.		9. As an Employee, the Club will determine the time, number and duration of your breaks, consistent with state law.
10. As an Independent Professional Entertainer, you can perform for whomever you choose, and can reject any customers you want.		10. As an Employee you will be required to perform for all customers.
11. As an Independent Professional Entertainer, you will never be required by the Club to give "free" dances to anyone.		11. As an Employee, you may, at the direction of Management, be required to give "free" dances to certain customers.
12. As an Independent Professional Entertainer, you will never be required to engage in any Club promotions or advertising.		12. As an Employee, you may be required to participate in various Club promotions and advertising both on and off the Club premises.
13. As an Independent Professional Entertainer, you will have the freedom to choose your own costumes, and you will be required to provide your own costumes. However, you will be expected to appear in costuming consistent with industry standards for professional entertainers performing in upscale, high-end, entertainment facilities.		13. As an Employee, you will be required to wear the costumes selected by the Club, which will provide to you two costumes every three months at the Club's cost.
14. As an Independent Professional Entertainer, you will determine your own appearance.		14. As an Employee, your appearance must comply with the Club standards. Management will tell you how to wear your hair, and how your makeup should look.

INDEPENDENT PROFESSIONAL ENTERTAINER STATUS	VS.	EMPLOYEE STATUS
15. As an Independent Professional Entertainer, you will not be given any training. You will be expected to come to the Club with the necessary skills to perform as a professional exotic dance entertainer. You may perform in any lawful manner of your own choosing and you will not have to meet any type of "performance standards" set by the Club.		15. As an Employee, you will be required to undergo dancer training, you must perform consistent with the standards set in that training, and you will be expected to meet certain dance minimum quotas.
16. As an Independent Professional Entertainer, if you are injured at the Club, you will not be covered by Workers' Compensation Insurance, but you can sue the Club, if it is at fault, and your only limits of recovery are those that may be imposed by state law.		16. As an Employee, if you are hurt at work your sole recourse against the Club, under most circumstances, will be for "Worker's Compensation" benefits. You will not have to prove the Club was at fault, but you will be subject to the limits of that coverage.
17. As an Independent Professional Entertainer, you will not be entitled to unemployment compensation benefits either if your contract expires or if the Club terminates it early for any of the reasons listed in the agreement.		17. As an Employee, if you are fired you may be entitled – if you have worked a sufficient period of time and satisfied other legal requirements – to unemployment compensation benefits. These benefits are for a fixed period of time and are set by law.
18. As an Independent Professional Entertainer, the Club will not offer you any form of health insurance.		18. As an Employee, if the Club is at any time required to offer certain of its employees health insurance and you qualify, you may, but need not, accept such health insurance so long as you agree to pay the policy premiums up to a maximum of 9.5% of your total household income (wages *and* tips).
19. As an Independent Professional Entertainer, you will be acknowledging that you are not entitled to benefits under the Fair Labor Standards Act (minimum wage and overtime laws), Equal Employment Opportunity laws, or other laws that protect employees.		19. As an Employee, you will be entitled to certain legal protections under the Fair Labor Standards Act, the Equal Employment Opportunity Act, and other laws that protect employees. You can find out about your rights as an employee by going to, among other places, the websites at www.dol.gov/esa/whd/flsa, and www.portal.state.pa.us (under "Department of Labor & Industry"), and/or by reviewing the employment law posters that are displayed in the Club (if you have any questions as to where they are located, please ask a manager and he or she will direct you to them).

AFTER HAVING REVIEWED THE ABOVE AND HAVING CONSIDERED THESE MATTERS:

✓ I would like to apply to be an Independent Professional Entertainer

_____ I would like to apply for a position as an Employee entertainer

Dated: 4/9/2016

Applicant's signature

Applicant's name (please print)

MAG PASS, LLC D/B/A VANITY GRAND CABARET
DANCER PERFORMANCE LEASE

NOTICE: THIS IS A LEGAL CONTRACT. DO NOT SIGN IT UNLESS YOU FULLY UNDERSTAND ALL OF ITS TERMS (AND PLEASE NOTE THAT THIS CONTRACT CONTAINS AN AGREEMENT TO INDIVIDUALLY ARBITRATE ANY AND ALL DISPUTES, WHICH IS FOUND IN PARAGRAPH 21). IF YOU HAVE ANY QUESTIONS, FEEL FREE TO TALK TO THE CLUB'S GENERAL MANAGER. WE SUGGEST THAT BEFORE SIGNING, YOU HAVE THIS CONTRACT REVIEWED BY AN ATTORNEY, ACCOUNTANT, OR OTHER PERSON OF YOUR CHOICE. IN ADDITION, EVEN IF YOU PREVIOUSLY SIGNED A SIMILAR CONTRACT, READ THIS ONE OVER CAREFULLY AS IT MAY BE DIFFERENT FROM THOSE YOU MAY HAVE SIGNED IN THE PAST.

This Dancer Performance Lease ("**Lease**") is entered into by the "**Club**" and "**Entertainer**" (the "parties," with each being a "party") to permit **Entertainer** to use certain portions of the "**Premises.**" The "**Club,**" "**Entertainer,**" and "**Premises**" are identified on the last page of this **Lease.**

PURPOSE OF LEASE:

The **Club** operates an entertainment facility on the **Premises. Entertainer**, who is engaged in the independently established trade and occupation of professional exotic dance entertainers and who runs her own business that provides such entertainment services, desires to obtain the right to use certain areas of the **Premises** for her professional activities.

TERMS OF LEASE:

Club and **Entertainer** agree as follows:

1. **Leasing of Premises/Term**. The **Club** grants to **Entertainer** the right, during normal business hours, to jointly, along with other entertainers, use the stage areas and certain other portions of the **Premises** designated by the **Club**. This **Lease** begins today and ends on the earlier of: **A)** March 31, 2017; or **B)** a termination date as provided for in paragraph 18.

2. **Club's Additional Obligations**. The **Club** shall:

   A. Provide, at its own expense, music for use on the **Premises**, lighting, and dressing room facilities, and pay all copyright fees due relative to that music; and

   B. Reasonably advertise the business for the benefit of both **Entertainer** and the **Club**. This does not, however, prohibit **Entertainer** from advertising her services in any manner she so desires.

3. **Subleasing**. This **Lease** is for **Entertainer's** personal skills and artistic talent. Consequently, **Entertainer** has no right to sublease or to assign any of her rights or obligations in this **Lease** to any other person without the written consent of the **Club**. However, if **Entertainer** is unable to fulfill her contractual obligations for any scheduled **Show Date** (as defined below), **Entertainer** has the right to substitute the services of any licensed (if legally required) entertainer who has also entered into a Dancer Performance Lease with the **Club**.

4. **Non-Exclusivity**. **Entertainer's** obligations under this **Lease** are non-exclusive. She is free to perform at any other businesses or venues.

5. **Use of Premises**. **Entertainer** agrees to:

   A. Perform clothed semi-nude and nude performance dance entertainment and to perform in stage promotion rotations;

   B. Obtain, keep in effect, and have in her possession at all times while she is on the **Premises**, any and all required licenses and/or permits;

   C. Read, understand, comply with, and not violate, any and all laws that apply to **Entertainer's** conduct while on the **Premises**, and provide only lawful entertainment services (violations of the law are beyond the scope of authority under, and constitute a breach of, this **Lease**);

   D. Maintain accurate daily records of all income, including tips, earned while performing on the **Premises**, in accordance with all taxation laws; and

   E. Pay for any damages she causes to the **Premises** and/or to any of the **Club's** personal property.

6. **Compliance with Rules**. The **Club** may impose rules upon the use of the **Premises** by **Entertainer** as the **Club** deems necessary in order to ensure that: A) no damage to the **Club's** property occurs; B) the **Premises** are used in a safe fashion for the benefit of all entertainers, patrons, employees and others; and C) no violations of the law occur. **Entertainer** agrees to comply with all such rules.

7. **Nature of Performance and Costuming**. The **Club** has no right to direct or control the nature, content, character, manner or means of **Entertainer's** entertainment services, her performances, or the costumes/wearing apparel she selects. Moreover, **Entertainer** shall have exclusive control over the decision of who she will or will not perform personal dances. **Entertainer** shall supply all of her own costumes and wearing apparel, which must comply with all applicable laws (including but not limited to liquor laws and regulations), and shall be in accordance with industry standards for professional entertainers performing in upscale, high-end, entertainment facilities.

8. Intellectual Property. **Entertainer** retains all intellectual property rights to her performances, stage name and likeness, unless assigned by her in writing.

9. Nature of Business. **Entertainer** understands: A) That the nature of the **Club's** business is adult entertainment; and B) that she may be subjected to forms of semi-nudity and nudity (primarily female), explicit language, advances by customers, depictions or portrayals of a sexual nature, and to similar types of behavior. **Entertainer** represents that she is not and will not be offended by, and she assumes any and all risks associated with, being subjected to such matters.

10. Privacy/Non-disparagement. Privacy and personal safety are important concerns to **Entertainer**. Accordingly, the **Club** shall not knowingly disclose to any persons who are not associated with the **Club**, **Entertainer's** legal name, address, or telephone number, except upon written authorization of the **Entertainer** or as required by law. The **Club** agrees to notify **Entertainer** upon receipt of any request for information or documents concerning her, unless prohibited by law. **Entertainer** also agrees to keep private and not to disclose the identity or personal information of other entertainers. In addition, to the extent permitted by law, **Entertainer** and **Club** agree each shall not disparage or seek to cast the other in a negative light in any public forum, including social medial or the news media.

11. Entertainment Fees. In consultation with entertainers who lease space on the **Premises**, the **Club** shall establish fixed fees as the price for certain personal performances ("**Entertainment Fees**"), which are stated on Exhibit A hereto. **Entertainer** agrees not to charge a customer less than the fixed price for any such performance unless the **Entertainer** notifies the **Club** in writing of any charges to her customers of a lower amount. Nothing in this **Lease**, however, limits **Entertainer** from receiving tips over-and-above the established price for such performances (**Entertainer** is not required to share her tips with anyone else). **Entertainer** acknowledges that **Entertainment Fees** do not include charges to patrons for access to certain designated areas ("**Room Charges**"), which the patron pays directly to the **Club**. The **Entertainment Fees** and **Room Charges** are stated on Exhibit A to this **Lease**.

All **Entertainment Fees** shall be paid directly by the patron to a designated **Club** employee. The **Club** will hold the **Entertainment Fees** in trust for safekeeping and the **Entertainer's** convenience, and **Entertainer** may pick up her **Entertainment Fees** at the conclusion of each **Show Date** (as defined below), from a designated **Club** employee.

THE PARTIES SPECIFICALLY ACKNOWLEDGE AND AGREE THAT **ENTERTAINMENT FEES** ARE NEITHER TIPS NOR GRATUITIES, BUT ARE, RATHER, MANDATORY CHARGES TO THE CUSTOMER AS THE PRICE FOR PURCHASING A PERSONAL ENTERTAINMENT PERFORMANCE.

