

# *St. Louis City Ordinance 63622*

FLOOR SUBSTITUTE

BOARD BILL NO. [95] 242

INTRODUCED BY ALDERMAN Nancy Weber

An Ordinance authorizing and directing the Mayor and the Comptroller to enter into a Lease and Development Agreement with the City of St. Louis and the Chain of Rocks Joint Venture, relating to the development of certain real property within the north riverfront area of the Port District and owned by the City, which development will include the construction and operation of riverboat gaming, restaurants, entertainment, and public parking facilities, for a period of twenty-five (25) years, and containing certain terms and conditions as determined by the Mayor and the Comptroller relating to rents, licenses, operations, construction and development, financial and accounting reporting requirements, utilities, taxes, insurance, damage or destruction, financing, liability and indemnification, and events of default, and containing an emergency clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE: The Mayor and the Comptroller of the City of St. Louis are hereby authorized and directed to enter into a Lease and Development Agreement with the Chain of Rocks Joint Venture (a Missouri joint venture comprised of CSMC Management Services, Inc. a Florida corporation, and Paradox Investments, L.L.C., a Missouri limited liability company), as Lessee, which shall read in words and figures substantially as Exhibit A attached hereto and incorporated herein by reference.

SECTION TWO: Passage of this Ordinance being deemed necessary for the immediate preservation of public health, morals, safety and the general welfare of the residents of the City of St. Louis, it is hereby declared to be an emergency within the meaning of Article IV, Sections 19 and 20, of the Charter of the City of St. Louis, and, as such, this Ordinance shall become effective immediately on its passage and approval by the Mayor.

LEASE AND DEVELOPMENT AGREEMENT

between

THE CITY OF ST. LOUIS, MISSOURI

(LESSOR)

and

THE CHAIN OF ROCKS JOINT VENTURE  
(LESSEE)

DATED: December 29, 1995

LEASE AND DEVELOPMENT AGREEMENT

This Lease and Development Agreement (herein referred to as this "Agreement") is made and entered into this 29th day of December, 1995 by and between THE CITY OF ST. LOUIS, a municipal corporation of the State of Missouri ("City" or "Lessor") and THE CHAIN OF ROCKS JOINT VENTURE, a Missouri joint venture comprised of CSMC Management Services, Inc., a Florida corporation and an Affiliate (as defined below) of Carnival Hotels & Casinos, and Paradox Investments, L.L.C., a Missouri limited liability company ("Lessee");

WITNESSETH:

WHEREAS, the Constitution of the State of Missouri has been amended to authorize the Missouri General Assembly to permit lotteries, gift enterprises and games of skill and chance to be conducted on excursion gambling boats and floating facilities located on the Mississippi River or Missouri River; and

WHEREAS, the Missouri General Assembly has enacted legislation permitting the conduct of riverboat gambling (hereinafter the "Act"), pursuant to which such activities may be approved by local option; and

WHEREAS, the voters of the City of St. Louis have approved the conduct of such activities upon excursion gambling boats and floating facilities on the Mississippi and Missouri Rivers within the City of St. Louis; and

WHEREAS, Lessee desires to develop and operate a riverboat gaming facility near the Chain of Rocks Bridge on the City's northernmost riverfront; and

WHEREAS, the City of St. Louis, Missouri (the "City" or the "Lessor") is the owner of certain City Real Estate and Mooring Rights on the Mississippi River (as hereinafter defined) within the Port District of the City of St. Louis that Lessee seeks to lease; and

WHEREAS, Lessee is the owner of certain adjacent real estate (as hereinafter defined) on the Mississippi River, (which, together with the City Real Estate is referred to hereafter as the "Casino Project Site") within the Port District of the City of St. Louis; and

WHEREAS, Lessee intends to use its best efforts to obtain a gaming license and shall implement and effect the development of a Casino Project (as hereinafter defined) at the Casino Project Site in accordance with this Agreement; and

WHEREAS, Lessee has determined to pursue the Casino Project utilizing the Basin-Design Concept by constructing a floating facility in a man-made basin filled by water from the Mississippi River within the Casino Project Site, thereby eliminating the need for City-owned mooring rights; and

WHEREAS, the City has determined that the Basin-Design Concept is desirable and in the best interests of all parties since it will provide protection against obstruction to navigation in the Mississippi River, involves the least disruption to the existing riverfront, avoids the hazards associated with constructing significant and costly engineering structures within the Mississippi River, and better ensures continuous operation of the Casino Project without interruption resulting from flood or other changing water levels of the Mississippi River; and

WHEREAS, the Port Authority and the City have determined that the operation of gambling activities on the City's north riverfront and the lease of the City Real Estate to Lessee meet the City's goals, objectives and policies; will further the redevelopment of the riverfront; and will provide economic benefits to the citizens of the City of St. Louis through expansion of the job base, increased revenues, increased tourism and expanded economic activity; and

WHEREAS, Lessor and Lessee desire to enter into this Lease and Development Agreement, pursuant to which Lessor shall let unto Lessee, and Lessee shall lease, take and hire from Lessor, the City Real Estate for the term, the rent, and upon the remaining conditions set forth herein, including, without limitation, Lessee's obligation to complete, or to cause the development, construction and completion of the Casino Project (as hereinafter defined) and to operate, or to cause the operation of the said Casino Project in accordance with the terms and upon the conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and

sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

## ARTICLE I.

### DEFINITION OF TERMS

For purposes of this Agreement, the following terms, in addition to the terms defined elsewhere in this Agreement, shall have the meanings set forth below when initially capitalized herein:

Section 1.1 Act - means Section 313.005 et seq. of the Revised Statutes of Missouri (1994), as amended.

Section 1.2 Additional Rent - means any and all rent or other sums to be paid by Lessee, other than the Base Rent as provided in Section 4.1 hereof or Percentage Rent as provided in Section 4.2 hereof.

Section 1.3 Adjusted Gross Receipts - means the gross receipts from licensed gambling games and devices, less winnings paid to wagers from or in connection with operation of the Casino Project.

Section 1.4 Affiliate - means, as to any Person, any other Person which, directly or indirectly, is controlled by, under common control with, or controls such Person. The term "control" for these purposes means the ability, whether by direct or indirect ownership of shares or other equity interests, by contract or otherwise, to elect a majority of the directors of a corporation, to elect a majority of the managers of a limited liability company, to select a managing partner of a partnership, or otherwise to select, or have the power to remove and then select, a majority of those persons exercising governing authority over an entity, and, in the case of a limited partnership, shall mean the sole general partner thereof, all of the general partners thereof which have or share management control or authority, or the managing general partner or managing general partners thereof, as appropriate (and in any event shall mean the ownership and control [that is, the right to vote] fifty percent (50%) or more of the residual equity interests in an entity). The term "Affiliate" shall also mean and include (i) a trust of which the Person in question, or other applicable Person, or a direct or indirect shareholder of any such Person, is a trustee, or which has as its principal income or residual beneficiaries, such Person, or any direct or indirect shareholder of such Person, or members of the immediate family of such Person or such direct or indirect shareholder, and (ii) any members of such Person's immediate family, or a member of the immediate

family of any direct or indirect shareholder of such Person. For purposes hereof, shares or other ownership interests held by a trust shall be deemed to be owned pro rata by the income and residuary beneficiaries of such trust. Further, the members of the immediate family of any Person shall include all collateral relatives of such Person having a common linear ancestor with such Person, and the spouse or any former spouse of such Person or any of such collateral relatives, and shall include both natural and adopted relatives.

Section 1.5 Agreement - means this Lease and Development Agreement (together with all Exhibits, attachments, and appendices referenced herein) by and between the Lessor and Lessee, as the same may be amended, modified, restated, or supplemented from time to time.

Section 1.6 Ancillary Facilities - means the improvements, fixtures, furniture, boats, barges, vessels, buildings, appurtenances, restaurants, bars, lounges, offices, equipment, ramps, structures and facilities of any kind or nature which are located within the Casino Project Site and which are, have been or will be constructed or operated in connection with the Casino Project.

Section 1.7 Annual Business Plan - means an annual business plan for the operation of the Casino Project for the forthcoming calendar year to be prepared by Lessee, consisting, for purposes of this Agreement, of only those portions thereof setting forth the estimated Adjusted Gross Receipts, estimated marketing and promotion expenses, and estimated number of admissions and an annual projection of the foregoing for the ensuing three (3) year period.

Section 1.8 Base Rent - means the amount of rent to be paid by Lessee per square foot of the City Real Estate as mandated by Ordinance No. 57933 of the City of St. Louis.

Section 1.9 Books and Records - means the internal control standards adopted by the Lessee and the records required thereby, as well as all general ledgers, accounts receivable, accounts payable, invoices, payroll records, expense records, income records, all revenue records, and any other accounting or financial document or record relating to or concerning the gaming operations conducted as part of the Casino Project. Books and Records shall not include any information Lessee is required by law not to disclose.

Section 1.10 Casino Project - means the Gaming Vessel(s), the Ancillary Facilities and the furniture, fixtures and equipment to be constructed and/or installed by Lessee at the Casino Project Site pursuant to the terms and conditions of this Agreement, which shall meet and satisfy the Casino Project

Criteria and shall, following final completion, provide for approximately fifteen hundred (1,500) Gaming Positions.

Section 1.11 Casino Project Criteria - means the general narrative description of and outline specifications for the Casino Project, which shall be developed through the mutual agreement of the parties hereto, within thirty (30) days of the Effective Date of this Agreement.

Section 1.12 Casino Project Site - means the real property within the Port District on which the Casino Project is situated, inclusive of the City Real Estate and the Joint Venture Property, all as more particularly described in Exhibit 1 attached hereto and incorporated herein by reference.

Section 1.13 Casino Opening Date - means the first day on which a Gaming Vessel is open for business to the public after Lessee has been duly and officially approved and licensed by the Gaming Commission as a gaming operator in the State of Missouri.

Section 1.14 Casino Opening Deadline - means the date by which Lessee shall commence Gaming Operations at the Casino Project Site, which shall be no later than that date which is thirty (30) months following, and subject to, the delivery of Lessee's Readiness Notice, subject to Unavoidable Delays and extensions approved and granted by Lessor.

Section 1.15 City Real Estate - means the real property owned by the City of St. Louis and described on Exhibit 2.

Section 1.16 Commission - (or Gaming Commission) means the Missouri Gaming Commission created pursuant to Section 313.004 of the Act.

Section 1.17 Effective Date - means the date on which this Agreement, with all Exhibits, Appendices and Attachments, is fully executed by the parties hereto, and all changes to the written portion hereof initialled by both of the parties.

Section 1.18 Environmental Laws - means any applicable laws pertaining to health or the environment including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, as hereafter amended ("CERCLA"), the Resource Conservation and Recovery Act of 1976, as amended by the Used Oil Recycling Act of 1980, the Hazardous and Solid Waste Amendments of 1984, as hereafter amended ("RCRA"), the Federal Water Pollution Control Act, as now or hereafter amended ("WPCA"), and any

laws of the State of Missouri or any subdivision thereof, relating to the presence of, removal, spill, release, leaking, or disposal of oil, petroleum, toxic pollutants, solid waste or other hazardous substances. The terms "hazardous substance" and "release" shall have the meanings specified in CERCLA and RCRA; the term "solid waste" and "disposal", or "disposed", shall have the meanings specified in RCRA; the terms "oil", "petroleum", and "toxic pollutant" shall have the meanings specified in WPCA and RCRA; provided that, to the extent that the laws of the State of Missouri, as currently enacted or hereafter amended, establish a meaning for "oil", "petroleum", "toxic pollutant", "hazardous substance", "release", "solid waste", or "disposal" that is broader than that specified in either CERCLA, RCRA, or WPCA such broader meaning shall apply.

Section 1.19 Financial Statements - means the statements of Adjusted Gross Receipts and marketing and promotion expenses required to be prepared by Lessee and delivered to Lessor as hereinafter provided.

Section 1.20 Gaming Authorities - means all agencies, authorities and instrumentalities of the City of St. Louis, the State of Missouri, or the United States of America, or any subdivision thereof, which have jurisdiction over the Gaming Operations (or any part thereof) at the Casino Project, including but not limited to the Gaming Commission.

Section 1.21 Gaming License or License - means the license or licenses granted by the Gaming Commission which permit the holder thereof to legally conduct Gaming Operations in the State of Missouri, together with any replacements or renewals thereof.

Section 1.22 Gaming Operations - means any operations relating to gaming, gambling, lotteries, gift enterprises and/or games of skill and chance offered or conducted at or within the Casino Project, including, without limitation, the operation of any slot machines, roulette tables, card games or other gaming devices or games permitted under the Act, and consisting of approximately fifteen hundred (1,500) total Gaming Positions.

Section 1.23 Gaming Position - means a seat, floor area or other space provided for one player to utilize one of the gaming devices or to participate in one of the games or activities operated as part of the Gaming Operations.

Section 1.24 Gaming Rent - means, collectively, the rental amounts to be paid by Lessee to Lessor pursuant to Article IV (including the Additional Rent described therein).

Section 1.25 Gaming Vessel(s) - means the structure, improvement or facility floating within the Casino Project Site and meeting the requirements of a gaming vessel under the Act, to be constructed, owned and operated by Lessee pursuant to this Agreement as a part of the Casino Project, which floating facility or facilities are to be moored within the Casino Project Site, utilized for the conduct of Gaming Operations, and otherwise operated in accordance with the terms and conditions of this Agreement during the Lease Term.

Section 1.26 Governmental Authorities - means any federal, state, county or municipal governmental authority, including all executive, legislative, judicial and administrative bodies thereof, including but not limited to the Port Authority of the City of St. Louis.

Section 1.27 Improvements - means, to the extent that the thing is an immovable or a component of an immovable or permanently affixed to the land, any immovable buildings, fixtures, structures, improvements, roads, roadways, mechanical devices, landscaping, facilities and appurtenances constructed and situated now or at anytime hereafter on or within the Casino Project Site, the Levee or any public right of way.

Section 1.28 Joint Venture Property - means that real property adjacent to the City Real Estate which is owned and controlled by the Lessee and/or a joint venturer of Lessee and described on the attached Exhibit 3 and incorporated herein by reference.

Section 1.29 Lease - means this Agreement together with the lease rights granted to Lessee in regard to the Casino Project, the City Real Estate, commencing on the Lease Term Commencement Date, and terminating on the date of the expiration or termination of the Lease Term (if the same occurs earlier), subject to any renewals and extensions thereof.

Section 1.30 Lease Term or Term - means the Initial Term of the Lease (as defined in Section 3.1 below), together with any Extended Term (as defined in Section 3.2 below) for which the option to extend as provided in this Agreement has been properly exercised, without distinction between or among the Initial Lease Term or any Extended Term.

Section 1.31 Lease Term Commencement Date - means the date on which Lessee's obligation to pay Gaming Rent to Lessor shall commence, as defined in Section 3.1 below.

Section 1.32 Lease Year - means each period commencing on the Lease Term Commencement Date or any anniversary thereof, and ending on the date preceding the next anniversary of the Lease Term Commencement Date (or on the date of the expiration or termination of the Lease Term, if the same occurs earlier.) The term "Full Lease Year" means any Lease Year containing not fewer than 364 days.

Section 1.33 Lessee - means The Chain of Rocks Joint Venture, a Missouri joint venture comprised of CSMC Management Services, Inc., a Florida corporation and an Affiliate of Carnival Hotel and Casinos, and Paradox Investments, L.L.C., and to the extent succession or assignment is permitted or authorized pursuant to the terms of this Agreement, any other Person who becomes the successor to or assignee of all or any part of the rights, duties, and obligations of Lessee under this Agreement.

Section 1.34 Leasehold Interest - means the mooring rights, tenancies and other rights granted to Lessee under this Agreement in regard to the City Real Estate in connection with the Casino Project.

Section 1.35 Lessee's Readiness Notice - means the notice to be delivered by Lessee as contemplated by Section 12.2.B. below.

Section 1.36 License - means the license or licenses granted to Lessee by the Commission which permit Lessee to legally conduct Gaming Operations in the State of Missouri.

Section 1.37 Lessor - means the City of St. Louis and any and all other Persons who become the successor to or assignee of all or any part of the rights, duties and obligations of Lessor under this Lease.

Section 1.38 Opening Date - means the first day on which the Casino Project, or any part thereof, is open for business to the general public.

Section 1.39 Patron - means those Persons in, on or around the Casino Project Site on account of the Casino Project for the purpose of participating in any gaming activities or other forms of entertainment, including the enjoyment of food and beverages, being offered in, on or around the Casino Project.

Section 1.40 Person - means any individual, partnership, corporation, limited liability company, association, unincorporated organization, trust or other entity, including but not limited to, any government or agency or subdivision

thereof, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so permits.

Section 1.41 Port Authority - means the Port Authority of the City of St. Louis, whose offices are located at 330 North Fifteenth Street, St. Louis, Missouri 63103.

Section 1.42 Port Commission - means the Board of Commissioners of the Port Authority.

Section 1.43 SLDC - means the St. Louis Development Corporation, whose offices are currently located at 330 North Fifteenth Street, St. Louis, Missouri 63103.

Section 1.44 Unavoidable Delay - means a delay due to strike, lockout, or other labor or industrial disturbance, shortages or unavailability of materials, civil disturbance, lightning, earthquake, fire, storm, hurricane, tornado, flood, washout, act of God, force majeure, the failure of either party hereto to perform any act or fulfill any obligations required to be performed or fulfilled by said party to the extent the same causes the other party to fail to perform or satisfy any obligation by a date or time otherwise herein required, or any other cause whatsoever beyond the reasonable control of Lessee or Lessor, whichever of them is alleging the occurrence of an Unavoidable Delay; provided that enforcement of and compliance with contracts entered into by Lessee or Lessor shall be deemed to be within the control of Lessee or Lessor, respectively, and provided further that the lack of funds or inability to obtain or maintain financing shall not be deemed to be a cause beyond the control of Lessee. Notwithstanding the foregoing, but subject nevertheless to the provisions of Section 5.1.B., the term "Unavoidable Delay" shall include, without limitation, any failure on the part of the Gaming Commission to have selected Lessee for investigation for the issuance of a Gaming License on or prior to July 31, 1996, the duration of such Unavoidable Delay being the period from July 31, 1996 to and including the date on which Lessee shall have been so selected for investigation. Any of the foregoing events, to the extent resulting in an Unavoidable Delay, being sometimes herein referred to as an "Unavoidable Delay Event".

## ARTICLE II LEASED PROPERTY

### Section 2.1 Unsubordinated Lease

In consideration of the obligations undertaken hereunder by Lessee (i) to pay to Lessor the Gaming Rent as hereinafter set forth and (ii) to design, develop, construct and operate the Casino Project pursuant to the terms of this Agreement, and in consideration of the other terms, provisions, covenants and conditions of this Agreement, Lessor hereby leases to Lessee on an exclusive basis, and Lessee takes, accepts and leases from Lessor the City Real Estate, subject to the terms, provisions, covenants and conditions of this Agreement. In connection with the lease by Lessor to Lessee of the City Real Estate, Lessor acknowledges that substantial portions of the Casino Project and the Ancillary Facilities will be located on the Joint Venture Property adjacent to the City Real Estate.

### ARTICLE III

#### TERM OF AGREEMENT/LEASE

##### Section 3.1 Term

Subject to the terms, covenants, agreements and conditions contain herein, Lessee shall have and hold Lessee's Leasehold Interest for an initial Lease term (the "Initial Term") commencing on the date Lessee delivers to Lessor Lessee's Readiness Notice (as provided in Section 12.2(B) below) and terminating at 11:59 p.m. (St. Louis time) on the day prior to the date of the tenth (10th) anniversary of the delivery of Lessee's Readiness Notice. The Term of this Agreement shall be the period of time commencing with the Effective Date to and including the expiration of the Initial Term or Extended Term, as the case may be, subject to earlier termination as set forth in this Agreement.

Within five (5) days of delivery by Lessee of Lessee's Readiness Notice, Lessor and Lessee shall each execute and deliver a memorandum, in recordable form, setting forth the Lease Term Commencement Date.

##### Section 3.2 Extension Procedure

A. Provided that there then exists no Event of Default (nor any event or circumstance which, with the passage of time or the giving of notice, would constitute an Event of Default), Lessee shall have the right and option to extend the Initial Term for three (3) separate additional periods of five (5) years each (each additional period being referred to herein as an "Extended Term"). Anything herein contained to the contrary notwithstanding (and provided this Lease shall not theretofore have been terminated or expired), the Lease Term shall be deemed to have been automatically renewed for the next Extended

Term (if any) unless Lessee shall have timely delivered the notice referred to in Section 3.2.B. Each such Extended Term shall begin immediately following the time at which the then current Lease Term would have expired absent the renewal herein referred to. All of the rights, privileges, interests, terms, covenants, and provisions of this Lease (including, without limitation, provisions applicable to the payment of Gaming Rent) shall apply to each such Extended Term. If requested by Lessee, Lessor shall execute, acknowledge and deliver an appropriate written instrument, in recordable form, acknowledging the extension of the Term as herein provided.

B. If Lessee shall elect not to extend the Lease Term it shall so notify Lessor not later than the date one (1) year prior to the expiration of the then current Lease Term. Following delivery of such written notice, this Lease, and the rights and interests of the parties hereto, shall terminate as of the then current Lease Term, and Lessee shall thereupon surrender to Lessor all rights, title and interest in the City Real Estate.

### Section 3.3 Lessee Termination Right

Notwithstanding anything herein contained to the contrary, at any time after delivery of Lessee's Readiness Notice, Lessee shall have the right to terminate this Lease and the rights and obligations of the parties hereto (other than those which expressly by the terms of this Agreement shall survive any such termination) upon not less than one (1) year prior written notice to Lessor by Lessee of the date on which such termination shall occur, provided that on the date of termination set forth in any such written notice and continuously thereafter, Lessee, its successors and assigns, shall abandon, cease and terminate any gaming activities on the Casino Project Site. In connection with the termination of this Agreement pursuant to this Section 3.3, each party shall bear all costs and expenses incurred by it without reimbursement from any other party. Nothing in this Section 3.3 shall relieve Lessee of any obligation that may accrue under this Agreement prior to the date of termination as aforesaid or entitle Lessee to any reimbursement of amounts previously paid under the terms of this Agreement, whether or not accrued prior to the date of termination.

## ARTICLE IV

### BASE RENT, PERCENTAGE RENT AND OTHER CONSIDERATION

#### Section 4.1 Base Rent

A. From and after the Lease Term Commencement Date, and thereafter during the Initial Term and any Extended Term, and for the rights and privileges granted and leased herein, Lessee shall pay the Lessor an annual Base Rent of \$0.12375 per square foot of the City Real Estate. The Base Rent shall be payable to Lessor annually in advance on, and subject to, the Lease Term Commencement Date, and thereafter on each successive anniversary of the Lease Term Commencement Date. The Base Rent to be paid to Lessor shall be subject to adjustment as provided in Paragraph B. below.

B. Pursuant to Ordinance No. 57933 of the City of St. Louis, the Base Rent of \$0.12375 per square foot of City Real Estate may be adjusted at five (5) year intervals beginning January 1, 1999 upon the recommendation of the Port Commission and the approval of the Board of Public Service. No recommendation may be made by the Port Commission unless within 180 days before the effective date of such adjusted Base Rent, the Port Commission shall conduct a public hearing with due notice to the public and to the lessees of City-owned land and mooring rights under leases which are subject to the provisions of Ordinance No. 57933. The maximum adjustment which can be recommended and approved at any interval shall be 25% of the Base Rent, subject to approval of the City Board of Aldermen as set forth below. Each adjustment shall be added to the Base Rent as modified by any previous adjustments thereof pursuant hereto, and the resulting rate shall then become the Base Rent. If, upon recommendation of the Port Commission, the Board of Public Service shall approve an increase in the Base Rent in excess of 15%, such increase in the Base Rent shall not be effective hereunder unless approved by resolution of the Board of Aldermen of the City of St. Louis. If the Board of Aldermen fails to act before the effective date of the new Base Rent, the Base Rent increase shall be limited to 15% and may not thereafter be increased until the next Base Rent adjustment date five (5) years hence. Any adjustment in Base Rent made as hereinabove provided shall become effective hereunder as of the date on which payment of Base Rent shall be due hereunder.

