

STATE OF OKLAHOMA
TOURISM AND RECREATION DEPARTMENT
SUBLEASE

W I T N E S S E T H:

WHEREAS, THE Oklahoma Tourism and Recreation Commission is duly authorized and empowered to own, operate and maintain park and recreational properties, and to make improvements thereon, for the benefit of the people of the State of Oklahoma, and to lease an property which said Commission shall determine advisable to more fully carry into effect the duties and powers of said Oklahoma Tourism and Recreation Department, as authorized under [Title 74 O.S. Section 2212(1)].

LEASE AGREEMENT

THIS LEASE AGREEMENT is being entered into by the OKLAHOMA TOURISM AND RECREATION DEPARTMENT, hereinafter referred to as State, and the CHEROKEE NATION, hereinafter referred to as Lessee. State acts as lessee with the Oklahoma Turnpike Authority, hereinafter known as OTA, for the property described below. State wishes to sublease the operation of the portion of the OTA lease that is known as the Cherokee Tourism Information Center.

NOW, THEREFORE, it is mutually agreed by and between the parties as follows:

1. GRANT AND DESCRIPTION OF PREMISES. The State, pursuant to statutory authority, and for and in consideration of the agreements hereinafter stated, sublets and leases to the Cherokee Nation as Lessee certain premises, properties and improvements thereon, situated in the County of Delaware, State of Oklahoma, known and described as follows:

The area known as the Cherokee Tourism Information Center. An exact legal description will be forthcoming.

2. TERM. The term shall commence on the 1st day of March, 2010, and end on the last day of June, 2011, both dates inclusive. The terms of this lease may be further extended at the discretion of the Tourism and Recreation

Commission and the Cherokee Nation at the end of the lease. The Lessee shall, within thirty (30) days of expiration of the lease, remove from said premises or otherwise dispose of all property belonging to the Lessee located on said premises. Should Lessee fail to remove or dispose of Lessee's property, State may consider such property abandoned and may dispose of same. At the expiration or termination of this agreement, the Lessee shall quit and surrender the premises leaving any real property improvements or other property in a good state of repair, damage by matters over which the Lessee has no control excepted, provided that such exculpatory provision shall not extend to any risk against which Lessee is required to insure.

3. CONDITIONS OF PREMISES. The taking of possession of the subject premises by Lessee, shall, in itself, constitute acknowledgement that subject premises are in good and tenable condition. Lessee agrees to accept said premises in their presently existing condition, "as is", and the State shall not be obligated to make any alterations, additions or betterment thereto.

4. CONSIDERATION. Since the State is desirous of ceasing operation of the Cherokee Tourism Information Center and the Cherokee Nation seeks to develop and maintain the Cherokee Tourism Information Center as part of its larger development plans, this acts as consideration.

5. ACCOUNTS AND RECORDS. Returns pertaining to the leased business. In the event this Agreement is terminated, a profit and loss statement for the period of operation not previously reported, prepared by a public accountant or a certified public accountant licensed by the State of Oklahoma and at the Lessee's expense, shall be submitted to the State within fifteen (15) days after the Agreement is terminated.

No personal assets on the leased property may be removed at the expiration or termination of the lease until all commissions are paid to the State and a final audit has been conducted.

6. USE OF PREMISES. Lessee shall use the premises hereby let to provide the following services: Tourism Information Center with tourism literature and services and for cultural and tourism enhancement. The Lessee shall not

use or permit the premises to be used for any other purpose without written permission from the State.

Lessee agrees to maintain and operate such premises and areas adjacent to such premises to a distance of not less than fifty (50) feet, in a clean, safe, wholesome and sanitary condition, free of trash, garbage or other obstructions, mowed and trimmed, and in compliance with any and all state and federal laws, general rules or regulations of any government authority. Lessee shall provide the services in a manner comparable with like businesses and with prices comparable to other comparable businesses providing similar services, during the entire term of this Agreement.

7. UTILITIES. Lessee shall be responsible for the payment of all utility charges, including all necessary refuse and garbage containers and remove and dispose of all rubbish, refuse, and garbage resulting from business operations.

8. PERSONAL PROPERTY. State agrees to lease to Lessee all equipment and furniture on attached Inventory Sheet, Attachment "A". Lessee agrees to maintain all equipment and furniture in good working order less wear and tear and to insure items against loss.