12. Business Relationship of Parties.

A. The parties acknowledge that the business relationship created between them is that of the joint and non-exclusive leasing of certain parts of the **Premises** (meaning that other entertainers are also leasing parts of the **Premises** at the same time). THE PARTIES SPECIFICALLY DISAVOW ANY EMPLOYMENT RELATIONSHIP BETWEEN THEM, and this **Lease** shall not be interpreted as creating an employer/employee relationship or any contract for employment. **ENTERTAINER** UNDERSTANDS THAT THE **CLUB** WILL NOT PROVIDE TO HER ANY WAGE (WHETHER HOURLY OR OTHERWISE), OVERTIME PAY, EXPENSES, OR OTHER EMPLOYEE-RELATED BENEFITS.

B. The **Club** and **Entertainer** acknowledge that if the relationship between them was that of employer and employee, the **Club** would be required to collect, and would retain, all **Entertainment Fees** paid by customers to **Entertainer** – **ENTERTAINER** SPECIFICALLY ACKNOWLEDGING THAT IN AN EMPLOYER/EMPLOYEE RELATIONSHIP ALL **ENTERTAINMENT FEES** WOULD BE, BOTH CONTRACTUALLY AND AS A MATTER OF LAW, THE PROPERTY OF THE **CLUB** AND NOT THE PROPERTY OF **ENTERTAINER**. **ENTERTAINER'S** RIGHT TO OBTAIN AND KEEP **ENTERTAINMENT FEES** IS SPECIFICALLY CONTINGENT UPON THE BUSINESS RELATIONSHIP OF THE PARTIES BEING THAT OF LANDLORD AND TENANT.

Under such an employment relationship, **Entertainer** would be paid, in accordance with § 203(m) of the Fair Labor Standards Act and applicable state law, the legally permitted "tip-credited" wage (currently $2.83 per hour). The **Club** would then increase **Entertainer's** wages by the amount of tip income she earned and retained, up to the allowable tip credit (currently $4.42 per hour), which could not exceed the amount of tips actually and ultimately received by the **Entertainer**. If, in a workweek, **Entertainer** did not earn at least the full minimum wage through wages and retained tips, the **Club** would pay **Entertainer** the difference so that she earned the full minimum wage for each hour worked (currently $7.25 per hour). These "tip credit" provisions would not apply unless **Entertainer** was informed of them; this document serving as such notice. **Entertainer** would further be entitled to retain all tips - **but not Entertainment Fees** - that she might collect (the **Club** would not retain any portion of her tip income), although she would be required to pay 15% of her tips into a "tip pool" that would be distributed to non-dancer regularly tipped employees.

The parties additionally acknowledge that were the relationship between them to be that of

employer/employee. **Entertainer's** employment would be "at will" (she could be fired at any time without cause and without prior warning), and the **Club** could control, among other things, **Entertainer's**: Work schedule and hours of work; job responsibilities; physical appearance (such as make-up, hairstyle, etc.); costumes/wearing apparel; music; work habits; the selection of her customers; the nature, content, character, manner and means of her performances; and her ability to perform at other locations. **ENTERTAINER** REPRESENTS THAT SHE DESIRES TO BE ABLE TO MAKE ALL OF THESE CHOICES HERSELF, WITHOUT THE CONTROL OF THE **CLUB**, AND THE PARTIES AGREE THAT ALL SUCH DECISIONS ARE EXCLUSIVELY RESERVED TO HER CONTROL.

ENTERTAINER FURTHER REPRESENTS THAT SHE DOES NOT DESIRE TO PERFORM AS AN EMPLOYEE OF THE CLUB UNDER THE TERMS OUTLINED ABOVE, BUT, RATHER, DESIRES TO PERFORM AS A TENANT CONSISTENT WITH THE OTHER PROVISIONS OF THIS **LEASE**.

C. If any court, tribunal, arbitrator, or governmental agency determines that the relationship between the parties is one of employment and that **Entertainer** is then entitled to the payment of wages from the **Club**, all of the following shall apply:

i. In order to comply with applicable tax laws and to assure that the **Club** is not unjustly harmed and that **Entertainer** is not unjustly enriched by the parties having financially operated pursuant to this **Lease**, the parties agree that **Entertainer** shall provide to the **Club** a statement of all **Entertainment Fees** received by her while performing at the **Club**, and she shall surrender, reimburse and remit to the **Club** such **Entertainment Fees** received by her during all periods in which the court, tribunal, arbitrator, or governmental agency finds her to have been the employee of the **Club** (the "**Reclassification Period**") – all of which would otherwise have been collected and kept by the **Club** had they not been retained by **Entertainer** under the terms of this **Lease**;

ii. **Entertainer** shall immediately remit to the **Club** 15% of all tips that she earned during the **Reclassification Period**, which shall be distributed to non-dancer regularly tipped employees, and provide to the **Club** a signed and legally compliant statement of all tip income earned by her during the **Reclassification Period**;

iii. Any **Entertainment Fees** from the **Reclassification Period** that **Entertainer** does not return to the **Club** shall be deemed service charges paid by the customer and shall be accounted for by the **Club** as such. The **Club** shall then be entitled to a credit against any wages due in the amount of the **Entertainment Fees** retained by **Entertainer**, and such fees shall therefore constitute wages paid from the **Club** to **Entertainer**. In such circumstances, the **Club** shall immediately submit to the IRS and applicable state taxing authorities all necessary filings regarding such income; and

iv. The relationship of the parties shall immediately convert to an employment arrangement under the terms in subparagraph 12(B).

D. If at any time **Entertainer** believes that - - irrespective of the terms of this **Lease** - - she is being treated as an employee by the **Club** or that her relationship with the **Club** is truly that of an employee, **Entertainer** shall immediately, **but in no event later than three business days thereafter**: i) provide notice to the **Club** in writing of her demand to be fully treated as an employee consistent with the terms of subparagraph 12(B) and applicable law; and ii) begin reporting all of her tip income to the **Club** on a daily basis (such tip reporting being legally required of all regularly tipped employees). The **Club** shall then convert **Entertainer** to an employee consistent with the provisions of subparagraph 12(B) of this **Lease** and the "Employee Status" provisions of the Business Status Selection by **Entertainer** document previously signed by **Entertainer**.

13. Taxes. **Entertainer** is exclusively responsible for, and shall pay, all applicable taxes and contributions imposed upon any income earned by **Entertainer** while performing on the **Premises**.

14. Scheduling of Performance Dates. On or about the 9th day of each calendar month, the **Club** shall post a calendar of the dates and times of available for performances ("**Show Date**" or "**Show Dates**") for the following month. The **Show Dates** will be made available to entertainers on a "first come first served" basis. **Entertainer** shall select the **Show Date**(s) that she desires to perform during the following month, and the **Club** shall make the leased portion of the **Premises** available to **Entertainer** during those dates and times, subject only to space availability. Once scheduled, neither **Entertainer** nor the **Club** shall have the right to cancel or change any **Show Dates** except as may be agreed to by the parties. **Entertainer** may be permitted to lease space on the **Premises** on days and during weeks when she has not scheduled herself to perform, subject to space availability.

If **Entertainer** misses a **Show Date** previously scheduled by her, she agrees to pay to the **Club** a lost rent charge as stated in Exhibit A attached to this **Lease**, which is to be paid by **Entertainer** no later than by the end of her next **Show Date**. An **Entertainer** misses a scheduled **Show Date** if she is not ready to perform within at least one hour of the beginning of the scheduled **Show Date**. If **Entertainer** is one hour or more late

for a scheduled **Show Date**, **Entertainer** forfeits her **Show Date**, and the **Show Date** may be made available to other entertainers.

All lost rent charges stated in this **Lease** and Exhibit A are established in view of the fact that it would be difficult to determine the exact lost rent and/or damages incurred as a result of certain breaches of this **Lease**.

Entertainer and the **Club** may negotiate changes to the scheduling of **Show Dates** as set forth in the "**SPECIFICATIONS**" section below.

15. Rent. **Entertainer** shall pay rent ("**Rent**") to the **Club** in amounts stated in Exhibit A to this **Lease**, unless modified by the "**SPECIFICATIONS**" section below. Minimum **Rent** stated on Exhibit A shall be paid before **Entertainer** commences her **Show Date** for which such Minimum **Rent** is due, and Additional **Rent** stated on Exhibit A shall be paid immediately upon completion of the **Show Date** for which such Additional **Rent** is due.

The **Rent** paid by **Entertainer** shall also entitle her to use of a locker on a first come first serve basis, subject to availability. Such right shall expire fourteen (14) days from the last time **Entertainer** has performed.

16. Material Breach by Club. The **Club** materially breaches this **Lease** by failing to provide to **Entertainer** the leased portions of the **Premises** on any day she schedules, or by willfully violating any law governing the operation of the **Club**. The **Club** shall not be liable for acts of G-d or other causes beyond its reasonable control.

17. Material Breach by Entertainer. **Entertainer** materially breaches this **Lease** by failing to maintain any and all required licenses and/or permits; willfully violating any law while on the **Premises**; failing to wear an underage bracelet if **Entertainer** is under 21 years of age; failing to appear for a scheduled **Show Date** on two or more occasions in any one calendar month; failing to pay any **Rent** when due; failing to timely pay any lost rent charge; or claiming the business relationship with the **Club** as being other than that of a landlord and tenant.

18. Termination/Breach. Either party may terminate this **Lease**, without cause, upon thirty (30) days' notice. Upon material breach, the non-breaching party may terminate this **Lease** upon twenty-four (24) hours' notice or as otherwise may be provided by law. Nothing in this paragraph, however, shall allow **Entertainer** to perform on the **Premises** without a valid license or permit, if applicable, or to continue to engage in conduct in violation of any laws.

19. Severability. If any provision of this **Lease** is declared to be illegal or unenforceable, this **Lease** shall, to the extent possible, be interpreted as if that provision was not a part of this **Lease**; it being the intent of the parties that such part be, to the extent possible, severable from this **Lease** as a whole. Nevertheless, in the circumstance of a judicial, arbitration, or administrative determination that the business relationship between **Entertainer** and the **Club** is something other than that of landlord and tenant, the relationship between **Entertainer** and the **Club** shall be governed by the provisions of subparagraphs 12(B) and 12(C).

20. Governing Law. This **Lease** shall be interpreted pursuant to the laws of the State of Pennsylvania, except as may be preempted by the Federal Arbitration Act.

