PURCHASE ORDER TERMS AND CONDITIONS

MGH Resorts Design and Development
3620 Sammy Davis Jr. Drive
Las Vegas, NV 89109

1. ACCEPTANCE: This Purchase Order is an offer or revision related herein (collectively, the “Order”) shall be governed by and construed according to the laws of the state of Nevada. All actions or proceedings arising out of or relating to this Order shall be litigated in a local, state or federal court located in Clark County, Nevada, and hereby waive any objection to process based on personal jurisdiction. EACH PARTY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY TO THE FULLEST EXTENT PERMITTED BY LAW. Any action or proceeding brought by or on behalf of Buyer against Seller or its affiliates or upon such determination, Buyer shall have the right to immediately terminate this Agreement. In that event, Buyer shall pay Seller for the merchandise which has been manufactured and/or the services performed at such time but shall have no further liability to Seller.

14. 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 entirety of any proceedings or actions arising out of or hereunder. Buyer is the named insured for which a material change shall mean a change that would result in a change to lawful, customary and reasonable terms and conditions under which the insurance carrier under this Order, and prior to the delivery of any goods, commencement of any work, or performance of any services pursuant to this Order and at least ten (10) days prior to the expiration of each insurance policy. Seller shall furnish to Buyer a certificate of insurance or other evidence of insurance to the effect that such insurance is in force during the term of this Order. Each such certificate shall include a provision requiring the insurance carrier and/or Seller to provide directly to Buyer Thirty (30) days prior to the expiration of the policy or other evidence of the continuation of such insurance. Any denial, suspension or revocation (or the threat thereof)). Seller shall be entitled to receive all undisputed fees that have accrued or otherwise become due but are unpaid at the time of termination, if not otherwise prohibited by law. No limitation, any denial, suspension or revocation (or the threat thereof). Seller shall be entitled to receive all undisputed fees that have accrued or otherwise become due but are unpaid at the time of termination, if not otherwise prohibited by law. No limitation, any denial, suspension or revocation (or the threat thereof). Seller shall be entitled to receive all undisputed fees that have accrued or otherwise become due but are unpaid at the time of termination, if not otherwise prohibited by law.

15. APPLICABLE LAW: This Order shall be governed by and construed according to the laws of the state of Nevada. All actions or proceedings arising out of or relating to this Order shall be litigated in a local, state or federal court located in Clark County, Nevada, and hereby waive any objection to process based on personal jurisdiction. EACH PARTY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY TO THE FULLEST EXTENT PERMITTED BY LAW.

2. SHIPMENT/ RISK OF LOSS/ RECORDS: Seller shall prepare and pack for shipment all goods in accordance with good commercial practices. A packing slip must be included with all shipments and must indicate the Purchase Order Number, date, or order number, or items described on the Order, and the quantity, description, and net weight of each item. Any damages, caused or actions or expenses (including reasonable costs and attorney’s fees), which shall be reimbursed as incurred), caused by, resulting from, or in any way connected with (a) an infringement of or claimed infringement of any patent, trademark, copyright or any other intellectual property rights, and (c) any breach of the warranties of Seller contained in this Order.

3. INSPECTION: At all times after receipt of this Order and prior to the delivery of any goods, commencement of any work, or performance of any services governed by this Order and at least ten (10) days prior to the expiration of each insurance policy. Seller shall furnish to Buyer a certificate of insurance or other evidence of insurance to the effect that such insurance is in force during the term of this Order. Each such certificate shall include a provision requiring the insurance carrier and/or Seller to provide directly to Buyer Thirty (30) days prior to the expiration of the policy or other evidence of the continuation of such insurance.

4. INSPECTION: At all times after receipt of this Order and prior to the delivery of any goods, commencement of any work, or performance of any services governed by this Order and at least ten (10) days prior to the expiration of each insurance policy. Seller shall furnish to Buyer a certificate of insurance or other evidence of insurance to the effect that such insurance is in force during the term of this Order. Each such certificate shall include a provision requiring the insurance carrier and/or Seller to provide directly to Buyer Thirty (30) days prior to the expiration of the policy or other evidence of the continuation of such insurance.
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20. ASSIGNMENT: Seller may not assign any of its rights or obligations under this Order without Buyer’s prior written consent. Seller shall not subcontract any portion of the work contemplated by this Order without the prior written consent of Buyer, which consent may be withheld in its sole discretion. No approval of any subcontractor by Buyer will relieve Seller from any of its obligations under this Order. Any subcontractor that performs any portion of any work contemplated by this Order shall comply with the obligations of this Order, including without limitation the Insurance obligations set forth in section 13. If payments are to be made to parties not named on this Order, Buyer must receive written authorization for such payments.

21. THIRD PARTY BENEFICIARIES: MGM Resorts International, MGM Growth Properties, and their respective subsidiaries, partnerships, joint ventures and affiliates are all 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 may be enforced by or for the benefit of any person, firm or entity other than the signatories to this Order.

22. OWNER PARTIES: Seller’s indemnity obligations under this Order shall extend to: NV Property

23. FORCE MAJORE: Neither party will be liable for any delay or failure in performing its obligations 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, hostilities, terrorist acts, riots, strike, 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, ensure that the effects of any Force Majeure Event are minimized and resume performance under the Order. 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.

24. 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 ownership is defined as holding 51% equity and control of a business by ethnic minorities, women, veterans, 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 support 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.

25. EEO COMPLIANCE: If applicable, Seller 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 subpart A), which are incorporated herein by reference, and any other applicable state and local laws relating to equal employment opportunities and affirmative action.

26. 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. The acceptance of this Order has been duly authorized by Seller. The parties hereto agree that acceptance of this Order may be indicated via email or other electronic means, which shall have the same force as an original writing and shall be binding on the parties.