#### Section 4.2 Percentage Rent

A. As additional consideration to Lessor for the rights granted hereunder, Lessee shall pay to Lessor in monthly installments during each Lease Year, Percentage Rent equal to: (1) the amount obtained by multiplying Two Percent (2%) times the total Adjusted Gross Receipts arising from the Casino Project during the preceding portion of such Lease Year, less (2) the total amount of money previously paid during such Lease Year by Lessee pursuant to clause 4.2.A.(1) above.

B. Lessee's obligation to pay Percentage Rent shall commence on the Casino Opening Date. Payment of the Percentage Rent due hereunder (if any) in regard to any calendar month shall be due and payable on the earlier of (i) the last day of the month immediately following the month in question, or (ii) the date upon which the payment of gaming tax in regard to such day or month is due to the State of Missouri.

C. Percentage Rent shall be payable monthly, in arrears, and shall be calculated on the basis of the Adjusted Gross Receipts for the period from the beginning of such Lease Year to the end of the month next preceding the date on which Percentage Rent is being paid, less the total amount of Percentage Rent previously paid during such Lease Year.

D. Together with each payment of Percentage Rent required in this Section 4.2, Lessee shall deliver to Lessor a detailed statement (herein referred to as the "Gaming Percentage Statement") of the Adjusted Gross Receipts of the applicable calendar month and for the Lease Year to date, as well as a calculation of the amounts of Percentage Rent paid and payable for the Lease Year to date. In the event that any such Gaming Percentage Statement reveals that the amount of the Gaming Rent paid for the Lease Year to date is less than the total amount of Gaming Rent actually due for the Lease Year to date, Lessee shall immediately pay to Lessor the amount of such shortage. If, however, any such Gaming Percentage Statement reveals that the amount of the Gaming Rent paid for the Lease Year to date is greater than the total amount of Gaming Rent actually due for the Lease Year to date, Lessee shall be credited with the amount of such overage against future Percentage Rent payments due under this Agreement.

#### Section 4.3. Minority and Women Ownership

A. As additional consideration to Lessor for the rights granted hereunder regarding the City Real Estate, Lessee covenants and agrees to create and implement a Local, Minority and Women Equity Participation Program in furtherance of the City of St. Louis' policy of encouraging equity participation in the Casino Project by local residents, and by women and minorities.

B. Lessee hereby acknowledges the following objectives of the City of St. Louis' equity participation policy:

(1) Meaningful participation will promote Lessee's responsiveness to community issues in the Casino Project's conceptualization, development and operation; and

(2) Inclusion of local, minority and women equity participants will help to build capacity among local residents, minorities and women to participate in, compete for, and ultimately win and successfully execute future development opportunities.

C. Lessee's Local, Minority and Women Equity Participation Program shall provide that twenty percent (20%) of the total voting equity (not including mezzanine level financing from corporate partners or limited liability company members) in the Casino Project shall be made available to local, minority and women equity investors. The issuance of voting equity interests pursuant to this Section 4.3 shall be subject to compliance with applicable federal and state laws regarding issuance and sale of securities and shall be sold only to Persons who qualify for purchase thereof without the requirement of registration under the Securities Act of 1933, as amended, or the applicable Missouri Securities Laws, as amended, or other applicable state or local securities law, it being understood and agreed that in complying with the provisions of this Section 4.3, Lessee shall not be required to register the offering and sale of its securities, with the U.S. Securities and Exchange Commission, or the counterpart Missouri Governmental Authority or the Governmental Authority of any other jurisdiction. All such equity investment shall be actual investment of investor assets, and shall not be discounted, subsidized, reimbursed (whether by fees or otherwise), gifted, or supported by Lessee's loan guarantees or any other means.

D. Lessee shall use reasonable efforts and all due diligence in developing and implementing the Local, Minority and Women Equity Participation Program to achieve the goals and objectives of the City's policy as set out in this Section 4.3. Once Lessee has implemented its Local, Minority and Women Equity Participation Program, Lessee shall not thereafter amend, modify or discontinue said Program without the Lessor's prior written consent in each instance.

E. Any equity participant in the Casino Project must be able to meet the licensing criteria of the Missouri Gaming Commission for "key persons", as defined in the Act. No equity participant in the Casino Project may be a member of the Missouri Gaming Commission, an employee of the Commission, a member of the General Assembly, an elected official of the United States, the State of Missouri, a city, county or a political subdivision, or an appointed official or employee of St. Louis Development Corporation, the Port Authority of the City of St. Louis or other City department having regulatory authority over any aspect of the Casino Project. Relatives in the immediate family of such public officials, officers or employees may not,

directly or indirectly, own any financial interest or have any beneficial interest in the Casino Project, nor may such person hold or have any interest in any contractual or service relationship with Lessee. ("Immediate family" shall include spouse [other than a spouse who is legally divorced or separated from the individual under a decree of dissolution of marriage or separate maintenance], parents, grandparents, children, grandchildren, whether by the whole or half blood, marriage, adoption or natural relationship.) Lessee and all equity participants must also meet the requirements of local, state and federal ethics and conflict of interest laws.

F. Prior to Lessee's delivery of Lessee's Readiness Notice, Lessee shall submit to Lessor such documentation as may be reasonably required by Lessor to determine and verify Lessee's compliance with this Section 4.3.

#### Section 4.4 City Resident Employment

A. As additional consideration to Lessor for the rights granted hereunder, Lessee covenants and agrees to implement the City of St. Louis' policy of giving maximum consideration for employment opportunities created as a result of the Casino Project to residents of the City of St. Louis.

B. Lessor's goal is that: (1) at least thirty percent (30%) of the employees hired by Lessee and its contractor(s) in connection with the construction of the Casino Project shall live and reside in the City of St. Louis; and (2) at least eighty percent (80%) of all the employees hired by Lessee in connection with the operation of the Casino Project shall live and reside in the City of St. Louis. Lessee agrees to cooperate with Lessor in a good faith attempt to achieve this goal.

C. On or before sixty (60) days prior to the then estimated Casino Opening Date, Lessee shall enter into a first source referral agreement with the St. Louis Agency on Training and Employment (SLATE) for the referral of Job Training Partnership-eligible individuals for employment opportunities created by the Casino Project. The first source referral agreement, after being entered into by Lessee thereafter shall be in effect for the remainder of the Lease Term, and any renewals or extensions thereof, and shall specify the number of jobs to be created in connection with the Project, the target date for referrals to begin, and the procedures for referrals.

D. Lessee agrees to submit to Lessor on a quarterly basis such reports as may be reasonably required by Lessor to determine and verify Lessee's compliance with this Section 4.4.

#### Section 4.5 Minority and Women Business Enterprise Utilization

A. As additional consideration to the Lessor for the rights granted hereunder, Lessee covenants and agrees to implement the policies, ordinances and Mayor's Executive Orders of the City of St. Louis requiring maximum utilization of City-certified minority and women-owned business enterprises in all phases of procurement and contracting by Lessee in connection with the Casino Project, including but not limited to construction, goods, and professional services.

B. Lessee shall use its reasonable efforts and reasonable diligence to achieve the following goals on an annual basis for each Lease Year: (1) As a percentage of Lessee's total expenditures for all procurement and contracting in connection with the Casino Project, twenty-five percent (25%) minority business enterprise utilization; and (2) As a percentage of Lessee's total expenditures for all procurement and contracting in connection with the Casino Project, five percent (5%) women business enterprise utilization.

C. Lessee agrees to submit to Lessor on a quarterly basis such reports as may be reasonably required by Lessor to determine and verify Lessee's compliance with this Section 4.5.

D. This Section 4.5 shall be incorporated by Lessee into any sublease, assignment concession agreement or other written instrument transferring, subletting or assigning Lessee's interest in this Agreement pursuant to Sections 11.2 and 11.3 hereof, and shall be binding on such transferee, sublessee, assignee or concessionaire.

#### Section 4.6 Delinquent Rent.

Any delinquent payment of rent or any other sum due and owing from Lessee hereunder shall bear interest from the date such payment was due at the prime rate plus two (2%) percent ("Default Rate"), which interest shall be additional rent payable hereunder. The prime rate shall be the average of the prime or base rates established by Mercantile Bank of St. Louis N.A. and Boatmen's National Bank of St. Louis, or if neither of said banks shall then publish its prime or base rate, then at the prevailing prime rate as reported by the Wall Street Journal.

#### Section 4.7. Rent for Extended Terms

In the event this Lease is renewed for any Extended Term as provided in Section 3.2 hereof, Lessee shall pay Gaming Rent during each year of such

Extended Term at the rates and on the terms applicable to the Initial Lease Term.

#### Section 4.8. Net Lease

It is the purpose and intent of the Lessor and Lessee that the Base Rent and Gaming Rent payable hereunder shall be net to the Lessor so that this Agreement shall yield to the Lessor a sum not less than the payments specified in this Agreement in each year that such is applicable during the term of this Agreement and that all costs, expenses and charges of every kind and nature relating to the Casino Project that may be attributed to, or become due during the term of this Agreement shall be paid by Lessee.

#### Section 4.9. Pro-rated Payments

Should any payment required by this Agreement due for a period less than a full week, month, quarter, year or other installment period (e.g. a payment due in the middle of a month), the amount due shall be prorated on a per diem basis calculated on the number of days in the applicable installment period.

#### Section 4.10 Improvements to Casino Project Site

As additional consideration to Lessor for the rights granted hereunder, Lessee shall construct and install those site improvements described in Exhibit 4 (e.g. street and signalization improvements) in accordance with the plans and specifications at Lessee's sole cost and expense.

#### Section 4.11 Gaming Rent Representing Fair Rental Value

The parties hereto do hereby acknowledge that the Gaming Rent payable hereunder constitutes full fair rental value for the use, possession and enjoyment of the Leased Premises by Lessee in accordance with the terms and provisions of the Lease.

### ARTICLE V

#### LICENSING

##### Section 5.1. Gaming License

A. Lessor acknowledges that Lessee has applied to the Gaming Commission for a Gaming License to operate approximately fifteen hundred (1,500) Gaming Positions on the Gaming Vessel(s) at the Casino Project Site. Lessee shall use

all reasonable efforts to obtain, and shall diligently pursue the issuance of, said Gaming License from the Gaming Commission and shall provide to the Gaming Commission any and all information within its possession or subject to its control which may be required by the Gaming Commission in connection with the licensing process. Lessor shall be entitled to exercise all rights granted to it under the Act to obtain any portion of such information to which it is entitled under the Act. Lessor shall as soon as practicable after the Effective Date, but in no event later than sixty (60) days after the Effective Date submit a plan to the Gaming Commission supporting Lessee's application.

B. Lessor and Lessee shall each have the right to terminate this Lease, by written notice to the other delivered at any time on or after twenty-four (24) months after the Effective Date (without regard to Unavoidable Delays) but prior to the date on which Lessee shall have obtained a Gaming License, in the event Lessee shall fail to have obtained a Gaming License on or prior to such date; provided, however, Lessor, acting in its sole and absolute discretion, may extend the aforesaid date to any date it so determines in its discretion within twelve (12) months from the end of the aforesaid twenty-four (24) month period, by written notice to Lessee. The right of Lessor to terminate this Agreement as provided in this Section 5.1.B. shall be the sole right and remedy of Lessor for Lessee's failure to obtain a Gaming License as herein contemplated. For purposes of this Lease, Lessee shall be deemed to have "obtained" a Gaming License if the Gaming Commission shall have selected Lessee for investigation for the issuance of a Gaming License.

C. Upon "obtaining" a Gaming License (as defined in subparagraph B above), Lessee shall thereafter act diligently to comply in all respects with the rules and regulations of the Gaming Commission and shall use reasonable efforts thereafter to maintain and renew its Gaming License as and when necessary at all times during the Lease Term.

D. In the event any provision of this Lease (other than a provision required by applicable law) shall result in the denial, revocation, suspension or failure to renew any gaming or similar license applied for or obtained by Lessee (or any member, shareholder or partner of Lessee, or any of their respective Affiliates) at any time during the Term (whether issued by the State of Missouri or any other jurisdiction either within or outside the State of Missouri), Lessor agrees that it shall not enforce the said provision and shall waive its compliance by Lessee. Further, and notwithstanding Section 26.21, this Lease shall be deemed amended, without further act or notice of either party hereof, to the extent necessary to cause this Lease to comply with the Act, however, nothing herein shall cause the Term hereof to be extended beyond that contemplated hereby,

or reduce the amount of Gaming Rent otherwise required to be paid hereunder; provided, however, no right, power, privilege, remedy or interest of Lessee under this Lease shall be limited, restricted or otherwise prejudiced.

## ARTICLE VI

### OPERATIONAL COVENANTS REGARDING CASINO PROJECT

#### Section 6.1. Inaugural Ceremonies

Lessee shall advise and consult with Lessor with respect to the inaugural ceremonies for the Casino Opening Date, and the planning and implementation of any such ceremonies shall be subject to reasonable approval by the Lessor. Lessee shall pay for and reimburse Lessor for the reasonable costs and expenses incurred by Lessor for providing special services for such inaugural ceremonies (including, without limitation, costs and expenses for police, fire, sanitation, emergency medical services and other pre-opening and inaugural expenses).

#### Section 6.2. Commencement of Casino Operation

Lessee shall commence Gaming Operations at the Casino Project on or before the Casino Opening Deadline; provided, however, that Lessor, acting in its sole and absolute discretion, may by written notice given to Lessee on or before the Casino Opening Deadline (or any extension thereof) extend the Casino Opening Date to another date certain.

#### Section 6.3. Continuous Use

From and after the Casino Opening Date and thereafter throughout the Lease Term, Lessee will continuously and without interruption use and occupy the Casino Project, and conduct the Gaming Operations in accordance with the Act, the rules and regulations of the Gaming Commission, and this Agreement, subject, however, to any occurrence of an Unavoidable Delay. Lessee shall cause the Casino Project to be operated at all hours and on all days permitted under the Gaming Commission's rules and regulations applicable to the Casino Project.

#### Section 6.4. Additional Operational Covenants

A. Lessee covenants and agrees that, from and after the Casino Opening Date and thereafter throughout the Lease Term, it will diligently and efficiently operate the Casino Project, direct or through an approved Casino

Manager/Operator, in a competent manner consistent with the operation of first class gaming facility and in compliance with all of the terms, covenants and conditions hereof. In addition, Lessee shall continuously use reasonable efforts to obtain a volume of Adjusted Gross Receipts from the operation of the Casino Project consistent with a first class Gaming operation. Lessor hereby agrees that any member, partner, stockholder, director, officer or Affiliate of Lessee (or any successor in interest to the Lessee hereunder as such Lessee), or Affiliate of any such member, partner, stockholder or director, may be retained as the Casino Manager/Operator of the Gaming Vessel(s) or the Ancillary Facilities, or both, without further approval by Lessor, provided only that said Person shall be approved by the Gaming Commission, if such approval shall be required by law or applicable rule or regulation of the Gaming Commission.

B. Lessee hereby covenants and warrants that it shall maintain, at its sole cost and expense, the Casino Project (including, without limitation, the interior and exterior of the Gaming Vessel(s) and Ancillary Facilities, together with any and all alterations and additions thereto), in a first class condition and state of repair consistent with the operation of first class gaming facilities, ordinary wear and tear excepted.

C. Lessee covenants and agrees that the Gaming Vessel(s) and/or the Ancillary Facilities shall not be removed by Lessee from the Casino Project Site during the Lease Term without the prior written consent of Lessor in each instance, except for any removal required (i) by Lessor pursuant to Article XII hereof, (ii) to protect the Gaming Vessel(s) and/or the Ancillary Facilities from imminent loss or severe damage, (iii) to effect repairs to the Gaming Vessel(s) and/or the Ancillary Facilities, but only if such repairs by virtue of their nature or extent cannot be performed at the Casino Project Site, or (iv) to effect the replacement of a Gaming Vessel and/or the Ancillary Facilities with another Gaming Vessel or other Ancillary Facilities, as the case may be, meeting the requirements of this Agreement in all respects (such replacement being herein referred to as a "Replacement"), and also except as set forth below. In the event a Gaming Vessel and/or the Ancillary Facilities are removed from the Casino Project Site by the Lessee as permitted by this subparagraph C, such Gaming Vessel and/or Ancillary Facilities, or a Replacement thereof shall be returned to the Casino Project Site and placed in fully operable condition at the earliest possible time.

#### Section 6.5. Registration of Gaming Vessel(s)

Lessee covenants and agrees that it shall, at the earliest possible date, cause the registration of each Gaming Vessel, whether operated as a temporary or

permanent Gaming Facility, and any waterborne part of the Ancillary Facilities eligible for such registration, as a "documented vessel" under 46 U.S.C. Sec. 12103 (or any similar successor statute).

#### Section 6.6. Waiver of Maritime Liens

Lessee covenants and agrees that it shall use its best efforts to obtain from any and all contractors, subcontractors and other suppliers of goods and services to the Casino Project during the Lease Term, an express written waiver of any right on the part of such parties to receive or exercise any maritime lien against the Casino Project or any portion thereof pursuant to 46 U.S.C. Sec. 31342 (or any similar successor statute).

#### Section 6.7. Marketing Program

Lessee shall develop and implement a marketing program in accordance with the Annual Business Plan. Such marketing program shall include, without limitation, direct relations and publicity efforts aimed at maximizing the amount of Gaming Rent payable under this Agreement (herein referred to as the "Casino Project Marketing Activities"). Lessee covenants and agrees that in connection with the Casino Project Marketing Activities, during each Lease Year it shall expend a minimum of Three Percent (3%) of its anticipated Adjusted Gross Receipts as set forth in its then applicable Annual Business Plan for marketing and promotion of the Casino Project, provided, however, that if the first Lease Year is less than a full Lease Year, Lessee's expenditures for marketing and promotion of the Casino Project incurred prior to the Casino Opening Date shall be included towards compliance with this Section 6.7, as well as constituting "Development Costs". Lessee shall covenant to coordinate its marketing and promotions efforts with the Convention and Visitors Commission of the City of St. Louis ("CVC"). At least ten percent (10%) of Lessee's annual budgeted marketing and promotions expenditures shall be made pursuant to a plan approved by the CVC and intended to promote the tourism and convention industry in the City of St. Louis generally. For purposes hereof, marketing and promotion expenses shall be deemed to include, without limitation, all advertising expenditures (regardless of medium), promotional merchandise, coupons (to the extent redeemed), brochures and other printed or recorded materials, amounts paid to advertising and promotional consultants (including salaries and benefits paid to employees to the extent said employees are engaged in advertising, marketing or promotional activities on behalf of Lessee together with general overhead expenses, including occupancy costs, attributable sales, marketing and promotional activities), contributions to joint marketing and promotional

programs both those involving the CVC or other agencies or private parties, sweepstakes costs, public relations costs and expenditures including the costs of consultants and employees retained for said purpose, costs directly associated with frequent player or user programs including costs of maintaining VIP and other frequent guest lounges and other facilities, travel and entertainment expenses of Lessee personnel when related to business development, marketing, promotional or public relations purposes, expenditures for maintenance of relations with Governmental Authorities and public officials, and other similar costs and expenses.

#### Section 6.8. Trash and Garbage Disposal

The parties acknowledge that Lessor shall not be responsible for providing trash and garbage disposal services to Lessee hereunder. Lessee hereby covenants and agrees that it shall prohibit and prevent the accumulation of litter, garbage, refuse or trash (herein collectively referred to as "Refuse") or storage of any Refuse, in, on or around the Casino Project Site and shall keep the Casino Project Site neat and free from all Refuse. Further, Lessee shall post signs and take other reasonable steps to prevent its Patrons or any other person on the Casino Project from the throwing of any Refuse of any sort into the Mississippi River.

### ARTICLE VII

#### REPRESENTATIONS AND WARRANTIES OF LESSOR

##### Section 7.1. Lessor's Representations and Warranties.

In order to induce Lessee to enter into this Agreement, Lessor represents and warrants the following to Lessee:

A. Lessor has the right, power and authority to enter into this Agreement and to grant the leasehold interest in the City Real Estate, and other rights granted herein (subject to any servitudes or other matters of record).

B. To the best of Lessor's knowledge and belief, the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement in compliance with the terms of this Agreement do not, or with the passage of time or both will not, constitute a default under any agreement, judgment, order, decree or ruling of any court or agency to which Lessor is subject.

C. The execution and delivery of this Agreement by Lessor has been approved by all necessary action of all Governmental Authorities (including, without limitation, the Board of Aldermen of the City of St. Louis) and, when executed and delivered by duly authorized representatives of Lessor and Lessee, will constitute the legal, valid and binding obligation of Lessor, enforceable against Lessor in accordance with its terms.

## ARTICLE VIII

### REPRESENTATIONS AND WARRANTIES OF LESSEE

#### Section 8.1. Representations and Warranties of Lessee.

In order to induce Lessor to enter into this Agreement, Lessee represents and warrants the following to Lessor:

A. Lessee is a Missouri joint venture, duly organized, validly existing and in good standing under the laws of the State of Missouri, and has full power to enter into and perform its obligations under the terms of this Agreement, and the authority to enter into this Agreement and to bind Lessee thereby.

B. To the best of Lessee's knowledge and belief, the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement in compliance with the terms of this Agreement do not, or with notice or the passage of time or both will not, constitute a default under any agreement, or any judgment, order, decree or ruling of any court or agency to which Lessee or any Affiliate is subject.

C. To the best of Lessee's knowledge, there is no condition or fact that would render Lessee unsuitable under the Act to obtain a Gaming License from the Gaming Commission.

#### Section 8.2. Representations and Warranties of Paradox Investments, L.L.C.

In order to induce Lessor to enter into this Agreement, Paradox Investments, L.L.C. ("Paradox") represents and warrants the following to Lessor:

A. Paradox is a Missouri limited liability company, duly organized, validly existing and in good standing under the laws of the State of Missouri, and has full power to enter into and perform its obligations under the terms of this Agreement and the joint venture agreement with CSMC Management Services, Inc., and the authority to enter into this Agreement and to bind Paradox and Lessee thereby.

B. To the best of Paradox' knowledge and belief, the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement in compliance with the terms of this Agreement do not, or with notice or the passage of time or both will not, constitute a default under any agreement, or any judgment, order, decree or ruling of any court or agency to which Paradox, Lessee or any Affiliate is subject.

C. To the best of Paradox' knowledge, there is no condition or fact that would render Paradox unsuitable under the Act to obtain a Gaming License from the Gaming Commission.

### Section 8.3. Representations and Warranties of CSMC Management Services, Inc.

In order to induce Lessor to enter into this Agreement, CSMC Management Services, Inc. ("CSMC") represents and warrants the following to Lessor:

A. CSMC is a Florida corporation, duly organized, validly existing and in good standing under the laws of the State of Florida and has full power to enter into and perform its obligations under the terms of this Agreement and the joint venture agreement with Paradox Investments, L.L.C. and the authority to enter into this Agreement and to bind CSMC and Lessee thereby.

B. To the best of CSMC's knowledge and belief, the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement in compliance with the terms of this Agreement do not, or with notice or the passage of time or both will not, constitute a default under any agreement, or any judgment, order, decree or ruling of any court or agency to which CSMC, Lessee or any Affiliate is subject.

C. To the best of CSMC's knowledge, there is no condition or fact that would render CSMC unsuitable under the Act to obtain a Gaming License from the Gaming Commission.

