HOST COMMUNITY AGREEMENT

BY AND BETWEEN

CITY OF SPRINGFIELD, MASSACHUSETTS

AND

BLUE TARP REDEVELOPMENT, LLC

TABLE OF CONTENTS

Page

HOST COMMUNITY AGREEMENT

This Host Community Agreement ("**Agreement**") is dated as of _____, 2013, by and between the City of Springfield, Massachusetts, a municipal corporation ("**City**"), acting by and through its Chief Development Officer with the approval of the Mayor and City Council as the governing body under the Act (as hereinafter defined), having its principal place of business at 36 Court Street, Springfield, Massachusetts 01103 and Blue Tarp reDevelopment, LLC, a Massachusetts limited liability company having its principal place of business at 1441 Main Street, Springfield, MA 01103 ("**Blue Tarp**") and upon execution of a joinder to this Agreement (the "**Joinder**"), MGM Springfield reDevelopment, LLC, to be formed hereinafter in connection with Chapter 121A (as defined in Section 3.5) (the "**Urban Redevelopment Corp.**") (Blue Tarp and the Urban Redevelopment Corp. are collectively, and as applicable, individually, referred herein as "**Developer**"). Capitalized terms used and defined elsewhere in this Agreement are defined in Section 1.

R E C I T A L S

A. In November 2011, the Commonwealth of Massachusetts (the "**Commonwealth**") enacted "An Act Establishing Expanded Gaming in the Commonwealth," codified at Chapter 194 of the Acts of 2011, Mass. Gen. Law, ch. 23K, as amended from time to time (together with any rules and regulations promulgated thereunder, the "**Act**").

B. The Act reflects the public policies of the Commonwealth with regard to the operation and regulation of gaming as well as the public benefits to the Commonwealth and its citizens that can result from a gaming project conducted in accordance with such policies, such as the creation of jobs, the generation of revenues for public purposes, and the increase of tourism and economic development within the Commonwealth.

C. The Act established the Massachusetts Gaming Commission (the "**Commission**") having the authority and responsibility to select, license, oversee and regulate expanded gaming facilities in the Commonwealth.

D. Under the Act, the Commission has the authority to issue not more than three Category 1 licenses to qualified applicants based on the applications and bids submitted to the Commission.

E. The Act provides that no applicant is eligible to receive a gaming license unless the applicant provides the Commission a signed agreement between the applicant and the municipality in which the applicant has proposed locating a gaming establishment, which agreement sets forth the conditions to have a gaming establishment in such host community and provides for the payment by such applicant of a community impact payment to such host community.

F. The Act also requires an applicant to demonstrate to the Commission, among other things, how the applicant proposes to address community development and advance the Act's objective to gain public support for its application.

G. Through a two-phase Request for Qualifications/Request for Proposals issued by the City, and after considering public input, the City selected Developer to negotiate and enter into this Agreement setting forth the terms and conditions with respect to which Developer will develop, construct, own and operate a destination resort casino in the City should the (i) City Council approve this Agreement; and (ii) City voters approve a ballot question permitting the operation of such gaming establishment in the City and upon issuance by the Commission of a Category 1 license to Developer having no material conditions that are unacceptable to Developer.

H. The Project Site (as more particularly defined below) which contemplates not only a destination resort casino, but also ancillary facilities such as retail, housing and entertainment components, currently generates approximately Three Hundred and Seventy Thousand Dollars ($370,000) in annual property taxes for the City.

I. The Project (defined below) will result in hundreds of millions of dollars of capital investment in the City by Developer as well as thousands of construction jobs and permanent direct jobs, as well as related indirect jobs and revenue, for both the City and the surrounding area.

NOW, THEREFORE, in consideration of their mutual execution and delivery of this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Definitions.

The terms defined in this Section 1 shall have the meanings indicated for purposes of this Agreement. Definitions which are expressed by reference to the singular or plural number of a term shall also apply to the other number of that term. Capitalized terms which are used primarily in a single Section of this Agreement are defined in that Section.

(a) "**121A Approvals**" means any and all agreements and approvals from the City and DHCD (as defined in Section 3.5) necessary to allow the Project to qualify for alternative tax payments pursuant to Chapter 121A (as that term is defined in Section 3.5).

(b) "**Act**" is defined in Recital A hereof.

(c) "**Additional Commitments**" means collectively, those obligations of Developer to the City and others including those obligations with respect to: (i) promoting economic growth in the City; (ii) marketing the Project; (iii) enhancing existing services for treatment of compulsive behavior disorders; (iv) ensuring minors will be prohibited from gambling in the Casino; (v) providing security in

and around the Project; (vi) hiring, training and employment; (vii) utilization of City businesses during the design, construction and operation of the Project; (viii) utilizing sustainable development principles in connection with the Project; (ix) contributing to City institutions and charitable organizations; (x) entering into agreements with "impacted live entertainment venues", as that term is defined in the Act; and (xi) entering into agreements with Surrounding Communities, all as more specifically described on Exhibits B, C, D and E.

(d) "**Affiliate**" means a Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by, or is under common Control with, another Person. For purposes of clarification, Affiliates of Developer include, without limitation, Parent Company.

(e) "**Agreement**" means this Host Community Agreement including all exhibits and schedules attached hereto, as the same may be amended, supplemented or otherwise modified from time to time.

(f) "**Approvals**" means all or any licenses, permits, approvals, consents and authorizations that Developer is required to obtain from any Governmental Authority to perform and carry out its obligations under this Agreement, including, but not limited to, a Category 1 license issued by the Commission to Developer having no material conditions that are unacceptable to Developer, and such other permits and licenses necessary to complete the Work, and to open, operate and occupy the Project Site and the Project.

(g) "**Business Day**" means all weekdays except Saturday and Sunday and those that are official legal holidays of the City, Commonwealth or the United States government. Unless specifically stated as "Business Days," a reference to "days" means calendar days.

(h) "**Casino**" means any premises in the City wherein Gaming is conducted by Developer pursuant to the Act and this Agreement, and includes all buildings, improvements, equipment, and facilities developed, constructed, used or maintained in connection with such gaming.

(i) "**Casino Gaming Operations**" means any land-based Gaming operations permitted under the Act and offered or conducted at the Project but does not include any internet based gaming, to the extent permitted in the future by applicable law.

(j) "**Casino Manager**" means any Person, excluding employees of the Developer or any of its Affiliates, engaged, hired or retained by Developer to manage and/or operate the Casino and the Casino Gaming Operations.

(k) "**Casino Year**" means the one-year period beginning on July 1 of each year and ending on the next succeeding June 30, except that (a) the first Casino

Year shall begin on the date of Operations Commencement and end on the next succeeding June 30, and (b) the last Casino Year shall begin on the calendar day following expiration of the preceding Casino Year and ends on the date that is the last day of the Term.

(l) "**Category 1 license**" shall have the same meaning as given to such term in the Act.

(m) "**City**" means the City of Springfield, Massachusetts, a municipal corporation.

(n) "**City Council**" means the City Council of the City.

(o) **"City Parcels"** means collectively, (i) the site of the former South End Community Center, located on 29 Howard Street, Springfield, MA, and (ii) the site of the former Alfred G. Zanetti School, located on 59 Howard Street, Springfield, MA.

(p) "**Closing Certificate**" means the certificate to be delivered by Developer in the form as attached hereto as Exhibit M.

(q) "**Closing Conditions**" shall have the meaning ascribed to that term in Section 2.3.

(r) "**Closing Date**" means (x) the tenth (10^{th}) Business Day after the last to occur of (i) approval of this Agreement by the City Council; (ii) execution hereof by the Mayor and other necessary City officials; (iii) the approval by the City Council to hold the Election prior to a positive determination of suitability having been issued to the Developer by the Commission pursuant to the Commission's Request for Application – Phase One; and (iv) confirmation by the City to Developer that the City shall enter into a single host community agreement for a resort casino project, or (y) such later date as the City and Developer may agree in writing.

(s) **"Closing Deliveries"** shall have the meaning ascribed to that term in Section 2.3.

(t) **"Commission"** is defined in Recital C hereof.

(u) **"Commonwealth"** is defined in Recital A hereof.

(v) "**Community Development Fund**" shall have the meaning ascribed to that term in Section 4.2.

(w) "**Community Development Grants**" shall have the meaning ascribed to such term in Section 4.2.

(x) "**Community Impacts**" means collectively, Direct Community Impacts and Indirect Community Impacts.

(y) "**Community Impact Payments**" means those payments set forth on Exhibit A determined by the City to be reasonable and necessary to reimburse the City for its capital and ongoing costs to be incurred by the City to effectively mitigate the Community Impacts.

(z) "**Complete**" means the completion of the Work, as evidenced by the issuance of a temporary certificate of occupancy by the appropriate Governmental Authority for all Components to which a certificate of occupancy would apply, and that not less than seventy-five percent (75%) of the parking structure and not less than seventy-five percent (75%) of the Gaming Area, seventy-five percent (75%) of the hotel rooms, and fifty percent (50%) of the aggregate retail floor space and fifty percent (50%) of the aggregate restaurant floor space are open to the public for their intended use (and/or in the case of the retail and restaurant floor spaces, are completed as shells and available for leasing).

(aa) "**Component**" means any of the following included as part of the Project: the hotel; Casino; restaurants; meeting and assembly space; ballroom; theater; retail space; entertainment, recreational facilities and spa; parking; private bus, limousine and taxi parking and staging areas; the other facilities described on Exhibit G; and such other major facilities that may be added as components by amendment to this Agreement.

(bb) "**Concept Design Documents**" means documents for the design of the Project attached to this Agreement as Exhibit I.

(cc) "**Condemnation**" means a taking of all or any part of the Project by eminent domain, condemnation, compulsory acquisition or similar proceeding by a competent authority for a public or quasi-public use or purpose.

(dd) "**Construction Completion Date**" means the date occurring no later than thirty-three (33) months following the date on which the Commission issues to the Developer a Category 1 license having no material conditions that are unacceptable to Developer.

(ee) "**Control(s)**" or "**Controlled**" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, as such terms are used by and interpreted under federal securities laws, rules and regulations.

(ff) "**CPI**" shall mean the United Stated Department of Labor, Bureau of Labor Statistics, Consumer Price Index for all Urban Consumers, U.S. City Average All Items, 1982-84=100. In the event that the United States Department

of Labor shall cease to promulgate the CPI, the Developer and the City agree to meet and discuss in good faith the adoption of the commonly accepted alternative to the CPI for the purposes hereof.

(gg) "**CPI Adjustment Factor**" shall mean a fraction, the numerator of which shall be the difference between the CPI published for July of the year in which the adjustment is being made and the CPI published for July of the preceding year, and the denominator of which shall be the CPI published for July of the preceding year.

(hh) "**Default**" means any event or condition that, but for the giving of notice or the lapse of time, or both, would constitute an Event of Default.

(ii) "**Default Rate**" means a rate of interest at all times equal to the greater of (i) the rate of interest announced from time to time by Bank of America, N.A. ("**B of A**"), or its successors, as its prime, reference or corporate base rate of interest, or if B of A is no longer in business or no longer publishes a prime, reference or corporate base rate of interest, then the prime, reference or corporate base rate of interest announced from time to time by such local bank having from time to time the largest capital surplus, plus four percent (4%) per annum or (ii) twelve percent (12%) per annum, provided, however, the Default Rate shall not exceed the maximum rate allowed by applicable law.

(jj) "**Developer**" means Blue Tarp and Urban Redevelopment Corp., or their respective successors or assigns as permitted hereunder.

(kk) **"Developer Payments"** shall have the meaning ascribed to that term in Section 4.6(a).

(ll) "**Development Process Cost Fees**" means, to the extent not otherwise (i) previously paid by Developer to the City, whether directly or indirectly or (ii) payable by Developer hereunder, a fee to reimburse the City for the aggregate amount of any and all costs and expenses in good faith paid or incurred by the City to third parties (including attorneys, accountants, consultants and others) in connection with the planning and preparation of the RFQ/P; the casino selection process undertaken in connection with the RFQ/P; the Election; the negotiation, preparation and enforcement of this Agreement; the planning, development, ownership, management and operation of the Project; the issuance by the Commission of a Category 1 license to the Developer having no material conditions that are unacceptable to Developer; failure to renew a Category 1 license to the Developer; and any litigation filed by or against the City or in which the City intervenes in connection with any of the foregoing; provided, however, notwithstanding anything to the contrary contained herein, Development Process Cost Fees shall not include any costs and fees incurred by the City arising from or related to its breach of its obligations under this Agreement or, if in any

enforcement action of this Agreement, the City is not the prevailing party and also shall not include Community Impact Payments, the amounts that are subject to Section 7.4, and amounts due pursuant to the Section 6A Agreement.

