PURCHASE ORDER TERMS AND CONDITIONS

9. In the Buyer’s option and without prejudice of any other rights, cancel this Order in whole or in part.

10. The company or companies with a current A.M. Best Company rating of at least A-:

(a) Workers’ Compensation

(b) General Liability

(c) any breach of the warranties of Seller contained in this Order.

11. Unless otherwise provided in the acceptance of the Order, Seller shall not be relieved of any obligation of acceptance of this Order, or for breach of any warranty, expressed or implied, even though

(a) the Buyer may have elected to reject the goods and/or services because of nonconformity or defects,

(b) Buyer may have declined to purchase or receive the goods and/or services,

(c) the nonconformity or defect consists of or is limited to minor defects or defects that do not adversely affect the price, quality, or performance of the goods or services to such an extent that the Buyer would not have purchased the goods or services if Buyer had been aware of them,

(d) Buyer had been advised of the existence of the nonconformity or defect in time to allow Buyer to take corrective action, or

(e) the nonconformity or defect was caused by Buyer’s failure to follow Seller’s instructions with respect to the storage, maintenance, installation, use, operation or handling of the goods or services.

12. Seller shall further indemnify, defend and hold harmless Buyer from and against any and all claims, damages, liens, losses, compensation or liability (including reasonable costs and attorney’s fees which shall be reimbursed as incurred) which may arise out of or result from: (a) any actual or alleged personal injury or property damage and

(a) arising out of the ownership, maintenance, operation or use of any motor vehicle whether owned, non-owned, hired or leased.

(b) Insurance maintained by Seller and its subcontractor(s) shall be the Buyer’s indemnitors as additional insureds.

(c) In no event shall Buyer pay over to Seller an amount in excess of those required by this Purchase Order. The Commercial General Liability Insurance policy shall include a subrogation clause in favor of Buyer. The Commercial General Liability and Umbrella/Excess liability insurance policy(s) shall include no exclusions or limitations in coverage for punitive damages, asbestos removal and suit or assualat & battery. Seller and its subcontractor(s) policies of insurance shall be primary to any other insurance maintained by the Buyer’s Indemnitors which shall be excess and non-contributory. All policies of insurance maintained by Seller and its subcontractor(s) shall include waives of subrogation of the insurers in such policies in favor of Buyer. In the event of a claim or other proceeding against the policies shown on the certificate takes effect, regardless of whether such action was initiated by Seller, its subcontractor(s), other insured or the insurance carrier. For avoidance of doubt, a ‘material change’ in the policy shall mean a change that would result in Seller or its subcontractor(s) non-compliance with a material provision of these insurance requirements.

13. NO WAIVER, NO OTHER TERMS: No waiver or modification of the terms or conditions of this Order shall be binding on Buyer unless approved in a documented Change Order. No waiver of a provision of this Order shall constitute a waiver of any other breach of this Order. This Order is expressly limited to the terms and conditions contained herein, and all other terms and conditions contained on Seller’s document (s) which purport to limit Seller’s obligation or liability or Buyer’s rights to remedies shall be of no force and effect.