## ARTICLE IX

### USE OF CITY REAL ESTATE AND COMMON AREAS

#### Section 9.1. Use of City Real Estate

The City Real Estate shall be used by Lessee exclusively for the construction, installation, operation, maintaining, launching, docking (and mooring if necessary) of the Casino Project. Except as set forth below, Lessee shall apply

for, secure and maintain all licenses, permits and accreditations which may be required for construction, installation, operation, maintaining, launching, docking (and mooring if necessary) of the Casino Project and the Ancillary Facilities and for conducting Lessee's business within the City Real Estate and shall deliver a copy of same to the Lessor when obtained.

#### Section 9.2. Control of Common Areas.

For the benefit and security of the Patrons and the Casino Project, all public access roads, rights of way, streets, alleys, sidewalks, driveways, levees, floodwalls, retaining walls, lighting facilities and any and all common areas and public improvements located within the Casino Project Site for the general use of the public shall at all times be subject to the control of the Lessor, and Lessor shall have the right, from time to time, to establish, modify and enforce any rules and regulations with respect to public and common areas and public improvements (not inconsistent with the provisions of this Agreement) as Lessor deems appropriate. The Lessor and the Port Authority shall have the right, from time to time, to change the location and arrangement of the public and common areas and improvements referred to in this Section; to change all public streets or traffic patterns to the extent the Lessor and the Port Authority may desire; to restrict public parking; to close, permanently or temporarily, all or any portion of the common or public areas or improvements aforementioned; to dedicate or convey public property for public, utility or drainage use; and to perform such other acts in and to said areas and improvements as the Lessor or the Port Authority shall determine advisable and appropriate; provided, however, in the exercise of its rights as contemplated by this Section 9.2, reasonable access to the Casino Project Site, and each portion thereof, sufficient to provide for pedestrian and vehicular traffic relating to the operation of the Casino Project shall at all times be maintained and reasonable efforts shall be made so as to minimize disruption or interference with said operations.

#### Section 9.3. Nondiscrimination

Lessee agrees that in connection with the use and occupancy of the Casino Project Site and Common Areas and in performing its obligations under this Agreement neither Lessee, its successors, assigns, employees, agents, servants, representatives or anyone acting within Lessee's control will discriminate against any employee, Patron, applicant for employment or any other person on the basis of race, creed, color, religion, national origin, ancestry, sex, age, disability, handicap, veteran status, marital status, income or sexual preference. This requirement shall apply, but not be limited to, the following: employment,

upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training. There shall be posted in conspicuous places, available to employees and applicants for employment, notices to be provided by Lessor setting forth the provisions of this Section. All solicitations or advertisements for employment shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, physical handicap, national origin or sexual orientation.

#### Section 9.4. Compliance with Laws and Regulations

During the Term of this Agreement, Lessee shall, at its sole cost and expense, promptly observe and comply with all laws, ordinances, orders, regulations, rules and requirements of every government (whether federal, state or local), municipality or other Governmental Authority, including any agency or department thereof having jurisdiction over Lessee, the Casino Project Site, or the streets, sidewalks, vaults, curbs and gutters adjoining any portion of the Casino Project Site, or the use and occupation or franchises and privileges connected therewith, whether or not such laws, ordinances, orders, regulations, rules or requirements shall necessitate structural changes, improvements, interference with the use and enjoyment of the Casino Project Site, replacements or repairs, extraordinary as well as ordinary, foreseen or unforeseen and whether the same now are enacted. Lessee shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of or be imposed because of the failure of Lessee to comply with any of the foregoing.

Notwithstanding the foregoing, Lessee shall have the right, at its election, to contest the validity or application of any such law, ordinance, order, regulation, rule or requirement of any Governmental Authority, at its sole cost and expense, provided only that during the pendency of any such contest, Lessee shall either comply with the same, or its failure to comply shall be under circumstances such that there shall be no undue risk of loss of any Gaming License, or other license or permit necessary for the maintenance or operation of the Casino Project, and the Ancillary Facilities thereto or the interruption of operations of the Casino Project or any material component thereof.

## ARTICLE X

### CONDITION AND WARRANTIES OF TITLE

#### Section 10.1 Condition of the City Real Estate

It is understood and agreed by the parties that Lessee takes and accepts the City Real Estate in "as is" condition on the Effective Date of this Agreement and that this Agreement imposes no obligation of any kind on Lessor to make any changes or improvements of any kind thereto. It is further understood and agreed that except as otherwise expressly stated herein, Lessee accepts and takes the City Real Estate without any express or implied warranties of suitability, merchantability, fitness for a particular purpose or environmental fitness. Lessor does not warrant or guarantee the condition of the City Real Estate for any particular purpose nor does it warrant or guarantee that the City Real Estate is free of any visible, hidden or latent defects of any kind or nature, including but not limited to any defects and/or any environmentally unsafe condition in violation of any Environmental Laws. Lessor has made no representations or warranties, express or implied, and explicitly disclaims the same concerning the absence of any pollution, contamination, hazardous waste, hazardous or toxic material or substance, underground storage tanks or hazardous building materials in, on or around the City Real Estate. Lessee specifically agrees that the City Real Estate is being leased in its present condition without any warranty whatsoever on the part of the Lessor with respect to the condition of the City Real Estate, and Lessee agrees, at its sole cost and expense, to repair, clean up or otherwise remedy any defective or environmentally unsafe condition that is or may be found in the City Real Estate, except if caused by Lessor, or any employee, servant, agent or agency of Lessor, during the Lease Term. In addition, Lessee, at its sole cost and expense, shall prepare the mooring basin within the Casino Project Site so that said mooring basin is suitable for mooring the Gaming Vessel(s). Further, Lessee waives any right it might have as a result of the condition of the City Real Estate (a) to the return of any portion of the Base Rent or Additional Rent, (b) the cancellation of the Agreement (except as may be otherwise set forth herein), or (c) to have the Lessor repair or clean up the City Real Estate.

#### Section 10.2. Assumption of Responsibility

As of, and subject to the delivery of, Lessee's Readiness Notice, Lessee assumes the sole responsibility for the condition, use, operation, demolition, construction, completion, security and maintenance of the City Real Estate for the term of this Agreement and shall duly and timely perform and observe all obligations of Lessee pursuant to this Agreement in regard to the City Real Estate, or any part thereof, whether such obligations are currently existing or arising during the Lease Term, including any such obligations which may arise by reason of Lessee's use, operation, construction, completion and maintenance of the Casino Project or Ancillary Facilities during the Lease Term.

### Section 10.3. Floods and Water Level Fluctuations.

Lessee shall be responsible for adjusting any cables, ramps and barges within the mooring basin to compensate for the rise and fall of the water level of the Mississippi River. Lessee understands that there may be occasions when access to adjacent streets and other areas leading to the Casino Project Site may be flooded and the Casino Project may be inaccessible. No such flooding or other water level fluctuations shall give rise to any right on the part of Lessee to delay, abate, set off against, adjust or compel the return of any portion of the Base Rent or Additional Rent or to cause the termination of this Agreement.

## ARTICLE XI

### SUBLETTING, ASSIGNMENT AND TRANSFER

#### Section 11.1. Assignment or Subletting to Affiliate

Except as otherwise provided in this Agreement, Lessee shall not, at any time prior to the Casino Opening Date, assign, sell or transfer this Agreement or the Leasehold Interest, or any interest herein, or sublet the City Real Estate or any parts thereof, without the prior written consent of Lessor; provided, however, CSMC Management Services, Inc. and Paradox Investments, L.L.C. shall have the right, without the consent of Lessor, at any time (whether prior to or after the occurrence of the Casino Opening Date) to sell, transfer or assign less than a controlling interest in the Chain of Rocks Joint Venture to any Affiliate of Lessee, or to any member, joint venturer, partner, shareholder or director of Lessee or any Affiliate of any such member, joint venturer, partner, shareholder or director, provided that any such transferee shall expressly assume in writing, for the benefit of Lessor, all of the liabilities and obligations of Lessee hereunder arising on or at any time after the effective date of such transfer, and that no transfer occurring prior to the Casino Opening Date shall relieve Lessee of any of its liabilities or obligations hereunder until the Casino Opening Date, upon the occurrence of which any such transfer by Lessee shall have the same force and effect as a transfer by Lessee pursuant to Section 11.2 below.

#### Section 11.2 Assignment or Subletting After the Casino Opening Date

Subject to compliance with all of the terms and provisions of this Section 11.2, Lessee (hereinafter for purposes of this Article XI, sometimes referred to as "Transferor") shall have the right at any time after the occurrence of the Casino Opening Date, to sell, transfer or assign (herein collectively referred to as a "Transfer") its Leasehold Interest as an entirety (but not any lesser portion

thereof), or to sublet all or substantially all of the Gaming Vessel(s) or the Ancillary Facilities, or both, to any Person(s) (herein referred to as a "Transferee"), without the consent or approval of Lessor; provided, however, any such Transfer (or any agreement now or hereafter entered into by Lessee with respect thereto) shall be absolutely null and void and of no force or effect unless each of the following conditions shall have been satisfied, performed and discharged: (i) as of the effective date of any such Transfer, there shall not have occurred any then uncured Event of Default hereunder; (ii) the Transferee shall have executed, acknowledged and delivered a written instrument, in recordable form, whereby the Transferee shall accept the Transfer and shall agree, from and after the effective date of the Transfer, to assume, and to agree to pay, perform, satisfy and discharge all of the covenants, liabilities and obligations of the Lessee hereunder arising on or after the effective date of such Transfer; (iii) if the Transfer relates, in whole or in part, to the Gaming Vessel(s), the Transferee shall have applied for a Gaming License, and any other license, permit or authorization, from any Governmental Authority, as shall be necessary, as a matter of law, for the continued and uninterrupted operation of the Casino Project as contemplated by this Agreement; (iv) not later than five (5) business days following the effective date of any such Transfer, a fully executed counterpart of the written instrument referred to in clause (ii) above shall have been delivered to Lessor, and a fully executed counterpart thereof, together with an instrument, in writing, and in recordable form (which instrument may include, without limitation, a deed) memorializing the aforesaid Transfer, shall have been recorded in the land records of the City of St. Louis, Missouri; and (v) all fees, taxes, charges, documentary taxes and other similar charges or expenses required to be paid to any Governmental Authority in connection with the Transfer shall have been paid and written evidence thereof shall have been furnished to Lessor not later than five (5) business days after the effective date of any such Transfer.

Effective upon any Transfer (other than a subletting) made pursuant to and in compliance with all of the terms, covenants and conditions of the preceding paragraph of this Section 11.2, Transferor shall, from and after the effective date of any such Transfer, be forever thereafter relieved, released and discharged of any further liability or obligation arising under this Agreement, or relating to any event occurring, at any time on or after the effective date of any such Transfer, it being understood and agreed, however, that the Transferor shall remain fully liable for any liabilities or obligations of Lessee hereunder to the extent the same arise or relate to events occurring prior to the effective date of any such Transfer, and, provided further, to the extent of the occurrence of any such event or circumstance prior to the said effective date, Lessor shall

have and may retain all of its rights, remedies, powers and privileges hereunder or by law or in equity with respect to any such event or circumstance including, if otherwise permissible under the provisions hereof or by law or in equity, the termination or cancellation of this Agreement by reason thereof.

Upon any such Transfer (other than a subletting) made pursuant to, and in accordance with all of the terms and conditions of, this Section 11.2, the Transferee shall, for all purposes hereunder, be substituted for the Transferor as Lessee hereunder, and shall be entitled to all of the estates, rights, titles, interests, powers and privileges of Lessee hereunder, including specifically, but without limitation, the rights, powers, privileges and remedies of Lessee, all from and after the effective date of any such Transfer.

Any money, consideration or other thing of value received by Lessee in connection with any such Transfer shall, as between Lessor, on the one hand, and Lessee, on the other hand, be the sole and exclusive property of Lessee, and Lessor shall have no right, interest, participation or right to any participation therein, or any part thereof, it being understood and agreed, however that Lessor shall have no liability or obligation to any Transferee in connection with any such Transfer (except as otherwise provided in the next succeeding paragraph of this Section 11.2) regardless of any breach by Transferor of any representation, warranty or covenant made by Transferor to Transferee, or with respect to this Agreement and the rights and obligations of the parties hereto, or with respect to the Casino Project Site, or the condition thereof, except to the extent Lessor shall otherwise have been liable to Lessee notwithstanding any such Transfer by reason of the provisions of this Agreement.

If Lessor shall have been requested to do so in writing by Lessee, it shall deliver to the Transferee (or the party designated by the Transferee in any written notice to Lessor) an instrument in writing addressed to Transferor, Transferee and any party designated by Transferee in its notice to Lessor requesting delivery of the said written instrument, stating that (i) this Agreement has not been altered, modified or amended and remains in full force and effect (or, if applicable, setting forth the nature of any such alteration, modification or amendment); (ii) stating the date to which Base Rent, Additional Rent and Percentage Rent has been paid hereunder; and (iii) setting forth such additional information as Transferor shall reasonably request and as shall be available to Lessor without unreasonable effort or expense which additional information, if deemed necessary by Lessor may be limited to the actual knowledge of Lessor. In no event shall Lessor be required to incur any expense (unless indemnified therefor in advance to the reasonable satisfaction

of Lessor) in complying with any request referred to above. If, having requested delivery of such written instrument, Lessor shall fail to deliver the same on or prior to twenty (20) days after request therefor, Lessor shall irrevocably and unconditionally be deemed to have confirmed to Transferor and Transferee, and such other parties referred to above, all facts which Transferor has requested that Lessor shall confirm including, without limitation, that there has not, as of said date, occurred any default or Event of Default, or any act, event or circumstance which, with notice or the lapse of time, or both, would constitute a default or Event of Default hereunder which remains uncured as of said date and that, accordingly, this Agreement is in full force and effect as of said date. Transferor, Transferee and any other party to whom such written instrument shall be directed, or to whom Transferor has requested that the same be directed, may rely on such instrument, and on the provisions of this Section 11.2, and Lessor shall thereafter forever and completely be estopped from denying the truth and accuracy of any statement made by Lessor in any written instrument furnished, or deemed furnished, pursuant to the provisions of this Section 11.2.

### Section 11.3 Miscellaneous Subletting and Concessions

Nothing in this Agreement shall be deemed to limit, restrict or impair the right, power and authority of Lessee, which shall be absolute both prior to and after the Casino Opening Date, to sublet portions of the Gaming Vessel(s) or the Ancillary Facilities, or to grant concessions therein, provided that (i) no such sublease or concession (other than a sublease or concession in favor of an Affiliate of Lessee or one or more of its members, joint venturers, partners or shareholders or their respective Affiliates) shall provide for the subleasing or use of any portion of the Gaming Vessel(s) or Ancillary Facilities in excess of twenty thousand (20,000) square feet; (ii) no such sublease or concession shall permit the sublessee or concessionaire to operate any gaming device, or game of chance or skill; (iii) any such sublease or concession shall be for a term not in excess of the then remaining Term hereunder (except that any such sublease shall permit extension or renewal to a date later than the then date of expiration of the Term conditioned, however, on the renewal of the Lease for one or more Extended Lease Terms (if one shall then be available to Lessee) as hereinabove provided; (iv) any such sublease or concession shall, by its terms, expressly provide that the same shall be subject and subordinate in all respects to this Agreement, and that the term of any such sublease or concession shall expire, anything therein to the contrary notwithstanding, no later than the date on which this Agreement shall expire or be sooner terminated, including, without limitation, any termination resulting by reason of agreement between Lessor and Lessee; and (v) any such sublease or concession shall provide that, upon

any termination or expiration of this Agreement if there then remains any unexpired portion of the term thereof (without regard to the provisions of the preceding clause (iv)), the sublessee or concessionaire shall attorn to Lessor, but Lessor shall have no obligation to accept any such attornment or to recognize the rights of any such sublessee or concessionaire. Any rent, fees or other charges required to be paid by any such sublessee or concessionaire thereunder shall, as between Lessor, on the one hand, and Lessee, on the other hand, be and remain the sole property of Lessee and Lessor shall not have any right or interest or participation therein.

## ARTICLE XII

### CONSTRUCTION AND DEVELOPMENT OF CASINO PROJECT AND SITE IMPROVEMENTS

#### Section 12.1 Project Completion Covenant

On or before that date which is eighteen (18) months following delivery of Lessee's Readiness Notice (subject to Unavoidable Delays) Lessee shall substantially complete, or cause the substantial completion, construction and development of the Casino Project and Ancillary Facilities in conformity with plans and specifications prepared and approved as hereinafter set forth, and in accordance with the requirements of this Agreement, the Act, and all applicable laws, ordinances, and regulations, at Lessee's sole risk, cost and expense. The foregoing covenants and obligations shall be subject in all respects to the terms and provisions of this Agreement, including, without limitation, any terms or provisions limiting, restricting or relieving any party hereto of its obligations as hereinabove provided.

#### Section 12.2 Casino Project Construction Schedule

The parties hereby agree to develop a Casino Project Construction Schedule for Lessee's development and construction of the Casino Project (including the Improvements) consistent with the following:

A. Within twelve (12) months of the Effective Date (or such other time period as may hereafter be provided), subject to Unavoidable Delay (which periods of Unavoidable Delay may exceed no more than ten (10) months in the aggregate), the parties shall use reasonable efforts to complete such of the following which each is required to complete and to satisfy the following conditions:

1. Lessee shall submit for Lessor's approval schematic design drawings of the Casino Project, including but not limited to the Gaming Vessel(s), Ancillary Facilities, and Improvements. Any schematic design drawings submitted shall illustrate the general design and scale of the Project and shall meet the following criteria:

(i) include a site plan designating the Casino Project Site and depicting the scope of the Casino Project and Ancillary Facilities, including the approximate locations of all improvements to be constructed in the Casino Project Site, including but not limited to building location, loading facilities, driveways and sidewalks and a depiction of building setback and lot dimensions;

(ii) include exterior elevations for all elevations visible to the public depicting the exterior architectural design applicable to each of the elevations in the Casino Project;

(iii) in narrative form, with drawings if deemed reasonably necessary by Lessee for an accurate depiction of the narrative, the intended use of interior spaces including the approximate amounts to be devoted to Casino, Ancillary Facilities, and the like and a statement as to the approximate square footage of interior spaces to be devoted to each of the proposed functions;

(iv) a description of type of construction and exterior materials which may be used, which may be disclosed as part of the schematics in the alternative (that is, a listing of exterior materials from which Lessee may ultimately select in its discretion); and

(v) a description, either visually or through narrative, of significant landscape features.

Lessor shall promptly review the schematic design drawings submitted to it and shall, in no event later than twenty (20) days after submission thereof to Lessor, provide Lessee, in writing, its approval thereof, or, if Lessor elects to disapprove the same, setting forth in reasonable detail the reasons for its disapproval, and, in general, its suggestions for revision. Lessee will revise its schematic drawings, taking into account the comments and suggestions of Lessor, but shall not be obligated to incorporate Lessor's suggestions. Lessee's plans for addressing parking lot run-off and drainage issues shall be subject to the review and approval of the City's Water Commissioner, which approval shall not be unreasonably withheld.

2. Lessee shall have determined (as evidenced in a written notice from Lessee to Lessor) by whatever means Lessee deems satisfactory and reasonably reliable to it, that the Casino Project as herein contemplated is economically feasible; that is, that the anticipated net income from the Casino Project provides to Lessee economic incentives deemed satisfactory to Lessee in its sole discretion to justify the risk inherent in the investment of funds (both equity and debt) anticipated in order to pay estimated Development Costs and the expenses of operation.

3. The Gaming Commission shall have selected Lessee for investigation for the issuance of a Gaming License.

4. To the extent deemed reasonably necessary by Lessee, the Casino Project Site shall have been re-zoned to a zoning classification or classifications sufficient to permit construction of the Casino Project, and the operation of the businesses intended to be conducted therefrom, in compliance with all applicable zoning and land use restrictions, or Lessee shall have received assurances, to its reasonable satisfaction, that the then current zoning classification and other applicable land use restrictions are adequate for the foregoing purposes. Lessee shall have the right to initiate zoning or zoning variance petitions which it deems necessary under the circumstances. To the extent required by applicable law, Lessor agrees that it shall subscribe to and join in any applications for re-zoning, zoning variance, special use permits and other land use permits and authorizations, including but not limited to filing a Community Unit Plan, and Lessor shall otherwise cooperate with Lessee in obtaining the necessary permits and authorizations, and grants consents which may be necessary all at the sole cost and expense, however, of Lessee. Notwithstanding the foregoing, re-zoning or other zoning or land use authorizations shall be effected by the date referred to above, or within six (6) months after acquisition of the last to be acquired of the Casino Project Site, whichever shall later occur.

5. Lessee shall have finalized the terms of any financing required for the completion of the Casino Project and shall have developed and implemented (to the extent possible through its reasonable efforts and due diligence) its Local, Minority and Women Equity Participation Program.

6. If required by Lessee, Lessee shall have obtained an owner's leasehold title insurance policy, at Lessee's sole cost and expense, relating to the City Real Estate, showing that Lessee has good and marketable title to the leasehold estate in the City Real Estate free and clear of all liens, claims, restrictions, encumbrances and rights of other Person(s) (whether arising by law, ordinance,

contract or otherwise), other than those created by Lessee, and other than those which, in Lessee's opinion, will not interfere with or impose conditions or restrictions (other than those herein expressly set forth) on the use, possession or enjoyment of the City Real Estate, or the construction, development or operation of the Casino Project, for the purposes herein contemplated, or increase the cost of development or operation of the Casino Project. All title examination and title insurance premium charges in connection with the title insurance policy herein referred to shall be the sole responsibility of Lessee. Lessor agrees that it shall cooperate in the issuance of such policy so long as it shall not be required, in connection therewith, to incur additional expense or liability. Lessor further agrees that, from and after the Effective Date, Lessor will not grant or extend to any Person any right to review or approve any matters relating to the ownership, development, use, maintenance or operation of the City Real Estate other than (i) rights of Lessor and Lessee under this Agreement; (ii) rights of Governmental Authorities or any agencies or instrumentalities thereof, to the extent any rights of review or approval are applicable generally to development in the City of St. Louis; and (iii) rights of Gaming Authorities, or any agencies or instrumentalities thereof. It is the intention of Lessor and Lessee that no Person, except as provided above, shall have approval rights over the Project.

7. Lessee shall have received the favorable written opinion of counsel for Lessor, addressed to Lessee but with an express provision that the same may be relied upon by any Leasehold Mortgagee and any title insurance company issuing a title insurance policy on the City Real Estate or part thereof, to the effect that

(i) this Agreement has been duly authorized and approved by the Board of Aldermen of the City of St. Louis and the Board of Commissioners of the Port Authority of the City of St. Louis, and that said authorizations are in full force and effect and have not been withdrawn, rescinded, revoked or amended;

(ii) the persons executing this Lease on behalf of Lessor are duly authorized to execute and deliver the same and to bind the Lessor to their respective liabilities and obligations hereunder;

(iii) the signatures of the persons executing this Lease on behalf of Lessor are the genuine signatures of those persons whose signatures they purport to be; and

(iv) this Lease constitutes the valid, binding and enforceable obligation of Lessor in accordance with its terms subject only to the validity and binding

effect thereof on Lessee, to the effects of bankruptcy, insolvency, reorganization, moratorium and other similar laws of general application affecting the rights of creditors in general, and, with respect to any equitable remedies, to general principles of equity.

In the event any of the above conditions shall not have been satisfied or discharged on or prior to the respective dates indicated above, either party shall have the right, by written notice to the other party delivered at any time prior to the complete satisfaction of all of the foregoing conditions, to terminate this Agreement, and, thereupon, this Agreement, and the rights and obligations of the parties hereto, shall terminate; provided, however, in no event shall Lessor have the right to terminate this Agreement by reason of any failure to satisfy the conditions set forth in clause 4. above, so long as Lessee shall have fulfilled all of its other obligations in this Section 12.2. and shall have proceeded with reasonable diligence to fulfill and satisfy such of the above conditions as are contemplated above to be satisfied or fulfilled by Lessee. In the event of any termination of this Agreement pursuant to any of the provisions of this Section 12.2, each of the parties hereto shall bear its own costs and expenses incurred in connection with the Casino Project up to and including the date of such termination, and neither party shall be obligated to reimburse the other therefor.