21. MANDATORY ARBITRATION/WAIVER OF CLASS AND COLLECTIVE ACTIONS/ATTORNEY FEES AND COSTS.

A. EXCEPT FOR ANY ADMINISTRATIVE PROCEEDINGS THAT ARE NOT LEGALLY BARRED BY THIS PARAGRAPH, ANY CONTROVERSY, DISPUTE, OR CLAIM ARISING OUT OF, OR RELATING IN ANY WAY TO, THIS LEASE, ITS TERMINATION, ENTERTAINER PERFORMING AND/OR WORKING AT THE CLUB AT ANY TIME, OR THE TERMINATION OF SUCH PERFORMANCES OR WORK FOR ANY REASON AT ANY TIME (ALL SUCH CONTROVERSIES, DISPUTES, AND CLAIMS BEING REFERRED TO COLLECTIVELY IN THIS PARAGRAPH 21 SIMPLY AS A "CLAIM" OR "CLAIMS"), SHALL BE RESOLVED EXCLUSIVELY BY BINDING ARBITRATION HELD PURSUANT TO THE FEDERAL ARBITRATION ACT (THE "F.A.A.").

THIS REQUIREMENT TO ARBITRATE ANY AND ALL NON-ADMINISTRATIVE CLAIMS APPLIES REGARDLESS OF WHETHER SUCH A CLAIM IS BASED UPON CONTRACT, TORT OR OTHER COMMON LAW, STATUTE, REGULATION, ORDINANCE, OR OTHERWISE. SUCH ARBITRATION SHALL OCCUR IN THE COMMONWEALTH OF PENNSYLVANIA, AND SHALL BE ADMINISTERED BY A NEUTRAL ARBITRATOR AGREED UPON BY THE PARTIES, WHO SHALL BE PERMITTED TO AWARD -- SUBJECT ONLY TO THE RESTRICTIONS CONTAINED IN THIS PARAGRAPH 21 -- ANY RELIEF AVAILABLE IN A COURT. THE PARTIES WAIVE ANY RIGHT TO LITIGATE SUCH CLAIMS IN A COURT OF LAW, AND WAIVE THE RIGHT TO TRIAL BY JURY.

THE ARBITRATOR SHALL NOT CONSOLIDATE MORE THAN ONE PERSON'S OR ENTITY'S CLAIM, AND MAY NOT PRESIDE OVER ANY FORM OF REPRESENTATIVE, CLASS, OR COLLECTIVE PROCEEDINGS. IN THE EVENT AN ACTION IS BROUGHT IN ARBITRATION ON BEHALF OF

MULTIPLE INDIVIDUALS OR ENTITIES, THE ARBITRATOR SHALL HAVE ONLY THE AUTHORITY TO DIVIDE THE ACTION INTO INDIVIDUAL PROCEEDINGS; EACH THEN TO BE HEARD BY AN INDIVIDUAL ARBITRATOR. IN THE EVENT AN ARBITRATOR RULES ON WHETHER A MATTER MAY PROCEED AS A REPRESENTATIVE, MULTIPLE- LITIGANT, CLASS OR COLLECTIVE ARBITRATION (A "SCOPE OF ARBITRATION RULING"), THE ARBITRATOR SHALL IMMEDIATELY STAY ALL PROCEEDINGS FOR A PERIOD OF THIRTY (30) DAYS FOLLOWING SUCH A RULING TO PERMIT ANY PARTY TO MOVE A COURT OF COMPETENT JURISDICTION TO CONFIRM OR VACATE THE SCOPE OF ARBITRATION RULING. IF, AT THE END OF SUCH 30 DAY PERIOD, NO PARTY HAS MOVED FOR JUDICIAL REVIEW, THE ARBITRATOR SHALL PROCEED WITH THE ARBITRATION. IF, DURING SUCH PERIOD, EITHER PARTY HAS SOUGHT JUDICIAL REVIEW, THE ARBITRATION SHALL BE STAYED UNTIL THE RULING OF THE COURT AND THE CONCLUSION OF ANY AND ALL APPEALS FROM SUCH RULING.

EITHER PARTY MAY REQUEST AN ARBITRATOR EXPERIENCED IN THE ADULT ENTERTAINMENT INDUSTRY. THE PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THAT LEVEL OF DUE PROCESS REQUIRED FOR ARBITRATIONS. THE ARBITRATOR'S DECISION SHALL BE FINAL, SUBJECT ONLY TO REVIEW UNDER THE F.A.A., OR AS PROVIDED FOR IN THIS PARAGRAPH 21.

EACH PARTY SHALL INITIALLY BE RESPONSIBLE FOR THEIR OWN ATTORNEY FEES AND OUT-OF-POCKET COSTS ASSOCIATED WITH THE ARBITRATION PROCEEDING. THE ACTUAL COSTS OF ARBITRATION (THE ARBITRATOR'S FEES AND RELATED EXPENSES) SHALL BE BORNE EQUALLY BY THE ENTERTAINER AND THE CLUB UNLESS APPLICABLE LAW REQUIRES THE ARBITRATOR TO IMPOSE A DIFFERENT ALLOCATION. THE ARBITRATOR SHALL HAVE EXCLUSIVE AUTHORITY TO RESOLVE ANY DISPUTES OVER THE FORMATION, VALIDITY, INTERPRETATION, AND/OR ENFORCEABILITY OF ANY PART OF THIS LEASE, INCLUDING THE ARBITRATION PROVISIONS CONTAINED IN THIS PARAGRAPH 21. ANY AWARD BY THE ARBITRATOR MAY BE ENTERED AS A JUDGMENT IN ANY COURT HAVING JURISDICTION.

B. ENTERTAINER AND THE CLUB AGREE THAT ANY AND ALL CLAIMS THAT THEY MAY HAVE AGAINST THE OTHER (AND/OR AGAINST ANY PERSONS OR ENTITIES ASSOCIATED WITH THE OTHER PARTY, INCLUDING BUT NOT LIMITED TO PAST, PRESENT, AND FUTURE OWNERS, DIRECTORS, MANAGERS, OFFICERS, EMPLOYEES, CONSULTANTS, AND/OR AGENTS) SHALL BE BROUGHT AND MAINTAINED INDIVIDUALLY BY THAT PARTY IN ARBITRATION; THAT THEY WILL NOT CONSOLIDATE THIER CLAIMS WITH THOSE OF ANY OTHER PERSON OR ENTITY; THAT THEY WILL NOT SEEK CLASS, COLLECTIVE, OR REPRESENTATIVE ACTION TREATMENT FOR ANY CLAIM; AND THAT THEY WILL NOT PARTICIPATE, IN ORDER TO RESOLVE A CLAIM, IN ANY CLASS, COLLECTIVE, OR REPRESENTATIVE ACTION AGAINST THE OTHER PARTY (AND/OR AGAINST PERSONS OR ENTITIES ASSOCIATED WITH THE OTHER PARTY). IF AT ANY TIME EITHER ENTERTAINER OR THE CLUB IS MADE A MEMBER OF A CLASS IN ANY PROCEEDING BARRED BY THESE PROVISIONS, THEY AGREE TO "OPT OUT" AT THE FIRST OPPORTUNITY.

C. IN THE EVENT A PARTY SEEKS EMERGENCY RELIEF TO PREVENT OR ABATE ALLEGED IRREPARABLE HARM AND THE PARTIES ARE UNABLE TO AGREE TO AN ARBITRATOR WITHIN THREE (3) BUSINESS DAYS, THE PARTIES SHALL JOINTLY PETITION A COURT OF COMPETENT JURISDICTION FOR APPOINTMENT OF A NEUTRAL ARBITRATOR TO PRESIDE OVER THE REQUEST FOR EMERGENCY RELIEF.

D. IF ANY PARTY CHALLENGES, OR IS REQUIRED TO INITIATE PROCEEDINGS TO ENFORCE, THE ARBITRATION REQUIREMENTS OF THIS PARAGRAPH 21, THE PREVAILING PARTY TO SUCH CHALLENGES/ENFORCEMENT PROCEEDINGS SHALL BE ENTITLED TO AN AWARD OF ALL COSTS, INCLUDING REASONABLE ATTORNEY FEES, INCURRED IN LITIGATING SUCH ISSUES.

E. ANY RULING ARISING OUT OF A CLAIM BETWEEN THE PARTIES SHALL, TO THE EXTENT NOT PRECLUDED BY LAW, AWARD COSTS INCURRED FOR THE PROCEEDINGS, INCLUDING REASONABLE ATTORNEY FEES, TO THE PREVAILING PARTY.

F. THE ARBITRATION PROVISIONS OF THIS PARAGRAPH 21 SUPERSEDE ANY PRIOR ARBITRATION AGREEMENT(S) ENTERED INTO BETWEEN THE CLUB AND THE ENTERTAINER.

ALL PORTIONS OF THIS PARAGRAPH 21 SURVIVE EXPIRATION, TERMINATION, AND/OR CANCELLATION OF THIS LEASE.

22. Superseding Effect. The execution of this **Lease** by the parties shall terminate any similar lease or other similar contract currently in effect between the parties.

This **Lease** is immediately terminated if **Entertainer** is not of legal age. **Entertainer** specifically represents that she is of lawful age or older, that she has provided appropriate identification verifying her age, and that such identification is valid and authentic.

BY SIGNING THIS DOCUMENT, ENTERTAINER REPRESENTS THAT SHE HAS RECEIVED A COPY OF, AND HAS FULLY READ, THIS LEASE; THAT SHE UNDERSTANDS AND AGREES TO BE BOUND BY ALL OF ITS TERMS; AND THAT SHE HAD OPPORTUNITIES TO BOTH ASK QUESTIONS REGARDING THIS LEASE'S CONTENT AND HAVE IT REVIEWED BY PERSONS OF HER CHOICE, INCLUDING BY ATTORNEYS AND ACCOUNTANTS.

"CLUB"

MAG Pass, LLC
d/b/a Vanity Grand Cabaret

By: Sharon Hibbs
[signature]

Sharon Hibbs
[printed name]

Its: Seal

Date 4/9/16

"ENTERTAINER"

[signature]

NATASHA HILL
[printed name]

REDACTED
[stage name]

REDACTED
[address]

REDACTED
[city, state, zip code]

REDACTED
[phone number]

[Entertainer's license/permit number – if applicable]

Date 4/9/2016

"PREMISES"

6130 Passyunk Avenue
Philadelphia, Pennsylvania 19153

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SPECIFICATIONS

Any negotiated changes to Paragraphs 14 and 15 of this **Lease** shall be set forth below. **Entertainer** shall initial below to verify her agreement to such changes.

N.H

MAG PASS, INC. d/b/a VANITY GRAND
DANCER PERFORMANCE LEASE
EXHIBIT A

Pursuant to paragraph 11 of the Dancer Performance Lease entered into by **Entertainer** and the **Club**, the **Entertainment Fees** for personal performances shall be as follows:

For personal couch dances: $20.00.

For 15-Minute Champagne Courts: $150.00.

For 30-Minute Champagne Courts: $250.00.

For 1-Hour VIP Courts: $400.00.