(mm) "**Direct Community Impacts**" means the known and direct community impacts including the additional police, fire protection, administrative, education, housing and emergency medical services directly or indirectly resulting from or related to the development or operation of the Project, and necessary from time to time to protect the health, safety and welfare of the City's residents, the temporary workforce needed to construct the Project, the employees of the Project and the expected increased number of visitors to the City.

(nn) "**direct or indirect interest**" means an interest in an entity held directly or an interest held indirectly through interests in one or more intermediary entities connected through a chain of ownership to the entity in question, taking into account the dilutive effect of the interests of others in such intermediary entities.

(oo) "**Election**" means the election on the ballot question as required by Section 15(13) of Act.

(pp) "**Event of Default**" shall have the meaning ascribed to it in Section 7.1.

(qq) "**Financing**" means the act, process or an instance of obtaining specifically designated funds for the Project, whether secured or unsecured, including (i) issuing securities; (ii) drawing upon any existing or new credit facility; or (iii) contributions to capital by any Person

(rr) "**Finance Affiliate**" means any Affiliate created to effectuate all or any portion of a Financing.

(ss) "**Final Completion**" means the completion of the Work, as evidenced by the issuance of a temporary certificate of occupancy by the appropriate Governmental Authority for all Components to which a certificate of occupancy would apply, and that at least ninety-five percent (95%) of the parking structure, Gaming Area, hotel rooms, retail floor space and restaurant floor space are open to the public for their intended use (and/or in the case of the retail and restaurant floor spaces, are completed as shells and available for leasing).

(tt) "**Final Completion Date**" means the date occurring no later than six (6) months following the Construction Completion Date.

(uu) "**Finish Work**" refers to the finishes which create the internal and external appearance of the Project.

(vv) "**First Class Project Standards**" means the general standards of quality for construction, maintenance, operations and customer service established and

maintained on the date hereof at the MGM Grand Hotel and Casino, Las Vegas, Nevada, taken as a whole.

(ww) "**Force Majeure**" shall have the meaning ascribed to such term in Section 12.1.

(xx) "**GAAP**" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession for use in the United States, which are applicable to the circumstances as of the date of determination.

(yy) **"Gaming"** shall have the same definition as in the Act but shall not include internet based gaming.

(zz) "**Gaming Area**" means the space on which Casino Gaming Operations occur.

(aaa) "**Gaming Authorities**" means all agencies, authorities and instrumentalities of the City, Commonwealth, or the United States, or any subdivision thereof, having jurisdiction over the Gaming or related activities at the Casino, including the Commission, or their respective successors.

(bbb) "**Governmental Authority**" or "**Governmental Authorities**" means any federal, state, county or municipal governmental authority, including all executive, legislative, judicial and administrative departments and bodies thereof (including any Gaming Authority) having jurisdiction over Developer and/or the Project.

(ccc) "**Governmental Requirements**" means the Act and all laws, ordinances, statutes, executive orders, rules, zoning requirements and agreements of any Governmental Authority that are applicable to the acquisition, remediation, renovation, demolition, development, construction and operation of the Project including all required permits, approvals and any rules, guidelines or restrictions enacted or imposed by Governmental Authorities, but only to the extent that such laws, ordinances, statutes, executive orders, zoning requirements, agreements, permits, approvals, rules, guidelines and restrictions are valid and binding on Developer.

(ddd) "**Gross Revenue**" shall have the same meaning as given to such term in the Act but in no event shall include revenues generated from internet gaming.

(eee) "**Guaranty and Keep Well Agreement**" means the Guaranty and Keep Well Agreement dated as of the Closing Date between the City and Parent Company in substantially the same form as Exhibit L attached hereto.

(fff) "**including**" and any variant or other form of such term means including but not limited to.

(ggg) "**Indirect Community Impacts**" means collectively, the following known and unknown potential and actual impacts to the City and its residents related to or indirectly resulting from the development and operation of the Project from time to time not specifically covered under Direct Community Impacts: (i) increased use of City services; (ii) increased use of City infrastructure; (iii) the need for additional City infrastructure, employees and equipment; (iv) increased traffic and traffic congestion; (v) increased air, noise, water and light pollution; (vi) issues related to public health, safety, welfare and addictive behavior; (vii) loss of City revenue from displacement of current businesses; (viii) issues related to education and housing; (ix) issues relating to the quality of life; (x) reduced use of City parking facilities as a consequence of additional parking being made available at the Project; and (xi) costs related to mitigating other impacts to the City and its residents.

(hhh) "**Loan Default**" means an event of default or default or event or condition which, with respect to Developer or its Finance Affiliate without further notice or passage of time, would entitle a Mortgagee to exercise the right to foreclose upon, acquire, possess or obtain the appointment of a receiver or other similar trustee or officer over all or a part of Developer's interest in the Project.

(iii) "**Major Condemnation**" means a Condemnation either (i) of the entire Project, or (ii) of a portion of the Project if, as a result of the Condemnation, it would be imprudent or unreasonable to continue to operate the Project even after making all reasonable repairs and restorations.

(jjj) "**Material Adverse Effect**" means any change, effect, occurrence or circumstances (each, an **"Event"** and collectively, **"Events"**) that, individually or in the aggregate with other Events, is or would reasonably be expected to be materially adverse to the condition (financial or otherwise), business, operations, prospects, properties, assets, cash flows or results of operations of the Developer and/or Parent Company, taken as a whole; provided, however, that none of the following shall be taken into account in determining whether a Material Adverse Effect has occurred or would reasonably be expected to occur: (i) any Event in the United States or global economy generally, including Events relating to world financial or lending markets, or change affecting generally the industry in which the Developer and/or Parent Company operate; (ii) any changes or proposed changes in GAAP or any law; and (iii) any hostilities, act of war, sabotage, terrorism or military actions or any escalation or worsening of any such

hostilities, act of war, sabotage, terrorism or military actions, except, in the case of clauses (i), (ii) or (iii) to the extent such Event(s) affect the Developer and/or Parent Company, taken as a whole, in a disproportionate manner as compared to similarly situated companies.

(kkk) "**Mayor**" means the duly elected Mayor of the City.

(lll) "**Minor Condemnation**" means a Condemnation that is not a Major Condemnation.

(mmm)"**Mortgage**" means a mortgage on all or any part of Developer's interest in the Project, and does not include a mortgage on the leasehold interest of any third party in the Project.

(nnn) "**Mortgagee**" means the holder from time to time of a Mortgage.

(ooo) "**Notice of Agreement**" means a notice of this Agreement in substantially the same form as Exhibit S.

(ppp) "**Operations Commencement**" means that the Casino, the hotel Component and parking Component are Complete and open for business to the general public.

(qqq) "**Operations Commencement Date**" means the date occurring no later than six (6) months following the Construction Completion Date.

(rrr) "**Parent Company**" means MGM Resorts International, and its successors and assigns.

(sss) "**Parties**" means the City and Developer.

(ttt) "**Permitted Affiliate Payments**" means payments made in the ordinary course of business to Parent Company or Affiliates of Parent Company for goods or services, or licensing, branding or management fees.

(uuu) "**Person**" means an individual, a corporation, partnership, limited liability company, association or other entity, a trust, an unincorporated organization, or a governmental unit, subdivision, agency or instrumentality.

(vvv) "**Proceeds**" means the compensation paid by the condemning authority to the City and/or Developer in connection with a Condemnation, whether recovered through litigation or otherwise, but excluding any compensation paid in connection with a temporary taking.

(www) "**Project**" means the Casino and all buildings, hotel structures, recreational or entertainment facilities, restaurants or other dining facilities, bars

and lounges, retail stores, other amenities and back office facilities that are connected with, or operated in such an integral manner as to form a part of the same operation whether on the same tract of land or otherwise, all of which are more specifically described on Exhibit G.

(xxx) "**Project Description**" means the detailed description of Project set forth on Exhibit G.

(yyy) "**Project Site**" means the land assemblage upon which the Project is to be developed and constructed, as described on Exhibit H.

(zzz) "**Publicly Traded Corporation**" means a Person, other than an individual, to which either of the following provisions applies: the Person has one (1) or more classes of voting securities registered under Section 12 of the Securities Exchange Act of 1934, 15 U.S.C. §781; or the Person issues securities and is subject to Section 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. §780(d).

(aaaa) "**Radius Restriction Agreement**" means the Radius Restriction Agreements dated as of the Closing Date between the City and Parent Company and the City and any Casino Manager which is an Affiliate of Parent Company and those Restricted Parties as requested by the City in substantially the same form as Exhibit Q and R attached hereto.

(bbbb) "**Releases**" means the executed forms of acknowledgement, consent and release delivered by Developer, its Affiliates and its other direct and indirect equity owners in conjunction with its response to the RFQ/P.

(cccc) "**Restricted Area**" means the two geographic areas encompassed by: (i) Region B (as that term is defined in the Act) and (ii) a circle having a radius of fifty (50) miles with 36 Court Street, Springfield, Massachusetts as its center.

(dddd) **"Restricted Owner"** is defined in Section 8.2(a).

(eeee) "**RFA-2**" is defined in Section 2.2.

(ffff) "**RFQ/P**" means the Phase I and Phase II Request for Qualifications/Request for Proposals and all amendments, modifications and supplements thereto issued by the City in connection with the destination casino resort development for the City.

(gggg) "**Surrounding Communities**" shall have the same meaning as defined in the Act.

(hhhh) **"Tax Affidavit"** means a tax affidavit in the form of Exhibit T attached hereto.

(iiii) "**Term**" is defined in Section 2.4.

(jjjj) "**Transfer**" means (i) any sale (including agreements to sell on an installment basis), assignment, transfer, pledge, alienation, hypothecation, merger, consolidation, reorganization, liquidation, or any other disposition by operation of law or otherwise, and (ii) the creation or issuance of new or additional interests in the ownership of any entity.

(kkkk) "**Transfer Restriction Agreements**" means the Transfer Restriction Agreements dated as of the Closing Date between the City and Parent Company and the City and Restricted Owners in substantially the same form as Exhibits J and K attached hereto.

(llll) "**Work**" means demolition and site preparation work at the Project Site, and construction of the improvements constituting the Project in accordance with the construction documents for the Project and includes labor, materials and equipment to be furnished by a contractor or subcontractor.

2. General Provisions

2.1 Findings

The City hereby finds that the development, construction and operation of the Project will (i) be in the best interest of the City, Western Massachusetts and the Commonwealth; (ii) contribute to the objectives of providing and preserving gainful employment opportunities for residents of the City; (iii) support and contribute to the economic growth of the City, Western Massachusetts and the Commonwealth including supporting and utilizing local and small businesses, minority, women and veteran business enterprises; (iv) attract commercial and industrial enterprises, promote the expansion of existing enterprises, combat community blight and deterioration, and improve the quality of life for residents of the City; (v) support and promote tourism in Western Massachusetts and the City; and (vi) provide the City and the Commonwealth with additional tax revenue.

2.2 Developer's Rights

Upon (i) the approval of this Agreement by the City Council; (ii) the execution hereof by the Mayor and other necessary City officials; and (iii) the approval by the City Council to hold the Election prior to a positive determination of suitability having been issued to the Developer by the Commission pursuant to the Commission's Request for Application – Phase One, the Developer shall have the right and obligation to:

(a) request that the City direct the clerk of the City to set a date certain for the Election, provided that Developer has satisfied the Closing Conditions; and

(b) submit this Agreement to the Commission as part of the Developer's application for a Category 1 license, provided that there is an affirmative vote by the City's voters in the Election.