B. In the event each of the conditions set forth in Section 12.2.A above shall have been satisfied and discharged on or prior to any termination of this Agreement in accordance with its terms, Lessee shall so indicate by delivering to Lessor a Lessee's Readiness Notice stating that all of the conditions set forth in the above Section 12.2.A. have been satisfied and discharged to Lessee's satisfaction, or waived by Lessee in its sole discretion. Upon delivery of the Lessee's Readiness Notice, Lessee shall thereupon be obligated to construct and complete the Casino Project in accordance with the provisions hereof provided only that Lessor shall likewise satisfy and discharge its respective obligations hereunder. The right of Lessor or Lessee to terminate this Agreement in accordance with the provisions of Section 12.2.A may be exercised by either of said parties in accordance with the provisions of said Section at any time prior to the delivery by Lessee of its Lessee's Readiness Notice, and not thereafter.

C. After the delivery of the Lessee's Readiness Notice (and subject to the delivery thereof), Lessee shall, as soon as reasonably practicable, prepare detailed and final plans and specifications for the Casino Project and the Improvements and shall submit the same to Lessor. No approval thereof shall be required by Lessor so long as the same are consistent in scope, design and facilities, and constitute a logical extension of, the schematic drawings theretofore submitted by Lessee to Lessor and approved in accordance with the

provisions of Section 12.2.A. To the extent the final plans and specifications shall deviate in any material respect in scope, design and facilities, or are otherwise other than a logical extension of the schematic drawings theretofore approved by Lessor, and to that extent only, Lessor shall have the right to approve the final plans and specifications.

Lessor shall approve or disapprove the detailed and final plans and specifications (to the extent it shall have the right to do so) not later than twenty (20) days after submission of the same to Lessor by Lessee, and its failure to disapprove within said period of time shall irrevocably and unconditionally constitute the approval of Lessor thereto. If Lessor elects, on a timely basis, to disapprove the plans and specifications, it shall so notify Lessee thereof in writing setting forth, in reasonable detail, its objections to the plans and specifications as submitted, and its suggestions for revisions and alterations. Thereafter, Lessor and Lessee shall meet and confer in an attempt to resolve any differences between them, and Lessee shall thereafter cause appropriate revisions to be made to the detailed plans and specifications in accordance with the mutual agreements reached between Lessor and Lessee. In the event Lessee and Lessor shall fail to reach an agreement on plans and specifications within forty-five (45) days after the initial delivery thereof by Lessee to Lessor of detailed and final plans and specifications, Lessee shall thereafter have the right, by delivery of written notice to Lessor at any time prior to the approval of the plans and specifications by Lessor, to terminate this Agreement. To the extent Lessor shall have the right to approve plans and specifications, during the period of time that the same are being reviewed by, or revised in response to objections, comments or suggestions from Lessor, all time periods herein set forth shall be tolled as though such period of review, revision and approval were an Unavoidable Delay hereunder.

D. At such time as detailed plans and specifications shall have been completed, and, if required, approved by Lessor, Lessee shall thereafter, and with reasonable diligence, commence, and thereafter proceed with all reasonable efforts, to complete the Casino Project and open the same for business, all at the sole cost and expense of Lessee.

### Section 12.3 Unavoidable Delays

In the event of an Unavoidable Delay, the dates for performance or completion of any of the above-described matters shall be adjusted to reflect the additional time required for the performance of the duties or obligations of Lessee or Lessor under this Agreement as a result of such event.

#### Section 12.4 Remedies for Failure to Proceed

In the event Lessee does not deliver Lessee's Readiness Notice to Lessor in accordance with Section 12.2.B., or in the alternative event that Lessee notifies Lessor in writing at any time prior to the date of delivery of Lessee's Readiness Notice that it does not intend to proceed with the development of the Casino Project (the "Withdrawal Notice"), this Agreement shall be null and void and of no further force or effect, and neither party shall have any obligation or liability hereunder; provided, however, that in the event Lessee will not proceed with the Casino Project for any reason other than on account of failure on the part of Lessor to perform or to cause to be performed any obligation in accordance with clause 4 of Section 12.2.A. above, then Lessee shall promptly reimburse Lessor for up to One Million Dollars (\$1,000,000) to cover actual third party costs and expenses incurred by Lessor, as verified to the reasonable satisfaction of Lessee, in connection with its predevelopment costs related to the Casino Project and the efforts made by Lessor to satisfy the conditions set forth in clause 4 of Section 12.2.A.

#### Section 12.5 Cooperation of the Parties

The designated representatives of the parties shall confer no less frequently than once per month until the completion of the Casino Project regarding the performance of Lessee's obligations hereunder, provided that Lessor shall cause its designated representatives to be available at mutually convenient times for purposes of such conferences.

#### Section 12.6 Permits

In constructing the Casino Project (including the Improvements), Lessee shall, with the good faith aid and assistance of Lessor, obtain any and all required permits and licenses, and Lessee agrees to conform to all applicable rules, regulations, codes, laws and ordinances of the United States of America, the State of Missouri, and the City of St. Louis.

#### Section 12.7 Lessee's General Construction Obligations

Except as otherwise provided herein, Lessee agrees, for itself and its successors and assigns, that, upon timely delivery to Lessor of Lessee's Readiness Notice, Lessee shall promptly begin, and thereafter shall diligently prosecute or cause to be prosecuted, the Casino Project and Improvements, subject to and in accordance with the terms of this Agreement. In connection therewith, Lessee shall provide and furnish (directly or through its architect, consultants,

contractors and subcontractors) all designs, plans, specifications, drawings, materials, supplies, apparatus, appliances, equipment, fixtures, tools, implements, and all other facilities and labor, as well as supervision, transportation, utilities, storage and all other services required for or in connection with the design and construction of the Casino Project and Improvements. Lessee shall provide competent supervision of all phases of the work, and shall cause the work to be performed in a good and workmanlike manner, in accordance with the requirements of the plans and specifications and all reasonable inferences therefrom. All materials used in constructing the Gaming Vessels, the Improvements and the Ancillary Facilities shall be new and of first-class quality.

#### Section 12.8 Budgets and Schedule

A. As soon as reasonably practicable after delivery by Lessee of the Lessee's Readiness Notice, and subject to the delivery thereof, Lessee shall prepare and submit to Lessor, with respect to the Casino Project, Improvements and the Ancillary Facilities, a budget showing the general categories of Development Costs to be incurred in connection with the Casino Project, Improvements and the Ancillary Facilities, on the part of Lessee and the estimated amounts thereof (the "Development Budget"), together with a schedule, in reasonable detail, with respect to the commencement and completion of construction thereof (the "Schedule"). Time periods reflected in any Schedule shall not be deemed to amend, restrict or limit time periods set forth herein. With respect to the Casino Project and the Ancillary Facilities, the Development Budget shall show anticipated Development Costs of not less than Sixty-Five Million Dollars (\$65,000,000).

B. For purposes hereof, the term "Development Costs" shall mean all costs and expenses incurred by Lessee in connection with the design, construction, furnishing, equipping and opening of the Casino Project, the Improvements and the Ancillary Facilities. In the case of the Casino Project, the Improvements and the Ancillary Facilities, Development Costs shall include, without limitation, all costs and expenses of negotiating, executing and delivering this Agreement and the various instruments and documents herein referred to, land acquisition costs (including option payments) and/or the fair market value of all land transferred or contributed to the Casino Project by Lessee or one of its joint venturers, costs incurred in connection with application for and receipt of the Gaming License, all design fees, charges and expenses, amounts paid to contractors, subcontractors, materialmen and suppliers in connection with the construction of the Casino Project and the Ancillary Facilities (including, without limitation, any environmental clean up costs until completion thereof),

all engineering, survey, title insurance and similar costs and expenses of design and development consultants and other specialists, legal fees and expenses, insurance during the construction period, interest accruing during the construction period on any Lessee indebtedness used to finance all or a portion of the Development Costs of the Casino Project and the Ancillary Facilities, fees and costs of permits, licenses and other authorizations, pre-opening expenses including staff training and recruitment, pre-opening marketing, promotions and advertising expenses, the costs of acquisition and installation of the initial complement of all furniture, furnishings, equipment and supplies to be used in connection with the operation of the Casino Project and the Ancillary Facilities, including gaming devices and tables, specialized gaming equipment, kitchen and other food service equipment, and the like (but excluding the costs of replacement or refurbishing thereof), and initial working capital including the cost of initial quantities of consumables and supplies, and initial house banks. In the event any furniture, fixtures, equipment or other items of personal property are leased by Lessee from third parties, the term "Development Costs" shall include the present value of all lease payments required to be paid under the lease with respect thereto plus the amount (or a reasonable estimate of the amount), if any, required to be paid at the expiration of said lease in connection with any election by the Lessee to purchase the said items of equipment.

#### Section 12.9 Architect(s) and Consultants)

A. Lessor and Lessee agree that the selection and performance of the Architect(s) or other Consultants is the responsibility of Lessee. Lessor did not and will not participate in the selection of the Architect(s) or Consultants and will not participate in the selection of any successor Architect or Consultant; provided, however, that Lessee shall comply with the provisions of Article IV (Minority and Women Owned Business Utilizations) and shall notify Lessor of the appointment of any successor Architect or Consultant.

B. Neither the Architect(s) nor any other Consultants are agents, either express or implied, of Lessor.

C. The resumes of the principals of the Architect(s) and other Consultants working on the Casino Project and Improvements shall be provided in writing to Lessor. In the event that any of the principals of the Architect(s) and other Consultants working on the Casino Project or Improvements are changed during the Design Phase, Lessee shall notify Lessor immediately upon learning of such change.

## Section 12.10 Lessor Not Responsible for Design Documents

Lessor shall not be responsible for any error or omission in the Design Documents, for failure of the Design Documents (or a part thereof) to comply with Governmental Requirements, or for Design Documents that result in or cause a defective design or construction.

## Section 12.11 Covenant Against Liens

A. Lessee agrees to furnish the Lessor with appropriate lien waivers or bond(s) for all work, labor, services or materials supplied to or for Lessee for any construction, alterations, repairs, rebuilding, improvements and restorations undertaken on the City Real Estate.

B. During the term of this Agreement, Lessee shall do all things necessary to prevent the filing and enforcement of any mechanics', materialmen's, contractors', vendors', laborers', subcontractors' or other liens against the Gaming Vessel(s), the Improvements, the Ancillary Facilities, the City Real Estate, or any part thereof, by reason of any construction, repair, work, labor, services or materials performed or supplied or claimed to have been performed or supplied to Lessee, the Gaming Vessel(s), the Improvements, the Ancillary Facilities, the City Real Estate, or any part thereof, through or under Lessee. Lessee shall pay and obtain a release of record of any such lien, claim or demand which is filed against the City Real Estate, by payment thereof or filing a bond or otherwise, and Lessee shall have the right to contest the same in good faith pursuant to this Section 12.11, within thirty (30) days after the date of filing thereof. If Lessee desires to contest any such lien, Lessee shall notify Lessor of the same with said thirty (30) day period and shall, prior to the end of said thirty (30) day period post a bond or other security for the benefit of Lessor equal to the amount of money claimed by the lien. Lessee shall thereupon have the unrestricted right to contest such lien until said lien is discharged and released of record. If, however, Lessee fails to timely release or contest said lien in accordance with this Section 12.11, the Lessor shall have the right to vacate and release the same and charge the cost thereof (including attorneys' fees) to Lessee, such charges to be due and payable upon demand and shall be Additional Rent hereunder. Lessee shall notify the Lessor of the filing of a lien within thirty (30) days after Lessee has actual knowledge thereof.

C. Lessee shall defend, indemnify and hold Lessor, the Port Authority and SLDC harmless from and against any and all liability, loss, damage, cost and expense (including court costs and reasonable attorneys' fees) arising out of or

in connection with any such lien or the enforcement or removal thereof, except for any such lien which is caused to be filed due to the actions or omissions of Lessor, its employees, servants or agents.

## ARTICLE XIII

### FINANCIAL AND ACCOUNTING RECORDS, BUDGETS AND REPORTING REQUIREMENTS

#### Section 13.1. Financial and Accounting Records

Lessee shall maintain and keep, or shall cause to be maintained and kept, full and accurate Books and Records at the Casino Project Site or at such other location as shall be permitted by the Gaming Commission and approved by the Lessor in writing, of all gaming business conducted or transacted in, upon or from the Casino Project Site which may reasonably assist the Lessor in determining the Gaming Rent to be paid by Lessee under this Agreement. Lessee shall maintain and make available to the Comptroller of the City of St. Louis (hereinafter the "Comptroller") full and accurate Books and Records reflecting the Adjusted Gross Receipts and marketing and promotion expenses of the Gaming Operations. The business, financial and operating reports and records of Lessee which are required of Lessee by the Commission containing information reasonably necessary to permit Lessor to determine the Additional Rent payable under this Agreement shall be made available by Lessee to the Comptroller simultaneously with the delivery thereof to the Commission. If Lessee maintains permanent records in a computerized or microfiche fashion, Lessee shall provide to the Comptroller, upon the Comptroller's reasonable request, a detailed index to the microfiche or computerized records, indexed by department and date. The Books and Records are subject to the record retention and storage policies required by this Agreement and by applicable Governmental Requirements, Generally Accepted Accounting Principles ("GAAP") and the auditors. Lessee shall retain and maintain Books and Records for at least five (5) years.

#### Section 13.2 Financial Statements; Quarterly Meetings

Lessee shall provide the Comptroller with accurate unaudited Financial Statements of the Casino Project for each calendar quarter within thirty (30) days after the end of each quarter following the Casino Opening Date certified as accurate by Lessee's chief financial officer acting in his/her representative capacity on behalf of Lessee and not individually. Such Financial Statements shall set forth the amount of Adjusted Gross Receipts and marketing and

promotion expenses incurred for the period in question and the Lease Year to date. The annual Financial Statements of Lessee relating to the Casino Project shall be audited by one of the six largest national accounting firms or such other firm selected by Lessee approved by the Comptroller (such approval not to be unreasonably withheld or delayed) at Lessee's expense and those portions of the audited Financial Statements relating to Adjusted Gross Receipts and marketing and promotion expenses shall be provided to the Comptroller within ninety (90) days after the end of each year (subject to Unavoidable Delays). All audited Financial Statements provided to the Comptroller shall be accompanied by an opinion of the accounting firm preparing said statements which contains no exceptions or qualifications. Each quarter, the Financial Statements of Lessee will be presented and explained to the Lessor at a meeting organized by the Comptroller. In addition to the annual audited Financial Statements, the Financial Statements for the last Lease Year shall be audited at the termination of this Agreement. Notwithstanding the foregoing, if Lessee is subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, Lessee shall not be required to submit to the Comptroller a quarterly or annual Financial Statement until the statement or the information therein appears in a report filed with the Securities and Exchange Commission, provided, however, this provision shall not limit Lessor's review and audit rights under Section 13.3.

### Section 13.3 Review and Audit

Lessor or its duly appointed agents (including but not limited to the Comptroller) shall have the right, at reasonable times and during normal business hours, after reasonable written notice to Lessee, to examine, audit, inspect and transcribe the Books and Records of Lessee (the "Lessor's Audit") for the purpose of verifying the Adjusted Gross Receipts or for any other reason relating to the enforcement of the provisions of this Agreement. Lessee shall make available its Books and Records for the aforesaid purposes, or such portions thereof as are relevant for such purposes. Notwithstanding the foregoing, Lessor shall not have the right to examine, audit, inspect or transcribe (a) any customer records or (b) any Books or Records or information that Lessee is required by law not to disclose. Lessee shall be required, however, to provide information to the Lessor's auditors that is reasonably sufficient to confirm the calculation of Additional Rent. Lessor's auditor shall use GAAP. If, as a result of an audit by Lessor, it is determined that Adjusted Gross Receipts have been understated by two percent (2%) or more over a period of a full Lease Year, Lessee shall pay to Lessor within thirty (30) days after demand the actual cost to Lessor of the audit; provided, however, if Lessee so desires, it may retain another auditor to perform a second audit

("Lessee's Audit"). This firm shall also be required to use GAAP. Lessee's Audit must be commenced within thirty (30) days after Lessor advises Lessee of the results of Lessor's Audit and completed within ninety (90) days thereafter. If the results of Lessee's Audit are different from those of Lessor's Audit, and Lessor and Lessee are unable to resolve the dispute, the matter will be submitted to arbitration for resolution.

#### Section 13.4 Commission Reports

Lessee shall deliver to the Comptroller copies of all business, financial and operating reports and records simultaneously with the delivery thereof to the Commission.

#### Section 13.5 Confidentiality

To the maximum extent permitted by law, Lessor agrees to treat all Books and Records, Financial Statements and other financial information as confidential, and except in response to a valid court order shall not divulge any of the records to third parties without the prior written consent of Lessee. Lessor, however, shall have the right to provide the information to the Board of Estimate and Apportionment of the City of St. Louis with the understanding and agreement that the information shall also be maintained in strictest confidence by the Board of Estimate and Apportionment. Notwithstanding anything herein to the contrary, Lessor shall have the right to divulge confidential information (a) if required by law; (b) if already public as a result of disclosure by Lessee; (c) in an enforcement proceeding by Lessor against Lessee pertaining to this Agreement; or, if needed, (d) to Lessor's attorneys and/or accountants. Other than disclosure pursuant to Section 13.5(b) above, before Lessor may divulge confidential information, any reasonable action necessary to keep the information confidential, including the execution of confidentiality agreements, will be undertaken by Lessor.

#### Section 13.6 Errors in Financial and Accounting Records

If an audit discloses errors or improper entries or similar facts that result in a deficiency in Base Rent or Additional Rent provided for in this Agreement, whichever party then owes an adjustment payment to the other shall pay the amount shown to be due within fourteen (14) days after completion of the audit. Completion of the audit shall be deemed to occur at the time of the delivery of the auditor's report to both Lessor and Lessee. Any deficiency in Base Rent or Additional Rent required under this Agreement by Lessee to Lessor shall include interest at the Default Rate from the date due until paid.

## Section 13.7 Annual Business Plan

Not later than ninety (90) days prior to Lessee's projection of the Casino Opening Date, and at a mutually agreeable time each Lease Year thereafter, Lessee shall prepare, or cause to be prepared, (i) an Annual Business Plan for each Lease Year setting forth estimates of Adjusted Gross Receipts and estimated marketing and promotion expenses. The Comptroller and Lessor shall be allowed to examine, review and make notes from the Annual Business Plan no later than thirty (30) days after the beginning of each Lease Year, provided that, to the extent permitted by law, the Comptroller and Lessor shall keep the information contained in the Annual Business Plan confidential and shall not photocopy or take possession of the Annual Business Plan. In no event shall the Annual Business Plan be subject to approval or revision by Lessor or the Comptroller.

## ARTICLE XIV

### ENVIRONMENTAL

#### Section 14.1. Environmental Obligations

Lessee shall not cause, permit or allow any Hazardous Substances to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined or used upon, about or beneath the City Real Estate, or any portion thereof by Lessee, its agents, employees, contractors, invitees or any other Persons whomsoever in violation of any Environmental Laws. Lessee shall not cause or permit its agents, employees, contractors, invitees or other Persons under the control or direction of Lessee to violate any of the Environmental Laws upon, about or beneath the City Real Estate, or any portion thereof. Lessee shall obtain, or cause to be obtained, at no expense to Lessor, any and all permits necessary or required under the Environmental Laws in connection with or arising out of Lessee's demolition, destruction, construction, and building of the Casino Project on the City Real Estate and use of the City Real Estate.

#### Section 14.2 Lessor's Right to Perform

Should Lessee fail to perform or observe any of its obligations or agreements pertaining to the Environmental Laws, then Lessor shall have the right, but not the duty, without limitation upon any of the rights of Lessor pursuant to this Agreement, to enter the Leased Premises personally or through its agents, consultants or contractors and perform the same, and Lessee shall pay for and

reimburse Lessor for its performance of Lessee's duties, which reimbursement shall include interest to be paid at the Default Rate.

### Section 14.3 Notice

If Lessee shall become aware of or receive notice or other communication concerning any actual, alleged, suspected or threatened violation of any of the Environmental Laws in connection with the development of the City Real Estate or past or present activities of any Person thereon, then Lessee shall deliver to Lessor within thirty (30) days after receipt of such notice or communication by Lessee, a copy of any such notice or communication. Receipt of such notice shall not be deemed to create any obligation on the part of Lessor to defend or otherwise respond to any such notification.

## ARTICLE XV

### UTILITIES

#### Section 15.1. Utilities

Lessee shall, at its sole cost and expense except as set forth below, make application for and install or cause the installation of all utilities and such devices required for the continuous operation of the Casino Project. Lessee shall also procure all necessary permits, licenses or other authorizations required for the lawful and proper installation and maintenance within the City Real Estate of wires, pipes, conduits, tubes and other equipment and appliances for use in supplying any such service to the Casino Project, City Real Estate. Lessee acknowledges that Lessor shall not be required to provide or furnish any services or utilities to the Casino Project, City Real Estate, provided, however, that Lessor shall use its good faith efforts to aid and assist Lessee in obtaining all relevant permits, licenses and approvals from all utilities owned or controlled by Lessor. Lessee shall be solely responsible for and promptly pay, as and when the same become due and payable, all charges incurred for utilities including, without limiting the generality of the foregoing, all communication, fire or burglar alarm systems, gas, sewerage, water, electricity, light, heat, power and other utility or service supplied, used or consumed in connection with the Casino Project, City Real Estate throughout the term of this Agreement.

Lessee shall use any utilities supplied to or serving the Casino Project, City Real Estate and the operation or construction of Casino Project in accordance with the regulations of the public utility company or the governmental agency

supplying the same and Lessee shall not at any time overburden or exceed the capacity of the mains, feeders, ducts, conduits or other facilities by which such utilities are supplied to, distributed in, or serve the City Real Estate.

## ARTICLE XVI

### IMPOSITIONS

#### Section 16.1. Taxes and Impositions

Subject to Lessee's right to contest as set forth below, Lessee shall, in all instances, pay and discharge at its sole expense all duties, taxes, assessments, impositions, charges, or rents for water, sewer or public utilities of any kind, extra-ordinary as well as ordinary, whether foreseen or unforeseen, which shall during the Lease Term be laid, levied, assessed, imposed, become due and payable, or liens upon, or arise in connection with the ownership, use, occupancy or possession of the Casino Project, City Real Estate, or any part thereof, or any appurtenances thereto, or the streets, sidewalks, vaults, curbs and gutters adjoining the Casino Project, City Real Estate, or the leasehold estate hereby created, by virtue of any present or future law, ordinance, order, regulation, rule or requirement of any government (whether federal, state or local) municipality or other governmental authority, including any agency or department thereof. In addition, Lessee shall pay and discharge any and all taxes and other charges levied, assessed or imposed upon the fixtures, furnishings, equipment and all other personal property of Lessee in, upon or about the Casino Project, City Real Estate, and any license or excise covering business conducted in the Casino Project Site. The duties, taxes, assessments, impositions, charges, rents, fees and payments above-described are sometimes referred to herein collectively as "Impositions".

All Impositions shall be paid by Lessee to the Governmental Authorities charged with the collection thereof on or before the last day upon which the same may be paid without interest or penalty for the late payment thereof. In the case of Impositions which may be payable in installments, Lessee shall be obligated to pay such installments only as the same fall due during the Agreement.