14. PRIVILEGED LICENSES: Seller acknowledges that Buyer, its parent, subsidiaries and affiliates, are businesses that are, or may be, subject to and exist of privileged licenses issued by governmental authorities or other sovereigns. If requested to do so by Buyer, Seller, its agents, employees, or representatives, shall obtain any license, registration, clearance or the like which is required to enable Buyer to accept or use the goods or services sold by Seller hereunder. Buyer may revoke such license, registration, clearance or the like at any time, for any reason, upon written notice. Buyer shall be responsible for any increased costs, fees or damages it incurs as a result of Supplier’s violations of the applicable state gaming regulator and commission regulations of the Board issued and to be issued hereunder, as may hereafter be amended, supplemented or otherwise modified. Seller shall, at Seller’s sole cost and expense, promptly correct any violation of the vendee or subvendee covenant, and/or any other requirement of this Order, Buyer may reject such merchandise and/or services, and cease to make payments hereunder. Payment for merchandise and/or services, prior to Buyer’s receipt of the applicable G&S, Buyer’s payment period shall not begin until Buyer’s receipt of said G&S. Invoices must be submitted electronically with reference to the applicable Purchase Order to Buyer’s Accounts Payable department upon shipment of the goods or performance of the services. As relates to the interpretation and application of this Section, invoices must be received by Buyer’s Accounts Payable department within thirty (30) days of the invoice date, or at such other time as Buyer shall specify. In the event an invoice arrives prior to Buyer’s receipt of the applicable G&S, Buyer’s payment period shall not begin until Buyer’s receipt of said G&S. Seller shall not extend any payment terms to Buyer without written consent of Buyer. Any work, or performance of any services pursuant to this Purchase Order and at least ten (10) days prior to the expiration of each insurance policy, Buyer and its subcontractors(s) shall furnish Buyer with certificate(s) of insurance evidencing such levels of insurance as required by this Purchase Order. Such certificate(s) of insurance shall include a provision requiring the insurance carrier and/or Seller and its subcontractor(s) to provide directly to MGM Resorts International Global Procurement Department, at 860 Kelly Johnson Dr., Las Vegas, NV 89119, thirty (30) days before its expiration, details concerning all such policies and/or notices regarding renewals or terminations or decreases in the limits of coverage shown on the certificate takes effect, regardless of whether such action was initiated by Seller, its subcontractor(s), other insured or the insurance carrier. For avoidance of doubt, a ‘material change’ in the policy shall mean a change that would result in Seller or its subcontractor(s) non-compliance with a material provision of these insurance requirements.

15. CONDUCT: Seller acknowledges that Buyer, its parent, subsidiaries and affiliates have a reputation for offering high quality entertainment and/or services to the public, and that it and its parent, subsidiaries and affiliates are subject to strict business conduct. Buyer is required to maintain the appearance of Buyer’s United States Gaming Control Board licenses and licenses of its parent company, subsidiaries or affiliates and upon such determination, Buyer shall have the right to immediately terminate this Agreement. If Buyer elects to terminate this Agreement, Seller shall immediately cease all performance under this Agreement.

16. NEGOTIABLE INSTRUMENTS: All payments from Buyer to Seller shall be paid by check or electronic wire transfer. If Seller elects to accept credit cards, Buyer shall receive an invoice for all amounts due and Buyer shall be responsible for all applicable service fees and/or transaction fees. Buyer agrees to pay all costs, fees, fines or damages it incurs as a result of Supplier’s violations of the applicable state gaming regulator and commission regulations and/or requirements.

17. ATTORNEY’S FEES: Should Buyer utilize the services of an attorney to enforce or defend any term or condition herein, Buyer shall be entitled to an award of reasonable attorney’s fees and costs expended throughout the period of the action or proceeding.

18. CONFIDENTIALITY / PUBLICITY: Seller, its employees, agents and representatives, shall consider as Buyer’s confidential any information or data, including, but not limited to, Buyer’s business plans, decisions and records. Buyer’s written or electronic documents and works prepared by Seller in connection herewith, the fact that Buyer has contracted to purchase G&S from Seller, and all other non-public information relating to this Order. Without Buyer’s prior written consent, Seller, its employees, agents and/or representatives shall not disclose, use, sell, lease, publish, transmit, disclose or make available to any third party, including, without limitation, by writing, oral announcement, publicize or discuss with third parties the subject matter of this Order or any works prepared by Seller in connection with this Order. (c) include Buyer’s name or trademarks in any marketing materials or (d) disclose that Buyer is Supplier’s customer. The foregoing provisions shall survive in full force and effect for any and all costs, fees, fines or damages it incurs as a result of Supplier’s violations of the applicable state gaming regulator and commission regulations and/or requirements.

