

BUSINESS STATUS SELECTION BY ENTERTAINER
AND OFFER OF EMPLOYMENT

As a result of our review of your application, interview, and audition, the Club would like to offer you the opportunity to perform here. However, as you may know, there have been a number of lawsuits around the country in which exotic dance entertainers have complained that nightclubs where they performed had misclassified them as "independent contractors" instead of as employees. In fact, one was against this Club. We want YOU to make the decision as to the way that YOU want to perform at this Club. You can do so either as: 1) and INDEPENDENT PROFESSIONAL ENTERTAINER; or 2) and EMPLOYEE.

We have listed below some of the general distinctions between performing here as an Independent Professional Entertainer or an Employee. This document is not intended to provide legal or tax advice, and is merely a summary of general information.

WE DO NOT, HOWEVER, WANT YOU TO MAKE ANY RASH OR UNINFORMED DECISIONS CONCERNING THE MATTERS SET OUT IN THIS DOCUMENT. YOU ARE ENCOURAGED TO CONSULT WITH ANY PERSONS OF YOUR CHOICE, INCLUDING ATTORNEYS, ACCOUNTANTS AND/OR TAX PROFESSIONALS, PRIOR TO MAKING THIS SELECTION. IN ADDITION, IF YOU WOULD LIKE TO SEE A COPY OF THE CONTRACT THAT THE CLUB USES FOR INDEPENDENT PROFESSIONAL ENTERTAINERS (CALLED AN "ENTERTAINMENT AGREEMENT") PRIOR TO MAKING YOUR DECISION, PLEASE JUST ASK AND WE WILL BE HAPPY TO PROVIDE YOU WITH A COPY TO REVIEW. FEEL FREE TO TAKE THESE DOCUMENTS HOME AND REVIEW THEM AT YOUR LEISURE BEFORE MAKING YOUR CHOICE.

After reviewing this information we would like you to select the circumstances under which you want to perform at this Club. The Club management expresses no opinion on this matter, and we will be happy to have you perform here under either structure. This is your choice to make.

The Club will rely upon the selection you have made at the end of this document, and will offer you the opportunity to enter into the business arrangement that YOU selected.

Here are the general differences of the two distinct arrangements under which you can perform at this Club:

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 Management. The Club will not be able to terminate your contract during the specified period except upon the limited reasons identified in the contract.

2. As an Independent Professional Entertainer, your earnings will come from the fees you charge your customers for personal entertainment performances, and the tips that customers will pay to you. **YOU WILL NOT RECEIVE AN HOURLY WAGE OR A SALARY FROM THE CLUB.** The money that you receive for your performance fees and from your customers as tips will be your money to keep; and you will be able to take home that money at the end of the day. You will, however, be required to pay the Club certain fees for the right to be able to use the Club's facilities for your independent business activities. You can review a copy of the contract that the Club uses in order to see the current amount of the fees that you will be required to pay to the Club.

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 (or by you) 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 Employee, you will be paid every Wednesday 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 (\$2.13 per hour at the time of drafting of this document, and as adjusted by applicable law). The Club would then increase your wages by taking the allowable tip-credit (\$5.12 per hour at the time of drafting of this document, and as adjusted by applicable law), which cannot exceed the amount of tips actually received and retained by you. If, in a workweek, you did not earn at least the full minimum wage through wages and retained tips (\$7.25 per hour at the time of drafting of this document, and as adjusted by applicable law), the Club would pay you the difference so that you would earn the full minimum wage for each hour

3. As an Independent Professional Entertainer, all tips that you earn (gratuities paid by a customer *over and above* the posted dance fees, as well as stage tips) are yours to keep. You will not be required to share your tips, or "tip out," to anyone.

4. 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 Independent Professional Entertainer, you keep track of your own income. You do not report your tip income to the Club. You can take tax deductions for travel, advertising, makeup, costumes, props, tanning, health clubs, cosmetic surgery, etc., as may be allowed by law.

6. 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 Independent Professional Entertainer, you will determine the days and times you perform at the Club. In addition, you can perform as many hours per day as you desire, although you will receive no "overtime" pay from the Club.