Lessee, after notice to Lessor, may, by appropriate legal proceedings conducted promptly at Lessee's sole expense, contest in good faith any Impositions levied, assessed or imposed and required to be paid by Lessee hereunder, provided that Lessee shall diligently prosecute such contest to final determination by a court, governmental authority, agency, department or other body having final

jurisdiction and further provided that Lessee agrees to indemnify and hold Lessor harmless from any cost, expense (including attorneys' fees) or any liability Lessor may suffer or incur arising out of such contest.

#### Section 16.2. Reports

Lessee shall have the right and duty to make and file all reports, statements, declarations and returns that may be required by law in connection with the determination, equalization or payment of any and every Imposition that is to be borne or paid or that may become payable by Lessee and Lessor shall not be responsible to Lessee or any other Person for the contents thereof. Lessee shall deliver copies of any such declarations, reports, statements or returns to Lessor not later than thirty (30) days after their submission to the appropriate governmental agency.

#### Section 16.3 Applicable Date

The provisions of this Article XVI shall be applicable as to the City Real Estate only from and after, and subject to, delivery of the Lessee's Readiness Notice.

### ARTICLE XVII

#### INSURANCE

##### Section 17.1. Insurance

Lessee agrees, from and after, and subject to, delivery of Lessee's Readiness Notice, to secure, maintain, and keep in force at all times during the term of this Agreement and any renewal or extension hereof, at Lessee's sole cost and expense, the following policies of insurance:

(a) Property/Casualty Insurance. Insurance against loss or damage to the Gaming Vessel(s), Ancillary Facilities, furniture, furnishings, equipment, inventory and other personal property of Lessee by fire, explosion, lightning, and other risks embraced by coverage of the type now known as the broad form of "fire and extended coverage", including, but not limited to, riot and civil commotion, smoke, windstorm, aircraft, vehicle, strike, riot, vandalism and malicious mischief, with additional coverage for broad form water damage, sprinkler leakage, flood, boiler and machinery and against such other risks or hazards as reasonably required by the Lessor consistent with industry standards in an amount not less than 100% of the full replacement cost of the Casino Project and other such personal property without deduction for physical

depreciation, and with a deductible not greater than \$25,000 per occurrence from the loss payable for any casualty. Lessee shall be solely responsible for all losses within the deductibles, if any. The peril of flood will be insured in the amount of \$50,000,000 applicable to the Gaming Vessel(s) and Ancillary Facilities and \$50,000,000 applicable to business interruption insurance. The full replacement cost shall be appropriately recalculated at regular intervals, as may be required by Lessor in a commercially reasonable manner, in accordance with industry standards. Lessee, at its sole cost and expense, shall also maintain insurance to cover Lessee's contractual indemnity obligations assumed in this Agreement but only insofar as such obligations relate to tort indemnities, and only to the extent that insurance is available at commercially reasonable rates.

(b) **Builder's Risk Insurance.** During construction of the Gaming Vessel(s) and Ancillary Facilities, Lessee shall maintain or cause to be maintained Builder's Risk Insurance on an "All Risk" form, including fire and extended coverage. The deductible shall not exceed \$50,000 per occurrence.

(c) **Comprehensive General Liability Insurance.** Comprehensive public liability insurance on an "occurrence basis" against claims for "personal injury" including, without limitation, bodily injury, death or property damage occurring on, in or about the Casino Project, City Real Estate; such insurance shall afford immediate minimum protection of \$5,000,000 combined single limit per occurrence/\$10,000,000 aggregate and a deductible not greater than \$25,000, or such amount as Lessor may from time to time reasonably require in accordance with industry standards;

(d) **Boiler and Pressure Vessel Insurance.** Boiler and pressure vessel insurance, including air tanks, pressure piping and major air conditioning equipment, provided the Gaming Vessel(s) and Ancillary Facilities contain equipment of the nature ordinarily covered by such insurance and for an amount not less than Five Million Dollars (\$5,000,000) or such larger sum as Lessor may reasonably require in accordance with industry standards.

(e) **Comprehensive Motor Vehicle Liability Insurance.** Comprehensive Motor Vehicle Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) combined single limit bodily injury liability and property damage. Coverages are to include all owned, hired and non-owned vehicles.

(f) **Protection and Indemnity Insurance.** Protection and Indemnity Insurance including collision liability covering collisions with all objects, fixed or floating, with a minimum limit of \$10,000,000 per occurrence and a deductible not greater than \$25,000;

(g) Worker's Compensation Insurance. Worker's Compensation Insurance in full compliance with all applicable State and Federal laws and regulations, including a specific endorsement covering liability, to the extent applicable, for Federal Longshoremen's and Harbor Workers' Compensation Act. The limits of liability under the Workers' Compensation and insurance policy or policies required hereunder shall be in the amount of One Million Dollars (\$1,000,000). Notwithstanding the foregoing, if Lessee qualifies under the applicable laws of the State of Missouri, it may (at its election) self-insure Worker's Compensation Insurance risks.

(h) Employer's Liability Insurance. Employer's Liability Insurance in the minimum amounts of \$1,000,000 per individual claim, covering injury or death to any employee which may be outside of or in addition to liability under and Worker's Compensation statute. Notwithstanding the foregoing, if Lessee qualifies under the applicable laws of the State of Missouri, it may (at its election) self-insure Employer's Liability Insurance risks.

(i) Umbrella Liability Insurance. Excess or Umbrella Liability Insurance providing a minimum coverage of \$50,000,000 in excess of the underlying limits and coverages provided by Comprehensive General Liability, Protection and Indemnity and Employer's Liability above.

(j) Other Insurance. Lessee shall obtain such other insurance, and in such amounts, as may from time to time be reasonably required by Lessor consistent with industry standards against the same or other insurable hazards which at the time are commonly insured against in the case of premises similarly situated.

#### Section 17.2. Contractor's Insurance

Lessee shall require its general contractor or construction manager engaged in or doing construction or alterations in, on or to the City Real Estate, the Gaming Vessel(s), the Improvements, or the Ancillary Facilities to provide and maintain, during such time, at no cost or expense to Lessor such insurance that will name as an additional insured and protect each of Lessor, each Leasehold Mortgagee (if any) and Lessee from any and all claims for damage to public or private property or personal injury, including death, to the said employees of said general contractor or construction manager, or to any members of the public, which may arise from any or all operations under the contract between Lessee and said contractor or construction manager or to any of their respective subcontractors. The insurance required by this Section shall comply with all of the general requirements applicable to the coverages required hereunder. The insurance coverages required hereby shall extend to all occurrences that are the

result of or arise from work performed by or under such contractor and/or construction manager. Nothing contained in the foregoing provisions of this Section 17.2 shall be construed as requiring any such contractor and/or construction manager to maintain the coverage required during any period of time during which no contract by and between Lessee and such contractor or construction manager is in effect and/or no work is being performed in, on or to the City Real Estate, the Gaming Vessel(s), the Improvements, Ancillary Facilities by such contractor or construction manager.

### Section 17.3. Professional Liability Insurance

Lessee shall cause its principal architect and engineer to obtain and secure Architects' and Engineers' Professional Liability Insurance covering all architectural and engineering services and work performed in connection with any construction or alterations affecting the construction performed by or on behalf of Lessee within the City Real Estate with coverage limits not less than Five Million Dollars (\$5,000,000) with a deductible of not more than Two Hundred Fifty Thousand Dollars (\$250,000) per occurrence. Such policy or policies of insurance shall include coverage for ensuring losses caused by architects' errors and omissions. Such policy or policies shall delete exclusions with reference to contractual liability, joint ventures, parks, amusement devices and skateboards whenever applicable, provided that such insurance is commercially available. Notwithstanding the foregoing, Lessee shall have the right, at its election, to waive compliance with this provision by its principal architect and engineer if Lessee and Lessor are indemnified against loss by the architect and engineer and Lessee is reasonably satisfied with the financial resources of said architect and engineer.

### Section 17.4. Business Interruption Insurance

Commencing on the Casino Opening Date and thereafter throughout the Initial Term and any Extended Term of this Agreement, Lessee shall maintain, at its sole cost and expense, a policy or policies of Business Interruption Insurance insuring Lessee (naming each Leasehold Mortgagee and Lessor as an additional insured as their interests may appear) against the actual loss of average daily net profits, Base Rent and Additional Rent, fixed charges and expenses, including extra expense coverage, which may be occasioned by a casualty or catastrophe which interrupts the normal business and earnings of Lessee and Lessee's ability to pay the Base Rent and Additional Rent due under this Agreement for a minimum period of thirty (30) days and a maximum period of sixty (60) days. The terms "Base Rent" and "Additional Rent" as used in this Section are intended to represent not only those payments due prior to the

interruption, but also those payments which would have become due had no interruption in business occurred. The computation of the amount which would have become due shall be based upon payments made in the preceding year of operations or a fraction thereof if no complete year of business operations has taken place. Such policy or policies may contain a time deductible of not more than forty-eight (48) hours, provided that Lessee shall be solely responsible for all losses within the deductible period, if any.

#### Section 17.5. Increase of Policy Limits

The specific policy limits and deductibles provided for herein (as adjusted for changes in industry standards) shall be increased at least once every five (5) years to an amount which represents the equivalent, after inflation, of the sums herein specified, as determined by a certified public accountant mutually designated by the Lessor and reasonably satisfactory to Lessee using generally accepted indices of inflation.

#### Section 17.6. Form of Insurance and Insurers

All such policies of insurance provided for under this Agreement shall be effected under valid and enforceable policies, in such form as shall be approved by Lessor as to surety and reserving the right of recovery by Lessor in the event of damage to Lessor-owned property. All such policies of insurance shall be issued by insurance companies of recognized responsibility which are reasonably satisfactory to Lessor and which are licensed to transact business in the State of Missouri. Each insurance policy required to be obtained under this Agreement shall name Lessor, the Port Authority, SLDC and any Leasehold Mortgagee each as an additional insured thereof. Included in the appropriate insurance policy shall be coverage providing for the removal of any portion of the Casino Project when damaged or sunken from any cause whatsoever and this clause shall be expressed as a specific warranty by the insurance company regardless of cause.

In addition, all such policies of insurance shall contain

(a) contractual liability endorsements covering the agreements of Lessee to indemnify Lessor from and against all cost, expense and/or liability as contractually undertaken by Lessee under the terms of this Agreement,

(b) a provision that no act or omission of Lessee which would otherwise result in forfeiture or reduction of the insurance therein provided shall affect or limit

the obligation of the insurance company so to pay the amount of any loss sustained, and

(c) an endorsement providing that such insurance may not be materially changed, amended or cancelled with respect to Lessor except after at least sixty (60) days prior written notice from the insurance company to Lessor sent by registered mail.

#### Section 17.7. Cancellation of or Failure to Obtain Insurance

In the event that any policy which Lessee is required to obtain pursuant to the provisions hereof is cancelled by the insurer, Lessee shall be required to obtain replacement insurance, and provide proof thereof to Lessor, prior to the date that the cancellation becomes effective. Lessee shall cause the insurance company to notify Lessor of the renewal of all insurance required pursuant to the provisions of this Article.

If Lessee at any time fails or refuses to procure and maintain the required amount of insurance, then Lessor may, and without notice to Lessee, obtain same for and on behalf of Lessee and charge the cost thereof to Lessee, such charge to be due and payable upon demand and shall be Additional Rent hereunder.

#### Section 17.8. Delivery of Insurance Policies

Each insurance policy required to be obtained pursuant to this Agreement, or a copy or certificate thereof, together with reasonably satisfactory evidence of payment of the premium thereof, shall be delivered to Lessor on or before the date any construction is commenced by Lessee within the City Real Estate, and upon renewals of such policies, not less than the date of expiration of any prior coverage.

#### Section 17.9. Payment of Insurance Proceeds

Subject to the rights of the holder of any mortgage on the Casino Project, any proceeds of insurance provided for herein shall be the sole property of Lessor, provided, however, that such proceeds shall be made available to Lessee to restore and repair the Casino Project as set forth in Section 18.3 hereof without further appropriation.

#### Section 17.10. Release of Liability

Lessee, and all parties claiming under or through Lessee, hereby expressly release and discharge Lessor from any claim or liability, whether based on negligence or any reason whatsoever, for any personal injury or property damage, where such loss is covered by Lessee's insurance to the extent of such insurance. All insurance policies of Lessee shall contain an endorsement containing an express waiver of any right of subrogation by the insurance company against Lessor to the extent that such express waiver can be obtained by Lessee without any additional cost, premium or expense.

#### Section 17.11. Additional Insurance

Lessee shall not carry separate or additional insurance concurrent in form or contributing in the event of any loss or damage with any insurance required to be obtained by Lessee under this Agreement, if the effect of such insurance would be to reduce the protection or payment to be made under insurance required hereunder.

#### Section 17.12. Adequacy Letter

Lessor may (but not more frequently than once every three (3) years), at its sole cost and expense, obtain a Letter of Opinion prepared by an insurance broker selected by Lessor and reasonably satisfactory to Lessee as to the adequacy of insurance. If it is determined pursuant to the Letter of Opinion that the City Real Estate, the Ancillary Facilities and/or the Improvements are underinsured, the amount of insurance carried by Lessee shall be adjusted accordingly.

#### Section 17.13. Keep in Good Standing

Lessee shall observe and comply with the requirements of all policies of insurance at any time in force with respect to the Casino Project, Gaming Vessel(s), the Ancillary Facilities, the City Real Estate, and Lessee shall so perform and satisfy the requirements of the companies writing such policies so that at all times companies of good standing satisfactory to Lessor shall be willing to write or to continue such insurance. Lessee shall, in the event of any violations or attempted violations of the provisions of this Section by any employee, agent, contractor or representative of Lessee, take steps, immediately upon knowledge of such violation or attempted violation, to remedy or prevent the same as the case may be.

#### Section 17.14. Unearned Premiums

Upon the expiration or earlier termination of this Agreement, unearned premiums upon any of such insurance policies which are transferred to Lessor, if any, shall be apportioned between Lessor and Lessee, provided that if Lessee shall then be in default causing the termination hereunder, the portion of such unearned premiums to which Lessee would otherwise be entitled shall be applied first against any amount due under the default.

#### Section 17.15. Blanket Policies

Any insurance provided for in this Article may be effected by a policy or policies of blanket insurance; provided, however, that the amount of the total insurance allocated to the City Real Estate shall be such as to furnish in protection the equivalent of separate policies in the amounts herein required, and provided further that in all other respects, any such policy or policies shall comply with the other specific insurance provisions and Lessee shall deposit the original policy or policies or a copy thereof or a certificate thereof with Lessor.

#### Section 17.16. Change of Circumstances or Conditions

If any insurance required to be maintained under this Agreement is not available at commercially reasonable levels, Lessee and Lessor shall renegotiate the type of insurance that may be required to fully protect Lessor and Lessee or, if an alternative to insurance is not available at commercially reasonable levels, Lessee and Lessor shall negotiate an alternative arrangement to protect Lessor and Lessee.

### ARTICLE XVIII

#### DAMAGE OR DESTRUCTION

##### Section 18.1. Damage or Destruction

Except as provided in Section 18.2, if the Casino Project or the Ancillary Facilities are damaged or destroyed by fire, casualty or any other cause whatsoever, Lessee shall immediately repair, restore and rebuild same at Lessee's sole expense so that such is returned, as nearly as possible, to the same condition and character as existed prior to such damage or destruction, using materials of an equal or superior quality to those existing prior to such casualty. Subject to the provisions of Section 18.2, Lessee's duty to repair or rebuild shall exist without regard to the availability of insurance proceeds therefor.

## Section 18.2. Lessee's Option to Terminate

Notwithstanding Section 18.1, however, if the Casino Project is substantially damaged or completely destroyed by fire, casualty, or any other cause whatsoever (excepting damage or destruction due to the gross negligence of Lessee) within two (2) years of the end of the Initial Lease Term or Extended Term, Lessee shall have the option of terminating this Agreement within ninety (90) days of such damage or destruction, by giving written notice thereof to Lessor and tendering therewith a Termination Payment equal to the greater of (1) the amount obtained by dividing by twelve (12) the total Gaming Rent paid by Lessee in the immediately preceding Full Lease Year, times the number of months remaining in the Lease Term, or (2) the total Gaming Rent paid by Lessee in the immediately preceding Full Lease Year. Upon Lessor's receipt of Lessee's notice of termination and the Termination Payment, Lessee shall cease and discontinue all Gaming Operations at the Casino Project Site, or within any portion thereof, this Agreement shall terminate, and the parties shall be relieved of all further obligation under this Agreement, except as have accrued as of the date of such termination, and Lessee and/or any Leasehold Mortgagee shall be entitled to receive all insurance proceeds payable as a result of any such damage or destruction.

## Section 18.3. Use of Insurance Proceeds

Subject to the provisions of Section 18.2, all proceeds of casualty insurance on the Casino Project or the Ancillary Facilities with respect to any single recovery shall be made available to pay for the cost of restoration and repair of same if all or any part thereof is damaged or destroyed in whole or in part by fire or other casualty. The insurance proceeds shall be held by a Disbursing Agent designated by Lessee and approved by Lessor (such approval not to be unreasonably withheld, delayed or conditioned) in an interest-bearing account and any interest earned thereon shall be added to the insurance proceeds. The Disbursing Agent shall disburse the insurance proceeds in stages to pay for the cost of the restoration and repair (the "Work") of the Casino Project or the Ancillary Facilities in accordance with the plans and specifications prepared by a qualified architect or engineer and approved by Lessor. The Disbursing Agent shall not advance any part of the insurance proceeds, but shall pay only for expenses accompanied by all appropriate lien waivers and documented in a form satisfactory to the Disbursing Agent and approved by the Casino Project's Architect and the Comptroller of the City of St. Louis ("Payment Requests") within five (5) business days of receipt thereof. Upon receipt of the Payment Request, Disbursing Agent shall make payments directly to the contractors specified therein or reimburse Lessee for costs expended. There shall be no

payment of charges resulting from material changes in the approved plans and specifications unless such changes shall have been approved in writing by Lessor (whose approval shall not be unreasonably withheld). If the proceeds of the insurance are insufficient to complete the Work, Lessee shall complete the Work using its own funds, but only after the insurance proceeds and the interest earned thereon has been exhausted. Upon completion of the Work and payment therefor in full, Lessee shall submit to Lessor the Architect's certificate certifying that the work has been completed and paid for in full. Any insurance proceeds remaining following the delivery of the Architect's Certificate and its approval by Lessor shall be paid to Lessee.

#### Section 18.4. No Abatement of Base Rent or Additional Rent

Except as otherwise provided in Section 18.2, no destruction of or damage to the Casino Project, or any portion thereof by fire, flood or other casualty, whether such damage or destruction be partial or total, shall permit Lessee to surrender the City Real Estate, or terminate this Agreement, or relieve Lessee from its obligation to pay in full the Base Rent and Additional Rent payable to Lessor under this Agreement.

### ARTICLE XIX

#### FINANCING OF PROJECT

##### Section 19.1. Financing of Project

Lessor recognizes that Lessee may seek financing in order to effect the development of the Casino Project, the Improvements, and the Ancillary Facilities contemplated by this Agreement, and to this end may be required to mortgage, pledge or otherwise encumber all or part of the Leasehold Interest created by this Agreement, and Lessor hereby agrees that Lessee shall have the right to obtain such financing and to grant such mortgage, pledge or security interest, without the consent or approval of Lessor, subject to the provisions of Section 19.7.

##### Section 19.2. Transfers by Mortgagee

If, as a result of a default in the loan secured by a mortgage of Leasehold Interest created by this Agreement, the Leasehold Mortgagee forecloses upon or otherwise acquires all or part of Lessee's Leasehold Interest, the Leasehold Mortgagee shall be permitted to Transfer the acquired interest to the same

extent and subject to the same terms and conditions as are applicable to a Transfer by Lessee of its rights and interests hereunder.

### Section 19.3. Notices from Lenders

To the extent such financing is obtained, Lessee shall require any lender or equity investor providing financing to the Casino Project ("Lender" or, if any loan shall be secured by a leasehold mortgage or a deed of trust, sometimes "Leasehold Mortgagee") to provide Lessor with each notice of default by Lessee under the terms of any loan agreements, mortgages or promissory notes entered into with or provided to said Lender.

### Section 19.4. Notices to Lenders

Lessor shall give to each Lender a copy of each notice of default by Lessee under this Agreement at the same time and in the same manner that notice is given to Lessee at the Lender's address last furnished to Lessor. Each Lender shall have the same right to cure any default afforded to Lessee hereunder and Lessor will accept performance by any Lender of any covenant, condition or agreement required to be performed by Lessee hereunder with the same force and effect as if performed by Lessee.

### Section 19.5. Third Party Beneficiary

The Lender shall be a third party beneficiary of the provisions of this Agreement.

### Section 19.6. Lease Revisions

Lessor and Lessee acknowledge that revisions may be required to this Agreement at the request, and in order to satisfy legal and underwriting requirements, of any potential Lender or Leasehold Mortgagee. Such revisions may include, without limitation, additional cure rights and grace periods, receipt of estoppel certificates from time to time, provisions regarding distribution of insurance proceeds and condemnation awards, and other similar provisions for the protection of the Leasehold Mortgagee and the further perfection of its mortgage and other security interests. Lessor agrees that, notwithstanding the provisions of Section 26.21, it shall cooperate in all reasonable respects with Lessee in preparing revisions to this Agreement in order to satisfy the requirements of any such Lender and Leasehold Mortgagee, and agrees to implement revisions as so requested, provided only that Lessor shall have no obligation to agree to or implement any revisions which (i) alter

the Term or the provisions relating to any Extended Term; (ii) alter the amount of Base Rent or Percentage Rent required to be paid hereunder, or the form or timing of such payments; or (iii) alter or amend any of the liabilities or obligations of Lessee hereunder in any material respect so as to relieve Lessee of any obligation regarding the development and construction of the Casino Project. If Lessor fails to agree to any alterations or revisions to this Agreement as herein contemplated and, as a result thereof, the proposed financing is not available to Lessee, then Lessee shall have the right, by notice to Lessor, either (x) to treat the failure to obtain such financing as an Unavoidable Delay until such time as subsequent financing, satisfactory in all respects to Lessee, can be obtained; or (y) at any time until satisfactory alternate financing is obtained, to terminate this Agreement and the rights and obligations of the parties hereto by notice to that effect delivered by Lessee to Lessor in which event this Agreement shall terminate and each of the parties hereto shall bear their own costs and expenses without reimbursement therefor from either party to the other.

#### Section 19.7. Limitation on Financing

Anything herein contained to the contrary notwithstanding, in no event shall the amount of financing which Lessee shall be entitled to obtain, prior to the Casino Opening Date and completion of construction of the Casino Project, on a loan basis from a Leasehold Mortgagee exceed in principal amount that portion of the Development Costs for the Casino Project which are in excess of Nineteen Million Five Hundred Thousand Dollars (\$19,500,000), it being understood and agreed that in any event Lessee shall have invested not less than \$19,500,000 of equity in the Casino Project for the payment of Development Costs (inclusive of mezzanine financing provided by Lessee, or any of the members of Lessee or any one or more Affiliates of any such member).

## ARTICLE XX

### MODIFICATION FOR MUNICIPAL PURPOSES

#### Section 20.1. Modification for Municipal Purposes

In accordance with City Ordinance 56707, Lessor reserves the right to modify, amend, or cancel this Agreement in the event that all or any portion of the City Real Estate is needed by Lessor for right-of-way, sewer, floodwall, floodwall construction purposes, or any other municipal purposes or use. Municipal

purposes or use shall include, without limitation, economic development of the Port District and expansion of the City's Water Division treatment plant.

Lessor shall have the right to modify, amend or cancel this Agreement upon one (1) year's written notice thereof to Lessee and eliminate such portion of the City Real Estate as shall be needed by Lessor for municipal purposes or use. In such event, it is agreed and understood by Lessee that no claim or action for damages or other compensation shall arise or be allowed by reason of such termination or modification, except as set forth below.