19. MICHIGAN GAMING CONTROL ACT: Upon issuance of this order in accordance with the Michigan Gaming Control and Revenue Act ("RAV"), MCL 432.401 et seq., and Rules, as well as Michigan Gaming Control Board ("Board") orders and regulations, Seller shall cooperate with Buyer and its designees and provide information on an "as needed" basis or, if directed by Buyer, Seller shall prepare and pay for use of the Michigan Gaming Control and Revenue Act ("RAV") documents and/or any other material or documents and works prepared by Seller in connection therewith, the fact that Buyer has contracted to purchase G&S from Seller, and all other non-public information relating to this Order. Without Buyer’s prior written consent, Seller, its employees, agents and/or representatives shall not disclose, use, sell, lease, publish, transmit, disclose or make available to any third party, including, without limitation, by writing, oral announcement, publicize or discuss with third parties the subject matter of this Order or any works prepared by Seller in connection with this Order. (c) include Buyer’s name or trademarks in any marketing materials or (d) disclose that Buyer is Supplier’s customer. The foregoing provisions shall survive in full force and effect for any and all costs, fees, fines or damages it incurs as a result of Supplier’s violations of the applicable state gaming regulator and commission regulations and/or requirements.
subcontractors shall assist Buyer in complying with any requirements imposed on Buyer by the Act or Board in connection with, or relative to, this Order; or (c) All applicable federal, state, county, city, local and other statutes, ordinances, rules and regulations and other laws including, but not limited to, the aforesaid statutes and administrative rules and regulations. Seller shall supervise and oversee compliance with the requirements of the Act by Seller and by each of Seller’s associates, employees, consultants and all persons, contractors, subcontractors and any other consultants and engineers retained by Seller in connection with this Order. Seller shall prepare such reports as shall be required by the Board. Seller shall qualify to do business and obtain such license, identification number, registration and other permits as may be required for the performance of the services required to be performed by Seller under this Order. This Order shall be subject to review by the Board for compliance with the Act and Rules and is subject to termination if so ordered by the Board. If the Board should disapprove of or order termination of this order by reason of finding that Seller or any person associated with Seller, or any of their affiliated companies, is unsuitable or is otherwise prohibited from doing business with Buyer, neither Buyer nor any of its partners, shareholders, officers, directors or employees shall be liable in any way to Seller by reason of such disapproval or termination. If the Board should disapprove of or order termination of this Order by reason of finding that Seller or any person associated with Seller or any of its affiliated companies is unsuitable or is otherwise prohibited from doing business with Buyer, neither Buyer nor any of its partners, shareholders, officers, directors or employees shall be liable in any way to Seller by reason of such disapproval or termination. If the Board should disapprove of or order termination of this Order by reason of finding that Seller or any person associated with Seller or any of its affiliated companies is unsuitable or is otherwise prohibited from doing business with Buyer, neither Buyer nor any of its partners, shareholders, officers, directors or employees shall be liable in any way to Seller by reason of such disapproval or termination.

20. MISCELLANEOUS: Responsibility for damage to merchandise or services to be furnished under this Order from any cause whatever shall rest with Seller until final receipt and acceptance thereof by Buyer and, in the case of merchandise to be installed or services to be performed, until final installation or final completion as applicable, and acceptance thereof by Buyer. Seller warrants to Buyer that it has not, and will not, pay any rebates, commission, kickback, salary, remuneration or reward, indirectly or in any form whatsoever, to any officer, employee, agent, or representative employed by or on behalf of Buyer. Seller may not assign any of its rights or obligations under this Order without Buyer’s prior written consent. All merchandise or services furnished hereunder shall be free of any liens, claims, encumbrances and retained title contracts. All of Seller’s services and work product shall comply with any and all applicable federal, state, and local laws, rules, regulations and ordinances and Buyer’s safety policies and procedures. To the extent Seller will perform services hereunder at Buyer’s property, Seller shall conduct such services only at such specific Buyer approved times and on such day’s specific days, as approved of in advance by Buyer. The laws of the State Michigan shall govern the validity, construction, performance and effect of this Agreement. EACH PARTY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY TO THE FULLEST EXTENT PERMITTED BY LAW IN ALL ACTIONS AND OTHER LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS PURCHASE ORDER AND THE TRANSACTIONS CONTEMPLATED HEREBY. THIS WAIVER APPLIES TO ALL ACTIONS AND OTHER LEGAL PROCEEDINGS, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE.