Pursuant to paragraph 14 of the Dancer Performance Lease entered into by **Entertainer** and the **Club**. **Entertainer** is subject to the following lost rent charges:

Lost rent charges:

Entertainer is subject to a $50.00 lost rent charge if she schedules herself to perform on a given Show Date but fails to show and has not provided at least one full day's advanced notice of cancellation; is subject to a $50.00 lost rent charge if she schedules herself to perform on a Holiday Show Date (MLK Day Weekend, President's Day Weekend, Valentine's Day, Memorial Day Weekend, Labor Day Weekend, Independence Day weekend, Halloween, Mother's Day, Father's Day, Thanksgiving Eve and Day, Christmas Eve and Day, and New Years' Eve and Day) but calls to cancel on the day of the scheduled Show Date; and is subject to a $100.00 lost rent charge if she schedules herself to perform on a Holiday Show Date but fails to show and has not provide at least one full day's advanced notice of cancellation.

Pursuant to paragraph 15 of the Dancer Performance Lease entered into by **Entertainer** and the **Club**. **Entertainer** shall pay the following **Rent**:

A. **Minimum Rent**:

$26.00 for each Show Date starting at 4:00 p.m.
$41.00 for each Show Date starting at 7:00 p.m.
$61.00 for each Show Date starting at 9:00 p.m.
$91.00 for each Show Date starting at Midnight.
$126.00 for each Event Night Show Date.
$91.00 for weekdays for Open Schedule Entertainers.
$121.00 for weekend days for Open Schedule Entertainers.
$201.00 for Event Night for Open Schedule Entertainers.
$301.00 for first time Open Schedule Entertainer.

B. **Additional Rent**:

For Private Couch Dances: $5.00 to the **Club**.

For 15-Minute Champagne Courts: $50.00 to the **Club**.

For 30-Minute Champagne Courts: $75.00 to the **Club**.

For 1-Hour VIP Court: $100.00 to the **Club**.

For VIP Access Wristband $10.00/Event Night $20.00

NO REFUNDS

BUSINESS STATUS SELECTION BY ENTERTAINER

In light of your desire to perform as an entertainer at this Club, we would like you to select the business arrangement under which you are interested in performing. ***If*** the Club decides that it would like to extend to you the opportunity to perform here, you can do so either as: 1) an INDEPENDENT PROFESSIONAL ENTERTAINER; or 2) an EMPLOYEE.

We have listed below some of the general distinctions between performing here as an Independent Professional Entertainer or as an Employee. This document is not intended to provide legal or tax advice, and is merely a summary of general information. Please feel free to consult with any persons of your choice, including legal and accounting professionals, on these matters prior to making your selection. In addition, if you would like to see a copy of the contract that the Club uses for Independent Professional Entertainers (called a "Dancer Performance Lease") prior to making your decision, please just ask and we will be happy to provide you with a copy to review.

After reviewing this information, we would like you to select the circumstances under which you would be willing to perform. The Club management expresses **no opinion** on this matter. This is **your choice** to make.

Making this selection does **not** constitute an offer of employment or an offer by the Club to enter into an Independent Professional Entertainer agreement with you. After review of your application documents and qualifications, you will be notified as to whether the Club is interested in permitting you to perform at this location. If it is, you will be offered the opportunity to enter into the business arrangement that you select at the end of this document.

INDEPENDENT PROFESSIONAL ENTERTAINER STATUS	**VS.**	**EMPLOYEE STATUS**
1. As an Independent Professional Entertainer, you will enter into a written contract with the Club which will be for a certain period of time; which will specify in writing the rights, duties and obligations of both you and the Club; and which cannot be changed except upon the mutual agreement of both you and Club Management. The Club will not be able to terminate your contract during the specified period except upon the limited reasons identified in the contract.		1. As an Employee, you will not have any contract with the Club. Rather, your employment will be "at will," meaning that your employment can be terminated by the Club at any time, without cause and without prior notice. The Club will have the right to change the terms of your employment at its discretion at any time.
2. As an Independent Professional Entertainer, all of your earnings will come from your customers either directly or through payments made to Club personnel. YOU WILL NOT RECEIVE FROM THE CLUB EITHER AN HOURLY WAGE OR A SALARY. You will charge your customers for your dance performances; the money that you receive from those performances, either by way of dance fees (discussed in number 4 below) or tips (discussed in number 3 immediately below), will be your money that you will be able to take home at the end of the day. You will, however, pay certain fees to the Club for having the right to perform here, and be assessed certain administrative charges. You can review a copy of the contract that the Club uses in order to see the current amount of those fees and charges.		2. As an Employee, you will be paid every Friday on an hourly basis at a rate equal to the current applicable tip-credited minimum wage. Under such an employment relationship, you would be paid, in accordance with § 203(m) of the Fair Labor Standards Act and applicable state law, the legally permitted "tip-credited" wage (currently $2.83 per hour). The Club would then increase your wages by taking the allowable tip-credit (currently $4.42 per hour), which cannot exceed the amount of tips actually received by you. If, in a workweek, you did not earn at least the full minimum wage through wages and retained tips (currently $7.25 per hour), the **Club** would pay you the difference so that you would earn the full minimum wage for each hour worked. These "tip credit" provisions would not apply unless you were informed of them.
3. As an Independent Professional Entertainer, all tips that you earn (gratuities paid by a customer ***over and above*** the established dance fees, as well as stage tips) are yours to keep. You will not be required to share your tips with, or "tip out," anyone.		3. As an Employee, you would be entitled to retain all tips that you collect (gratuities paid by a customer ***over and above*** the posted dance fees as well as stage tips, but ***not*** the mandatory dance fees you charge for personal performances – see number 4 below), although you will be required to pay 15% of your tips into a "tip pool" that would be distributed to non-dancer tipped employees.

INDEPENDENT PROFESSIONAL ENTERTAINER STATUS	VS.	EMPLOYEE STATUS
4. As an Independent Professional Entertainer, the dance fees you charge your customers belong to you, and are yours to keep, subject only to certain lease and administrative fees.		4. As an Employee, the dance fees you charge customers belong to the Club. You will have to turn them over to Management before the end of your shift.
5. As an Independent Professional Entertainer, you will be responsible for taking care of and paying all taxes and other withholdings due on your income.		5. As an Employee, the Club will take out of your pay all taxes and other withholdings required by law.
6. As an Independent Professional Entertainer, you keep track of your own income. You do not report your dance fees or tip income to the Club. You can take tax deductions for travel, advertising, makeup, costumes, props, tanning, health clubs, cosmetic surgery, etc., as allowed by law.		6. As an Employee, you must, by law, report ALL of your tip income to the Club. You cannot deduct from your taxes the incidental expenses of your employment. In addition, the Club is required by law to pay to the IRS, out of the wages due to you, taxes owed on your tip income. If you make a substantial amount in tips, this could then result in your receiving a "zero" paycheck. If you have questions about this, consult an accountant.
7. As an Independent Professional Entertainer, you may perform wherever you choose, and may perform at other clubs while you are under contract with this Club.		7. As an Employee, the Club can prohibit you from performing at other establishments.
8. As an Independent Professional Entertainer, you will determine the days and time you perform at the Club consistent with the entertainment sessions for which you have contracted. In addition, you can work as many hours per day as you desire, although you will receive no "overtime" pay from the Club.		8. As an Employee, the Club will select your schedule (both days and times) for you. In general, you will be limited to working a maximum of 29 hours per week, and the Club will not permit you to work any "overtime." However, at the discretion of Management you may be required to work overtime, and you will be paid time and one-half for any excess hours that you work as required by law.
9. As an Independent Professional Entertainer, whether you take any breaks, when you take your breaks, and the number and duration of any breaks, are totally up to you.		9. As an Employee, the Club will determine the time, number and duration of your breaks, consistent with state law.
10. As an Independent Professional Entertainer, you can perform for whomever you choose, and can reject any customers you want.		10. As an Employee you will be required to perform for all customers.
11. As an Independent Professional Entertainer, you will never be required by the Club to give "free" dances to anyone.		11. As an Employee, you may, at the direction of Management, be required to give "free" dances to certain customers.
12. As an Independent Professional Entertainer, you will never be required to engage in any Club promotions or advertising.		12. As an Employee, you may be required to participate in various Club promotions and advertising.
13. As an Independent Professional Entertainer, you will have the freedom to choose your own costumes, and you will be required to provide your own costumes. However, you will be expected to appear in costuming consistent with industry standards for professional entertainers performing in upscale, high-end, entertainment facilities.		13. As an Employee, you will be required to wear the costumes selected by the Club, which will provide to you two costumes every three months at the Club's cost.

INDEPENDENT PROFESSIONAL ENTERTAINER STATUS	VS.	EMPLOYEE STATUS
14. As an Independent Professional Entertainer, you will determine your own appearance.		14. As an Employee, your appearance must comply with the Club standards. Management will tell you how to wear your hair, and how your makeup should look.
15. As an Independent Professional Entertainer, you will not be given any training. You will be expected to come to the Club with the necessary skills to perform as a professional exotic dance entertainer. You may perform in any lawful manner of your own choosing and you will not have to meet any type of "performance standards" set by the Club.		15. As an Employee, you will be required to undergo dancer training, you must perform consistent with the standards set in that training, and you will be expected to meet certain dance minimum quotas.
16. As an Independent Professional Entertainer, if you are injured at the Club, you will not be covered by Workers' Compensation Insurance, but you can sue the Club, if it is at fault, and your only limits of recovery are those that may be imposed by state law.		16. As an Employee, if you are hurt at work your sole recourse against the Club, under most circumstances, will be for "Worker's Compensation" benefits. You will not have to prove the Club was at fault, but you will be subject to the limits of that coverage.
17. As an Independent Professional Entertainer, you will not be entitled to unemployment compensation benefits either if your contract expires or if the Club terminates it early for any of the reasons listed in the agreement.		17. As an Employee, if you are fired you may be entitled – if you have worked a sufficient period of time and satisfied other legal requirements – to unemployment compensation benefits. These benefits are for a fixed period of time and are set by law.
18. As an Independent Professional Entertainer, the Club will not offer you any form of health insurance.		18. As an Employee, if the Club is at any time required to offer certain of its employees health insurance and you qualify, you may, but need not, accept such health insurance so long as you agree to pay the policy premiums up to a maximum of 9.5% of your total income (wages *and* tips).
19. As an Independent Professional Entertainer, you will be acknowledging that you are not entitled to benefits under the Fair Labor Standards Act (minimum wage and overtime laws), Equal Employment Opportunity laws, or other laws that protect employees.		19. As an Employee, you will be entitled to certain legal protections under the Fair Labor Standards Act, the Equal Employment Opportunity Act, and other laws that protect employees. You can find out about your rights as an employee by going to, among other places, the websites at www.dol.gov esa whd flsa and www.portal.state.pa.us (under "Department of Labor & Industry"), and/or by reviewing the employment law posters that are displayed in the Club (if you have any questions as to where they are located, please ask a manager and he or she will direct you to them).