If this Agreement is amended or modified under the provisions of this Section 20.1, the Base Rent shall be adjusted in direct proportion to the change made in the City Real Estate. If, in the sole opinion of Lessor, the remaining City Real Estate is not suitable for Lessee's purposes, Lessee shall be given the right to terminate this Agreement without penalty by written notice to Lessor within ninety (90) days after receipt of the notice to modify or amend the Agreement.

In the event this Agreement is cancelled, modified or amended under the provisions of this Section 20.1, Lessor shall cause Lessee to be reimbursed within ninety (90) days after cancellation, modification or amendment for the depreciated cost of the non-removable capital improvements Lessee has made and paid for and which capital improvements have been made pursuant to the written approval of Lessor. It is agreed and understood that the term "capital improvements" shall not include wharf boats, vessels or other floating or transferable stationary improvements unless permanently affixed to real estate. (It is expressly agreed and understood by the parties that any wharf boat, vessel or other floating stationary improvement not permanently affixed to real estate, and within a mooring basin, such that said floating improvement is not transferable without dismantling such floating improvement, shall be deemed to be a "capital improvement" for purposes of this Section 20.1. Such reimbursement shall be made by or as a part of the cost of the intended new use. Reimbursement will not be based on anticipated profits from the operation of Lessee's business, and no funds from Lessor's general revenue shall be used for this purpose.

## ARTICLE XXI

### LIMITATION OF LIABILITY

#### Section 21.1. Limitation of Liability

A. Lessor shall have no liability if one or more of the following should occur:

- (1) if a court of competent jurisdiction determines that the law permitting gaming operations is unconstitutional, illegal or unenforceable; or
- (2) if the laws permitting gaming operations are repealed or otherwise modified by the Missouri State Legislature; or
- (3) if this Agreement is determined or declared invalid, illegal, void or otherwise unenforceable by a court of competent jurisdiction for reasons other than any enumerated in Section 21.1.B.

B. If one or more of the following should occur:

- (1) if Lessor does not have clear title to the City Real Estate; or
- (2) if Lessor is unable to grant and convey the leasehold rights as provided in this Agreement; or
- (3) if Lessor is determined or declared by a court of competent jurisdiction after all appeals are exhausted not to have the right, power and authority to enter into this Agreement; or
- (4) if Lessor is unable to maintain Lessee in peaceable possession of the City Real Estate through the exercise of reasonable diligence, care and action;

then the liability of Lessor to Lessee, if any, for loss of property, loss of revenues, damages resulting from business interruption or loss of business, shall be limited to the actual damages of Lessee, which damages shall be reduced by any collateral source payments and shall specifically exclude consequential damages, such as the loss of future potential profits. Lessor shall use reasonable best efforts to maintain the validity of this Agreement, Lessee's Leasehold Interest herein created, and Lessee in peaceable possession of the City Real Estate, and to perfect Lessee's good and merchantable title thereto. Nothing contained in this Section 21.1 shall be construed to impose any liability on Lessor with respect to A.(1), (2) and (3) and B.(1) through (4) above, if such liability would not otherwise exist.

#### Section 21.2. Non-Liability

Neither Lessor, SLDC nor the Port Authority shall be responsible for any damage or loss to the Gaming Vessel(s), Ancillary Facilities, its riggings, furnishings, fixtures, or equipment due to any cause whatsoever, including, but not limited to, theft, vandalism, public disorder, fire, weather, collisions,

floating or underwater hazards, electrolysis, tie-up or boat defects. Additionally, unless due to the gross negligence or willful misconduct of Lessor, SLDC or the Port Authority or any respective employee, servant, agent or representative of Lessor, SLDC or the Port Authority, neither Lessor, SLDC nor the Port Authority shall be responsible for any damage or injury to Patrons arising from any source, while on land or at sea, and Lessee shall perform all acts necessary to provide for the safety of its Patrons while in or on the Casino Project, City Real Estate, on board the Gaming Vessel(s), or in or on the Ancillary Facilities.

Notwithstanding the foregoing, nothing herein contained shall be deemed to limit, restrict or impair the liability of Lessor, if any shall exist by law, to Lessee in Lessor's governmental capacity and to the extent any such liability would exist notwithstanding the execution and delivery of this Lease, such as, for example, and not by way of limitation, any liability or obligation which Lessor may have to provide adequate police and fire protection.

## ARTICLE XXII

### INDEMNIFICATION

#### Section 22.1. Indemnification

Lessee agrees to defend, pay, indemnify and hold harmless Lessor, SLDC and the Port Authority and their agents, employees, servants and representatives from and against any and all claims, demands, injuries, damages, fines, penalties, lawsuits, actions, proceedings, orders, decrees, judgments or liability of any kind or nature by or in favor of anyone whomsoever and from and against any and all costs and expenses incurred by Lessor, SLDC or the Port Authority, including reasonable attorneys' fees (collectively "Claims"), resulting or arising from or in connection with (1) any accident, bodily injury, death, personal injury of any kind, or property damage arising directly or indirectly, out of or from or on account of any occurrence in, upon, at, or about the City Real Estate; (2) any accident, bodily injury, death, personal injury or property damage arising, directly or indirectly, out of or in connection with Lessee's operation of gaming activities at the Casino Project within the City Real Estate; (3) any use, occupancy, nonuse, or condition of the Casino Project Site, City Real Estate; and (4) any failure on the part of Lessee to perform or comply with any of the terms, covenants and conditions of this Agreement; provided, however, that in no event shall Lessee indemnify or hold harmless Lessor, SLDC, the Port Authority or their agents, employees, servants and representatives for Claims arising from acts of gross negligence or wilful

misconduct on the part of Lessor, SLDC, the Port Authority or their agents, employees, servants and representatives. In case any Claim is brought against Lessor, SLDC or the Port Authority by reason of any occurrence, Lessee or Lessee's insurer, upon Lessor's, SLDC's or the Port Authority's request, will, at no expense to Lessor, SLDC or the Port Authority, resist and defend such Claim or cause same to be resisted and defended by counsel selected by Lessee and reasonably acceptable to Lessor, SLDC and the Port Authority. Lessor shall have the right to retain its own counsel and to be reimbursed by Lessee for all reasonable attorney's fees and costs incurred in the defense of any action. The obligations of Lessee under this Section 22.1.A. shall survive the termination of this Agreement.

#### Section 22.2. Environmental Indemnification

In addition to the foregoing, Lessee agrees to indemnify and hold harmless Lessor, SLDC and the Port Authority and their respective employees, agents and servants, and to defend them against any Claims for any liability, injuries, damages, penalties or fines arising from or relating to the disposal, discharge, release or spilling into or onto the air, water, soil, sewer system or similar media (collectively "Release") of any hazardous substance, hazardous waste, pollutant, toxic pollutant, extremely hazardous substance, toxic substance, infectious waste, solid waste or similar material or substance which disposal, discharge, release or spill, whether accidental or intentional, occurs on, within or from the City Real Estate during the Lease Term; provided, however, that Lessee's obligations under this Section 22.2 shall not apply to any Claims which arise in connection with or are caused in whole or part by the acts, actions or omissions of Lessor, SLDC or the Port Authority and/or any of their employees, agents, servants or representatives.

#### Section 22.3 Applicable Date

The provisions of this Article XXII shall be applicable as to the City Real Estate only from and after, and subject to, delivery of the Lessee's Readiness Notice.

### ARTICLE XXIII

#### ENTRY UPON PREMISES AND INSPECTION

##### Section 23.1. Access and Inspection

A. Lessor or its agents or designees shall have the right at all reasonable times during normal business hours, upon reasonable notice to Lessee (except in the case of emergency, in which event no notice shall be required except that Lessor shall make request for access to the executive in charge of gaming operations on duty at the time), which notice shall be deemed given upon receipt and which notice may be given orally or in writing, to enter the Gaming Vessel(s), the City Real Estate or the Ancillary Facilities, for the purposes of: (1) determining whether Lessee is complying with the terms and conditions of this Agreement, including but not limited to compliance with Environmental Laws, or (2) exercising Lessor's right to review the Books and Records.

B. Lessee may, during such inspection, have an employee or agent of Lessee escort any person so inspecting the Casino Project.

#### Section 23.2. Access to Secured Areas

Lessor acknowledges that by virtue of the nature of its business, Lessee will have certain security and confidentiality requirements and that, consequently, portions of the Casino Project may be locked or otherwise made inaccessible to persons unauthorized by Lessee (such areas are hereinafter called "Secured Areas"). Lessor covenants and agrees that Lessee shall have the right and discretion to protect any information or activities subject to such security and confidentiality requirements and to establish such Secured Areas, however, Lessor shall be permitted to enter such Secured Areas in accordance with procedures established by Lessee and accepted by Lessor or as may be required by the Commission, which procedures shall be adopted prior to the Casino Opening Date. Prior to the Casino Opening Date, Lessee shall deliver floor plans of the Gaming Vessel(s) and Ancillary Facilities to Lessor designating the Secured Areas.

### ARTICLE XXIV EVENT OF DEFAULT

#### Section 24.1. Cure of Lessee's Default

If Lessee shall fail to make any payment or perform any act required hereunder to be made or performed by Lessee and such failure shall continue for more than the period of grace, if any, provided therefor, then Lessor may, but shall be not be obligated to, make such payment or perform such act with the same effect as if made or performed by Lessee. The making of any payment or the performance of any act pursuant to this Section 24.1 by Lessor shall not waive or release Lessee from any default or obligation hereunder. Lessee shall

reimburse Lessor for all sums paid and all costs incurred by Lessor in performing the obligations of Lessee hereunder, together with interest at the Default Rate and including reasonable attorneys' fees, upon Lessor's demand therefor, which shall be Additional Rent hereunder. If Lessor exercises Lessor's rights under this Section 24.1, Lessor shall notify Lessee of the same concurrently with Lessor's exercise of such rights.

#### Section 24.2. Event of Default

The occurrence of any of the following shall constitute a material default and breach of this Agreement by Lessee (an "Event of Default"):

A. Lessee fails to pay any Base Rent or Additional Rent or other charges, or any part thereof, payable to Lessor hereunder, when and as the same shall become due and such failure shall continue for ten (10) days after notice thereof from Lessor to Lessee;

B. Lessee shall sell, assign, pledge, mortgage, transfer, or sublet this Agreement, the Improvements, the Ancillary Facilities, the Casino Project Site, or any part thereof or any rights hereunder, in whole or in part, either voluntarily or by operation of law, except as specifically authorized in this Agreement;

C. Lessee shall fail to continuously operate and use the Casino Project Site or any portion thereof as required hereunder for reasons other than an Unavoidable Delay Event (other than a failure to continuously operate and use the Casino Project Site as required hereunder arising from or caused by denial, failure to renew, suspension or revocation of a Gaming License), and such failure shall continue for thirty (30) days after notice thereof from Lessor to Lessee;

D. Lessee is denied a Gaming License by the Commission, or if, after first obtaining a Gaming License, Lessee for any reason ceases to be licensed to conduct a gambling operation pursuant to the laws of the State of Missouri, or the License of Lessee is suspended or revoked, or an action is instituted to suspend or revoke any gaming related license or approval held by Lessee in any other jurisdiction or State and such denial, revocation or suspension shall continue for not less than ten (10) continuous days; provided, however, Lessee shall have the right to contest, by appropriate proceedings, the denial, revocation or suspension of its License in which event this Agreement shall remain in effect during the pendency of any such proceeding, regardless of whether Gaming Operations continue during such pendency, and if, as a result

of such proceedings or during the pendency thereof, Lessee's Gaming License is restored or reactivated, then this Agreement shall continue in full force and effect;

E. Lessee fails to maintain the insurance required by Article XVII hereof and such failure shall continue for ten (10) days after written notice thereof from Lessor to Lessee;

F. Lessee shall be in default under the terms of any loan agreement, mortgage, promissory note or any other agreement entered into by Lessee for the purposes of financing the Casino Project with any Lender or Leasehold Mortgagee and shall have received written notice of the same and at least ten (10) days within which to cure any such default;

G. Lessee, or either or both of the joint venturers comprising Lessee, shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due; or shall file a petition in bankruptcy; or shall be adjudged bankrupt or insolvent; or shall file a petition seeking any reorganization, liquidation, dissolution or similar relief under any present or future statute, law or regulation; or shall file an answer admitting or not contesting the material allegations of a petition filed against Lessee, or either or both of the joint venturers comprising Lessee, in any such proceeding; or shall seek or consent to or acquiesce in the appointment of a trustee, receiver or liquidator of Lessee, or either or both of the joint venturers comprising Lessee, or a material part of their properties; or shall voluntarily liquidate or dissolve; or

H. Lessee shall fail to observe, perform or comply, in any material respect, with any of the terms, covenants and conditions in this Agreement other than those specified in subparagraphs A., B., C., D., E., F., and G. above (or which result from any of the events therein referred to), and shall fail to remedy such default within thirty (30) days after the receipt of written notice from Lessor specifying the nature of such default, provided, however, that if any such default cannot with due diligence be cured by Lessee within thirty (30) days, and if Lessee commences to cure the default within thirty (30) days and diligently prosecutes the cure to completion, then the thirty (30) day period shall be extended for the period of time required for Lessee to complete the cure.

I. The termination or dissolution of the joint venture agreement by and between CSMC Management Services, Inc. and Paradox Investments, L.L.C. for the Casino Project, either under the terms of said joint venture agreement or by law.

### Section 24.3. Remedies in the Event of Default

A. Upon the occurrence of any Event of Default, Lessor, at its option, shall have the right at any time thereafter, and without prejudice to any other right or remedy Lessor may have hereunder, to declare Lessee's Leasehold Interest, this Agreement and all rights of Lessee under this Agreement as expired and terminated, and Lessee shall remain liable as hereinafter set forth; provided, however, anything herein to the contrary notwithstanding, termination shall be the sole and exclusive remedy for any default referred to in Section 24.2.D, and, upon exercising such remedy, Lessee shall thereupon be relieved, as of the date of termination of this Lease, of any further liability or obligation hereunder other than any such liability or obligation arising or relating to events occurring prior to the effective date of such termination. Lessor shall provide Lessee with written notice specifying the date of termination of this Agreement, which shall not be less than thirty (30) days from the date of the notice.

Upon any such expiration or termination of Lessee's Leasehold Interest and this Agreement, but subject to the rights of any Leasehold Mortgagee, Lessee shall quit and peacefully surrender the City Real Estate to Lessor and Lessor, upon any such expiration or termination, may without further notice enter upon and re-enter the City Real Estate and possess and repossess itself thereof, by force, summary proceedings, ejectment or other appropriate suit, action or proceeding, and may dispossess Lessee and remove Lessee and all persons and property from the City Real Estate and have the right to hold and enjoy the City Real Estate and receive all rental and other income therefrom without payment of any kind to Lessee, except that any amounts so received by Lessor shall be credited against amounts otherwise due by Lessee to Lessor hereunder.

B. If Lessor shall terminate Lessee's Leasehold Interest and this Agreement, Lessor may recover from Lessee, and Lessee shall immediately pay to Lessor all then accrued but unpaid Base Rent and Additional Rent and other amounts then accrued under this Agreement.

C. If Lessee's Leasehold Interest and this Agreement shall expire or be terminated, or if the City Real Estate, or any part thereof shall be abandoned by Lessee, or shall become vacant during the term hereof, Lessor may in its own name, or as agent for Lessee if Lessee's Leasehold Interest and this Agreement not be terminated, but subject to the rights of any Leasehold Mortgagee, enter into possession of and relet the City Real Estate, or any part of either or both thereof, or the City Real Estate with additional area owned or controlled by Lessor, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the term of this

Agreement) and on such conditions as Lessor, in its discretion, may determine, and may collect and receive the rents therefor. The failure of Lessor to relet the City Real Estate, or any part or parts of either or both thereof, shall not release or affect Lessee's liability for Base Rent and Additional Rent under this Agreement and any damages or deficiency as set forth herein. Lessor shall in no event be liable in any way whatsoever for failure to relet the City Real Estate, or any part thereof, or in the event that the City Real Estate, or any part thereof is relet, failure to collect the rents thereof under such reletting.

D. Subject to the provisions of Section 24.3.A, no event of expiration or termination of Lessee's Leasehold Interest and this Agreement by reason of the occurrence of any Event of Default by Lessee shall relieve Lessee of its liability and obligations under this Agreement, whether or not the City Real Estate shall be relet except as hereinafter expressly provided. In the Event of Default hereunder Lessee shall remain liable for all Base Rent, Additional Rent, and any Percentage Rent required to be paid hereunder, provided, however, that in the event that Lessor shall exercise its right to terminate this Lease upon an Event of Default as provided in this Section 24.3, and without regard to the prior exercise by Lessee of its termination option under Section 3.3 hereof, Lessee's continued liability for Base Rent, Percentage Rent and Additional Rent shall be limited to a period of one (1) year following such termination by Lessor, provided Lessee ceases all Gaming Operations at the Casino Project Site, or any portion thereof for the remaining balance of the Lease Term.

E. In the event of any breach by Lessee of any of the agreements, terms, covenants or conditions contained in this Agreement, Lessor shall have the right to invoke any right and remedy allowed at law or in equity, by statute or otherwise, in addition to and as though re-entry, summary proceedings, and other remedies were not provided for in this Agreement.

#### Section 24.4. Damages in the Event of Default

A. Subject to the provisions of Section 24.3.A and D., in the event of termination of Lessee's Leasehold Interest and this Agreement at any time on or after (but not before) the Casino Opening Date by reason of the occurrence of any Event of Default by Lessee, Lessee, until the end of the Term of this Agreement or the termination of Lessee's Leasehold Interest, or what would have been such Term in the absence of termination (without regard to any unexercised options to extend the Term), shall be liable to Lessor for Lessee's default for damages, which, for purposes of this Agreement shall be the equivalent of the amount of the Base Rent and Additional Rent and other

charges which would be payable under this Agreement by Lessee to Lessor if Lessee's Leasehold Interest and this Agreement were still in effect, less the net proceeds of any reletting effected pursuant to the Section 24.3 hereof, after deducting all of Lessor's reasonable out-of-pocket expenses incurred in connection with such reletting of the City Real Estate, including without limitation, all repossession costs, brokerage and management commissions, operating expenses, legal expenses, reasonable attorneys' fees, alterations costs (i.e. repairs, not capital improvements), and expenses of preparation of such reletting. The amount of Additional Rent due to Lessor as damages in the event of expiration or termination of Lessee's Leasehold Interest and this Agreement shall be equal to the Additional Rent paid to Lessor in the Full Lease Year prior to the year of termination divided into twelve (12) equal monthly installments. Lessee shall pay such damages (herein called "deficiency") to Lessor on the days on which the Base Rent and Additional Rent would have been payable under this Agreement if this Agreement were still in effect, and Lessor shall be entitled to recover from Lessee each deficiency as the same shall arise, it being agreed that Lessor shall not have any right to cause the acceleration of the rental amounts payable by Lessee hereunder faster than the same become due and payable. It is understood by Lessee that any reletting may be for a period shorter or longer than the remaining term of Lessee's Leasehold Interest; but in no event shall Lessee be entitled to receive any excess of such net rents over the sums payable by Lessee hereunder, nor shall Lessee be entitled, in any suit for the collection of damages pursuant to this subsection, to a credit in respect of any net rents from a reletting, except to the extent that such net rents are actually received by Lessor.

B. Subject to the provisions of Section 24.3.A and D., at any time after the expiration or termination of Lessee's Leasehold Interest and this Agreement by reason of the occurrence of an Event of Default by Lessee, in lieu of collecting any further deficiencies as aforesaid, Lessor shall be entitled to recover from Lessee, and Lessee shall pay to Lessor, within thirty (30) days after demand, as liquidated damages and not as a penalty, an amount equal to total amount of Base Rent, Percentage Rent and Additional Rent paid to Lessor in the year prior to the year of termination. Lessee shall remain liable for any deficiencies not previously recovered by Lessor.

If the City Real Estate or any part thereof be relet by Lessor for the unexpired term of this Lease Term, or any part thereof, before presentation of proof of such liquidated damages to any court, commission or tribunal, the amount of rent reserved upon such reletting shall prima facie be the fair and reasonable rental value for the part or the whole of the Leased Premises so relet during the term of the reletting. Nothing herein contained shall limit or prejudice the right

of Lessor to prove and obtain as liquidated damages by reason of such termination, an amount equal to the maximum allowed by any statute or rule of law in effect, at the time when, and governing the proceedings in which, such damages are to be proved, whether or not such amount be greater, equal to, or less than the amount referred to above.

C. If the Lease Term be terminated, or if the City Real Estate is abandoned or becomes vacant, and whether or not the City Real Estate be relet, Lessor shall be entitled to recover from Lessee, and Lessee shall pay to Lessor, in addition to any damages becoming due under this Section 24.4, the following: an amount equal to all expenses, if any, including reasonable attorneys' fees, incurred by Lessor in recovering possession of the City Real Estate (whether or not litigation be commenced in aid thereof), restoring the City Real Estate to its condition prior to the execution of this Agreement, and all reasonable costs and charges for the care of said City Real Estate while vacant, which damages shall be due and payable by Lessee to Lessor at such time or times as such expenses are incurred by Lessor.

#### Section 24.5. Bankruptcy

A. In the event that Lessee shall become a debtor under Chapter 7 of the Bankruptcy Code, Lessee's trustee or Lessee may elect to assume the Lease for its own use or for the purpose of assigning the same or otherwise; provided, however, that such election or assignment may be made only if all of the provisions of this Section are satisfied. If Lessee or Lessee's trustee shall fail to elect to assume the Lease within sixty (60) days after the date of the order for relief (or such additional time as may be granted by the Bankruptcy Court within such sixty-day period), this Agreement shall be deemed to have been rejected, and immediately thereupon, Lessor shall be entitled to possession of the City Real Estate without further obligation to Lessee or Lessee's trustee and this Agreement and the Lease Term shall terminate (but Lessor's right to be compensated for damages in any such proceeding shall nevertheless survive any such termination).

B. In the event that a petition for reorganization or adjustment of debts is filed concerning Lessee under Chapter 11 of the Bankruptcy Code, Lessee's trustee or Lessee, as debtor-in-possession, must elect to assume this Agreement on or before the earlier to occur of (i) the date upon which the plan is confirmed, or (ii) the date sixty (60) days after the date of the order for relief (or such further date as the court, for cause, within such sixty (60) day period fixes), or Lessee's trustee or Lessee, as debtor-in-possession, shall be deemed to have rejected this Agreement. In the event that Lessee's trustee or Lessee, as debtor-in-

possession, has failed to perform all of Lessee's obligations under this Agreement within the time periods (excluding grace periods) required for such performance, no election by Lessee's trustee or Lessee, as debtor-in-possession, to assume this Agreement, whether under Chapter 7 or Chapter 11, shall be effective unless each of the following conditions has been satisfied:

(i) Lessee's trustee or Lessee, as debtor-in possession, has cured all monetary defaults under this Agreement within ten (10) days after the date of such assumption, and all non-monetary defaults under this Agreement within thirty (30) days after the date of such assumption;

(ii) Lessee's trustee or Lessee, as debtor-in-possession, has compensated Lessor for any pecuniary loss incurred by Lessor arising from the default of Lessee, Lessee's trustee or Lessee, as debtor-in-possession, indicated in any statement of pecuniary loss sent by Lessor to Lessee's trustee or Lessee, as debtor-in-possession;

(iii) Lessee's trustee or Lessee, as debtor-in-possession, has provided Lessor with Assurance (as hereinafter defined) of the future performance of each of the obligations under this Agreement on the part of Lessee, Lessee's trustee or Lessee, as debtor-in-possession, and (a) has deposited with Lessor, as security for the timely payment of Rent hereunder, an amount equal to four (4) times a fraction, the numerator of which is the total amount of Additional Rent due from Lessee during the preceding Lease Year and the denominator of which is the number of calendar months in the preceding Lease Year, and (b) has paid in advance to Lessor an amount equal to one-third (1/3) of the total amount of Additional Rent due from Lessee during the preceding Lease Year. The obligations imposed upon Lessee's trustee or Lessee, as debtor-in-possession, shall continue with respect to Lessee or any assignee of Lessee's interests in this Agreement after the completion of bankruptcy proceeding; and

(iv) Such assumption will not breach or cause a default under any provision of any other lease, mortgage, financing agreement or other agreement by which Lessor is bound relating to the Casino Project Site.