Developer and the City acknowledge that the Developer and City shall each have the right to cancel the Election requested by Developer pursuant to Section 2.2(a) if Developer has been found not qualified by the Commission to proceed to the Request for Application - Phase Two of the selection process ("**RFA-2**") before the date set for such Election. In addition, prior to the Election, Developer and the City shall cooperate to comply with the provisions of emergency regulation 205 CMR 115.05(6).

2.3 Closing Conditions

The Developer's rights set forth in Section 2.2(a) shall be subject to the satisfaction, prior to or on the Closing Date, of the following conditions precedent, each in form and substance reasonably satisfactory to the City (collectively, the "**Closing Conditions**"):

(a) the City's receipt of the following items (the "**Closing Deliveries**"), which items shall be delivered by Developer at the offices of the City's Law Department, 36 Court Street, Room 210, Springfield, Massachusetts 01103, on or before 10:00 a.m. local time, on the Closing Date:

(i) The Guaranty and Keep Well Agreement, executed by Parent Company;

(ii) The Transfer Restriction Agreements, executed by Parent Company and all Restricted Owners;

(iii) An opinion of counsel from Developer to the City covering customary organizational, due authority, conflict with other obligations, enforceability and other matters reasonably requested by the City;

(iv) The Closing Certificate;

(v) The Notice of Agreement;

(vi) The Tax Affidavit, executed by an authorized party;

(vii) Evidence of payment of Developer's share of due and unpaid Development Process Cost Fees incurred to date, if any;

(viii) A form of release attached hereto as Exhibit N, duly executed by Developer;

(ix) Board resolutions of Developer, properly certified, approving this Agreement and authority to execute; and

(x) The Radius Restriction Agreements, executed by Parent Company.

(b) No Default or Event of Default shall have occurred and be continuing hereunder.

(c) The representations and warranties of Developer contained in Section 5.1 are true and correct in all material respects at and as of the Closing Date as though then made.

(d) No material adverse change shall have occurred in the condition (financial or otherwise) or business prospects of Developer or Parent Company.

2.4 Term

The term of this Agreement shall commence upon the approval of this Agreement by the City Council and execution by the Mayor and other necessary City officials and shall continue until the expiration of the Category 1 license issued to the Developer unless (i) sooner terminated as provided herein and except as to those provisions that by their terms survive or (ii) extended as provided in the next sentence. The term of this Agreement shall automatically be extended upon any and each renewal of the Developer's Category 1 license; provided that at the time of each extension Developer has received no written notice of an Event of Default, for a default which remains uncured. The term of this Agreement, including any extensions thereof, shall be referred to as the "**Term**".

3. Project

The Developer shall use its reasonable efforts to promptly apply for, pursue and obtain all Approvals necessary to design, develop, construct and operate the Project. Until all such Approvals are obtained, the Developer shall provide the City, from time to time upon its request, but not more often than once each calendar month following issuance of a Category 1 license to Developer, with a written update of the status of such Approvals. If any Approvals are denied or unreasonably delayed, the Developer shall provide prompt written notice thereof to the City, together with Developer's written explanation as to the circumstances causing such delay or resulting in such denial and Developer's plan to cause such Approvals to promptly be issued. Upon obtaining such Approvals, the Developer shall develop and construct the Project in material compliance with the Concept Design Documents and the Project Description. To determine compliance with the Concept Design Documents and the Project Description, Developer shall submit the following to the City: (i) no later than six (6) months following the issuance by the Commission of a Category 1 license to Developer having no material conditions that are unacceptable to Developer, final Project design documents; (ii) no later than twelve (12) months following the issuance by the Commission of a Category 1 license to Developer having no material conditions that are unacceptable to Developer, fifty percent (50%) construction documents for the Project, and (iii) no later than seventeen (17) months following the issuance

by the Commission of a Category 1 license to Developer having no material conditions that are unacceptable to Developer, ninety-five percent (95%) construction documents for the Project. The City acknowledges and agrees that, notwithstanding the specific Concept Design Documents and the Project Description, the Developer may alter the Project and its Components provided that any material change, whether in scope or size, to the Project and/or its Components (including the addition or deletion of a Component) shall require the approval of the City which approval shall not unreasonably be withheld or delayed. The City agrees that the Mayor shall have the exclusive authority, on behalf of the City, to determine whether any changes proposed by Developer in the Project are material, as such term is defined under the laws of the Commonwealth. So long as Gaming is permitted by law to be conducted at the Project, the primary business to be operated at the Project shall be Gaming.

3.1 Performance of Work

(a) Developer shall ensure that all Work is performed in a good and workmanlike manner and in accordance with all Governmental Requirements and First Class Project Standards. Without limiting the generality of the foregoing sentence, Developer shall ensure that all materials used in the construction of the Project shall be of first class quality, and the quality of the Finish Work shall meet or exceed First Class Project Standards; provided, however, the City agrees that Developer shall not be obligated to precisely match the type of finish and materials that currently exist in the facility owned by Developer's Affiliate(s) which serves as the comparative standard upon which the First Class Project Standards were developed, as long as the Project is generally designed and constructed to be of a general quality comparable to the components of the facility identified in the First Class Project Standards.

(b) Developer shall ensure that the Project is constructed utilizing sustainable development principles in accordance with Section 18(8) of the Act determined as of the date of submission of its response to the RFA-2 to the Commission.

3.2 Duty to Complete; Commencement of Operations

The Developer shall Complete the Project not later than the Construction Completion Date, achieve Operations Commencement not later than the Operations Commencement Date and achieve Final Completion not later than the Final Completion Date. Upon the occurrence of an event of Force Majeure, the Construction Completion Date, Final Completion Date, and the Operations Commencement Date, shall each be extended on a day-for-day basis but only for so long as the event of Force Majeure is in effect, plus such period of time not to exceed one hundred and twenty (120) days, in each case, as the Developer may require under the circumstances to remobilize its design and construction team, including its architect, general contractor, subcontractors and vendors of goods and services.

3.3 Project Operations

(a) Developer agrees to diligently operate and maintain the Project and all other support facilities for the Project owned or controlled by Developer in accordance with all Governmental Requirements and First Class Project Standards and in compliance with this Agreement.

(b) Developer covenants that, at all times following the Operations Commencement Date, it will, directly or indirectly: (i) continuously operate and keep open the Casino for Casino Gaming Operations for the maximum hours permitted under Governmental Requirements and in accordance with City ordinances; (ii) continuously operate and keep open for business to the general public twenty-four (24) hours each day, every day of the calendar year, the hotel Component and the parking Component; and (iii) operate and keep open for business to the general public all Components (other than hotel Component, parking Component and Components where Casino Gaming Operations are conducted) in accordance with commercially reasonable hours of operation. Notwithstanding the foregoing, Developer shall have the right from time to time in the ordinary course of business and without advance notice to City, to close portions of any Component for (x) such reasonable periods of time as may be required for repairs, alterations, maintenance, remodeling, or for any reconstruction required because of casualty, condemnation, governmental order or Force Majeure or (y) such periods of time as may be directed by a Governmental Authority; provided, however, no such direction shall relieve Developer of any liability as a result of such closure to the extent caused by an act or omission of Developer as provided for otherwise in this Agreement.

3.4 Casino Liaison Office; Community Advisory Committee

(a) In order to facilitate and expedite Developer's obligations to develop and construct the Project, the City shall establish and maintain, at the City's expense, until Operations Commencement a casino liaison office which will coordinate the efforts of the various City departments involved in the development and construction of the Project and serve as an information resource for the Developer and as a representative and facilitator for Developer in the processing of its permitting, licensing and regulatory approvals, as more specifically set forth in Section 13.9. The City agrees that the casino liaison office will be charged with and authorized to perform the obligations provided hereunder.

(b) Upon Operations Commencement, the City and Developer will establish a Community Advisory Committee. The Community Advisory Committee shall be comprised of eleven (11) members as follows: three (3) members shall be appointed by the Mayor, three (3) members shall be appointed by the President of the City Council, three (3) members shall be appointed by Developer, one (1) member shall be appointed by the President of the Affiliated Chambers of Commerce of Greater Springfield and one (1) member shall be appointed by the Massachusetts Latino Chamber of Commerce (Springfield office). Members of the Community Advisory Committee shall serve at the pleasure of their respective appointing authorities. The Community Advisory Committee shall meet quarterly the first twenty-four (24) months following Operations

Commencement, and twice annually thereafter, or as otherwise needed, at locations within the City or at the Project according to procedures established by the Community Advisory Committee. The Community Advisory Committee may make non-binding recommendations to the Developer and the City concerning matters involving the Project which directly impact the City and its residents.

3.5 Property Tax Matters

Massachusetts General Laws Chapter 121A and Massachusetts Regulations 760 CMR 25.00 (collectively, "**Chapter 121A**") authorize the creation of single-purpose, project-specific, for-profit companies for undertaking commercial projects in areas which are considered to be decadent, substandard or blighted. Chapter 121A sets forth the procedures for negotiating an alternative tax payment which benefits a municipality by: (i) creating agreed upon tax payments for a period of years; (ii) eliminating the uncertainty and expense associated with the property tax assessment process; (iii) allowing the municipality to use the full amount of the tax payments without regard to possible abatement claims by the taxpayer which would require the escrow of a portion of the tax payments until such claims are resolved; and (iv) allowing the municipality to receive advance tax payments on dates certain during development and construction of the Project. The Massachusetts Department of Housing and Community Development ("**DHCD**") is responsible for administering Chapter 121A programs for municipalities other than the City of Boston. Chapter 121A requires that a private developer enter into an agreement with the municipality as described in Section 6A ("**Section 6A**") of Chapter 121A (a "**Section 6A Agreement**") and a regulatory agreement with DHCD as described under Section 18 of Chapter 121A. Section 6A Agreements set forth the formula for calculating the annual tax payments to be made by the private developer, the duration of the agreement and any special conditions agreed to by the private developer and the municipality. The City has entered into numerous Section 6A Agreements with private developers. Prior to the Closing Date, the City and Developer agree to enter into a Section 6A Agreement upon the terms and conditions set forth on Exhibit U and to cooperate in obtaining all other 121A Approvals. Either Party shall have the right to terminate this Agreement by written notice to the other if all 121A Approvals are not obtained by the Closing Date and, notwithstanding anything to the contrary, such termination shall relieve the City, the Developer, the Parent Company and any Affiliates from any further obligations under this Agreement, except for any payments due pursuant to Section 4.4(b). No later than the date that is three (3) months following the issuance by the Commission of a Category 1 license having no material conditions that are unacceptable to Developer (the "**First Prepayment Date**"), Developer shall make a prepayment to the City of Four Million Dollars ($4,000,000); on the twelve (12) month anniversary date of the First Prepayment Date, Developer shall make a prepayment to the City of Three Million Dollars ($3,000,000); and on the twenty-four (24) month anniversary date of the First Prepayment Date, Developer shall make a prepayment to the City of Three Million Dollars ($3,000,000) (collectively, the "**Prepayments**").

4. Other Obligations of Developer

4.1 Community Impact Payments

(a) The Developer recognizes and acknowledges that the construction and operation of the Project will cause direct and indirect impacts on the City which will require that the City and other governmental units of the City provide continuing mitigation of Community Impacts so that City residents, including the additional temporary and permanent workforce and the increased number of expected visitors to the City related to the Project, will receive substantially the same level of health, safety, welfare and educational services as currently are provided to City residents and visitors. The Developer also recognizes and acknowledges that (i) the ultimate responsibility to mitigate Community Impacts is with the City and other governmental units of the City and therefore the City and such other governmental units must have the authority to determine the planning, training of personnel, purchase of equipment and delivery of services needed to mitigate Community Impacts; and (ii) the identification of and need for mitigation of Community Impacts may change over time.