9. IMPROVEMENTS AND MAINTENANCE.

(a) Title to Improvements. Lessee hereby acknowledges the State as OTA lessee in the premises described in this Agreement, including real property improvements existing or erected thereon, and agrees to cooperate and protect said improvements from damage.

(b) Maintenance of Improvements. Lessee agrees to maintain any and all business facilities in good order and repair, at Lessee's own expense, during the entire term of this agreement. Lessee shall, at Lessee's own expense, perform any required maintenance and repairs, including structural maintenance to the improvement. The State is not obligated to perform any repairs or maintenance. The State will agree to pay on ½ on every air conditioning repair, not to exceed \$2,500.00.

10. PERFORMANCE OF CONTRACT AND STATE BUY-OUT PROVISION:

(a) Performance of Contract. Any violation by Lessee of the terms of this Agreement shall be grounds for termination of this Agreement by State. Notice of the violation shall be provided to Lessee along with a time period within which Lessee shall remedy the violation. If the violation is not cured, the lease may be terminated by the State provided that thirty (30) days written notice of termination is given to the Lessee.

In addition, State may close the leased premises within twenty-four (24) hours after giving written notice of any condition which the State, or the State Department of Health, shall reasonably deem a threat to health or safety, or which State shall reasonably deem a violation of the Agreement herein relating to the collection, disbursement or reporting of revenues. Lessee agrees that, upon such notification, Lessee shall immediately and diligently undertake to correct any such condition. The Lessee may request a show-cause hearing, held by the State, regarding the forced closure. The hearing shall be conducted within ten (10) days of a written request for hearing by the Lessee.

(b) Buy-Out. In the event that State wishes to discontinue a compliant lease operation prior to the expiration of the term of the Lease Agreement, the State may, at its own election, offer to pay Lessee the fair market value of the improvements or equipment place on the premises by Lessee.

11. INVENTORY. An inventory list of existing facilities, equipment, tools, and/or utensils, will be provided by the State, with all such inventory in working condition. Any replacement of the inventoried items during the period of the lease will be the responsibility of the Lessee. The Lessee will provide a current inventory of equipment, tools, and/or utensils in working condition, and replace any shortage. If those items are not available equivalent merchandise will be replaced to the satisfaction of the State. Lessee will maintain and repair all equipment during the term of the lease. Lessee seeks to leave the equipment which is included in the consideration clause of this contract. The Cherokee Nation will maintain the equipment in good working order and will not dispose of the equipment.

12. LIABILITY AND PROPERTY AND CASUALTY INSURANCE.

Lessee shall maintain public liability insurance naming both the Lessee and the State as the named insured from a duly licensed insurance company within the State of Oklahoma, acceptable to the State, providing for minimum limits of:

\$ 300,000 each person
\$ 300,000 property damage
\$ 300,000 each accident

A copy of the insurance policy shall be furnished the State prior to the commencement of any operations.

In addition, Lessee agrees to indemnify and hold harmless State from all loss or damage to any person, or to the property of any person including State, arising in connection with the operation of the business. Lessee further agrees to pay any costs and attorney fees incurred by the State, its department or agents in defense of any such actions.

13. INSPECTION OF PREMISES. State hereby reserves the right to enter upon the premises occupied by Lessee, at any reasonable time, to inspect the same.

14. APPLICABLE LAWS. Lessee shall comply with all state, local and federal laws and regulations and with all other applicable laws, ordinances, and regulations of the county and municipality where the leased premises are located, with regard to construction, sanitation, licenses, permits and all other matters.

15. NON-DISCRIMINATION. The Lessee and Lessee's employees shall not discriminate because of race, religion, color, sex or national origin, against any person by refusing to furnish such person any accommodation, facility, service or privilege offered to or enjoyed by the general public. In addition thereto, Lessee will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin.

16. ASSIGNMENTS AND SUBLEASES. Lessee must obtain written authorization from the Oklahoma Tourism and Recreation Executive Director before he/she assigns, subleases or conveys any interest granted by this Agreement. The Lessee must be the operator of the facility. The

Lessee's interest hereunder shall not be assignable in bankruptcy nor by operation of law. Any document by which an interest is granted shall indicate that the person acquiring the interest takes subject to the terms of this Agreement. The State may prescribe the conditions of assignment.