For purposes of this Section, Lessor and Lessee acknowledge that "Assurance" shall mean no less than (i) Lessee's trustee or Lessee, as debtor-in-possession, has and will continue to have sufficient funds available to fulfill the obligations of Lessee under this Agreement, and (ii) the Bankruptcy Court shall have entered an order segregating sufficient cash payable to Lessor to cure the defaults under this Agreement, monetary and non-monetary, within the time period set forth above.

C. If Lessee's trustee or Lessee, as debtor-in-possession, has assumed this Agreement pursuant to the terms and provisions of this Section for the purpose of assigning (or elects to assign), this Agreement, this Agreement may be so assigned only if the proposed assignee has provided adequate assurance of future performance of all of the terms, covenants and conditions of this Agreement to be performed by Lessee. Lessor shall be entitled to receive all cash proceeds of any such assignment. As used herein, "adequate assurance of future performance" shall mean that no less than each of the following conditions has been satisfied:

(i) The proposed assignee has furnished Lessor with (a) a current financial statement audited by a certified public accountant, indicating a net worth and working capital in amounts which Lessor reasonably determines to be sufficient to assure the future performance by such assignee of Lessee's obligations under this Agreement, and/or (b) a guarantee or guarantees in form and substance satisfactory to Lessor from one or more persons with aggregate net worth equal to or in excess of Lessee's net worth as of the Effective Date. Lessee hereby acknowledges Lessor's reliance upon the provisions of this subsection; and

(ii) The proposed assignee has furnished Lessor with a finding by the Bankruptcy Court of compliance with all provisions of Section 365 of the Bankruptcy Code; and

(iii) The proposed assignee has furnished Lessor with (a) sufficient cash payable to Lessor, and/or (b) a valid and perfected first lien and security interest and/or mortgage in property acceptable to Lessor as to value and kind, to secure to Lessor the obligation of Lessee's trustee or Lessee, as debtor-in-possession, to cure (x) all monetary defaults under the Lease within ten (10) days after the date of such assignment, and (y) all non-monetary defaults under this Agreement within thirty (30) days after the date of such assignment; and

(iv) The proposed assignee has furnished Lessor with a written assumption of all of the duties and obligations applicable to Lessee under this Agreement.

#### Section 24.6. Remedies Cumulative

Except as otherwise provided in Section 24.3, each right and remedy provided for in this Agreement shall be cumulative and shall be in addition to every other right or remedy provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Lessor or Lessee or any one or more of the rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity

or by statute or otherwise shall not preclude the simultaneous or later exercise by Lessor or Lessee of any or all other rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise.

#### Section 24.7 Transfers Upon Termination

At the termination of Lessee's Leasehold Interest and this Agreement by default or otherwise, and if Lessor so elects, Lessee shall, to the extent assignable, assign, transfer and convey to Lessor all service agreements, concessions, leases, subleases and other agreements necessary for the continued operation of the Project, subject, however, to the rights of any Leasehold Mortgagee. Lessee shall make its management staff and such other staff of Lessee, as Lessor deems necessary, available to Lessor on a reasonable basis and at no cost for a period of sixty (60) days to insure an orderly and uninterrupted transition of management and operation.

### ARTICLE XXV SURRENDER OF PREMISES

#### Section 25.1 Surrender of Premises

A. Upon the expiration or earlier termination of the Lease Term, Lessee agrees to quit and surrender the City Real Estate, free and clear of all liens and encumbrances and any and all Hazardous Substances, spilled or discharged into or on the City Real Estate during Lessee's tenancy and in the same condition and repair as on the date hereof, and Lessee shall remove the Gaming Vessel(s) and Ancillary Facilities therefrom, unless otherwise agreed by Lessor and Lessee.

B. Upon the expiration or earlier termination of the Lease Term, at the sole election of Lessor, Lessee shall remove any other improvements or other property installed or placed by Lessee within or upon the City Real Estate at Lessee's sole cost and expense and without expense to Lessor. If Lessee shall fail to remove, within thirty (30) days after the giving of notice of such election by Lessor, any improvements or other property which Lessor in such notice has requested Lessee to remove, then such improvements or other property shall, at the sole election of Lessor, either be deemed abandoned and become the exclusive property of Lessor, or Lessor shall have the right to remove such improvements or other property at the expense of Lessee, without further notice to or demand upon Lessee, and to hold Lessee responsible for any and all charges and expenses incurred by Lessor in regard thereto.

C. In case of any damage to the City Real Estate resulting from the removal of any improvements or any other property of Lessee, whether by Lessee or Lessor, Lessee shall repair such damage or shall reimburse Lessor for the cost of repairing such damage. If the City Real Estate is not surrendered as and when aforesaid, Lessee shall indemnify Lessor against all loss or liability resulting from the delay of Lessee in so surrendering the same including without limitation, any claims made by any succeeding occupant founded on such delay.

D. If requested by Lessor to do so, Lessee shall execute, acknowledge and deliver to Lessor such instruments of further assurance as in the reasonable opinion of Lessor or its counsel are necessary or desirable to confirm or perfect Lessor's right, title and interest in and to all of the City Real Estate, and/or any and all Improvements constructed, installed or placed within or upon the City Real Estate and which Lessor is to receive pursuant to this Agreement.

E. Lessee's obligations under this Section 25.1 shall survive the expiration or earlier termination of the Lease Term.

## ARTICLE XXVI MISCELLANEOUS PROVISIONS

### Section 26.1. Coast Guard Certificate

Lessee shall present to Lessor and to the Port Authority on an annual basis the Coast Guard certificate of inspection obtained for the Casino Project, and a marine survey, if required by law, of the safety of the facilities and improvements, including the Casino Project.

### Section 26.2. Mooring of Vessels

All Gaming Vessel(s) shall be moored within the mooring basin in such a manner and in such number so as not to violate any applicable permits obtained by Lessee from the U.S. Corps of Engineers.

### Section 26.3. Auxiliary Craft

No auxiliary craft shall be moored to any vessel within the mooring basin except for public safety reasons and maintenance; provided, however, that maintenance craft shall be moored only during the period in which maintenance is taking place.

### Section 26.4. Relationship of Parties

Nothing contained in this Agreement shall be deemed to constitute or be construed or implied to create the relationship of principal and agent, partnership, joint venture or any other relationship between the parties hereto, other than the relationship of the landlord and tenant.

#### Section 26.5. No Broker

The parties covenant, warrant and represent to each other that there was no broker instrumental in consummating this Agreement and that no conversations or prior negotiations were had by either with any broker concerning the renting of the City Real Estate. Both parties agree to indemnify and hold each other harmless against and from all liabilities, including reasonable attorneys' fees, arising from any claims for brokerage commissions or finders' fees resulting from or arising out of any conversations or negotiations had by either directly with any broker.

#### Section 26.6. Conflict of Interest

The parties agree to abide by all applicable federal, state and local laws, ordinances and regulations relating to conflict of interest. Additionally, but not in limitation of the foregoing, no member of the Board of Aldermen, the Board of Commissioners of the Port Authority, or any branch of government of the City of St. Louis who has any power of review or approval of any of the undertakings herein, shall participate in any decisions relating thereto which affect his/her personal interests or the interests of any corporation or partnership in which he or she is directly or indirectly interested. No member, Commissioner, official or employee of Lessor, the Port Authority or SLDC shall have any personal interest, direct or indirect, in this Agreement, nor participate in any decisions relating thereto which affect his or her personal interests or the interests of any corporation or partnership in which he or she is directly or indirectly interested. Any member, Commissioner, official or employee of Lessor, the Port Authority, or SLDC now having or subsequently acquiring any personal interest, direct or indirect, or in any corporation, partnership or association in which such person has financing or business ties, in any contract or proposed contract in connection with the development, construction or financing of the Casino Project to be constructed shall immediately disclose, in writing to Lessor, the nature of such interest and seek a determination with respect to such interest by Lessor, and in the meantime shall not participate in any actions or discussions relating to the Casino Project.

#### Section 26.7. Exhibits

All exhibits attached to this Agreement are incorporated herein and made part hereof by reference.

#### Section 26.8. Headings

The captions, headings and arrangements in this Agreement are for convenience only and do not in any way define, limit or modify the terms or provisions hereof.

#### Section 26.9. Number and Gender of Words

Whenever the singular number is used in this Agreement, the same shall include the plural where appropriate and words of any gender shall include the other gender where appropriate.

#### Section 26.10. Notices

All notices, demands, request or other communications ("notices") required or permitted by this Agreement shall be in writing and shall be deemed to be received when actually received by any person at the intended address if personally served or if sent by courier or telex, whether actually received or not, twenty-four (24) hours after the date and time of delivery to a nationally recognized courier, addressed as follows:

If to Lessor: Mayor of the City of St. Louis  
Room 200, City Hall  
St. Louis, Missouri 63101

and to: Comptroller of the City of St. Louis  
Room 212, City Hall  
St. Louis, Missouri 63101

If to Lessee: Chain of Rocks Joint Venture  
c/o Carnival Hotels & Casinos  
Gaming Group  
3250 Mary St.  
Miami, FL 33133  
Attention: Mr. Robert B. Sturges, President

and to: Paradox Investments, L.L.C.  
One City Place Drive  
Suite 540

St. Louis, MO 63141  
Attention: Mr. James Koman

Copies to: Scott Fuerst, Esq.  
Ruden, McClosky, Smith, Schuster & Russell, P.A.  
200 E. Broward Blvd.  
Fort Lauderdale, FL 33301

and to: Mark H. Levison, Esq.  
Riezman & Blitz, P.C.  
120 S. Central, 10th Floor  
St. Louis, Missouri 63105

Either party may, in substitution of the foregoing, designate a different address and addresses within the continental United States for purposes of this section by written notice delivered to the other party in the manner prescribed, at least ten (10) days in advance of the date upon which such change of address is to be effective. Notice given by counsel to a party hereto shall be deemed notice given by such party.

Any notices relating to maintenance shall be given to those parties locally responsible as hereinafter designated by the parties upon completion of the anticipated improvements.

#### Section 26.11. Entire Agreement

This Agreement sets forth the entire agreement between the parties. There are no understandings, agreements, statements, promises, representations or warranties, express or implied, respecting the City Real Estate and this Agreement which are not specified herein. This Agreement shall not be modified, amended or supplemented except by a writing subscribed to by the party to be charged, nor may this Agreement be cancelled by Lessee or the City Real Estate surrendered except with the written express authorization of Lessor.

#### Section 26.12. Survival of Covenants

All representations, warranties and indemnities set forth in this Agreement shall survive the execution hereof and the closing of any real estate transaction contemplated hereby.

#### Section 26.13. Multiple Counterparts

This Agreement may be executed in a number of identical counterparts and if so executed, each such counterpart is deemed an original for all purposes, and all such counterparts shall collectively constitute one Agreement.

#### Section 26.14. Binding Effect

The terms, conditions, provisions and covenants of this Agreement shall run with the Casino Project and shall be binding on and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors or assigns.

#### Section 26.15. Future Acts

In addition to the acts and deeds recited in this Agreement and contemplated hereby, the parties hereto shall execute any and all additional agreements as may be necessary to consummate the transactions contemplated by this Agreement.

#### Section 26.16. Effective Date of Agreement

The Effective Date of this Agreement shall mean the date on which a copy of this Agreement has been fully executed by the parties hereto and all changes to the typewritten portion hereof initialed by both of the parties.

#### Section 26.17. Time of the Essence

Time is of the essence with respect to the performance of this Agreement and each and every provision contained herein.

#### Section 26.18. Attorney's Fees

In the event a dispute arising between the parties hereto, each party shall be responsible for payment of its own attorney's fees and court costs, if any, incurred in connection with such dispute, unless otherwise expressly provided herein.

#### Section 26.19. Venue and Jurisdiction

Each party to this Agreement hereby submits to the jurisdiction of the State of Missouri and the courts thereof for the purposes of any suit, action or other proceeding arising out of or relating to this Agreement. If and in the event of a dispute arising hereunder, venue shall be vested in the Circuit Court of City of St. Louis, State of Missouri. Lessee acknowledges that it has negotiated this

Agreement in the City of St. Louis, Missouri, and has made numerous business contacts and entered agreements relating to real estate and other matters sufficient to confer jurisdiction of the courts of the City of St. Louis, State of Missouri.

If at any time during the term of this Agreement, Lessee, or any successor or assignee of Lessee, is not a resident of the State of Missouri or has no officer, director, employee or agent thereof available for service of process as a resident of the State of Missouri, Lessee or its successor or assignee hereby designates the Secretary of State, State of Missouri, as its agent for the service of process in any court action between it and Lessor or arising out of or relating to this Agreement.

#### Section 26.20. Authorization and Capacity

The parties hereto represent to each other that each has the full right, power and authority to enter into this Agreement and to fully perform its obligations. The persons executing this Agreement warrant and represent that each has the authority to execute in the capacity stated and to bind the parties hereto.

#### Section 26.21. Joint and Several Liability

The liability of the joint venturers comprising Lessee to pay Gaming Rent and other consideration described herein, and to perform all other obligations hereunder shall be deemed to be joint and several.

#### Section 26.22. Severability

All provisions of this Agreement are material and substantive; however, if any provision of this Agreement, other than Article IV hereof, or the application thereof to any person or circumstance shall to any extent be held void or invalid, such provision shall be held invalid and of no force and effect and shall be deemed deleted from this Agreement, but the remainder of this Agreement, absent such void provision, shall remain in full force and effect.

Notwithstanding anything contained herein to the contrary, if this Agreement is held invalid, Lessee shall remain liable to Lessor for the payment of all Gaming Rent owed hereunder for the period during which Lessee was in possession of the City Real Estate, and Lessee shall promptly remove the Casino Project and other improvements therefrom, in accordance with and subject to the provisions of Article XXV.

If the provisions of Article IV or their application to any person or circumstance shall to any extent be held void or invalid, then this entire Agreement shall be held invalid and of no force and effect.

#### Section 26.23. Non-Waiver

Failure by either party hereto, at any time, to require the performance by the other of any term of this Agreement, shall not in any way effect the right of either party to enforce such terms, nor shall any waiver by either party of any term hereof be taken or held to be a waiver of any other provision of this Agreement. No waiver of any term or provision of this Agreement shall be effective unless the same is in writing, signed by the parties hereto.

#### Section 26.24. Governing Law

This Agreement is entered into in the State of Missouri and shall be construed, enforced and governed, as to both validity and performance, in accordance with the laws of the State of Missouri and all of the rights and obligations of the parties hereunder shall be determined pursuant to the laws of the State of Missouri.

#### Section 26.25. Memorandum of Lease

Upon execution of this Agreement, the parties hereto shall execute a Memorandum of Lease in recordable form and Lessee shall, at its own expense, have such Memorandum of Lease recorded in the Office of the Recorder of Deeds for the City of St. Louis and have the Register of the City of St. Louis make a microfilm copy hereof. In no event shall this Memorandum be deemed to modify or to change any of the provisions of this Agreement.

#### Section 26.26 Lessor's Installation of New Water Pipe

Lessor and Lessee acknowledge Lessor's plans for installation of new water pipe along Riverview Boulevard across the City Real Estate and the Joint Venture Property. To provide Lessor access to the Joint Venture Property for purposes of installation of said new water pipe, Lessee and Lessor shall enter into an Easement Agreement (in substantial form as Exhibit 5 attached hereto and incorporated herein by reference), which Easement Agreement shall be executed and recorded by the parties contemporaneously with the execution of this Agreement. To assure that Lessor shall have access to the City Real Estate for purposes of installation of said new water pipe, Lessor hereby expressly reserves the right to re-enter upon the City Real Estate for said purpose,

provided Lessor has delivered to Lessee, no later than sixty (60) days' prior to Lessor's commencement of work, (i) Lessor's plans and drawings noting the precise location of the new water pipe, and (ii) Lessor's written notice of its intention to commence installation of same. Unless the parties hereto shall otherwise mutually agree, the area of City Real Estate upon which Lessor may re-enter pursuant to this Section 26.26 shall be limited to that portion of City Real Estate which is within two hundred (200) feet of the eastern line of Riverview Boulevard. Lessor shall have the further right to re-enter upon the City Real Estate for purposes of maintaining said water pipe, consistent with the rights granted in the Easement Agreement.

Section 26.27. Perpetuities Savings Clause

To the extent any of the interests in real estate granted, leased, demised or conveyed hereunder are deemed contingent or otherwise not vested, for any reason, the same shall vest, if at all, not later than 21 years (less one day) after the death of the last to die of all currently living descendants of Joseph P. Kennedy, deceased, father of the late President of the United States, John F. Kennedy, and if not so vested on or prior to said date, shall terminate and be of no further force or effect whatsoever.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as the date first above written.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

LESSEE: CHAIN OF ROCKS JOINT VENTURE

By: CSMC Management Services, Inc.,  
Joint Venturer

By: \_\_\_\_\_  
Its: \_\_\_\_\_

And By: Paradox Investments, L.L.C.,  
Joint Venturer

By: \_\_\_\_\_  
Its: \_\_\_\_\_

LESSOR: THE CITY OF ST. LOUIS  
By: Freeman R. Bosley, Jr. MAYOR

By: Darlene Green  
COMPTROLLER

ATTEST:  
By: CITY REGISTER

APPROVED AS TO FORM:  
Mary E. Nelson  
General Counsel, Port Authority of the City of St. Louis

Thomas A. Ray  
Deputy City Counselor  
City of St. Louis

STATE OF MISSOURI )  
) ss.  
CITY OF ST. LOUIS )

On this day of , 1995, before me appeared , to me personally known, who, being by me duly sworn, did say that s/he is the of CSMC Management Services, Inc., a Florida corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid the day and year first above written.

NOTARY PUBLIC  
My commission expires:  
STATE OF MISSOURI )  
) ss.  
CITY OF ST. LOUIS )

On this day of , 1995, before me appeared , to me personally known, being by me duly sworn, did say that s/he is the of Paradox Investments, L.L.C., a Missouri limited liability company, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and s/he acknowledged said instrument to be the free act and deed of

said corporation.

NOTARY PUBLIC

My commission expires:  
STATE OF MISSOURI )

) ss.

CITY OF ST. LOUIS )

On this day of , 1995, before me appeared Freeman R. Bosley, Jr. and Darlene Green, to me personally known, who, being by me duly sworn, did say that they are the Mayor and the Comptroller of the City of St. Louis and that they are authorized to execute this lease agreement on behalf of the City of St. Louis under the authority of Ordinance No. and acknowledge said instrument to be the free act and deed of the City of St. Louis.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid the day and year first above written.

NOTARY PUBLIC

My commission expires:

EXHIBIT 4

Improvements to Casino Project Site

Pursuant to Section 4.10 of this Agreement, Lessee shall construct and install the Site Improvements outlines in the attached letter from Crawford, Bunte, Brammeier to Mr. Jim Koman, Chain of Rocks Joint Venture, dated April 12, 1995, incorporated in this Exhibit by reference.

Said Site Improvements are delineated in pages 5 and 6 of the said letter, in the section entitled "Recommended Geometric Improvements", and may be summarized as follows:

- 1) Removal of Riverview Drive median and construction of southbound left turn lane on Riverview Drive into Casino Project Site;
- 2) Construction of northbound right turn lane on Riverview Drive into Casino Project Site;
- 3) Construction of four-lane access drive into Casino Project Site, with separate right and left turn lanes exiting into Riverview Drive, and with two separate inbound lanes;

4) Signalization at the intersection of the four-lane access drive and Riverview Drive, with an overlap phase for right-turn traffic.

Exhibit 5

## EASEMENT AGREEMENT

THIS AGREEMENT is made and entered into \_\_\_\_\_, 199\_, by and between CHAIN OF ROCKS JOINT VENTURE (hereinafter the "Joint Venture") and the City of St. Louis, a Missouri Municipal Corporation and its successors and assigns (hereinafter the "City").

W I T N E S S E T H:

WHEREAS, the Joint Venture owns the real estate described on Exhibit A attached hereto and incorporated herein by reference (the "Joint Venture Parcels"); and

WHEREAS, the City owns the real estate described on Exhibit B attached hereto and incorporated herein by reference (the "City Parcels"); and

WHEREAS, the Joint Venture and the City have agreed to establish certain easements on the Joint Venture Parcels for the benefit of the City and all future owners and occupants of the City Parcels;

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

The Joint Venture does hereby grant, bargain, sell and convey to the City, its heirs and assigns forever, an easement over the Joint Venture Parcels at the location shown on Exhibit C attached hereto and incorporated herein by reference and on the terms and conditions set forth herein (the "Water Pipe Easement") for the purpose of installing and maintaining one (1) or two (2) water pipes not exceeding five (5) feet in diameter each, transmission conduits, and related appurtenances (collectively the "Water Pipe"). The City and its successors and assigns shall comply with all applicable laws in constructing the Water Pipe in the Water Pipe Easement and in what is carried by said Water Pipe. The costs of maintaining, repairing and replacing the Water Pipe shall be borne by the owner of the City Parcels.

1. The exact location of the Water Pipe within the Water Pipe Easement shall be determined by the City, acting in a commercially reasonable manner, after

providing the Joint Venture with a copy of the City's plans and specifications for the Water Pipe, including the proposed location of the Water Pipe, and allowing the Joint Venture a minimum of twenty (20) days to review the same and provide the City with any responses thereto. The City shall thereafter construct and install the Water Pipe as promptly as possible under the circumstances. The City shall use its good faith efforts to construct the Water Pipe over the Joint Venture Parcels prior to the substantial construction of the Casino Project (as defined in that certain Lease and Development Agreement by and between the Joint Venture as Lessee and the City as Lessor).

2. The Water Pipe Easement granted herein includes the right to install, clean, inspect, repair, replace and care for the Water Pipe and includes the right of ingress and egress across the easement ground in connection with exercising any of the rights granted hereunder. The easement granted hereunder includes a temporary construction easement on the land immediately adjoining said easement to the extent such land needs to be used during construction, repair or replacement of the Water Pipe.

3. The Water Pipe Easement granted herein shall be binding on and inure to the benefit of the parties hereto and their heirs, legal representatives, successors and assigns, all existing and future tenants of said real estate and the invitees of the foregoing, and such easement shall run with the land described on Exhibits A and B hereto. The Water Pipe Easement shall also be for the benefit of any utility company which installs, maintains or operates any water line serving either the Joint Venture Parcels or the City Parcels.

4. Each party represents and warrants that it has full power and authority to enter into and sign this Easement Agreement and carry out its terms and conditions, and when signed this Easement Agreement shall be a binding obligation on such party, enforceable in accordance with its terms.