(b) The Developer shall be obligated to make the Community Impact Payments according to the schedule set forth on Exhibit A, which exhibit is incorporated by reference as part of this Agreement. In addition, the Parties shall meet no later than ninety (90) days prior to (i) the fifth anniversary of Operations Commencement and (ii) every fifth anniversary of such date thereafter throughout the Term, for the purpose of determining whether the Community Impact Payments and the timing thereof are adequate, deficient, or excessive, to mitigate the Community Impacts due either to errors in the estimates of Community Impacts (including the cost of mitigating Community Impacts) or changed circumstances relating to the Project, its employees, or its operations. At each such meeting the City shall identify and present to the Developer a list of and explanation for such Community Impact Payments, if any, and the Developer shall have the right to present to the City a list of and explanation for any overfunding of such Community Impact Payments, and the Parties shall negotiate in good faith the amount of and timing for Community Impact Payments to be made by Developer; provided, however, that the Community Impact Payments shall be increased as a result of such negotiations only if the City can demonstrate by a study conducted by an independent consulting firm jointly selected and engaged by the Developer and City (the cost of which study shall be paid fifty percent (50%) by the City and fifty percent (50%) by Developer) that the Community Impacts are (1) not caused in substantial part by development projects independent of the Project or by any changes in the overall funding by the City of such services through its annual funding and budgeting process; (2) based upon the additional temporary and permanent workforce and the increased number of expected visitors to the City related to the Project not receiving substantially the same level of health, safety, welfare and educational services as

are provided to City residents and visitors as of the date of this Agreement; and (3) not based upon categories of services other than police, fire, emergency medical services and education.

4.2 Community Development Grants

(a) On the later of the Closing Date or July 1, 2013, Developer shall make a One Million Dollar ($1,000,000) unrestricted grant to the City. In the event the Developer is not awarded a Category 1 license by the Commission having no material conditions that are unacceptable to Developer, the amount of such grant shall be credited by the City against the purchase price for 29 Howard Street (the Armory Building) at the closing of such purchase.

(b) In addition, recognizing the fact that: (i) workforce development requires a healthy and an educated workforce; and (ii) the Act requires that the Developer demonstrate how Developer proposes to address community development, the City Treasurer shall establish a separate fund (the "**Community Development Fund**") for the purpose of accepting and administering (pursuant to municipal finance appropriation laws and policies) annual grants from the Developer in the amount of Two Million Five Hundred Thousand Dollars ($2,500,000), subject to adjustment as provided in Exhibit F (the "**Community Development Grant(s)**"). The Community Development Grants shall be paid as provided in Exhibit F and shall be used by the City for the purposes set forth in Exhibit F.

4.3 Additional Commitments

Developer recognizes and acknowledges that the City's decision to enter into this Agreement is based, among other things, on Developer's commitments as set forth in Developer's responses to the RFQ/P. Such commitments, as modified in the exhibits indicated below, further the objectives of the Act and are essential criteria upon which the Commission will make its decision as to whether to issue a Category 1 license to Developer. Accordingly, Developer agrees to timely perform each of the Additional Commitments, each of which is a material inducement to the City to enter into this Agreement. The Additional Commitments are set forth on the following exhibits and are hereby incorporated by reference as a part of this Agreement:

(a) Exhibit B "Business Operations and Marketing Obligations"

(b) Exhibit C "Employment, Workforce Development and Opportunities for Local Businesses Obligations"

(c) Exhibit D "Obligations to Mitigate Potential Impacts on Surrounding Communities"

(d) Exhibit E "Other Obligations of Developer"

4.4 Payment of Development Process Cost Fees

(a) Blue Tarp shall pay the due and unpaid Development Process Cost Fees on or before the fifth (5^{th}) Business Day following the execution of this Agreement by Blue Tarp, and thereafter in accordance with the procedures set forth in Section 4.4(b). Any such Development Process Cost Fees due the City's consultants shall be paid by Blue Tarp directly to such consultants.

(b) The City shall invoice Blue Tarp from time to time, but no more frequently than monthly for the Development Process Costs incurred since the prior monthly invoice. Blue Tarp shall pay such invoiced Development Process Cost Fees within fifteen (15) Business Days from the date of the invoice, directly to the third parties with respect to whom the City incurred the Development Process Cost Fees in accordance with the instructions provided in the invoice. Such third parties shall be intended third-party beneficiaries of Blue Tarp's obligation to pay Development Process Cost Fees. The City invoice provided by the City shall include a summary of the charges and such detail as City reasonably believes is necessary to inform Blue Tarp of the nature of the costs and expenses, subject to privilege and confidentiality restrictions. At Blue Tarp's request, the City shall consult with Blue Tarp on the necessity for such charges during the five (5) Business Days period immediately subsequent to Blue Tarp's receipt of such summary. Blue Tarp's obligation to pay Development Process Cost Fees incurred by the City prior to any termination of the Agreement shall survive termination of the Agreement.

4.5 Radius Restriction

(a) For purposes of this Section 4.5, "**Restricted Party**" means any Person who directly or indirectly owns any interest in Developer or in any Casino Manager which is an Affiliate of Parent Company other than any Person who is a Restricted Party due solely to that Person's ownership of (x) a direct or indirect interest in a Publicly Traded Corporation or (y) five percent (5%) or less direct or indirect interest in Developer. Neither Developer, Parent Company, any Casino Manager which is an Affiliate of Parent Company, Developer or any Restricted Party, nor any Restricted Party, shall directly or indirectly: (i) manage, operate or become financially interested in any casino within the Restricted Area other than the Project; (ii) make application for any franchise, permit or license to manage or operate any casino within the Restricted Area other than the Project; or (iii) respond positively to any request for proposal to develop, manage, operate or become financially interested in any casino within the Restricted Area other than the Project (all of the previous clauses (i), (ii) and (iii) comprising the "**Radius Restriction**"). Developer shall cause Parent Company, any Casino Manager which is an Affiliate of Parent Company, Developer or any Restricted Party and each Restricted Party requested by City, to execute and deliver to City at Closing

an agreement to abide by the Radius Restriction. The restrictions in this Section 4.5(a) shall not apply to internet based gaming.

(b) If Parent Company, Developer or any Restricted Party acquires or is acquired by a Person such that, but for the provisions of this Section 4.5, either Parent Company, Developer or any Restricted Party or the acquiring Person would be in violation of the Radius Restriction as of the date of acquisition, then such party shall have five (5) years in which to comply with the Radius Restriction.

(c) It is the desire of the Parties that the provisions of this Section 4.5 be enforced to the fullest extent permissible under the laws and public policies in each jurisdiction in which enforcement might be sought. Accordingly, if any particular portion of this Section 4.5 shall ever be adjudicated as invalid or unenforceable, or if the application thereof to any party or circumstance shall be adjudicated to be prohibited by or invalidated by such laws or public policies, such section or sections shall be (i) deemed amended to delete therefrom such portions so adjudicated or (ii) modified as determined appropriate by such a court, such deletions or modifications to apply only with respect to the operation of such section or sections in the particular jurisdictions so adjudicating on the parties and under the circumstances as to which so adjudicated.

(d) The provisions of this Section 4.5 shall survive any termination of this Agreement, subject to Section 13.26.

(e) The provisions of this Section 4.5 shall lapse and be of no further force or effect ten (10) years after the Operations Commencement.

4.6 Statutory Basis for Fees; Default Rate

(a) Developer recognizes and acknowledges that the Community Impact Payments and the Development Process Cost Fees (collectively, the "**Developer Payments**") are: (i) authorized under Section 15(8) of the Act and Massachusetts General Law Chapter 40, Section 22F; (ii) are being charged to Developer in exchange for particular governmental services which benefit Developer in a manner not shared by other members of society; (iii) paid by Developer by choice in that Developer has voluntarily participated in the RFQ/P process and would not be obligated to pay such amounts but for such participation; and (iv) paid not to provide additional revenue to the City but to compensate the City and other governmental units for providing Developer with the services required to allow Developer to construct and operate the Project and to mitigate the impact of Developer's activities on the City and its residents.

(b) All amounts payable by Developer hereunder, including Developer Payments, shall bear interest at the Default Rate from the due date (but if no due

date is specified, then fifteen (15) Business Days from demand for payment) until paid.

4.7 Notice of Agreement

(a) The Parties agree that the Notice of Agreement shall not in any circumstance be deemed to modify or to change any of the provisions of this Agreement.

(b) The restrictions imposed by and under Sections 4.8, 8.1 and 8.2 (collectively, the "**Restrictions**") will be construed and interpreted by the Parties as covenants running with the land. Developer agrees for itself, its successors and assigns to be bound by each of the Restrictions. The City shall have the right to enforce such Restrictions against Developer, its successors and assigns to or of the Project or any part thereof or any interest therein.

4.8 Financing

(a) Developer agrees to deliver to the City for its review, but not approval, relevant documents relating to each Financing.

(b) If any interest of Developer shall be transferred by reason of any foreclosure, trustee's deed or any other proceeding for enforcement of the Mortgage, Mortgagee (or any Nominee of the Mortgagee) shall agree to assume the obligations of Developer hereunder except as otherwise provided in this Section 4.8. As used in this Agreement, the word "**Nominee**" shall mean a Person who is designated by Mortgagee to act in place of the Mortgagee solely for the purpose of holding title to the Project and performing the obligations of Developer hereunder. Notwithstanding the foregoing, City shall not have the right to terminate this Agreement as a result of Mortgagee failing to assume the obligations of Developer hereunder unless Mortgagee or its Nominee fails to do so within six (6) months following Mortgagee's acquisition of the Project; it being acknowledged that Mortgagee may intend to transfer its interest in the Project to a Nominee and such Nominee shall assume the applicable obligations of Developer hereunder.

(c) In no event may Developer or any Finance Affiliate represent that City is or in any way may be liable for the obligations of Developer or any Finance Affiliate in connection with (i) any financing agreement or (ii) any public or private offering of securities. If Developer or any Finance Affiliate shall at any time sell or offer to sell any securities issued by Developer or any Finance Affiliate through the medium of any prospectus or otherwise that relates to the Project or its operation, Developer shall (i) first submit such offering materials to City for review with respect to Developer's compliance with this Section 4.8 and (ii) do so only in compliance with all applicable federal and state securities laws,

and shall clearly disclose to all purchasers and offerees that (y) the City shall not in any way be deemed to be an issuer or underwriter of such securities, and (z) the City and its officers, directors, agents, and employees have not assumed and shall not have any liability arising out of or related to the sale or offer of such securities, including any liability or responsibility for any financial statements, projections, forward-looking statements or other information contained in any prospectus or similar written or oral communication. Developer agrees to indemnify, defend or hold the City and its respective officers, directors, agents and employees free and harmless from, any and all liabilities, costs, damages, claims or expenses arising out of or related to the breach of its obligations under this Section 4.8.

(d) Neither entering into this Agreement nor any breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Project or the Project Site made in good faith and for value.

(e) Provided Developer has provided the City with written notice of the existence of any Mortgage together with Mortgagee's address and a contact party, simultaneously with the giving to Developer of any notice of default under this Agreement, City shall give a duplicate copy thereof to any Mortgagee by registered mail, return receipt requested, and no such notice to Developer shall be effective unless a copy of the same has been so sent to Mortgagee. Any Mortgagee shall have the right to cure any default by Developer under this Agreement within the same period by which Developer is required to effectuate any such cure plus (a) an additional thirty (30) days for any monetary default hereunder and (b) an additional ninety (90) days for any non-monetary default hereunder; provided that any such ninety (90) day period shall be extended to the extent that the default is of the nature that it cannot reasonably be expected to be cured within such ninety (90) day period and Mortgagee is diligently prosecuting such cure to completion or otherwise has commenced action to enforce its rights and remedies under any Mortgage to recover possession of the Project. In all cases, City agrees to accept any performance by Mortgagee of any obligations hereunder as if the same had been performed by Developer, and shall not terminate the Agreement until the requisite time periods for cure by Mortgagee have been exhausted pursuant to the terms hereof.

(f) In the event of a non-monetary default which cannot be cured without obtaining possession of the Project or that is otherwise personal to Developer and not susceptible of being cured, the City will not terminate this Agreement without first giving Mortgagee reasonable time within which to obtain possession of the Project, including possession by a receiver, or to institute and complete foreclosure proceedings. Upon acquisition of Developer's interest in the Project and performance by Mortgagee of all covenants and agreements of Developer, except those which by their nature cannot be performed or cured by any person

other than the Developer, the City's right to terminate this Agreement shall be waived with respect to the matters which have been cured by Mortgagee.

4.9 Closing Deliveries

By the Closing Date, Developer will deliver or cause to be delivered all of the Closing Deliveries.

4.10 Land Use

Developer and the City agrees to (i) cooperate with each other to rezone the Project Site to take into account all elements of the Project; and (ii) participate in a district redevelopment strategic plan to provide an implementation blueprint to stimulate and direct the broader economic development associated with the Project.