17. AGENT FOR SERVICE OF PROCESS. It is expressly agreed that if Lessee ceases to be a resident of the State of Oklahoma, then the Lessee shall file with the State a designation of a natural person and his address residing in Oklahoma, as his agent for the purpose of service of process in any court action between Lessee and the State. The Lessee shall keep the State informed of any change of mailing address.

18. TIME OF ESSENCE. Time shall be of the essence in the performance of the terms of this Agreement. Upon the death of the party or parties signing the Lease Agreement, State may recognize the heir or heirs as being the owner. The heirs may sign an Agreement with the State to operate the business for the duration of the present contract, providing that all stipulations in the contract can be met by that person.

19. TAXES. Lessee agrees to pay all lawful taxes, including the tourism tax, assignment or charges which, at any time, may be levied by the State, County and Municipality, or any tax or assessment levied upon any interest in this Agreement or any possessory right which Lessee may have in or to the premises covered hereby or the improvements thereon, by reason of its use or occupancy thereof, or otherwise. Lessee also agrees to pay all lawful taxes on goods, merchandise, fixtures, appliances, equipment and property owned by it in or about said premises.

20. APPROVAL OF CONTRACT. It is understood that the Lessee is subject to all terms and conditions thereof between the State of Oklahoma, OTA, in any area owned by OTA and leased by the State. This Agreement shall not become effective unless it is approved and signed by the Executive Director of the Oklahoma Tourism and Recreation Department.

21. PROFESSIONAL CONDUCT. The Lessee will conduct his or her business in a professional manner at all times, and his employees are expected to do likewise. Any incident of an unprofessional nature that could jeopardize the image or

reflect adversely on the State or its holdings, may be grounds for termination upon the State giving thirty (30) days notice in accordance with paragraph 9 (a) of this lease.

22. HANDICAPPED ACCESSIBILITY. Prior to executing this lease, the State may inspect the premises to ensure that they are constructed in a manner, which reasonably accommodates accessibility for handicapped individuals.

23. FACILITY CONSTRUCTION AND IMPROVEMENT PLAN REVIEW. All modifications to existing facilities or new construction associated with the lease shall be reviewed by the State for sensitivity of design as relates to the State's desire to develop a theme or appearance at the respective park/resort. Lessee shall prepare and submit all plans and specification for construction or improvements to be reviewed by the State for compliance with federal, state, and local codes and requirements.

24. MODIFICATIONS. This lease contains the entire agreement between the State and Lessee and no modification of this agreement, or waiver, or consent hereunder shall be valid unless the same is in writing, signed by the State and Lessee or by duly authorized representative; and this provision shall apply to this clause as well as other conditions of this agreement.

25. INDEPENDENT CONTRACTOR. The Lessee shall be an independent contractor. Nothing contained in this agreement shall be construed to create a partnership or joint venture or an employment relationship between the State and the Lessee or their successors in interest.

26.

IN WITNESS WHEREOF, the parties hereto have cause these presents to be executed the day and year first above written.



Hardy Watkins, Executive Director
OK TOURISM & RECREATION DEPARTMENT

STATE OF OKLAHOMA)
) ss.
COUNTY OF OKLAHOMA)

On this _____ day of _____,
20____, before me, the undersigned, a Notary Public in and
for said County and State, personally appeared Hardy
Watkins, known to me to be the EXECUTIVE DIRECTOR of the
OKLAHOMA TOURISM AND RECREATION and acknowledged to me that
she executed the foregoing instrument in such capacity on
behalf of such entity, for the uses and purposes therein set
forth.

WITNESS, my hand and seal the date last above written.

Commission # and expiration

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Notary Public

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LESSEE, Representative,
Cherokee Nation.

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____,
20____, before me, the undersigned, a Notary Public in and
for said County and State, personally appeared 51
_____, Representative of the Cherokee Nation,
known to me to be the person who executed the foregoing
instrument and acknowledged to me that he executed the same
as his free and voluntary act and deed, for the uses and
purposes therein set forth.

WITNESS, my hand and seal the date last above written.

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Commission # and expiration

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Notary Public