21. THIRD PARTY BENEFICIARIES: MGM Resorts International, and its parents, subsidiaries, partnerships, joint ventures and other affiliates, all of whom are intended third party beneficiaries of all Seller’s representations, warranties, covenants and obligations under this Order and shall have an independent right to enforce the terms of this Order. Subject to the foregoing sentence, the Parties agree: (a) this Order shall not be construed, in whole or in part, to give rise to any rights, claims or benefits to any person, firm or entity other than the signatories to this Order; and (b) there are no third-party beneficiaries (other than those expressly mentioned above) to this Order and no terms or provisions of this Order shall be enforced by or for the benefit of any person or party not a signatory to this Order.

22. FORCE MAJURE: Neither party will be liable for any delay or failure in performance under the Order (including failure to take delivery of the G&S) to the extent that such delay or failure is caused, without such party’s fault or negligence, by a Force Majeure Event. For purposes hereof, a “Force Majeure Event” refers to the occurrence of unforeseeable and/or unavoidable circumstances beyond a party's control that, by their nature, make such party’s performance commercially impractical, including, but not limited to, acts of God or the public enemy, fire, flood, acts of war, government action, accident, earthquakes, explosion, epidemic, invasion, hostility, terrorist acts, riots, strikes, embargoes or industrial disturbances. A party’s economic hardship or changes in market conditions are not considered Force Majeure Events excusing such party’s performance. Seller will use all diligent efforts to end the failure or delay of its performance. Seller shall supervise and oversee compliance with the requirements of the Act or Board for compliance with the Act and Rules and is subject to termination if so ordered by the Board. If a Force Majeure Event prevents Seller from carrying out its obligations under this Order for a continuous period of more than thirty (30) days, Buyer may terminate the Order immediately by giving written notice to Seller.

23. DIVERSITY RESPONSIBLE SOURCING: In alignment with Buyer’s Corporate Social Responsibility initiatives, Buyer seeks to increase opportunities for certain diverse-owned businesses and Buyer’s utilization of such companies. Seller shall use commercially reasonable efforts to identify, partner or subcontract with diverse-owned businesses based on applicable state, county and local requirements or gaming regulations. It shall be the responsibility of Seller to assess its diverse-owned business partners and ensure that such partners comply with applicable gaming regulations and required diversity certifications. Additionally, Seller may be required to provide reports to Buyer detailing payments made directly to diverse-owned businesses for services rendered on behalf of Buyer. Diversity defined is ownership of 51% or greater by an ethnic minority, women, service-disabled or LGBTQ. Additionally, Buyer is committed to the legal and responsible sourcing of its products and services and will not knowingly purchase products made with illegally harvested, produced and/or traded materials or goods produced in whole or in part by forced or involuntary labor. In accordance with Buyer’s Supplier Code of Conduct, which can be found at https://www.mgmresorts.com/content/dam/MGM/corporate/csr/esg-policies/supplier-code-of-conduct-policy.pdf. Seller agrees to source materials from responsible sources and to conduct due diligence on its supply chain. Seller agrees that Buyer’s designated third party may audit Seller’s compliance with the foregoing. Additionally, Seller shall report Buyer’s social impact and sustainability goals for the reduction of carbon emission, energy, water and waste through its products and services and shall require a similar commitment within its operations and supply chains.

24. EEO COMPLIANCE: Provider warrants and represents that it will fully comply with all Department of Labor and EEOC rules, regulations, guidelines, and orders including, but not limited to, Executive Order 11246, 41 CFR Ch. 60 (in particular the record keeping requirements at 41 CFR Sec. 60-1.12), 29 CFR part 471 (appendix A to part 471), which are incorporated herein by reference, and any other applicable state and local laws relating to equal employment opportunities and affirmative action.

25. ENTIRE AGREEMENT: Except as provided herein or as otherwise agreed upon by the parties in a separate written agreement relating to the subject matter hereof, this Order and any documents referenced herein constitute the entire agreement between the parties regarding this Order and replace any contemporaneous oral or written communications between the parties related hereto. This Order may not be modified by any document issued by Seller or by the parties’ course of dealing, custom or usage but only by a mutually agreed upon writing signed by both parties. In the case of a conflict with this Order, the terms of such mutually agreed upon writing will prevail.

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