4.11 Health Impact Assessment

Developer agrees to cooperate in the preparation of a health impact assessment to be conducted by Partners for a Healthier Community, Inc. being funded by the Pew Trusts which will assess the health impacts of a casino located in the City. City acknowledges that Developer has no financial responsibility relating to the preparation of a health impact assessment.

4.12 Purchase of Slot Machines

Developer agrees to purchase, whenever possible, domestically manufactured slot machines for installation in the Casino in accordance with Section 18(15) of the Act.

4.13 State Lottery Matters

Developer agrees to comply with all of the provisions of Section 15(1) of the Act and rules and regulations of the Commission thereto.

5. Representations and Warranties

5.1 Representations and Warranties of Developer

As a material inducement to the City to enter into this Agreement, Developer represents and warrants to City that each of the following statements is true and accurate as of the date of this Agreement and the Closing Date, except as otherwise indicated herein or in the exhibits referenced herein:

(a) Developer is duly organized, validly existing and in good standing under the Governmental Requirements of its jurisdiction. Developer has all requisite organizational power and authority to own and operate its properties, carry on its business and enter into and perform its obligations under this Agreement and all other agreements and undertakings to be entered into by Developer in connection herewith.

(b) Each financial statement, document, report, certificate, written statement and description delivered by Developer hereunder will be when delivered complete and correct in all material respects.

(c) Developer's responses to the RFQ/P, at the time delivered to the City, do not contain a materially untrue statement or omit to state any material fact which would cause such statement to be materially misleading.

(d) Developer is not a party to any agreement, document or instrument that has a Material Adverse Effect on the ability of Developer to carry out its obligations under this Agreement.

(e) Developer currently is in compliance with all Governmental Requirements, its organizational documents and all agreements to which it is a party. Neither execution of this Agreement nor discharge by Developer of any of its obligations hereunder shall cause Developer to be in violation of any Governmental Requirement, its organizational documents or any agreement to which it is a party.

(f) This Agreement constitutes, and each of the Guaranty and Keep Well Agreement and the Transfer Restriction Agreement when duly executed and delivered by Parent Company will constitute, legal, valid and binding obligations of Developer and Parent Company, respectively, enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganization, moratorium or similar laws of general applicability affecting the enforcement of creditors' rights and subject to general equitable principles which may limit the right to obtain equitable remedies.

(g) The Developer owns, or has enforceable rights to obtain good title to all parcels constituting the Project Site other than (i) City streets for which vacation is required and (ii) to the extent applicable, the City Parcels, which the Developer has agreements to purchase subject to City approval. Developer has no knowledge of any facts or any past, present or threatened occurrence that could preclude or impair Developer's ability to obtain good title to any parcel constituting part of the Project Site which it does not own as of the date of this Agreement.

5.2 Representations and Warranties of the City

The City represents and warrants to Developer that each of the following statements is true and accurate as of the Closing Date:

(a) The City is a validly existing municipal corporation and has all requisite power and authority to enter into and perform its obligations under this Agreement, and all other agreements and undertakings to be entered into by the City in connection herewith.

(b) This Agreement is binding on the City and is enforceable against the City in accordance with its terms, subject to applicable principles of equity and insolvency laws.

6. Covenants

6.1 Affirmative Covenants of Developer

The Developer covenants that throughout the Term, the Developer shall:

(a) Do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence.

(b) Do or cause to be done all things necessary to preserve, renew and keep in full force and effect the rights, licenses, registrations, permits, certifications, Approvals, consents, franchises, patents, copyrights, trade secrets, trademarks and trade names that are used in the conduct of its businesses and other activities, and comply with all Governmental Requirements applicable to the operation of its business and other activities, in all material respects, whether now in effect or hereafter enacted.

(c) Furnish to the City:

(i) Within the later to occur of: (x) one hundred and five (105) days after the end of each calendar year of Developer commencing with the calendar year in which the Operation Commencement occurs and (y) two (2) Business Days following the date on which Developer or the Parent Company, directly or through an Affiliate, files annual financial statements with the Securities and Exchange Commission (the "**SEC**") covering the Project, balance sheets, and statements of operations, owners' equity and cash flows of the Developer showing the financial condition and operations of the Developer as of the close of such year and the results of operations during such year, all of the foregoing consolidated financial statements to be audited by a firm of independent certified public accountants of recognized national standing acceptable to the City and accompanied by an opinion of such accountants without material exceptions or qualifications.

(ii) Within the later to occur of: (x) forty-five (45) days after the end of each fiscal quarter of Developer commencing with the fiscal quarter in which the Operation Commencement occurs and (y) two (2) Business Days following the date on which Developer or the Parent Company, directly or through an Affiliate, files its quarterly financial statements with the SEC covering the Project, financial statements (including balance sheets and statements of cash flow

and operations) showing the financial condition and results of operations of the Developer as of the end of each such fiscal quarter and for the then elapsed portion of the current fiscal year, accompanied by a certificate of an officer of the Developer that such financial statements have been prepared in accordance with GAAP, consistently applied, to the extent applicable.

(iii) Promptly upon the receipt thereof, but subject to the distribution limitations and restrictions contained therein, copies of all reports, if any, submitted to Developer by independent certified public accountants in connection with each annual, interim or special audit or review of the financial statements of Developer made by such accountants, including any comment letter (again, subject to the distribution limitations and restrictions contained therein) submitted by such accountants to management in connection with any annual review.

(iv) Within five (5) Business Days after submission to the Commission, accurate and complete copies of reports submitted pursuant to Sections 21(a)(12), 21(a)(23), 21(a)(24) and 23(a) of the Act.

(v) On the same date that Developer provides documentation in compliance with Section 6.1(c)(i) following the first full calendar year following Operations Commencement, a detailed statistical report covering those Developer's obligations set forth on Exhibit C which are not covered by reports delivered under Section 6.1(c)(iv) for the prior calendar year.

(vi) From time to time, such other information regarding the compliance by Developer with the terms of this Agreement or the affairs, operations or condition (financial or otherwise) of Developer or as the City may reasonably request.

(d) No later than ninety (90) days after the end of each fiscal year of Developer commencing with the fiscal year in which the Closing Date occurs, Developer shall deliver to City:

(i) a detailed report on Developer's obligations to comply with its Additional Commitments in such form as may reasonably be requested by the City from time to time;

(ii) a written description of any administrative determination, binding arbitration decision, or judgment rendered by a court of competent jurisdiction finding a willful and material violation by Developer

of any federal, state or local laws governing equal employment opportunity during such fiscal year; and

(iii) a statement as to whether Developer is aware of any non-compliance with the radius restrictions set forth in Section 4.5 or the restrictions on transfer set forth in Article 8.

(e) Deliver to the City prompt written notice of the following (but in no event later than five (5) Business Days following the actual knowledge thereof by Developer):

(i) The issuance by any Governmental Authority of any injunction, order, decision, notice of any violation or deficiency, asserting a material violation of Governmental Requirements applicable to Developer or the Project, together with copies of all relevant documentation with respect thereto.

(ii) The notice, filing or commencement of or any threatened notice, filing or commencement of, any action, suit or proceeding by or against Developer whether at law or in equity or by or before any court or any Governmental Authority and that, (A) if adversely determined against Developer, could result in injunctive relief or could result in uninsured net liability in excess of Five Million Dollars ($5,000,000) in the aggregate (in either case, together with copies of the pleadings pertaining thereto) or (B) seeks to enjoin or otherwise prevent the consummation of, or to recover any damages or obtain relief as a result of, the Agreement, the RFQ/P, the casino selection process by the City, or the issuance of a Category 1 license to Developer by the Commission.

(iii) To the knowledge of the Developer, any Default or Event of Default, specifying the nature and extent thereof and the action (if any) that is proposed to be taken with respect thereto.

(iv) Any Transfer under Article 8 specifying the nature thereof and the action (if any) that is proposed to be taken with respect thereto.

(v) To the knowledge of the Developer, any development in the business or affairs of Developer or Parent Company that could reasonably be expected to have a Material Adverse Effect.

(f) Maintain financial records in accordance with GAAP, or the equivalent thereof, and permit an authorized representative designated by City, upon reasonable notice and at a reasonable time during normal business hours, to visit and inspect the properties and financial records and to make extracts from such financial records, all at the Developer's reasonable expense, and permit any

authorized representative designated by the City to discuss the affairs, finances and conditions of the Developer with any executive officer or other manager or officer of the Developer as such representative shall reasonably deem appropriate, and the Developer's independent public accountants.

(g) Make, or cause to be made, annual capital expenditures to the Project consistent with Section 21(a)(4) of the Act.

6.2 RFA-2 Response

The Developer shall:

(a) Promptly, completely and accurately submit to the Commission its completed response to the Commission's RFA-2 (the "**RFA-2 Response**") together with all other information as the Commission may from time to time require from Developer in connection with its application for a Category 1 license, make all payments required under the Act to be made by an applicant for a Category 1 license and use its best efforts to satisfy all criteria necessary to be issued a Category 1 license by the Commission having no material conditions that are unacceptable to Developer.

(b) Deliver a copy of the RFA-2 Response to the City simultaneous with or immediately following its submission, and reasonably consult with the City in advance of such submission, as to its content.

(c) Consult with the City prior to making any formal presentation to the Commission concerning its RFA-2 Response.

(d) Prior to the Commission issuing a Category 1 license to Developer, keep the City informed as to all material contacts and communications between the Commission and its staff and Developer so as to enable the City to evaluate the likelihood and timing of the Commission issuing an unconditional Category 1 license to Developer.

6.3 Negative Covenants of Developer

The Developer covenants that throughout the Term, the Developer shall not:

(a) Upon the occurrence of a Default or an Event of Default, and until such time that such Default or Event of Default is cured, declare or pay any dividends or make any other payments or distributions to any Restricted Owners, except for Permitted Affiliate Payments.

(b) Enter into any Financing unless the Mortgagee under the Financing having a right to foreclose on all or part of the Project executes an agreement in form and

substance satisfactory to the City in the exercise of its reasonable judgment which is consistent with Section 4.8(b).

(c) Directly or indirectly through one or more intermediary companies engage in or permit any Transfer of the Project or any ownership interest therein other than a permitted Transfer.

6.4 Confidentiality of Deliveries

To the extent that the Act, other laws of the Commonwealth or any other Governmental Requirements, in the reasonable opinion of City Solicitor, allow confidential treatment of the items Developer is obligated to furnish to the City under Sections 6.1(c), (d), or (e)(i), (ii), (iv) and (v) (the "**Developer's 6.1 Items**"), the City agrees to keep such Developer's 6.1 Items confidential (for so long as they are entitled to confidential treatment) and shall not disclose them except (i) to such City officials and consultants on a need-to-know basis; and/or (ii) pursuant to court order. Further, to the extent that Developer requests confidential treatment of any documentation or information required to be provided to the City under this Agreement, and such documentation and information may be protected from disclosure by the City under Applicable Law as reasonably determined by the City Solicitor, the City shall maintain such documentation and information confidential to the extent permitted by Applicable Law.