8. 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 Independent Professional Entertainer, you will only perform on those days and weeks you select, so the amount of "vacation" time you can take is unlimited. However, you will not receive any paid vacation time.

10. As an Independent Professional Entertainer, you can perform for whoever you choose, and can reject any customers you want.

11. As an Independent Professional Entertainer, you will never be required by the Club to give "free" dances to anyone.

12. As an Independent Professional Entertainer, you will never be required to engage in any Club promotions or 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.

worked. These "tip credit" provisions would not apply unless you were informed of them.

3. As an Employee, you will be required to pay 15% of your tips (gratuities paid by a customer *over and above* the posted dance fees, as well as stage tips) into a "tip pool" that would be distributed to non-dancer regularly tipped employees.

4. As an Employee, the Club will take out of your pay all taxes and other withholdings required by law.

5. 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" pay check. If you have questions about this, consult an accountant.

6. As an Employee, the Club can prohibit you from performing at other establishments.

7. As an Employee, the Club will select your schedule (both days and times) for you. In general, the Club will not permit you to work any "overtime." However, at the discretion of Management, you may be required to work overtime, and if you do so you will be paid time and one-half for any hours that you work during a week in excess of 40 hours.

8. As an Employee, the Club will determine the time, number and duration of your breaks in compliance with state law.

9. As an Employee, if you work "full time" you will be entitled to one week's paid vacation after one year of employment; two weeks' paid vacation after two years of employment; three weeks' paid vacation after five years of employment; and four weeks' paid vacation after ten years of employment. However, the time of your vacations must be approved by Management in advance.

10. As an Employee, you will be required to perform for all customers.

11. As an Employee, you may, at the direction of Management, be required to give "free" dances to certain customers.

12. As an Employee, you may be required to participate in various Club promotions and advertising.

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.

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 an exotic dancer. 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.

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.

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.

18. As an Independent Professional Entertainer, the Club will not offer you any form of health insurance.

19. By selecting Independent Professional Entertainer Status, you will be acknowledging that you understand that you are not entitled to benefits under the National Labor Relations Act, the Fair Labor Standards Act (minimum wage and overtime laws, among other things), Equal Employment Opportunity laws, and other federal and state laws that protect employees, and that you will not be afforded any employee benefits.

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 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 in order to be able to keep your job.

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 Employee, if you are fired or laid off, 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 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 8.0% of your total household income (wages *and* tips).

19. As an Employee, you will be entitled to certain legal protections under the National Labor Relations Act, the Fair Labor Standards Act, the Equal Employment Opportunity laws, and other federal and state laws that protect employees. If you have questions about these protections, consult an attorney or obtain information from the internet. Certain information can be obtained at _____ and _____, 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). You may also be entitled, depending upon the amount of time you work, to other employee benefits. If you have any questions about this, ask a Manager.

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AFTER HAVING REVIEWED THE ABOVE AND HAVING CONSIDERED THESE MATTERS:

_____ **I would like to apply to be an Independent Professional Entertainer**

If you select to perform as an Independent Professional Entertainer, we want to be sure that you are aware of the significance of the choice you have made. Consequently, **DO NOT SIGN THIS DOCUMENT UNLESS YOU FULLY UNDERSTAND AND AGREE TO THE FOLLOWING STATEMENTS:**

By selecting to perform at this Club as an Independent Professional Entertainer, I acknowledge and represent that I have been afforded the opportunity to choose to work at the Club as an employee-entertainer, but I have willingly and intentionally chosen not to do so. I desire, instead, to perform as an Independent Professional Entertainer under the terms set out in this document. I have made this choice of my own free will, and no one has forced or coerced me to make this selection.

I hereby reject, disavow, renounce and repudiate, any and all benefits that employee status may provide to me and any and all obligations that it may impose upon me.

I further understand and agree that the Club will rely on the statements, acknowledgements, representations, and the choice, that I have made in this document.

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

Witnessed:

Applicant's signature

Manager's signature

Applicant's name (please print)

Manger's name (please print)

Dated: _____

Dated: _____