AFTER HAVING REVIEWED THE ABOVE AND HAVING CONSIDERED THESE MATTERS:

✓ I would like to apply to be an Independent Professional Entertainer

_____ I would like to apply for a position as an Employee entertainer

Dated: 8/1/2015

Applicant's signature

NAFEESA HILL

Applicant's name (please print)

Dated: 8-1-15

Manager's signature

Manager's name (please print)

MAG PASS, LLC D/B/A VANITY GRAND CABARET
DANCER PERFORMANCE LEASE

NOTICE: THIS IS A LEGAL CONTRACT. DO NOT SIGN IT UNLESS YOU FULLY UNDERSTAND ALL OF ITS TERMS. IF YOU HAVE ANY QUESTIONS, FEEL FREE TO TALK TO THE CLUB'S GENERAL MANAGER. WE SUGGEST THAT BEFORE SIGNING, YOU HAVE THIS CONTRACT REVIEWED BY AN ATTORNEY, ACCOUNTANT, OR OTHER PERSON OF YOUR CHOICE.

This Dancer Performance Lease ("**Lease**") is entered into by the "**Club**" and "**Entertainer**" (the "parties") to permit **Entertainer** to use certain portions of the "**Premises.**" The "**Club,**" "**Entertainer,**" and "**Premises**" are identified on the last page of this **Lease.**

PURPOSE OF LEASE:

The **Club** operates an entertainment facility on the **Premises. Entertainer**, who is engaged in the independently established trade and occupation of professional exotic dance entertainers and who runs her own business that provides such entertainment services, desires to obtain the right to use certain areas of the **Premises** for her professional activities.

TERMS OF LEASE:

Club and **Entertainer** agree as follows:

1. **Leasing of Premises/Term**. The **Club** grants to **Entertainer** the right, during normal business hours, to jointly, along with other entertainers, use the stage areas and certain other portions of the **Premises** designated by the **Club**. This **Lease** begins today and ends on the earlier of: **A)** January 31, 2016; or **B)** a termination date as provided for in paragraph 18.

2. **Club's Additional Obligations**. The **Club** shall:

   A. Provide, at its own expense, music for use on the **Premises**, lighting, and dressing room facilities, and pay all copyright fees due relative to that music; and

   B. Reasonably advertise the business for the benefit of both **Entertainer** and the **Club**. This does not, however, prohibit **Entertainer** from advertising her services in any manner she so desires.

3. **Subleasing**. This **Lease** is for **Entertainer**'s personal skills and artistic talent. Consequently, **Entertainer** has no right to sublease or to assign any of her rights or obligations in this **Lease** to any other person without the written consent of the **Club**. However, if **Entertainer** is unable to fulfill her contractual obligations for any scheduled Show Date (as defined below), **Entertainer** has the right to substitute the services of any licensed (if legally required) entertainer who has also entered into a Dancer Performance Lease with the **Club**.

4. **Non-Exclusivity**. **Entertainer's** obligations under this **Lease** are non-exclusive. She is free to perform at any other businesses or venues.

5. **Use of Premises**. **Entertainer** agrees to:

   A. Perform clothed semi-nude and nude performance dance entertainment and to perform in stage rotations;

   B. Obtain, keep in effect, and have in her possession at all times while she is on the **Premises**, any and all required licenses and/or permits;

   C. Not violate any laws (violations of the law are beyond the scope of authority under, and constitute a breach of, this **Lease**);

   D. Maintain accurate daily records of all income, including tips, earned while performing on the **Premises**, in accordance with all taxation laws;

   E. Become knowledgeable of all laws that apply to **Entertainer**'s conduct while on the **Premises**; and

   F. Pay for any damages she causes to the **Premises** and/or to any of the **Club**'s personal property.

6. **Compliance with Rules**. The **Club** may impose rules upon the use of the **Premises** by **Entertainer** as the **Club** deems necessary in order to ensure that: A) no damage to the **Club**'s property occurs; B) the **Premises** are used in a safe fashion for the benefit of all entertainers, patrons, and others; and C) no violations of the law occur. **Entertainer** agrees to comply with all such rules.

7. **Nature of Performance and Costuming**. The **Club** has no right to direct or control the nature, content, character, manner or means of **Entertainer's** entertainment services, her performances, or the costumes/wearing apparel she selects. Moreover, **Entertainer** shall have exclusive control over the decision of who she will or will not perform personal dances. **Entertainer** shall supply all of her own costumes and wearing apparel, which must comply with all applicable laws (including but not limited to liquor laws and regulations), and shall be in accordance with industry standards for professional entertainers performing in upscale, high-end, entertainment facilities.

8. **Intellectual Property** **Entertainer** retains all intellectual property rights to her performances, stage name and likeness, unless assigned by her in writing.

9. **Nature of Business.** **Entertainer** understands: A) That the nature of the **Club's** business is adult entertainment; and B) that she may be subjected to forms of semi-nudity nudity (primarily female), explicit language, advances by customers, depictions or portrayals of a sexual nature, and to similar types of behavior. **Entertainer** represents that she is not and will not be offended by, and she assumes any and all risks associated with, being subjected to such matters.

10. **Privacy/Non-disparagement.** Privacy and personal safety are important concerns to **Entertainer.** Accordingly, the **Club** shall not knowingly disclose to any persons who are not associated with the **Club, Entertainer's** legal name, address, or telephone number, except upon written authorization of the **Entertainer** or as required by law. **Entertainer** also agrees to keep private and not to disclose the identity or personal information of other entertainers. In addition, to the extent permitted by law, **Entertainer** and **Club** agree each shall not disparage or seek to cast the other in a negative light in any public forum including social medial or the news media.

11. **Entertainment Fees.** In consultation with entertainers who lease space on the **Premises**, the **Club** shall establish fixed fees as the price for certain personal performances ("**Entertainment Fees**"), which are stated on Exhibit A hereto. Nothing in this **Lease,** however, limits **Entertainer** from receiving tips over-and-above the established price for such performances (**Entertainer** is not required to share her tips with anyone else).

All **Entertainment Fees** shall be paid directly by the patron to a designated **Club** employee. **Entertainer** also agrees that patrons may pay for **Entertainment Fees** by credit/debit card or scrip (Vanity Dollars; with no cash value), and that her **Entertainment Fees** from such transactions shall be reduced by ten percent (15%), which shall reimburse the **Club** for: (1) The costs associated in administering the Vanity Dollars and credit/debit card programs; (2) the portion of the credit/debit card transaction fees (merchant fees) allocated to the monies obtained by **Entertainer**; and (3) the estimated credit/debit card chargebacks allocated to the monies received by **Entertainer**. The **Club** will hold the **Entertainment Fees** in trust for safekeeping and the **Entertainer's** convenience, and **Entertainer** may pick up her **Entertainment Fees** at the conclusion of her performance, or if paid with Vanity Dollars at the end of her Show Date (as defined below), from a designated **Club** employee.

THE PARTIES SPECIFICALLY ACKNOWLEDGE AND AGREE THAT **ENTERTAINMENT FEES** ARE NEITHER TIPS NOR GRATUITIES, BUT ARE, RATHER, MANDATORY CHARGES TO THE CUSTOMER AS THE PRICE FOR PURCHASING A PERSONAL ENTERTAINMENT PERFORMANCE.

12. **Business Relationship of Parties.**

A. The parties acknowledge that the business relationship created between them is that of the joint and non-exclusive leasing of certain parts of the **Premises** (meaning that other entertainers are also leasing parts of the **Premises** at the same time). THE PARTIES SPECIFICALLY DISAVOW ANY EMPLOYMENT RELATIONSHIP BETWEEN THEM, and this **Lease** shall not be interpreted as creating an employer/employee relationship or any contract for employment. **ENTERTAINER** UNDERSTANDS THAT THE **CLUB** WILL NOT PROVIDE TO HER ANY WAGE (WHETHER HOURLY OR OTHERWISE), OVERTIME PAY, EXPENSES, OR OTHER EMPLOYEE-RELATED BENEFITS.

B. The **Club** and **Entertainer** acknowledge that if the relationship between them was that of employer and employee, the **Club** would be required to collect, and would retain, all **Entertainment Fees** paid by customers to **Entertainer** – **ENTERTAINER** SPECIFICALLY ACKNOWLEDGING THAT IN AN EMPLOYER/EMPLOYEE RELATIONSHIP ALL **ENTERTAINMENT FEES** WOULD BE, BOTH CONTRACTUALLY AND AS A MATTER OF LAW, THE PROPERTY OF THE **CLUB** AND NOT THE PROPERTY OF **ENTERTAINER. ENTERTAINER'S** RIGHT TO OBTAIN AND KEEP **ENTERTAINMENT FEES** IS SPECIFICALLY CONTINGENT UPON THE BUSINESS RELATIONSHIP OF THE PARTIES BEING THAT OF LANDLORD AND TENANT.

Under such an employment relationship, **Entertainer** would be paid, in accordance with § 203(m) of the Fair Labor Standards Act and applicable state law, the legally permitted "tip-credited" wage (currently $2.83 per hour). The **Club** would then increase **Entertainer's** wages by the amount of tip income she earned, up to the allowable tip credit (currently $4.42 per hour), which could not exceed the amount of tips actually and ultimately received by the **Entertainer.** If, in a workweek, **Entertainer** did not earn at least the full minimum wage through wages and retained tips, the **Club** would pay **Entertainer** the difference so that she earned the full minimum wage for each hour worked (currently $7.25 per hour). These "tip credit" provisions would not apply unless **Entertainer** was informed of them; this document serving as such notice. **Entertainer** would further be entitled to retain all tips - **but not Entertainment Fees** - that she might collect (the **Club** would not retain any portion of her tip income), although she would be required to pay 15% of her tips into a "tip pool" that would be distributed to non-dancer regularly tipped employees.

The parties additionally acknowledge that were the relationship between them to be that of employer/employee, **Entertainer's** employment

would be "at will" (she could be fired at any time without cause and without prior warning), and the **Club** could control, among other things, **Entertainer's**: Work schedule and hours of work; job responsibilities; physical appearance (such as make-up, hairstyle, etc.); costumes/wearing apparel; music; work habits; the selection of her customers; the nature, content, character, manner and means of her performances; and her ability to perform at other locations. **ENTERTAINER** REPRESENTS THAT SHE DESIRES TO BE ABLE TO MAKE ALL OF THESE CHOICES HERSELF, WITHOUT THE CONTROL OF THE **CLUB**, AND THE PARTIES AGREE THAT ALL SUCH DECISIONS ARE EXCLUSIVELY RESERVED TO HER CONTROL.