7. Default

7.1 Events of Default

The occurrence of any of the following shall constitute an "**Event of Default**" under this Agreement:

(a) Subject to Force Majeure, if Developer shall materially default in the performance of any (i) Governmental Requirement; or (ii) commitment, agreement, covenant, term or condition (other than those specifically described in any other subparagraph of this Section 7.1) of this Agreement, and in such event if Developer shall fail to remedy any such default within thirty (30) days after receipt of written notice of default with respect thereto; provided, however, that if any such default is reasonably susceptible of being cured within ninety (90) days, but cannot with due diligence be cured by the Developer within thirty (30) days, and if the Developer commences to cure the default within thirty (30) days and diligently prosecutes the cure to completion, then the Developer shall not during such period of diligently curing be in default hereunder as long as such default is completely cured within ninety (90) days of the first notice of such default to Developer;

(b) If Developer shall make a general assignment for the benefit of creditors or shall admit in writing its inability to pay its debts as they become due;

(c) If Developer shall file a voluntary petition under any title of the United States Bankruptcy Code, as amended from time to time, or if such petition is filed against Developer and an order for relief is entered, or if Developer shall file any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or any future federal bankruptcy code or any other present or future applicable federal, state or similar statute or law, or shall seek or consent to or acquiesce to or suffer the appointment of any trustee, receiver, custodian, assignee, liquidator or similar official of Developer, or of all or any substantial part of its properties or of the Project or any interest therein of Developer;

(d) If within ninety (90) days after the commencement of any proceeding against Developer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or similar statute or law, such proceeding shall not have been dismissed; or if within ninety (90) days after the appointment, without the consent or acquiescence of Developer of any trustee, receiver, custodian, assignee, liquidator or other similar official of Developer or of all or any substantial part of its properties or of the Project or any interest therein of Developer, such appointment shall have not been vacated or stayed on appeal or otherwise, or if within ninety (90) days after the expiration of any such stay, such appointment shall not have been vacated;

(e) If any material representation or warranty made by Developer hereunder shall prove to have been false or misleading in any material respect as of the time made or furnished;

(f) If a default shall occur, which has not been cured within any applicable cure period, under, or if there is any attempted withdrawal, disaffirmance, cancellation, repudiation, disclaimer of liability or contest of obligations (other than a contest as to performance of such obligations) of, the Guaranty and Keep Well Agreement, any Transfer Restriction Agreement or any Radius Restriction Agreement;

(g) If Developer fails to maintain in full force and effect policies of insurance meeting the requirements of Article 9 and in such event Developer fails to remedy such default within five (5) Business Days after Developer's receipt of written notice of default with respect thereto from City;

(h) If the construction of the Project (inclusive of offsite activities) at any time is discontinued or suspended for a period of ninety (90) consecutive calendar days, subject to Force Majeure, and is not restarted prior to Developer's receipt of written notice of default hereunder;

(i) Subject to an event of Force Majeure, if Operations Commencement does not occur by the Operations Commencement Date;

(j) If Developer fails to make any Developer Payments or any other payments required to be made by Developer hereunder as and when due, and fails to make any such payment within ten (10) days after receiving written notice of default from the City.

7.2 Remedies

(a) Upon an Event of Default, the City shall have the right if it so elects to: (i) exercise any and all remedies available at law or in equity; (ii) terminate this Agreement; (iii) receive liquidated damages under the circumstances set forth in Section 7.4; and/or (iv) institute and prosecute proceedings to enforce in whole or in part the specific performance of this Agreement by Developer, and/or to enjoin or restrain Developer from commencing or continuing said breach, and/or to cause by injunction Developer to correct and cure said breach or threatened breach, and otherwise, none of the remedies enumerated herein are exclusive, except the City's rights to receive liquidated damages under such circumstances in Section 7.4, which shall be the exclusive remedy under such circumstances, and nothing herein shall be construed as prohibiting the City from pursuing any other remedies at law, in equity or otherwise available to it under the Agreement.

(b) Except as expressly stated otherwise, the rights and remedies of the City whether provided by law or by this Agreement, shall be cumulative, except as set forth in Section 7.4, and the exercise by the City of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach, to the extent permitted by law. No waiver made by the City shall apply to obligations beyond those expressly waived in writing.

7.3 Termination

Except for the provisions that by their terms survive, in all cases subject to Section 13.26, this Agreement shall terminate immediately upon the occurrence of any of the following, or as otherwise provided in this Agreement:

(a) Developer fails to satisfy the conditions precedent as set forth in Section 2.3 on or before the Closing Date;

(b) Developer has been found not qualified by the Commission to proceed to the RFA-2 phase of the selection process;

(c) Developer fails to receive an affirmative vote of the City's voters in the Election unless following such failure the Developer submits a new request to the

City for a ballot question and the City signs an agreement with the Developer in accordance with Section 15(13) of the Act;

(d) A Category 1 license for Region B (as that term is defined in the Act) is issued to someone other than Developer or any of the Developer's Affiliates;

(e) Developer's Category 1 license (i) is revoked by a final, non-appealable order; (ii) expires and is not renewed by the Commission and Developer has exhausted any rights it may have to appeal such expiration or non-renewal; or (iii) imposes conditions which are not satisfied within the time periods specified therein, subject to any cure periods or extension rights.

These termination events are in addition to any other rights the City or Developer may have to terminate this Agreement whether specified herein or otherwise available to the City or Developer under law.

7.4 Liquidated Damages

The City and Developer covenant and agree that because of the difficulty and/or impossibility of determining the City's damages upon the: (i) occurrence of an Event of Default pursuant to Section 7.1(i); or (ii) suspension of Developer's Category 1 license, by way of detriment to the public benefit and welfare of the City through lost employment opportunities, lost tourism, degradation of the economic health of the City and loss of revenue, both directly and indirectly, Developer shall pay to the City, during the Damage Period, as hereinafter defined, and the City shall accept as an exclusive remedy, as liquidated damages and as a reasonable forecast of such potential damages, and not as penalties, as follows: (i) upon the occurrence of an Event of Default pursuant to Section 7.1(i), the sum of Sixty-Four Thousand Three Hundred Ninety Three and 28/100 Dollars ($64,393.28) per calendar day shall be paid to the City, and (ii) in the case of suspension of Developer's Category 1 license, the sum of Seven Thousand One Hundred and 00/100 Dollars ($7,100.00) per calendar day shall be paid to the City. Developer agrees to waive any and all affirmative defenses that the amount of liquidated damages provided herein constitutes a penalty. For purposes of this Section 7.4, the "**Damage Period**" shall commence on the date the City delivers written notice to Developer of its election to receive liquidated damages pursuant to Section 7.4 and shall continue until the date that such default is cured or the date such suspension expires. In the event the City reasonably anticipates that the Damage Period shall extend beyond ninety (90) days, the City shall take reasonable steps to mitigate the City's costs of providing services included in Direct Community Impacts, in order to achieve a savings in such costs, and shall credit any such cost savings against the foregoing liquidated damages. The foregoing limitation on the City's remedies shall in no way limit or diminish the City's rights or remedies under the Guaranty and Keep Well Agreement or require that the City first pursue its rights against Parent Company under that agreement; provided, however that to the extent the City receives monetary damages as a result of its enforcement of such other remedies, which shall not exceed the amount of liquidated damages which would otherwise be payable hereunder, the City agrees that Developer shall be entitled to a credit for the amount of any liquidated damages assessed or paid pursuant to this Section 7.4. No

liquidated damages under Section 7.4 shall be payable following the expiration of the Developer's Category 1 license at the end of the original Fifteen (15) year term, or in the event of any renewal thereafter, following the expiration of any such renewal.

8. Transfers

8.1 Transfer of Agreement

Developer shall not, whether by operation of law or otherwise, Transfer this Agreement or the Project without the prior written consent of the City; provided, however, upon prior notice to the City, Developer may transfer its interest in the Project, in whole or in part, to any Affiliate, as long as such Affiliate is owned, directly or indirectly by Parent Company, without the consent of City.

8.2 Transfer of Ownership Interest

(a) For purposes of this Section 8.2, "**Restricted Owner**" means (i) Developer and (ii) any Person who has a direct or indirect interest in Developer through one (1) or more intermediary entities other than any Person who would be a Restricted Owner due solely to that Person's ownership of (x) a direct or indirect interest in a Publicly Traded Corporation or (y) less than a five percent (5%) direct or indirect interest in Developer. The covenants that Developer is to perform under this Agreement for the City's benefit are personal in nature. The City is relying upon Developer, the Parent Company and its controlled Affiliates and all other Restricted Owners in the exercise of their respective skill, judgment, reputation and discretion with respect to the Project. Any Transfer by a Restricted Owner of (x) any direct ownership interest in Developer; or (y) any ownership interest in any Restricted Owner, other than a Transfer of any ownership interest in Parent Company, shall require the prior written consent of the City.

(b) Nothing contained in this Article 8 shall prevent a Transfer of an ownership interest in a Restricted Owner by: (i) Parent Company to an entity which has succeeded to all or a substantial portion of the assets, or all or a substantial portion of the common stock, of Parent Company; (ii) any Person to (1) that Person's spouse, child or parent ("**Family Members**"); (2) an entity whose beneficial owners consist solely of such transferor and/or the Family Members of the transferor; or (3) the beneficial owners of the transferor if the transferor is an entity; (iii) a Restricted Owner to another Restricted Owner, or to an Affiliate of Parent Company, so long as, in each case, Parent Company maintains Control of Developer; (iv) Parent Company to any Affiliate of Parent Company so long as such Affiliate is owned, directly or indirectly, by Parent Company. In addition, nothing contained in this Article 8 shall prevent a pledge by a Restricted Owner of its direct or indirect interest in Developer to an institutional lender, or the exercise of any rights by such lender pursuant to such pledge, provided that the form of pledge agreement is reasonably satisfactory to

the City, or (v) pledge by parent Company of its direct or indirect interest in Developer to an institutional lender, provided that the form of pledge agreement is reasonably satisfactory to the City.

(c) All transferees shall hold their interests subject to the restrictions of this Article 8.

(d) Developer shall notify the City as promptly as practicable upon Developer becoming aware of any Transfer.

(e) Developer agrees to cause each Restricted Owner, other than a Publicly Traded Corporation, to (1) place a legend on its ownership certificate, if any, or include in its organizational documents, a transfer restriction provision substantially similar to the transfer restriction set forth in this Article 8 and (2) either enforce such provision or acknowledge that the City is a third-party beneficiary of such provision and may enforce such provision in its own name. For the avoidance of doubt, nothing in this Article 8 shall prevent or restrict the Transfer of ownership interest in a Publicly Traded Corporation.

9. Insurance

9.1 Maintain Insurance

Developer shall maintain in full force and effect the types and amounts of insurance as set forth on Exhibit O.

9.2 Form of Insurance and Insurers

Whenever, under the terms of this Agreement, Developer is required to maintain insurance, the City shall be named as an additional insured in all such insurance policies to the extent of its insurable interest. All policies of insurance provided for in this Agreement shall be effected under valid and enforceable policies, in commercially reasonable form issued by responsible insurers which are authorized to transact business in the Commonwealth, having a financial strength rating by A.M. Best Company, Inc. of not less than "A-" or its equivalent from another recognized rating agency. Thereafter, as promptly as practicable prior to the expiration of each such policy, Developer shall deliver to the City an Accord certificate, together with proof reasonably satisfactory to the City that the full premiums have been paid or provided for at least the renewal term of such policies and as promptly as practicable, a copy of each renewal policy.

9.3 Insurance Notice

Each such policy of insurance to be provided hereunder shall contain, to the extent obtainable on a commercially reasonable basis, an agreement by the insurer that such policy shall not be canceled or modified without at least thirty (30) days prior written notice by registered mail, return receipt requested, to the City.

9.4 Keep in Good Standing

Developer shall observe and comply with the requirements of all policies of public liability, fire and other policies of insurance at any time in force with respect to the Project and Developer shall so perform and satisfy the requirements of the companies writing such policies.

9.5 Blanket Policies

Any insurance provided for in this Article 9 may be provided by blanket and/or umbrella policies issued to Developer covering the Project and other properties owned or leased by Developer; provided, however, that the amount of the total insurance allocated to the Project shall be such as to furnish in protection the equivalent of separate policies in the amounts herein required without possibility of reduction or coinsurance by reason of, or damage to, any other premises covered therein, and provided further that in all other respects, any such policy or policies shall comply with the other specific insurance provisions set forth herein and Developer shall make such policy or policies or a copy thereof available for review by the City at the Project.

10. Damage and Destruction

10.1 Damage or Destruction

In the event of damage to or destruction of improvements at the Project or any part thereof by fire, casualty or otherwise, Developer, at its sole expense and whether or not the insurance proceeds, if any, shall be sufficient therefor, shall promptly repair, restore, replace and rebuild (collectively, "**Restore**") the improvements, as nearly as possible to the same condition that existed prior to such damage or destruction using materials of an equal or superior quality to those existing in the improvements prior to such casualty. All work required to be performed in connection with such restoration and repair is hereinafter called the "**Restoration**." Developer shall obtain a permanent certificate of occupancy as soon as practicable after the completion of such Restoration. If neither Developer nor any Mortgagee shall commence the Restoration of the improvements or the portion thereof damaged or destroyed promptly following such damage or destruction and adjustment of its insurance proceeds, or, having so commenced such Restoration, shall fail to proceed to complete the same with reasonable diligence in accordance with the terms of this Agreement, the City may, but shall have no obligation to, complete such Restoration at Developer's expense. Upon the City's election to so complete the Restoration, Developer immediately shall permit the City to utilize all insurance proceeds which shall have been received by Developer, minus those amounts, if any, which Developer shall have applied to the Restoration, and if such sums are insufficient to complete the Restoration, Developer, on demand, shall pay the deficiency to the City. Each Restoration shall be done subject to the provisions of this Agreement. Notwithstanding the foregoing the obligation to proceed with Restoration shall be conditioned on the existence of a remaining term of the Category 1 license issued by the Commission of not less than five (5) years as of anticipated date of completion of the Restoration.

