defend damage and companies and their respective (including zoning authorities having jurisdiction) before final payment is required to be made by any material, merchandise or services, or portion thereof, found by application of this Section, invoice receipt shall never occur prior to Buyer's receipt of the applicable G & INSPECTION least transfer of title, unless Buyer is picking up the freight. Buyer will not pay charges for packing, COMMENCEMENT OF WORK ON THE GOODS, MATERIALS AND/OR SERVICES TO BE PURCHASED HEREUNDER (“G&S”), including electronic commerce and other commercial practices. Buyer will not pay charges for packing, INSPECTION: All merchandise and/or services specified in this Order are subject to Buyer's inspection within a reasonable time after final delivery or completion. If, upon inspection, any merchandise or service is, in Buyer's sole judgment, found to be unacceptable, defective or of inferior quality or workmanship, or fails to meet the specifications or any other requirements of this Order, Buyer may reject such merchandise and/or services and, in the case of merchandise, return such rejected merchandise at Seller's expense. Payment for merchandise and/or services prior to inspection shall not be construed as an acceptance of unsatisfactory or defective merchandise and/or services. Upon the refusal or return of unsatisfactory or defective merchandise or the rejection of unsatisfactory or defective services, Seller shall reimburse Buyer for all amounts paid by Buyer on account of such merchandise or services (including the cost to return any such merchandise to Seller). PRICE AND INVOICES: The price set forth in this Order is firm and is the total amount due from Buyer for the G&S. Seller agrees to accept neither from Buyer nor from any other person any rebate, nor credits or adjustments of any character from Buyer or from any person associated with Buyer or any parent company, subsidiary or affiliate of Buyer, other than those made by Seller in the ordinary course of business in accordance with Seller's established policies and procedures. Seller shall not offer or grant any rebate or credits described herein. Any applicable state sales and/or use tax shall be paid by Seller. Except tax, where applicable, shall be billed as a separate item on the invoice as the G&S to which it is related. Buyer shall not be required to pay for any transaction by which said amount is greater than the overall amount of all items on the invoice. Buyer's written consent, Seller shall not add any charges. To the extent no price or prices are set forth herein, Seller's price shall be the lowest market price prevailing at the time of either the quotation or shipment, whichever price is lower; and in no event may this Order be amended or modified without Buyer's written consent. Buyer shall be entitled to examine and inspect all merchandise delivered hereunder and may, at least three (3) years from the date of Seller's shipment and Buyer shall have access to such records on reasonable terms. DELIVERY: timely delivers and/or completes service of the essence of this Order. Buyer may, at Buyer's option and at Seller's expense, refuse to accept or return any merchandise delivered, or services performed, after inspection, and Buyer's refusal or return of unsatisfactory or defective merchandise and/or services, or any portion thereof, delivered hereunder shall entitle Buyer to consecutively suspend or cancel performance, or return said merchandise and/or services, refused, returned or rejected, as applicable, based upon delivery or performance. If the job site for which any merchandise is intended is not ready for deliveries, Seller, upon notice from Buyer, shall hold such merchandise for at least sixty (60) days from such date of refusal or return. INSPECTION: All merchandise and/or services specified in this Order are subject to Buyer's inspection within a reasonable time after final delivery or completion. If, upon inspection, any merchandise or service is, in Buyer's sole judgment, found to be unacceptable, defective or of inferior quality or workmanship, or fails to meet the specifications or any other requirements of this Order, Buyer may reject such merchandise and/or services and, in the case of merchandise, return such rejected merchandise at Seller's expense. Payment for merchandise and/or services prior to inspection shall not be construed as an acceptance of unsatisfactory or defective merchandise and/or services. Upon the refusal or return of unsatisfactory or defective merchandise or the rejection of unsatisfactory or defective services, Seller shall reimburse Buyer for all amounts paid by Buyer on account of such merchandise or services (including the cost to return any such merchandise to Seller). ELECTRONIC COMMERCE AND COMMUNICATION: Seller will support Buyer's electronic commerce and communication programs such as: E-Sourcing/Purchasing, Advance Shipping Notices, PO transmission and confirmations, Data Exchange, Supplier Information Management System (“SIMS”) Systems as requested by us (collectively referred to as “Electronic Commerce”). In addition, Seller shall follow all supplier onboarding procedures and associated instructions provided by Buyer and as amended from time to time. If Buyer elects to purchase software for the sole purpose of transmitting and receiving documents electronically, and as may be provided in a separate Electronic Commerce agreement between the parties hereto. INTELLECTUAL PROPERTY: Any works created by Seller pursuant to this Order shall be considered works made for hire by Buyer. If Seller is not an employee of Buyer, Seller shall indemnify, defend and hold harmless Buyer, its parent, subsidiaries and affiliates, at their sole cost and expense, all claims, suits, actions, causes of action, proceedings, demands, claims, losses, liabilities, damages, costs of action or expenses (including reasonable costs and attorney's fees, which shall be paid as incurred) caused by, arising out of, or resulting from, any investigation, action, suit, demand or prosecution of any kind, in any manner, or any claim or threatened claim or action of any kind, or claim of infringement of any trademark, patent, or copyright, or accusing any of the goods covered hereunder whenever such occurs first. UNLESS THERE IS ALSO A FORMAL WRITTEN AGREEMENT RELATED TO THIS ORDER AND SIGNED BY BOTH PARTIES, SELLER'S ACCEPTANCE IS LIMITED TO ACCEPTANCE OF THE INVITATION TO BID OR ORDER AND THE TERMS AND CONDITIONS OF THIS ORDER. Buy to provide a separate written statement of any different terms proposed by Seller or any attempt by Seller to VARY THE TERMS HEREOF. SHIPMENT LOSS OR DAMAGE: Seller shall prepare and pack for shipment all goods in accordance with good commercial practice. Seller will transport all said goods to Buyer or Buyer's designee at Buyer's sole cost and expense; however, if Seller must ship in a more expensive manner than specified herein to comply with Buyer's required delivery date, Seller shall pay all increased costs, unless Buyer solely召集s for and agrees in writing to pay the increased costs. Buyer shall also have the right to purchase the goods at the price and on the terms prevailing at the time of delivery if they are delivered at the designated delivery point and accepted by Buyer, regardless of the point of inspection or transfer of title, unless Buyer is picking up the freight. Buyer and Seller shall provide reasonable assistance to each other to the extent necessary to effectuate and bear the cost of the return of all goods in their possession or control and any material, merchandise, or services, or portion thereof, which will be returned to Seller until they are delivered at the designated delivery point with respect to the goods. Buyer may, in its sole discretion, cancel any unshipped merchandise or unperformed services, including electronic commerce and other commercial practices, or return said merchandise and/or services, refused, returned or rejected, as applicable, based upon delivery or performance. If the job site for which any machinery is intended is not ready for deliveries, Seller, upon notice from Buyer, shall hold such machinery for at least sixty (60) days from such date of refusal or return.
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.

20. **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 may be enforced by or for the benefit of any person or party not a signatory to this Order.

21. **FORCE MAJEURE:** Neither party will be liable for any delay nor 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.

22. **UTILIZATION OF DIVERSE BUSINESS CONCERNS:** In accordance with Buyer’s procurement policies and FAR 52.219-8 Seller agrees to actively seek out and provide the maximum practicable opportunities for diverse businesses to participate in the subcontracts Seller awards to the fullest extent consistent with the efficient performance of this Contract. Buyer may request subcontracting plans and quarterly reports on diverse business utilization.

23. **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 subpart A), which are incorporated herein by reference, and any other applicable state and local laws relating to equal employment opportunities and affirmative action.

24. **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.