ENTERTAINER FURTHER REPRESENTS THAT SHE DOES NOT DESIRE TO PERFORM AS AN EMPLOYEE OF THE **CLUB** UNDER THE TERMS OUTLINED ABOVE, BUT, RATHER, DESIRES TO PERFORM AS A TENANT CONSISTENT WITH THE OTHER PROVISIONS OF THIS **LEASE**.

C. If any court, tribunal, arbitrator, or governmental agency determines, or if **Entertainer** at any time claims, that the relationship between the parties is one of employment and that **Entertainer** is then entitled to the payment of wages from the **Club**, all of the following shall apply;

i. In order to comply with applicable tax laws and to assure that the **Club** is not unjustly harmed and that **Entertainer** is not unjustly enriched by the parties having financially operated pursuant to this **Lease**, the parties agree that **Entertainer** shall provide to the **Club** a statement of all **Entertainment Fees** received by her while performing at the **Club**, and she shall surrender, reimburse and pay to the **Club** such **Entertainment Fees** -- all of which would otherwise have been collected and kept by the **Club** had they not been retained by **Entertainer** under the terms of this **Lease**;

ii. **Entertainer** shall immediately remit to the **Club** 15% of all tips that she earned while performing at the **Club**, which shall be distributed to non-dancer regularly tipped employees, and provide to the **Club** a signed and legally compliant statement of all tip income earned by her while performing at the **Club**;

iii. Any **Entertainment Fees** that **Entertainer** does not return to the **Club** shall be deemed service charges paid by the customer and shall be accounted for by the **Club** as such. The **Club** shall then be entitled to a credit against any wages due in the amount of the **Entertainment Fees** retained by **Entertainer**, and such fees shall therefore constitute wages paid from the **Club** to **Entertainer**. In such circumstances, the **Club** shall immediately submit to the IRS and applicable state taxing authorities all necessary filings regarding such income; and

iv. The relationship of the parties shall immediately convert to an employment arrangement under the terms in subparagraph 12B.

D. If at any time **Entertainer** believes that - - irrespective of the terms of this **Lease** - - she is being treated as an employee by the **Club** or that her relationship with the **Club** is truly that of an employee, **Entertainer** shall immediately, **but in no event later than three business days thereafter**: i) provide notice to the **Club** in writing of her demand to be fully treated as an employee consistent with the terms of subparagraph 12(B) and applicable law; and ii) begin reporting all of her tip income to the **Club** on a daily basis (such tip reporting being legally required of all regularly tipped employees). These requirements are in addition to the obligations of **Entertainer** under subparagraphs 12(C)(i) and (ii).

13. Taxes. **Entertainer** is exclusively responsible for, and shall pay, all applicable taxes and contributions imposed upon any income earned by **Entertainer** while performing on the **Premises**.

14. Scheduling of Performance Dates. On or about the 9th day of each calendar month, the **Club** shall post a calendar of the dates and times of available for performances ("Show Date" or "Show Dates") for the following month. The Show Dates will be made available to entertainers on a "first come first served" basis. **Entertainer** shall select the Show Date(s) that she desires to perform during the following month, and the **Club** shall make the leased portion of the **Premises** available to **Entertainer** during those dates and times, subject only to space availability. Once scheduled, neither **Entertainer** nor the **Club** shall have the right to cancel or change any Show Dates except as may be agreed to by the parties. **Entertainer** may be permitted to lease space on the **Premises** on days and during weeks when she has not scheduled herself to perform, subject to space availability.

If **Entertainer** misses an entire scheduled Show Date, she agrees to pay to the **Club** a lost rent charge as stated in Exhibit A attached to this **Lease**, which is to be paid by **Entertainer** no later than by the end of her next Show Date. An **Entertainer** misses a scheduled Show Date if she is not ready to perform within at least one hour of the scheduled Show Date. If **Entertainer** is one hour or more late for a scheduled Show Date, **Entertainer** forfeits such her Show Date, and the Show Date may be made available to other entertainers.

All lost rent charges stated in this **Lease** and Exhibit A are established in view of the fact that it would be difficult to

determine the exact lost rent or damages incurred as a result of certain breaches of this **Lease**.

Entertainer and the **Club** may negotiate changes to the scheduling of Show Dates as set forth in the "**SPECIFICATIONS**" section below.

15. Rent. **Entertainer** shall pay rent ("**Rent**") to the **Club** in amounts stated in Exhibit A to this **Lease**, unless modified by the "**SPECIFICATIONS**" section below. Minimum **Rent** stated on Exhibit A shall be paid before **Entertainer** commences her Show Date for which such Minimum **Rent** is due, and Additional **Rent** stated on Exhibit A shall be paid before, or immediately upon completion of, the Show Date for which such Additional **Rent** is due.

The **Rent** paid by **Entertainer** shall also entitle her to use of a locker on a first come first serve basis, subject to availability. Such right shall expire fourteen (14) days from the last time **Entertainer** has performed.

16. Material Breach by Club. The **Club** materially breaches this **Lease** by failing to provide to **Entertainer** the leased portions of the **Premises** on any day she schedules, or by willfully violating any law governing the operation of the **Club**.

17. Material Breach by Entertainer. **Entertainer** materially breaches this **Lease** by failing to maintain any and all required licenses and/or permits; willfully violating any law while on the **Premises**; failing to wear an underage bracelet if **Entertainer** is under 21 years of age; failing to appear for a scheduled Show Date on two or more occasions in any one calendar month; failing to pay any **Rent** when due; failing to timely pay any lost rent charge; or claiming the business relationship with the **Club** as being other than that of a landlord and tenant.

18. Termination/Breach. Either party may terminate this **Lease**, without cause, upon thirty (30) days' notice. Upon material breach, the non-breaching party may terminate this **Lease** upon twenty-four (24) hours' notice or as otherwise may be provided by law. Nothing in this paragraph, however, shall allow **Entertainer** to perform on the **Premises** without a valid license or permit, if applicable, or to continue to engage in conduct in violation of any laws.

19. Severability. If any provision of this **Lease** is declared to be illegal or unenforceable, this **Lease** shall, to the extent possible, be interpreted as if that provision was not a part of this **Lease**; it being the intent of the parties that such part be, to the extent possible, severable from this **Lease** as a whole. Nevertheless, in the circumstance of a judicial, arbitration, or administrative determination that the business relationship between **Entertainer** and the **Club** is something other than that of landlord and tenant, the relationship between **Entertainer** and the **Club** shall be controlled by the provisions of subparagraphs 12B and 12C.

20. Governing Law. This **Lease** shall be interpreted pursuant to the laws of the State of Pennsylvania, except as may be preempted by the Federal Arbitration Act.

21. MANDATORY ARBITRATION/WAIVER OF CLASS AND COLLECTIVE ACTIONS/ATTORNEY FEES AND COSTS.

A. EXCEPT FOR ANY ADMINISTRATIVE PROCEEDINGS THAT ARE NOT LEGALLY BARRED BY THIS PARAGRAPH, ANY CONTROVERSY, DISPUTE, OR CLAIM ARISING OUT OF THIS LEASE OR RELATING IN ANY WAY TO ENTERTAINER PERFORMING AND/OR WORKING AT THE CLUB AT ANY TIME (IN THIS PARAGRAPH 21, COLLECTIVELY "CLAIM"), WHETHER CONTRACTUAL, IN TORT, OR BASED UPON COMMON LAW OR STATUTE, SHALL BE EXCLUSIVELY DECIDED BY BINDING ARBITRATION HELD PURSUANT TO THE FEDERAL ARBITRATION ACT (THE "F.A.A."). SUCH ARBITRATION SHALL OCCUR IN THE COMMONWEALTH OF PENNSYLVANIA, AND SHALL BE ADMINISTERED BY A NEUTRAL ARBITRATOR AGREED UPON BY THE PARTIES, WHO SHALL BE PERMITTED TO AWARD, SUBJECT ONLY TO THE RESTRICTIONS CONTAINED IN THIS PARAGRAPH 21, ANY RELIEF AVAILABLE IN A COURT. THE PARTIES WAIVE ANY RIGHT TO LITIGATE SUCH CLAIMS IN A COURT OF LAW, AND WAIVE THE RIGHT TO TRIAL BY JURY.

THE ARBITRATOR SHALL NOT CONSOLIDATE MORE THAN ONE PERSON'S OR ENTITY'S CLAIM, AND MAY NOT PRESIDE OVER ANY FORM OF REPRESENTATIVE, CLASS, OR COLLECTIVE PROCEEDINGS. IN THE EVENT AN ACTION IS BROUGHT IN ARBITRATION ON BEHALF OF MULTIPLE INDIVIDUALS OR ENTITIES, THE ARBITRATOR SHALL HAVE ONLY THE AUTHORITY TO DIVIDE THE ACTION INTO INDIVIDUAL PROCEEDINGS; EACH THEN TO BE HEARD BY AN INDIVIDUAL ARBITRATOR. IN THE EVENT AN ARBITRATOR RULES ON WHETHER A MATTER MAY PROCEED AS A REPRESENTATIVE, MULTIPLE- LITIGANT, CLASS OR COLLECTIVE ARBITRATION (A "SCOPE OF ARBITRATION RULING"), THE ARBITRATOR SHALL IMMEDIATELY STAY ALL PROCEEDINGS FOR A PERIOD OF THIRTY (30) DAYS FOLLOWING SUCH A RULING TO PERMIT ANY PARTY TO MOVE

A COURT OF COMPETENT JURISDICTION TO CONFIRM OR VACATE THE SCOPE OF ARBITRATION RULING. IF, AT THE END OF SUCH 30 DAY PERIOD, NO PARTY HAS MOVED FOR JUDICIAL REVIEW, THE ARBITRATOR SHALL PROCEED WITH THE ARBITRATION. IF, DURING SUCH PERIOD, EITHER PARTY HAS SOUGHT JUDICIAL REVIEW, THE ARBITRATION SHALL BE STAYED UNTIL THE RULING OF THE COURT AND THE CONCLUSION OF ANY AND ALL APPEALS FROM SUCH RULING.

EITHER PARTY MAY REQUEST AN ARBITRATOR EXPERIENCED IN THE ADULT ENTERTAINMENT INDUSTRY. THE PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THAT LEVEL OF DUE PROCESS REQUIRED FOR ARBITRATIONS. THE ARBITRATOR'S DECISION SHALL BE FINAL, SUBJECT ONLY TO REVIEW UNDER THE F.A.A., OR AS PROVIDED FOR IN THIS PARAGRAPH 21. THE COSTS OF ARBITRATION SHALL BE BORNE EQUALLY BY THE ENTERTAINER AND THE CLUB UNLESS APPLICABLE LAW REQUIRES THE ARBITRATOR TO IMPOSE A DIFFERENT ALLOCATION. THE ARBITRATOR SHALL HAVE EXCLUSIVE AUTHORITY TO RESOLVE ANY DISPUTES OVER THE FORMATION, VALIDITY, INTERPRETATION, AND/OR ENFORCEABILITY OF ANY PART OF THIS LEASE, INCLUDING THESE ARBITRATION PROVISIONS. ANY AWARD BY THE ARBITRATOR MAY BE ENTERED AS A JUDGMENT IN ANY COURT HAVING JURISDICTION.