10.2 Use of Insurance Proceeds

(a) Subject to the conditions set forth below, all proceeds of casualty insurance on the improvements shall be made available to pay for the cost of Restoration if any part of the improvements are damaged or destroyed in whole or in part by fire or other casualty.

(b) Promptly following any damage or destruction to the improvements by fire, casualty or otherwise, Developer shall:

(i) give written notice of such damage or destruction to the City and each Mortgagee; and

(ii) deliver a written notice of Developer's intent to complete the Restoration in a reasonable amount of time plus periods of time as performance by Developer is prevented by Force Majeure events (other than financial inability) after occurrence of the fire or casualty.

(c) Developer agrees to provide monthly written updates to the City summarizing the progress of any Restoration, including but not limited, anticipated dates for the opening of the damaged areas to the public, to the extent applicable.

(d) Developer shall have no notification requirements to the City for any Restoration having a value less than One Hundred Million Dollars ($100,000,000) in the aggregate.

10.3 No Termination

Except as and to the extent provided in the last sentence of Section 10.1 and the last sentence of Section 10.4, no destruction of or damage to the Project, or any portion thereof or property therein by fire, flood or other casualty, whether such damage or destruction be partial or total, shall permit Developer to terminate this Agreement or relieve Developer from its obligations hereunder.

10.4 Condemnation

If a Major Condemnation occurs, this Agreement shall terminate, and no Party shall have any claims, rights, obligations, or liabilities towards any other Party arising after termination, other than as provided for herein. If a Minor Condemnation occurs or the use or occupancy of the Project or any part thereof is temporarily requisitioned by a civil or military governmental authority, then (a) this Agreement shall continue in full force and effect; (b) Developer shall promptly perform all Restoration required in order to repair any physical damage to the Project caused by the Condemnation, and to restore the Project, to the extent reasonably practicable, to its condition immediately before the Condemnation. If a Minor Condemnation occurs, any

Proceeds in excess of Forty Million Dollars ($40,000,000) will be and are hereby, to the extent permitted by applicable law and agreed to by the condemnor, assigned to and shall be withdrawn and paid into an escrow account to be created by an escrow agent (the "**Escrow Agent**") selected by (i) the first Mortgagee if the Project is encumbered by a first Mortgage; or (ii) Developer and the City in the event there is no first Mortgagee, within ten (10) days of when the Proceeds are to be made available. If Developer or the City for whatever reason cannot or will not participate in the selection of the Escrow Agent, then the other party shall select the Escrow Agent. Nothing herein shall prohibit the first Mortgagee from acting as the Escrow Agent. This transfer of the Proceeds, to the extent permitted by applicable law and agreed to by the condemnor, shall be self-operative and shall occur automatically upon the availability of the Proceeds from the Condemnation and such Proceeds shall be payable into the escrow account on the naming of the Escrow Agent to be applied as provided in this Section 10.4. If the City or Developer are unable to agree on the selection of an Escrow Agent, either the City or Developer may apply to the Superior Court Department of the Trial Court of the Commonwealth sitting in the Hampden County Hall of Justice in the City for the appointment of a local bank having a capital surplus in excess of Two Hundred Million Dollars ($200,000,000) as the Escrow Agent. The Escrow Agent shall deposit the Proceeds in an interest-bearing escrow account and any after tax interest earned thereon shall be added to the Proceeds. The Escrow Agent shall disburse funds from the Escrow Account to pay the cost of the Restoration in accordance with the procedure described in Section 10.2(b), (c) and (d). If the cost of the Restoration exceeds the total amount of the Proceeds, Developer shall be responsible for paying the excess cost. If the Proceeds exceed the cost of the Restoration, the Escrow Agent shall distribute the excess Proceeds, subject to the rights of the Mortgagees. Nothing contained in this Section 10.4 shall impair or abrogate any rights of Developer against the condemning authority in connection with any Condemnation. All fees and expenses of the Escrow Agent shall be paid by Developer. Notwithstanding the foregoing the obligation to proceed with Restoration shall be conditioned on the existence of a remaining term of the Category 1 license issued by the Commission of not less than five (5) years.

11. Indemnification

11.1 Indemnification by Developer

(a) Developer shall defend, indemnify and hold harmless the City and each of its officers, agents, employees, contractors, subcontractors, attorneys and consultants (collectively the "**Indemnitees**" and individually an "**Indemnitee**") from and against any and all liabilities, losses, damages, costs, expenses, claims, obligations, penalties and causes of action (including reasonable fees and expenses for attorneys, paralegals, expert witnesses, environmental consultants and other consultants at the prevailing market rate for such services) whether based upon negligence, strict liability, statutory liability, absolute liability, product liability, common law, misrepresentation, contract, implied or express warranty or any other principle of law, and whether or not arising from third party claims, that are imposed upon, incurred by or asserted against Indemnitees or which Indemnitees may suffer or be required to pay and which arise out of or

relate in any manner to any of the following: (1) Developer's development, construction, ownership, possession, use, condition or occupancy of the Project or any part thereof; (2) Developer's operation or management of the Project or any part thereof; (3) the performance of any labor or services or the furnishing of any material for or at the Project or any part thereof by or on behalf of Developer or enforcement of any liens with respect thereto; (4) any personal injury, death or property damage suffered or alleged to have been suffered by Developer (including Developer's employees, agents or servants), or any third person as a result of any action or inaction of Developer; (5) any work or things whatsoever done in, or at the Project or any portion thereof, or off-site pursuant to the terms of this Agreement by or on behalf of Developer; (6) the condition of any building, facilities or improvements at the Project or any non-public street, curb or sidewalk at the Project, or any vaults, tunnels, malls, passageways or space therein; (7) any breach or default on the part of Developer for the payment, performance or observance of any of its obligations under all agreements entered into by Developer or any of its Affiliates relating to the performance of services or supplying of materials to the Project or any part thereof; (8) any act, omission or negligence of any tenant, or any of their respective agents, contractors, servants, employees, licensees or other tenants at the Project; (9) any failure of Developer to comply with all Governmental Requirements; (10) Developer's acts or omissions with respect to the RFQ/P and/or the casino selection process conducted by the City; (11) any breach of any warranty or the inaccuracy of any representation made by Developer contained or referred to in this agreement or in any certificate or other writing delivered by or on behalf of Developer pursuant to the terms of this Agreement; and (12) the environmental condition of any property (including the presence of any hazardous or regulated substance in, on, under or adjacent to such property) on which the Project is located; (13) the release of any hazardous or regulated substance to the environment arising or resulting from any work or things whatsoever done in or at the Project or any portion thereof, or off-site pursuant to the terms of this agreement by or on behalf of Developer; (14) the operation or use of the Project, whether or not intended, in violation of any law addressing the protection of the environment or the projection of public health; and (15) any breach or failure by Developer to perform any of its covenants or obligations under this Agreement. In case any action or proceeding shall be brought against any Indemnitee based upon any claim in respect of which Developer has agreed to indemnify any Indemnitee, Developer will upon notice from Indemnitee defend such action or proceeding on behalf of any Indemnitee at Developer's sole cost and expense and will keep Indemnitee fully informed of all developments and proceedings in connection therewith and will furnish Indemnitee with copies of all papers served or filed therein, irrespective of by whom served or filed. Developer shall defend such action with legal counsel it selects provided that such legal counsel is reasonably satisfactory to Indemnitee. Such legal counsel shall not be deemed reasonably satisfactory to Indemnitee if legal counsel has: (i) a legally cognizable conflict of interest with respect to the

City; (ii) within the five (5) years immediately preceding such selection performed legal work for the City which in its respective reasonable judgment was inadequate; or (iii) frequently represented parties opposing the City in prior litigation. Each Indemnitee shall have the right, but not the obligation, at its own cost, to be represented in any such action by legal counsel of its own choosing.

(b) Notwithstanding anything to the contrary contained in Section 11.1(a), Developer shall not indemnify and shall have no responsibility to any Indemnitee for any matter to the extent caused by any gross negligence or willful misconduct of such Indemnitee.

12. Force Majeure

12.1 Definition of Force Majeure

An event of "**Force Majeure**" shall mean the following events or circumstances, to the extent that they delay or otherwise adversely affect the performance beyond the reasonable control of Developer, or its agents and contractors, of their duties and obligations under this Agreement:

(a) Strikes, lockouts, labor disputes, disputes arising from a failure to enter into a union or collective bargaining agreement, inability to procure materials attributable to market-wide shortages, failure of utilities, labor shortages or explosions;

(b) Acts of God, tornadoes, hurricanes, floods, sinkholes, fires and other casualties, landslides, earthquakes, epidemics, quarantine, pestilence, and/or abnormal inclement weather;

(c) Acts of a public enemy, acts of war, terrorism, effects of nuclear radiation, blockades, insurrections, riots, civil disturbances, or national or international calamities;

(d) Concealed and unknown conditions of an unusual nature that are encountered below ground or in an existing structure;

(e) Any temporary restraining order, preliminary injunction or permanent injunction, or mandamus or similar order, or any litigation or administrative delay which impedes the ability of Developer to complete the Project, unless based in whole or in part on the actions or failure to act of Developer; or

(f) The failure by, or unreasonable delay of, the City or Commonwealth or other Governmental Authority to issue any permits or Approvals necessary for Developer to develop, construct, open or operate the Project unless such failure or delay is based materially in whole or in part on the actions or failure to act of Developer, or its agents and contractors.

(g) Any impacts to major modes of transportation to the Project Site, whether private or public, which adversely and materially impact access to the Project Site, including but not limited to, sustained and material closure of airports or sustained and material closure of highways servicing the Project Site.

12.2 Notice

Developer shall promptly notify the City in writing of the occurrence of an event of Force Majeure, of which it has knowledge, describe in reasonable detail the nature of the event and provide a good faith estimate of the duration of any delay expected in Developer's performance obligations.

12.3 Excuse of Performance

Notwithstanding any other provision of this Agreement to the contrary, Developer shall be entitled to an adjustment in the time for or excuse of the performance of any duty or obligation of Developer under this Agreement for Force Majeure events, but only for the number of days due to and/or resulting as a consequence of such causes and only to the extent that such occurrences actually prevent or delay the performance of such duty or obligation or cause such performance to be commercially unreasonable.

13. Miscellaneous

13.1 Notices

Notices shall be given as follows:

(a) Any notice, demand or other communication which any Party may desire or may be required to give to any other Party shall be in writing delivered by (i) hand-delivery, (ii) a nationally recognized overnight courier, or (iii) U.S. mail (but excluding electronic mail, i.e., "**e-mail**") addressed to a Party at its address set forth below, or to such other address as the Party to receive such notice may have designated to all other Parties by notice in accordance herewith:

If to City:
Mayor
City of Springfield
36 Court Street, Room 210
Springfield, Massachusetts 01103

with copies to:
City Solicitor
City of Springfield
36 Court Street
Springfield, Massachusetts 01103

and

Chief Development Officer

Springfield Redevelopment Authority
70 Tapley Street
Springfield, Massachusetts 01104

If to Developer: Bill Hornbuckle,
Blue Tarp reDevelopment, LLC
c/o MGM Resorts International
3600 Las Vegas Boulevard South
Las Vegas, NV 89109

with copies to: Frank Fitzgerald, Esq.
Fitzgerald Attorneys At Law
46 Center Square
East Longmeadow, MA 01028

and

John McManus
Executive Vice President and General Counsel
MGM Resorts International
3600 S Las Vegas Blvd
Las Vegas, NV 89109

Any such notice, demand or communication shall be deemed delivered and effective upon actual delivery.