B. ENTERTAINER AGREES THAT ALL CLAIMS BY HER AGAINST THE CLUB (AND ANY OTHER PERSONS OR ENTITIES ASSOCIATED WITH THE CLUB) SHALL BE BROUGHT AND MAINTAINED BY HER INDIVIDUALLY; THAT SHE WILL NOT CONSOLIDATE HER CLAIMS WITH THOSE OF ANY OTHER INDIVIDUAL; THAT SHE WILL NOT SEEK CLASS OR COLLECTIVE ACTION TREATMENT FOR ANY CLAIM THAT SHE MAY HAVE; AND THAT SHE WILL NOT PARTICIPATE IN ANY CLASS OR COLLECTIVE ACTION AGAINST THE CLUB OR AGAINST ANY PERSONS OR ENTITIES ASSOCIATED WITH IT. IF AT ANY TIME ENTERTAINER IS MADE A MEMBER OF A CLASS IN ANY PROCEEDING BARRED BY THESE PROVISIONS, SHE WILL "OPT OUT" AT THE FIRST OPPORTUNITY.

C. IN THE EVENT A PARTY SEEKS EMERGENCY RELIEF TO PREVENT OR ABATE ALLEGED IRREPARABLE HARM AND THE PARTIES ARE UNABLE TO AGREE TO AN ARBITRATOR WITHIN THREE (3) BUSINESS DAYS, THE PARTIES SHALL JOINTLY PETITION A COURT OF COMPETENT JURISDICTION FOR APPOINTMENT OF A NEUTRAL ARBITRATOR TO PRESIDE OVER THE REQUEST FOR EMERGENCY RELIEF.

D. IN THE EVENT THAT ANY PARTY CHALLENGES, OR IS REQUIRED TO INITIATE PROCEEDINGS TO ENFORCE, THE ARBITRATION REQUIREMENTS OF THIS PARAGRAPH 21, THE PREVAILING PARTY TO SUCH CHALLENGES/ENFORCEMENT PROCEEDINGS SHALL BE ENTITLED TO AN AWARD OF ALL COSTS, INCLUDING REASONABLE ATTORNEY FEES, INCURRED IN LITIGATING SUCH ISSUES.

E. ANY RULING ARISING OUT OF A CLAIM BETWEEN THE PARTIES SHALL, TO THE EXTENT NOT PRECLUDED BY LAW, AWARD COSTS INCURRED FOR THE PROCEEDINGS, INCLUDING REASONABLE ATTORNEY FEES, TO THE PREVAILING PARTY.

F. THE ARBITRATION PROVISIONS OF THIS PARAGRAPH 21 SUPERSEDE ANY PRIOR ARBITRATION AGREEMENT(S) ENTERED INTO BETWEEN THE CLUB AND THE ENTERTAINER.

ALL PORTIONS OF THIS PARAGRAPH 21 SURVIVE EXPIRATION, TERMINATION, AND/OR CANCELLATION OF THIS LEASE.

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This **Lease** is immediately terminated if **Entertainer** is not of legal age. **Entertainer** specifically represents that she is of lawful age or older, that she has provided appropriate identification verifying her age, and that such identification is valid and authentic.

BY SIGNING THIS DOCUMENT, ENTERTAINER REPRESENTS THAT SHE HAS RECEIVED A COPY OF, AND HAS FULLY READ, THIS LEASE; THAT SHE UNDERSTANDS AND AGREES TO BE BOUND BY ALL OF ITS TERMS; AND THAT SHE HAD OPPORTUNITIES TO BOTH ASK QUESTIONS REGARDING ITS CONTENT AND HAVE IT REVIEWED BY PERSONS OF HER CHOICE, INCLUDING ATTORNEYS AND ACCOUNTANTS.

"CLUB"

MAG Pass, LLC
d/b/a Vanity Grand Cabaret

By: Kati Bolton
[signature]

Kati Bolton
[printed name]

Its: Director of Ent

Date 8-1-15

"ENTERTAINER"

[signature]

Natasha Hill
[printed name]

REDACTED
[stage name]

REDACTED
[address]

REDACTED
[city, state, zip code]

REDACTED
[phone number]

[Entertainer's license/permit number – if applicable]

Date 8/1/2015

"PREMISES"

6130 Passyunk Avenue
Philadelphia, Pennsylvania 19153

SPECIFICATIONS

Any negotiated changes the Paragraphs 14 and 15 of this **Lease** shall be set forth below. **Entertainer** shall initial below to verify her agreement to such changes.

MAG PASS, INC. d/b/a VANITY GRAND
DANCER PERFORMANCE LEASE
EXHIBIT A

Pursuant to paragraph 11 of the Dancer Performance Lease entered into by **Entertainer** and the **Club**, the **Entertainment Fees** for personal performances shall be as follows:

For personal couch dances: $20.00.

For 15-Minute Champagne Courts: $150.00.

For 30-Minute Champagne Courts: $250.00.

For 1-Hour VIP Courts: $400.00.

Pursuant to paragraph 14 of the Dancer Performance Lease entered into by **Entertainer** and the **Club**, **Entertainer** is subject to the following lost rent charges:

Lost rent charges:

Entertainer is subject to a $50.00 lost rent charge if she schedules herself to perform on a given Show Date but fails to show and has not provide at least one full day's advanced notice of cancellation; is subject to a $50.00 lost rent charge if she schedules herself to perform on a Holiday Show Date (Valentine's Day, Memorial Day Weekend, Labor Day Weekend, Independence Day weekend, Halloween, Mother's Day, Father's Day, Christmas Eve, New Years' Eve, and New Years' Day) but calls to cancel on the day of the scheduled Show Date; and is subject to a $100.00 lost rent charge if she schedules herself to perform on a Holiday Show Date but fails to show and has not provide at least one full day's advanced notice of cancellation.

Pursuant to paragraph 15 of the Dancer Performance Lease entered into by **Entertainer** and the **Club**, **Entertainer** shall pay the following **Rent**:

A. **Minimum Rent**:

$5.00 for each Show Date starting at 3:00pm.
$26.00 for each Show Date starting at 6:00 p.m.
$36.00 for each Show Date starting at 7:00 p.m.
$41.00 for each Show Date starting at 8:00 p.m.
$46.00 for each Show Date starting at 9:00 p.m.
$51.00 for each Show Date starting at 10:00 p.m.
$61.00 for each Show Date starting at 11:00 p.m.
$71.00 for each Show Date starting at Midnight.
$81.00 for each Event Night Show Date.
$201.00 for Open Schedule Entertainers.

B. **Additional Rent**:

For Private Couch Dances: $5.00 to the **Club**.

For 15-Minute Champagne Courts: $50.00 to the **Club**.

For 30-Minute Champagne Courts: $75.00 to the **Club**.

For 1-Hour VIP Court: $100.00 to the **Club**.

EXHIBIT 2

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NAFEESA HILL, on behalf of herself and others similarly situated,

Plaintiff,

v.

SRM ENTERPRISES, LLC, d/b/a Vanity Grand

Defendants.

Case No. 2:17-cv-01927-MAK

Hon. Mark A. Kearney

DECLARATION OF JOHN MEEHAN

In accordance with 28 U.S.C. § 1746, I JOHN MEEHAN, hereby declare:

1. I am an adult resident of the State of New Jersey.

2. I make this affidavit upon personal information, unless specifically stated to the contrary.

3. I am the sole member (as used herein, the term "member" means a person with an ownership interest in a limited liability company, akin to a "shareholder" in a corporation) and sole manager (as used herein, the term "manager" means a person responsible for the operation of a limited liability company, akin to a "president" in a corporation) of SRM Enterprises, LLC, d/b/a *Vanity Grand Cabaret* at 6130 Passyunk Ave., Philadelphia, Pennsylvania.

4. I was a member and sole manager of Mag Pass, LLC, d/b/a *Vanity Grand Cabaret* at 6130 Passyunk Ave., Philadelphia.

5. As used in this declaration, I will refer to the operation of Vanity Grand Cabaret as "Vanity Grand" or the "Club," regardless of whether it was operated by Mag Pass, LLC or SRM

EXHIBIT 2
PAGE 1

Entertainment, LLC. I will specifically refer to Mag Pass, LLC as "Mag Pass" and SRM Entertainment as "SRM."

6. As of 2016, Vanity Grand had not performed to the members' expectations. The other members did not wish to continue the operation of Vanity Grand. I desired to continue the operation of Vanity Grand.

7. Through my attorneys, I formed a new limited liability company named "SRM Enterprises, LLC" to take over the ownership and operation of Vanity Grand.

8. On or about September 15, 2016, Mag Pass and SRM entered into an Asset Purchase Agreement. A true and accurate copy of the Asset Purchase Agreement is attached hereto as **Exhibit A**.

9. The Asset Purchase Agreement was contingent upon assignment of the lease for the premises and the transfer of the Liquor License. [Ex. A, ¶¶ 5-6]. Both of these events have occurred, the latter being the transfer of the liquor license, which was fully complete on April 25, 2017. No contingencies remain. The sale and transfer are complete.

10. The purpose of the Asset Purchase Agreement was to transfer the uninterrupted operation of Vanity Grand from Mag Pass to SRM. SRM assumed all the assets and liabilities of Mag Pass. SRM continued the same business enterprise as Mag Pass on the same premises with the same operations managers, employees, entertainers, and assets, with the exception, perhaps, of any typical day-to-day changes in those areas in the normal operation of Vanity Grand. The only real change was that I continued on as the sole member and manager of the new LLC and the old LLC's (Mag Pass) interests were eliminated.

11. Since the sale, Mag Pass has ceased all business operations, has no assets, and has dissolved or will dissolve as soon as possible.

12. Since SRM took over all of the assets and liabilities of Mag Pass, among the assets and liabilities that were intended to and did transfer from Mag Pass to SRM were the Dancer Performances Leases with the entertainers, and all of the rights and responsibilities thereunder.

I certify under penalty of perjury that the forgoing is true and correct.

Executed on: 6/28/17

John Meehan

EXHIBIT 2
PAGE 3

ASSET PURCHASE AGREEMENT

THIS AGREEMENT dated and effective as of the 15th day of Sept, 2016, by and between MAG PASS, LLC, a Pennsylvania limited liability company (hereinafter referred to as "Seller") and SRM ENTERPRISES, LLC, a Pennsylvania limited liability company (hereinafter referred to "Buyer").