13.2 Non-Action or Failure to Observe Provisions of this Agreement

The failure of the City or Developer to promptly insist upon strict performance of any term, covenant, condition or provision of this Agreement, or any exhibit hereto, or any other agreement contemplated hereby, shall not be deemed a waiver of any right or remedy that the City or Developer may have, and shall not be deemed a waiver of a subsequent default or nonperformance of such term, covenant, condition or provision.

13.3 Applicable Law and Construction

The laws of the Commonwealth shall govern the validity, performance and enforcement of this Agreement. This Agreement has been negotiated by the City and Developer, and the Agreement, including the exhibits and schedules attached hereto, shall not be deemed to have been negotiated and prepared by the City or Developer, but by each of them.

13.4 Submission to Jurisdiction; Service of Process

Except as and to the extent provided in Section 13.14:

(a) The Parties expressly agree that the sole and exclusive place, status and forum of this Agreement shall be the City, Hampden County, Massachusetts. All

actions and legal proceedings which in any way relate to this Agreement shall be solely and exclusively brought, heard, conducted, prosecuted, tried and determined within the City, Hampden County, Massachusetts. It is the express intention of the Parties that the exclusive venue of all legal actions and procedures of any nature whatsoever which relate in any way to this Agreement shall be either the Superior Court Department of the Trial Court of the Commonwealth sitting in the Hampden County Hall of Justice in the City, or the United States District Court sitting in the City (the "**Court**").

(b) If at any time during the Term, Developer is not a resident of the Commonwealth or has no officer, director, employee, or agent thereof available for service of process as a resident of the Commonwealth, or if any permitted assignee thereof shall be a foreign corporation, partnership or other entity or shall have no officer, director, employee, or agent available for service of process in the Commonwealth, Developer or its assignee hereby designates the Secretary of the Commonwealth, as its agent for the service of process in any court action between it and the City or arising out of or relating to this Agreement and such service shall be made as provided by the laws of the Commonwealth for service upon a non-resident.

13.5 Complete Agreement

This Agreement, and all the documents and agreements described or referred to herein, including the exhibits and schedules attached hereto, constitute the full and complete agreement between the Parties with respect to the subject matter hereof, and supersedes and controls in its entirety over any and all prior agreements, understandings, representations and statements whether written or oral by each of the Parties, other than the Releases.

13.6 Holidays

It is hereby agreed and declared that whenever a notice or performance under the terms of this Agreement is to be made or given on a day other than a Business Day, it shall be postponed to the next following Business Day.

13.7 Exhibits

Each exhibit referred to and attached to this Agreement is an essential part of this Agreement.

13.8 No Joint Venture

The City on the one hand and Developer on the other, agree that nothing contained in this Agreement or any other documents executed in connection herewith is intended or shall be construed to establish the City and Developer as joint venturers or partners.

13.9 City Approvals

The City acknowledges that it has reviewed Developer's construction schedule (**"Developer's Construction Schedule"**), submitted as part of its RFQ/P Phase II response, and that it believes that the Developer's assumptions related to City permitting, licensing and regulatory approvals are generally reasonable. Notwithstanding any other provisions of this Agreement, the City agrees, to the fullest extent permitted by Applicable Law, to process Developer's (or its consultants and subconsultants, and contractors and subcontractors, on Developer's behalf) permitting, licensing and regulatory approvals, and any other Approvals over which the City has control, in a manner consistent with the Developer's Construction Schedule, as long as Developer has submitted complete supporting documentation (including payment of all applicable fees) and such approval is consistent with the Concept Design Documents and the Project Description and applicable laws. Further, the City agrees to the fullest extent permitted by Applicable Law, upon request by Developer (or its consultants and subconsultants, and contractors and subcontractors on Developer's behalf) to process Developer's permitting, licensing and regulatory approvals, and any other Approvals over with the City has control, on an expedited basis, as long as Developer has submitted complete supporting documentation (including payment of all applicable fees for expedited service) and such approval is consistent with the Concept Design Documents and the Project Description.

13.10 Unlawful Provisions Deemed Stricken

If this Agreement contains any unlawful provisions not an essential part of this Agreement and which shall not appear to have a controlling or material inducement to the making thereof, such provisions shall be deemed of no effect and shall be deemed stricken from this Agreement without affecting the binding force of the remainder. In the event any provision of this Agreement is capable of more than one interpretation, one which would render the provision invalid and one which would render the provision valid, the provision shall be interpreted so as to render it valid.

13.11 No Liability for Approvals and Inspections

No approval to be made by the City under this Agreement or any inspection of the Work by the City shall render the City liable for failure to discover any defects or non-conformance with this Agreement, or a violation of or noncompliance with any federal, Commonwealth or local statute, regulation, ordinance or code.

13.12 Time of the Essence

All times, wherever specified herein for the performance by Developer of its obligations hereunder, are of the essence of this Agreement.

13.13 Captions

The captions of this Agreement are for convenience of reference only and in no way define, limit or describe the scope or intent of this Agreement or in any way affect this Agreement.

13.14 Arbitration

(a) The Parties agree that any dispute, claim, or controversy arising under Sections 4.1(b); 4.5; or 12.1; the determination of Gross Revenue, and/or such other matters hereunder as the Parties may mutually determine (individually or collectively, a "**Limited Arbitrable Dispute**") shall be resolved through arbitration as provided in this Section 13.14.

(b) Either Party shall give the other Party written notice of any Limited Arbitrable Dispute ("**Dispute Notice**") which Dispute Notice shall set forth the amount of loss, damage, and cost of expense claimed, if any, or the position of the Party with respect to the Limited Arbitrable Dispute.

(c) Within ten (10) Business Days of the Dispute Notice, the Parties shall meet to negotiate in good faith to resolve the Limited Arbitrable Dispute. No time bar defenses shall be available based upon the passage of time during any negotiation called for by this Section.

(d) In the event the Limited Arbitrable Dispute is unresolved within thirty (30) days of the Dispute Notice by good faith negotiations, the Dispute shall be arbitrated upon the filing by either Party of a written demand, with notice to the other Party, to the Judicial Arbitration and Mediation Service ("**JAMS**") (to the extent such rules are not inconsistent as provided for herein) in the City before a single arbitrator to be selected under the JAMS selection process. Arbitration of the Limited Arbitrable Dispute shall be governed by the then current Commercial Arbitration Rules of JAMS. Within ten (10) days after receipt of written notice of the Limited Arbitrable Dispute being brought to the arbitrator, each Party shall submit to the arbitrator a best and final settlement offer with respect to each issue submitted to the arbitrator and an accompanying statement of position containing supporting facts, documentation and data. Upon such Limited Arbitrable Dispute being submitted to the arbitrator for resolution, the arbitrator shall assume exclusive jurisdiction over the Limited Arbitrable Dispute, and shall utilize such consultants or experts as he shall deem appropriate under the circumstances to assist in the resolution of the Limited Arbitrable Dispute, and will be required to make a final binding determination with a reasoned opinion, not subject to appeal, within forty-five (45) days of the date of submission. Nothing herein shall prevent either Party to seek injunctive relief in Court to maintain the status quo in furtherance of arbitration.

(e) For each issue decided by the arbitrator, the arbitrator shall award the reasonable expenses of the proceeding, including reasonable attorneys' fees, to the prevailing Party with respect to such issue. The arbitrator in arriving at his decision shall consider the pertinent facts and circumstances as presented in evidence and be guided by the terms and provisions of this Agreement and applicable law, and shall apply the terms of this Agreement without adding to, modifying or changing the terms in any respect, and shall apply the laws of the Commonwealth to the extent such application is not inconsistent with this Agreement.

(f) Any arbitration award may be entered as a judgment in the Court. A printed transcript of any such arbitration proceeding shall be kept and each of the Parties shall have the right to request a copy of such transcript, at its sole cost.

(g) The Parties agree that, in addition to monetary relief, the arbitrator may make an award of equitable relief including a temporary, preliminary or permanent injunction and the Parties further agree that the arbitrator is empowered to enforce any of the provisions of this Agreement.

13.15 Amendments

(a) This Agreement may not be modified or amended except by a written instrument signed by the Parties.

(b) The Parties acknowledge that the Commission may, subsequent to the date of this Agreement, promulgate regulations under or issue interpretations of or policies or evaluation criteria concerning the Act which regulations, interpretations, policies or criteria may conflict with, or may not have been contemplated by, the express terms of this Agreement. In addition, the Parties acknowledge that environmental permits and approvals may necessitate changes to this Agreement. In such event, the Parties agree to negotiate in good faith any amendment to this Agreement necessary to comply with the foregoing two sentences, whether such changes increase or decrease either of the Parties' respective rights or obligations hereunder. The City acknowledges that to the extent it has listed any obligations under this Agreement which are based on a requirement of the Act, whether such requirement is specifically cross-referenced, to the extent that the Act is amended to relieve such obligation, the City agrees, such to such good faith negotiations between the Parties, that it is the intent of this Agreement that Developer enjoy the benefit of any such revised requirements.

(c) The Parties acknowledge that the provisions of Section 4.1 may require that this Agreement be amended.

13.16 Compliance

Any provision that permits or requires a Party to take action shall be deemed to permit or require, as the case may be, the Party to cause the action to be taken.

13.17 Table of Contents

The table of contents is for the purpose of convenience only and is not to be deemed or construed in any way as part of this Agreement or as supplemental thereto or amendatory thereof.

13.18 Number and Gender

All terms used in this Agreement, regardless of the number or gender in which they are used, shall be deemed to include any other number and any gender as the context may require.

13.19 Third Party Beneficiary

Except as expressly provided in Sections 4.4(b), 2.3(viii) and 11.1, there shall be no third party beneficiaries with respect to this Agreement.

13.20 Cost of Investigation

If as a result of the Agreement, the City or any of their directors or officers, the Mayor, or any City Council members, or any employee, agent, or representative of the City is required to be licensed or approved by the Commission, reasonable costs of such licensing, approval or investigation shall be paid by Developer within five (5) Business Days following receipt of a written request from the City.

13.21 Further Assurances

The City and Developer will cooperate and work together in good faith to the extent reasonably necessary and commercially reasonable to accomplish the mutual intent of the Parties that the Project be successfully completed as expeditiously as is reasonably possible.

13.22 Estoppel Certificates

The City shall, at any time and from time to time, upon not less than fifteen (15) Business Days prior written notice from any lender of Developer, execute and deliver to any lender of Developer an estoppel certificate in the form attached hereto as Exhibit P.

13.23 Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed to be an original document and together shall constitute one instrument.

13.24 Deliveries to the City

Any reports or other items to be delivered or furnished to the City hereunder (other than notices, demands or communications under Section 13.1) shall be delivered or furnished to the attention of the City Solicitor in the City's Law Department.

13.25 Exclusivity

City agrees that it shall not negotiate or enter into a host community agreement as referenced in the Act, or any similar agreement to this Agreement, with any other party so long as this Agreement has not been terminated.

13.26 Non-Survival Upon Termination Under Certain Provisions

If the Developer terminates this Agreement pursuant to Section 3.5 or if there is not an affirmative vote of the City's residents in the Election, then the Developer, the Parent Company and any Affiliates are relieved from all obligations under this Agreement, excepting therefrom the Developer's obligations pursuant to Section 4.4(b). The provisions of this Section 13.26 supersede any and all other provisions of this Agreement contrary thereto.

IN WITNESS WHEREOF, the Parties have set their hands and had their seals affixed on the dates set forth after their respective signatures.

CITY OF SPRINGFIELD, MASSACHUSETTS, a municipal corporation

Approved:

_____
Chief Development Officer
Date Signed:_____

Approved as to appropriation:

_____
City Comptroller
Date Signed:_____

Approved as to form:

_____
City Solicitor
Date Signed:_____

Reviewed:

_____
Acting Chief Administrative and
Financial Officer
Date Signed:_____

APPROVED:

_____
DOMENIC J. SARNO, MAYOR
Date Signed:_____

BLUE TARP reDEVELOPMENT, LLC, a Massachusetts limited liability company

_____
WILLIAM J. HORNBUCKLE, Authorized Signatory

Dated Signed: _____

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