W I T N E S S E T H:

WHEREAS, Seller owns and operates a gentlemen's cabaret, restaurant and tavern known as "VANITY GRAND" (the "Business"), which Business has its principal office located at 6130 Passyunk Avenue, Philadelphia, Pennsylvania (the "Premises"); and

WHEREAS, Seller desires to sell and Buyer desires to purchase certain assets of the Business as specified herein in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises herein contained and the payments hereinafter provided, the parties hereto agree as follows:

1. Sale And Purchase Of Assets.

a. At the Closing hereinafter provided for, Seller shall sell, transfer, and assign to Buyer, and Buyer shall purchase all of Seller's right, title, and interest in and to, substantially all of the assets of the Business (hereinafter referred to as the "Assets") as listed on the attached Exhibit "A".

b. Seller is the duly approved licensee, owning and holding Restaurant Liquor License No.4565, LID NO. 60971 (the "License") issued by the Pennsylvania Liquor Control Board ("PLCB") for the term expiring 10/31/17, which is issued for the premises situate and known as 6130 W. Passyunk Avenue, Philadelphia, PA 19153.

2. Excluded Assets.

Notwithstanding any other provisions of this Agreement, the Seller shall retain and not transfer to Buyer the following assets:

a. None.

3. Purchase Price; Payment.

As full consideration for the Assets, Buyer shall pay to Seller a purchase price equal to ONE DOLLAR ($1.00) plus the assumption of all liabilities of Seller.

4. Liabilities.

Buyer is assuming all current, valid and existing liabilities of Seller.

5. Lease.

Seller is the tenant of the Premises pursuant to that certain Lease Agreement dated February 12, 2013, which has been subsequently amended. This Agreement is expressly contingent upon the Landlord's written approval of an assignment of the Lease from Seller to Buyer, which assignment shall contain a release of Seller from all liabilities under the Lease and the Note described therein. The assignment shall be to the satisfaction of Buyer. If such assignment is not obtained, then this Agreement is null and void and of no further effect.

6. Liquor License.

This Agreement is expressly contingent upon the Pennsylvania Liquor Control Board's written approval of a transfer of the License from Seller to Buyer. The parties agree to fully cooperate to facilitate such approval.

7. Municipal Permits.

This Agreement is expressly contingent upon the Buyer obtaining all required municipal permits for the operation of the Business. If such permits are not obtained after Buyer's due diligence, then this Agreement is null and void and of no further effect.

8. Closing.

The date of Closing ("Closing") of this transaction shall occur on such date mutually agreed to by the parties in writing, at which time title and possession of the Assets shall be transferred, conveyed, and delivered to Buyer by Bill of Sale in the form attached hereto as Exhibit "C". The Closing (hereinafter referred to as the "Closing") shall be at the offices of Marc L. Davidson, Esquire 290 King of Prussia Road, Suite 110, Radnor, Pennsylvania. or such other location as the parties may mutually agree.

9. Business & Trade Name.

Buyer shall have the exclusive use of the business and trade name "Vanity Grand" ("Name") and Seller agrees to consent to the appropriation of the Name and to execute, at Closing, any and all documents necessary, including all filings with the Pennsylvania Department of State, to establish Buyer's exclusive right to use the Name for purposes of the operation of the Business by the Buyer.

10. Representations And Warranties Of Seller.

Seller hereby represents and warrants the following to be true on the date of this Agreement and as of the Date of Closing:

a. The Seller owns the Assets free and clear of all claims, liens, mortgages, security interests, encumbrances, claims, and demands of any nature.

b. Seller is a limited liability company duly existing, qualified, and in good standing under the laws of the Commonwealth of Pennsylvania, and is and shall be duly empowered to execute this Agreement and to do any and all things required or desirable for consummation of all transactions contemplated thereby.

c. The execution and performance of this Agreement and the documents necessary to close have been and will be duly authorized by all requisite company proceedings by Seller, including the approval of Seller's Members and Manager and, when so delivered, constitute a legal and binding obligation.

d. Seller is not bound by or subject to any contractual or other obligation that would be violated by Seller's execution or performance of this Agreement.

e. Execution and delivery of this Agreement and consummation of the transactions contemplated hereby do not conflict with or result in a breach of any of the terms, provisions, or conditions of Seller's Certificate of Organization, Bylaws, or any statute, regulation, or court or administrative order or process applicable or any agreement, lease, or other agreement or instrument to which Seller is a party, or by which it is bound, nor does execution of this Agreement and consummation of the transaction contemplated hereby constitute a default thereunder.

f. The Assets shall be operated and maintained in accordance with Seller's normal operating standards until the Closing except reasonable wear and tear incurred in the normal course of Seller's Business is permitted.

g. The execution of this Agreement between the parties constitutes a legal and binding obligation and is not a violation of any other agreement, and there is no voluntary agreement between the Seller and any other party for the sale of any of the Assets to be sold under this Agreement.

h. The parties hereto acknowledge that the Buyer, and its principals, have been intimately engaged in all aspects of the Business since its inception and they were permitted to conduct an extensive due diligence investigation into the Business. Buyer is relying on the results of its investigation in its decision to execute this Agreement and proceed to Closing hereunder. The Seller makes no representations or warranties whatsoever to Buyer concerning the Business except those specifically set forth herein.

11. Representations And Warranties Of Buyer.

Buyer makes the following representations and warranties to Seller as an inducement to enter into and consummate this Agreement as contemplated herein (Seller and each shareholder of Seller acknowledge that each representation of Buyer is made to the best of Buyer's actual knowledge:

a. No representation or warranty by Buyer in this Agreement or any statement or certificate furnished or to be furnished to Seller pursuant hereto or in connection with the transactions contemplated hereby contains or will contain any untrue statement of material fact or omits or will omit any material fact.

b. Buyer is a limited liability company duly existing, qualified, and in good standing under the laws of the Commonwealth of Pennsylvania, and is and shall be duly empowered to execute this Agreement and to do any and all things required or desirable for consummation of all transactions contemplated thereby.

c. The execution and performance of this Agreement and the documents necessary to close have been and will be duly authorized by all requisite corporate proceedings by Buyer, including the approval of Buyer's Manager and, when so delivered, constitute a legal and binding obligation. Buyer is not bound by or subject to any contractual or other obligation that would be violated by Buyer's execution or performance of this Agreement.

d. Execution and delivery of this Agreement and consummation of the transactions contemplated hereby do not conflict with or result in a breach of any of the terms, provisions, or conditions of Buyer's Certificate of Organization or any statute, regulation, or court or administrative order or process applicable or any agreement, lease, or other agreement or instrument to which Buyer is a party, or by which it is bound, nor does execution of this Agreement and consummation of the transaction contemplated hereby constitute a default thereunder; Buyer and each shareholder of Buyer acknowledge that each representation of Seller is made to the best of Seller's actual knowledge.

e. Buyer represents and warrants that it has entered into this agreement after making independent investigations of Seller's business, and not in reliance upon any representation by Seller. Buyer's principals have been equal owners of the Seller since inception and as part owner has had full access to its books and records.

12. Closing Obligations.

a. At Closing, Seller shall deliver to Buyer the following documents:

i. Bill of Sale in the form attached hereto;

ii. Resolution of the Members and Manager of Seller authorizing the execution, delivery, and performance of this Agreement and all documents required for Closing.

b. At Closing, Buyer shall deliver to Seller:

i. Payment of the Purchase Price and any agreed adjustments; and

ii. Resolution of Members and Manager of Buyer authorizing the execution, delivery, and performance of this Agreement and all documents required for Closing.

c. Each of the parties to this Agreement shall use their best efforts to obtain the consents and approvals of all necessary governmental, bank, creditor or similar approvals necessary to consummate the transactions contemplated under this Agreement.

13. Indemnity.

a. The Seller shall indemnify, defend, and hold Buyer harmless from any and all claims, debts, demands, judgments, actions, or causes of action asserted against Buyer which relate to Seller's operation of the business prior to Closing.

b. The Buyer shall indemnify, defend, and hold Seller harmless from any and all claims, debts, demands, judgments, actions, or causes of action asserted against Seller which relate to Buyer's operation of the business subsequent Closing.

14. Expenses.

Each of the parties to this Agreement shall pay their or its own expenses in connection with this Agreement and the transactions contemplated thereby, including the fees and expenses of counsel, certified public accountants, or other professionals.

15. Waiver Of Breach.

No failure of or failure to enforce a breach of this Agreement shall constitute a waiver of any other or subsequent breach.

16. Cumulative Remedies.

The remedies afforded in this Agreement are cumulative to each other and to all other remedies provided by law.

17. Unenforceability Of Any Provisions.

The unenforceability or invalidity of any provision of this Agreement shall not affect the enforceability and validity of the remainder of this Agreement, which shall continue in full force and effect.

18. Notice.

Notice required or permitted hereunder shall be in writing and shall be delivered by United States mail, certified mail, return receipt requested.

19. Assignment.

Except with the express written consent of the other party hereto, this Agreement shall not be assignable or otherwise transferred in whole or in part. This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

20. No Brokers.

Neither party hereto has utilized the services of a broker in connection with the transaction described herein and no commissions are due to any person or entity.

21. Headings.

All headings used herein are for convenience and reference only and shall not be deemed to have any substantive effect.

22. Entire Agreement.

This Agreement, and the exhibits and documents delivered pursuant hereto, constitute the entire contract between the parties hereto, pertaining to the subject matter hereof, and supersede all prior and contemporaneous agreements, understandings, negotiations, and discussions, whether written or oral, of the parties; and there are no representations, warranties, or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth herein or therein. No supplement, modification, or waiver of this Agreement shall be binding unless executed in writing by the parties to be bound thereby.

23. Further Instruments And Actions.

Each party shall deliver any further instruments and take any further action that may be reasonably requested by the other in order to carry out the provisions and purposes of this Agreement.

24. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, the parties hereto have caused this Asset Purchase Agreement to be executed on the date first above written.

BUYER:
SRM ENTERPRISES, LLC

By: _____
John Meehan, Manager

SELLER:
MAG PASS, LLC

By: _____
John Meehan, Manager

EXHIBIT "A"
ASSETS

- office equipment and furniture information
- restaurant equipment and furniture
- bar equipment and furniture
- supplies
- fixtures
- inventory
- furniture
- tools
- signs
- literature
- tradename: Vanity Grand
- telephone number :
- website – URL: www._____.com
- customer lists and information
- PLCB Restaurant Liquor License No.4565, LID NO. 60971

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Motion to Stay in Favor of Arbitration (Docket No. 12) has been served this day upon the following individual and in the manner indicated below:

VIA COURT'S ECF SYSTEM

Peter Winebrake, Esquire
WINEBRAKE & SANTILLO, LLC
715 Twining Road, Suite 211
Dresher, PA 19025

Attorney for Plaintiffs

PIETRAGALLO GORDON ALFANO
BOSICK & RASPANTI, LLP

Dated: June 29, 2017

By: /s/Leslie A. Mariotti
LESLIE A. MARIOTTI, ESQUIRE

Attorneys for Defendant,
SRM Enterprises, LLC