5. The Joint Venture remains responsible for routine surface maintenance of the easement area located on the Joint Venture Parcels, such as grass cutting. Except as otherwise provided herein or as subsequently agreed by the Joint Venture and the City in writing, the City shall be responsible, as between the Joint Venture and the City, for the work and cost of installation, maintenance, repair and removal of all utilities installed by or for the City within the easement, as well as for all lines, systems and facilities installed by or for the City on the City Parcels. After initial installation is completed, any installation, maintenance, repair, replacement, relocation and removal of lines, systems and facilities that is required to be performed by the City must be performed by the City and then only after two weeks' advance notice to the Joint Venture of the

City's intention to do such work. However, in the case of an emergency, any such work may be immediately performed after such advance notice to the Joint Venture as is practical under the circumstances. In addition, the City and the Joint Venture agree all such installation, maintenance, repair and removal shall be performed in a manner that causes as little disturbance to the business and operations on either the Joint Venture Parcels, the City Parcels or both as may be practicable under the circumstances. Any and all portions of the surface area of any Parcel which may have been excavated, damaged or otherwise disturbed as a result of such work shall be restored at the sole cost and expense of the City to substantially the same condition as the same existed prior to the commencement of any such work. The City shall hold the Joint Venture harmless from all loss, liability, cost or expense or liens incurred in connection with the City's exercise of the easement which may be granted pursuant to this Easement Agreement, unless occasioned by the Joint Venture's negligence.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

"JOINT VENTURE"

CHAIN OF ROCKS JOINT VENTURE

By: CSMC Management Services, Inc.  
General Partner

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: Paradox Investments, L.L.C.,  
General Partner

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

"CITY"

City of St. Louis

\_\_\_\_\_  
BY: FREEMAN R. BOSLEY, JR.

MAYOR

\_\_\_\_\_  
BY: DARLENE GREEN  
COMPTROLLER

ATTEST:

\_\_\_\_\_  
By: CITY REGISTER

APPROVED AS TO FORM:

Thomas J. Ray  
Deputy City Counselor  
City of St. Louis

STATE OF \_\_\_\_\_ )  
) SS.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 199\_, before me, a Notary Public in and for said State, personally appeared

\_\_\_\_\_, who being duly sworn, did say that he is the \_\_\_\_\_ of CSMC Management Services, Inc. a Florida corporation, a general partner of Chain of Rocks Joint Venture, a Missouri general partnership, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors as general partner of said partnership, and \_\_\_\_\_ acknowledged said instrument to be the free act and deed of said corporation and said partnership.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
STATE OF MISSOURI )  
) SS.  
COUNTY OF ST. LOUIS )

On this \_\_\_\_\_ day of \_\_\_\_\_, 199\_, before me, a Notary Public in and for said State, personally appeared JAMES KOMAN, who being duly sworn, did say that he is the \_\_\_\_\_ of Paradox Investments, L.L.C., a Missouri limited liability company, a general partner of Chain of Rocks Joint Venture, a Missouri general partnership, and that said instrument was signed and sealed in behalf of said limited liability company as general partner of said general partnership, and he acknowledged said instrument to be the free act and deed of said limited liability company and said general partnership.

\_\_\_\_\_  
Notary Public

My Commission Expires:

STATE OF MISSOURI )  
) SS.  
CITY OF ST. LOUIS )

On this \_\_\_\_\_ day of \_\_\_\_\_, 199\_, before me, a Notary Public in and for said State, personally appeared FREEMAN R. BOSLEY, JR., who being duly sworn, did say that he is the Mayor of the City of St. Louis, a Missouri Municipal Corporation, and that the seal affixed to the foregoing instrument is the seal of said City, and that said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen and he acknowledged said instrument to be the free act and deed of said City.

\_\_\_\_\_  
Notary Public

My Commission Expires:

STATE OF MISSOURI )  
) SS.  
CITY OF ST. LOUIS )

On this \_\_\_\_\_ day of \_\_\_\_\_, 199\_, before me, a Notary Public in and for said State, personally appeared DARLENE GREEN who being duly sworn, did say that she is the Comptroller of the City of St. Louis, a Missouri Municipal Corporation, and that the seal affixed to the foregoing instrument is the seal of said City, and that said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen and she

acknowledged said instrument to be the free act and deed of said City.

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Notary Public

My Commission Expires:

## EXHIBIT A, JOINT VENTURE PARCELS

### PARCEL 1 7.116 ACRES

A tract of land in U.S. Survey 114 in the City of St. Louis, Missouri, Township 47 North, Range 7 East, and being part of Lots 4 and 5 of the Subdivision of the Estate of Benjamin F. Watkins as recorded in Book 9, Page 37 of the City of St. Louis Missouri Records and being more particularly described as follows:

COMMENCING at a point marking the intersection of the northwest corner of property now or formerly of William J. Koman as recorded on M-837, Page 635 of the City of St. Louis Missouri Records, with the eastern right-of-way line of Riverview Drive at Station 7+13.70, 125.00 foot right; thence leaving said corner along said right-of-way line, South 81'36'58" East, a distance of 30.09 feet to a point; thence North 70'14'56" East, a distance of 83.88 feet to a point on the southern right-of-way line of Interstate Highway 270; thence along said southern right-of-way line, South 74'08'23" East, a distance of 716.75 feet to a point; thence South 63'47'57" East, a distance of 90.55 feet to a point on the existing high-bank of the Mississippi River; thence along said existing high-bank the following courses; South 33'42'47" West, a distance of 133.01 feet to a point; thence South 23'48'03" West, a distance of 190.07 feet to a point; thence North 81'36'58" West, a distance of 777.36 feet back to the POINT OF BEGINNING and containing 309,978 square feet or 7.116 acres more or less.

### PARCEL 2 4.701 ACRES

A tract of land in U.S. Survey 114 in the City of St. Louis Missouri, Township 47 North, Range 7 East, and being part of Lot 6 of the Subdivision of the Estate of Benjamin F. Watkins as recorded in Book 9, Page 37 of the City of St. Louis Missouri records and being more particularly described as follows:

COMMENCING at a point marking the intersection of the eastern right-of-way line of Riverview Drive with the southern line of said U.S. Survey 114; thence leaving the southern line of said U.S. Survey 114 along the eastern line of said Riverview Drive, North 16'34'38" East, a distance of 11.58 feet to a point; thence South 73'25'22" East, a distance of 30.00 feet to a point; thence North 23'11'51" East, a distance of 253.21 feet to the POINT OF BEGINNING of the herein described tract of land; thence continuing along said right-of-way line, North 23'11'51" East, a distance of 180.47 feet to a point; thence North 16'26'36" East, a distance of 276.97 feet to a point; thence leaving said right-of-way line, South 81'36'58" East, a distance of 385.25 feet to a point; thence South 08'32'44" West, a distance of 516.26 feet to a point marking the northeastern corner of property now or formerly of the City of St. Louis as recorded in Book 5258, Page 41 and 8835, Page 543 of the said City of St. Louis Missouri Records; thence along the northern line of said City of St. Louis property, North 73'25'38" West, a distance of 474.30 feet back to the POINT OF BEGINNING and containing 204,783 square feet or 4.702 acres more or less.

## EXHIBIT B, CITY PARCELS

### PARCEL 3

5.497 ACRES

A tract of land in U.S. Survey 114 in the City of St. Louis Missouri, Township 47 North, Range 7 East, and being part of Lot 6 of the Subdivision of the Estate of Benjamin F. Watkins as recorded in Book 9, Page 37 of the City of St. Louis Missouri records and being more particularly described as follows:

COMMENCING at a point marking the intersection of the eastern right-of-way line of Riverview Drive with the southern line of said U.S. Survey 114; thence leaving said right-of-way line along the southern line of said U.S. Survey 114, South 81'27'27" East, a distance of 564.99 feet to the POINT OF BEGINNING of the herein described tract of land; thence leaving the southern line of said U.S. Survey 114 along the western line of property now or formerly of the City of St. Louis as recorded in Book M-169, Page 319 of the City of St. Louis Missouri Records, North 08'32'44" East, a distance of 702.25 feet to a point; thence along the northern line of said City of St. Louis property, South 81'36'58" East, a distance of 421.30 feet to a point on the western bank of the Mississippi River; thence along said western bank, South 21'28'30" West, a distance of 721.72 feet to a point on the southern line of the aforementioned U.S. Survey 114; thence along said southern line, North 81'27'27" West, a

distance of 260.00 feet back to the POINT OF BEGINNING and containing 239.447 square feet or 5.497 acres.

PARCEL 4  
2.560 ACRES

A tract of land in U.S. Survey 114 in the City of St. Louis Missouri, Township 47 North, Range 7 East, and being part of Lot 6 of the Subdivision of the Estate of Benjamin F. Watkins as recorded in Book 9, Page 37 of the City of St. Louis Missouri records and being more particularly described as follows:

BEGINNING at a point marking the intersection of the eastern right-of-way line of Riverview Drive with the southern line of said U.S. Survey 114; thence leaving said U.S. Survey line along the eastern line of said Riverview Drive the following courses; North 16'34'38" East, a distance of 11.58 feet to a point; thence South 73'25'22" East, a distance of 30.00 feet to a point; thence North 23'11'51" East, a distance of 253.21 feet to a point; thence leaving said right-of-way line along the northern line of property now or formerly of City of St. Louis as recorded in Book 5258, Page 41 and 8835, Page 543 of the City of St. Louis Missouri Records, North 73'25'38" West, a distance of 474.30 feet to a point; thence along the East line of said City of St. Louis property, South 08'32'44" West, a distance of 285.99 feet to a point on the southern line of the aforementioned U.S. Survey 114; thence along said southern line, North 81'27'27" West, a distance of 565.03 feet back to the POINT OF BEGINNING and containing 111,508 square feet or 2,560 acres.

PARCEL 5  
3.7 ACRES +

A tract of land in U.S. Survey 115, Township 47 North, Range 7 East, City of St. Louis, Missouri and being more particularly described as follows:

BEGINNING at a point marking the intersection of the eastern right-of-way line of Riverview Drive with the northern line of said U.S. Survey 1115; thence leaving said right-of-way line along the northern right-of-way line of said U.S. Survey 115 and along the southern line of property now or formerly of the City of St. Louis as recorded in Book 5858, Page 41 and Book 8835, Page 543 and the southern line of the City of St. Louis property as recorded in Book M-169, Page 319 all of the City of St. Louis, Missouri records, South 81'27'27" East, a distance of 596.37 feet to a point; thence leaving the northern line of said U.S. Survey 115 and the southern line of said City of St. Louis property through property now or formerly of the City of St. Louis the following courses: South

08'32'33" West, a distance of 266.00 feet to a point; thence North 81'27'27" West, northwardly along the eastern right-of-way line of said Riverview Drive a distance of 269 feet + back to the POINT OF BEGINNING and containing 3.7 acres more or less. This description has been prepared for lease purposes only and is not to be used for the conveyance of real property and is subject to the as-built location of the physical improvements that are to be constructed at a future date.

#### EXHIBIT C, LOCATION OF WATER PIPE EASEMENT

Unless the City and the Joint Venture shall otherwise mutually agree, the location of the Water Pipe Easement shall be within that portion of the Joint Venture Parcels which is within two hundred (200) feet of the eastern line of Riverview Drive.

#### Exhibit 1 Casino Project Site

A Tract of Land in Outlot 121, and Part of Lots 5 & 6 of the Subdivision of the Estate of Benjamin F. Watkins in Book 9, Page 37 in U.S. Survey 114, T.47 N., R 7 E., City of St. Louis, Missouri Per Pickett Ray & Silver Survey Dated December 9, 1994

#### PARCEL 1 7.116 ACRES

A tract of land in U.S. Survey 114 in the City of St. Louis, Missouri, Township 47 North, Range 7 East, and being part of Lots 4 and 5 of the Subdivision of the Estate of Benjamin F. Watkins as recorded in Book 9, Page 37 of the City of St. Louis Missouri Records and being more particularly described as follows:

COMMENCING at a point marking the intersection of the northwest corner of property now or formerly of William J. Koman as recorded on M-837, Page 635 of the City of St. Louis Missouri Records, with the eastern right-of-way line of Riverview Drive at Station 7+13.79, 125.00 foot right; thence leaving said corner along said right-of-way line, South 81 degrees 36 minutes 58 seconds East, a distance of 30.09 feet to the POINT OF BEGINNING of the herein described tract of land; thence continuing along said right-of-way line, North 10 degrees 27 minutes 38 seconds East, a distance of 385.12 feet to a point; thence North 70 degrees 14 minutes 56 seconds East, a distance of 83.88 feet to a point on the southern right-of-way line of Interstate Highway 270;

thence along said southern right-of-way line, South 74 degrees 08 minutes 23 seconds East, a distance of 716.75 feet to a point; thence South 63 degrees 47 minutes 57 seconds East, a distance of 90.55 feet to a point on the existing high-bank of the Mississippi River; thence along said existing high-bank the following courses; South 33 degrees 42 minutes 47 seconds West, a distance of 133.01 feet to a point; thence South 23 degrees 48 minutes 03 seconds West, a distance of 190.07 feet to a point; thence North 81 degrees 36 minutes 58 seconds West, a distance of 777.36 feet back to the POINT OF BEGINNING and containing 309,978 square feet or 7.116 acres more or less.

**PARCEL 2**  
**4.701 ACRES**

A tract of land in U.S. Survey 114 in the City of St. Louis Missouri, Township 47 North, Range 7 East, and being part of Lot 6 of the Subdivision of the Estate of Benjamin F. Watkins as recorded in Book 9, Page 37 of the City of St. Louis Missouri records and being more particularly described as follows:

COMMENCING at a point marking the intersection of the eastern right-of-way line of Riverview Drive with the southern line of said U.S. Survey 114; thence leaving the southern line of said U.S. Survey 114 along the eastern line of said Riverview Drive, North 16 degrees 34 minutes 38 seconds East, a distance of 11.58 feet to a point; thence South 73 degrees 25 minutes 22 seconds East, a distance of 30.00 feet to a point; thence North 23 degrees 11 minutes 51 seconds East, a distance of 253.21 feet to the POINT OF BEGINNING of the herein described tract of land; thence continuing along said right-of-way line, North 23 degrees 11 minutes 51 seconds East, a distance of 180.47 feet to a point; thence North 16 degrees 26 minutes 36 seconds East, a distance of 276.97 feet to a point; thence leaving said right-of-way line, South 81 degrees 36 minutes 58 seconds East, a distance of 385.25 feet to a point; thence South 08 degrees 32 minutes 44 seconds West, a distance of 516.26 feet to a point marking the northeastern corner of property now or formerly of the City of St. Louis as recorded in Book 5258, Page 41 and 8835, Page 543 of the said City of St. Louis Missouri Records; thence along the northern line of said City of St. Louis property, North 73 degrees 25 minutes 38 seconds West, a distance of 474.30 feet back to the POINT OF BEGINNING and containing 204,783 square feet or 4.701 acres more or less.

**PARCEL 3**  
**5.497 ACRES**

A tract of land in U.S. Survey 114 in the City of St. Louis Missouri, Township 47 North, Range 7 East, and being part of Lot 6 of the Subdivision of the Estate of Benjamin F. Watkins as recorded in Book 9, Page 37 of the City of St. Louis Missouri records and being more particularly described as follows:

COMMENCING at a point marking the intersection of the eastern right-of-way line of Riverview Drive with the southern line of said U.S. Survey 114; thence leaving said right-of-way line along the southern line of said U.S. Survey 114, South 81 degrees 27 minutes 27 seconds East, a distance of 564.99 feet to the POINT OF BEGINNING of the herein described tract of land; thence leaving the southern line of said U.S. Survey 114 along the western line of property now or formerly of the City of St. Louis as recorded in Book M-169, Page 319 of the City of St. Louis Missouri Records, North 08 degrees 32 minutes 44 seconds East, a distance of 702.25 feet to a point; thence along the northern line of said City of St. Louis property, South 81 degrees 36 minutes 58 seconds East, a distance of 421.30 feet to a point on the western bank of the Mississippi River; thence along said western bank, South 21 degrees 28 minutes 30 seconds West, a distance of 721.72 feet to a point on the southern line of the aforementioned U.S. Survey 114; thence along said southern line, North 81 degrees 27 minutes 27 seconds West, a distance of 260.00 feet back to the POINT OF BEGINNING and containing 239.447 square feet or 5.497 acres.

PARCEL 4  
2.560 ACRES

A tract of land in U.S. Survey 114 in the City of St. Louis Missouri, Township 47 North, Range 7 East, and being part of Lot 6 of the Subdivision of the Estate of Benjamin F. Watkins as recorded in Book 9, Page 37 of the City of St. Louis Missouri records and being more particularly described as follows:

BEGINNING at a point marking the intersection of the eastern right-of-way line of Riverview Drive with the southern line of said U.S. Survey 114; thence leaving said U.S. Survey line along the eastern line of said Riverview Drive the following courses; North 16 degrees 34 minutes 38 seconds East, a distance of 11.58 feet to a point; thence South 73 degrees 25 minutes 22 seconds East, a distance of 30.00 feet to a point; thence North 23 degrees 11 minutes 51 seconds East, a distance of 253.21 feet to a point; thence leaving said right-of-way line along the northern line of property now or formerly of City of St. Louis as recorded in Book 5258, Page 41 and 8835, Page 543 of the City of St. Louis Missouri Records, North 73 degrees 25 minutes 38 seconds West, a distance of 474.30 feet to a point; thence along the East line of said City of St. Louis property, South 08 degrees 32 minutes 44 seconds West, a distance of

185.99 feet to a point on the southern line of the aforementioned U.S. Survey 114; thence along said southern line, North 81 degrees 27 minutes 27 seconds West, a distance of 565.03 feet back to the POINT OF BEGINNING and containing 111,508 square feet or 2.560 acres.

PARCEL 5  
3.7 ACRES +

A tract of land in U.S. Survey 115, Township 47 North, Range 7 East, City of St. Louis, Missouri and being more particularly described as follows:

BEGINNING at a point marking the intersection of the eastern right-of-way line of Riverview Drive with the northern line of said U.S. Survey 115; thence leaving said right-of-way line along the northern right-of-way line of said U.S. Survey 115 and along the southern line of property now or formerly of the City of St. Louis as recorded in Book 5258, Page 41 and Book 8835, Page 543 and the southern line of the City of St. Louis property as recorded in Book M-169, Page 319 all of the City of St. Louis, Missouri records, South 81 degrees 27 minutes 27 seconds East, a distance of 596.37 feet to a point; thence leaving the northern line of said U.S. Survey 115 and the southern line of said City of St. Louis property through property now or formerly of the City of St. Louis the following courses: South 08 degrees 32 minutes 33 seconds West, a distance of 266.00 feet to a point; thence North 81 degrees 27 minutes 27 seconds West, a distance of 635.00 feet plus or minus to the eastern right-of-way of said Riverview Drive; thence northwardly along the eastern right-of-way line of said Riverview Drive a distance of 269 feet + back to the POINT OF BEGINNING and containing 3.7 acres more or less. This description has been prepared for lease purposes only and is not to be used for the conveyance of real property and is subject to the as-built location of the physical improvements that are to be constructed at a future date.

Exhibit 2  
City Real Estate

A Tract of Land in Outlot 121, and Part of Lots 5 & 6 of the Subdivision of the Estate of Benjamin F. Watkins in Book 9, Page 37 in U.S. Survey 114, T.47 N., R 7 E., City of St. Louis, Missouri Per Pickett Ray & Silver Survey Dated December 9, 1994

PARCEL 3  
5.497 ACRES

A tract of land in U.S. Survey 114 in the City of St. Louis Missouri, Township 47 North, Range 7 East, and being part of Lot 6 of the Subdivision of the Estate of Benjamin F. Watkins as recorded in Book 9, Page 37 of the City of St. Louis Missouri records and being more particularly described as follows:

COMMENCING at a point marking the intersection of the eastern right-of-way line of Riverview Drive with the southern line of said U.S. Survey 114; thence leaving said right-of-way line along the southern line of said U.S. Survey 114, South 81 degrees 27 minutes 27 seconds East, a distance of 564.99 feet to the POINT OF BEGINNING of the herein described tract of land; thence leaving the southern line of said U.S. Survey 114 along the western line of property now or formerly of the City of St. Louis as recorded in Book M-169, Page 319 of the City of St. Louis Missouri Records, North 08 degrees 32 minutes 44 seconds East, a distance of 702.25 feet to a point; thence along the northern line of said City of St. Louis property, South 81 degrees 36 minutes 58 seconds East, a distance of 421.30 feet to a point on the western bank of the Mississippi River; thence along said western bank, South 21 degrees 28 minutes 30 seconds West, a distance of 721.72 feet to a point on the southern line of the aforementioned U.S. Survey 114; thence along said southern line, North 81 degrees 27 minutes 27 seconds West, a distance of 260.00 feet back to the POINT OF BEGINNING and containing 239.447 square feet or 5.497 acres.

PARCEL 4  
2.560 ACRES

A tract of land in U.S. Survey 114 in the City of St. Louis Missouri, Township 47 North, Range 7 East, and being part of Lot 6 of the Subdivision of the Estate of Benjamin F. Watkins as recorded in Book 9, Page 37 of the City of St. Louis Missouri records and being more particularly described as follows:

BEGINNING at a point marking the intersection of the eastern right-of-way line of Riverview Drive with the southern line of said U.S. Survey 114; thence leaving said U.S. Survey line along the eastern line of said Riverview Drive the following courses; North 16 degrees 34 minutes 38 seconds East, a distance of 11.58 feet to a point; thence South 73 degrees 25 minutes 22 seconds East, a distance of 30.00 feet to a point; thence North 23 degrees 11 minutes 51 seconds East, a distance of 253.21 feet to a point; thence leaving said right-of-way line along the northern line of property now or formerly of City of St. Louis as recorded in Book 5258, Page 41 and 8835, Page 543 of the City of St. Louis Missouri Records, North 73 degrees 25 minutes 38 seconds West, a distance of 474.30 feet to a point; thence along the East line of said City of St. Louis property, South 08 degrees 32 minutes 44 seconds West, a distance of

185.99 feet to a point on the southern line of the aforementioned U.S. Survey 114; thence along said southern line, North 81 degrees 27 minutes 27 seconds West, a distance of 565.03 feet back to the POINT OF BEGINNING and containing 111,508 square feet or 2.560 acres.

PARCEL 5  
3.7 ACRES +

A tract of land in U.S. Survey 115, Township 47 North, Range 7 East, City of St. Louis, Missouri and being more particularly described as follows:

BEGINNING at a point marking the intersection of the eastern right-of-way line of Riverview Drive with the northern line of said U.S. Survey 115; thence leaving said right-of-way line along the northern right-of-way line of said U.S. Survey 115 and along the southern line of property now or formerly of the City of St. Louis as recorded in Book 5258, Page 41 and Book 8835, Page 543 and the southern line of the City of St. Louis property as recorded in Book M-169, Page 319 all of the City of St. Louis, Missouri records, South 81 degrees 27 minutes 27 seconds East, a distance of 596.37 feet to a point; thence leaving the northern line of said U.S. Survey 115 and the southern line of said City of St. Louis property through property now or formerly of the City of St. Louis the following courses: South 08 degrees 32 minutes 33 seconds West, a distance of 266.00 feet to a point; thence North 81 degrees 27 minutes 27 seconds West, a distance of 635.00 feet plus or minus to the eastern right-of-way of said Riverview Drive; thence northwardly along the eastern right-of-way line of said Riverview Drive a distance of 269 feet + back to the POINT OF BEGINNING and containing 3.7 acres more or less. This description has been prepared for lease purposes only and is not to be used for the conveyance of real property and is subject to the as-built location of the physical improvements that are to be constructed at a future date.

Exhibit 3  
Joint Venture Property

A Tract of Land in Outlot 121, and Part of Lots 5 & 6 of the Subdivision of the Estate of Benjamin F. Watkins in Book 9, Page 37 in U.S. Survey 114, T.47 N., R 7 E., City of St. Louis, Missouri Per Pickett Ray & Silver Survey Dated December 9, 1994

PARCEL 1  
7.116 ACRES

A tract of land in U.S. Survey 114 in the City of St. Louis, Missouri, Township 47 North, Range 7 East, and being part of Lots 4 and 5 of the Subdivision of the Estate of Benjamin F. Watkins as recorded in Book 9, Page 37 of the City of St. Louis Missouri Records and being more particularly described as follows:

COMMENCING at a point marking the intersection of the northwest corner of property now or formerly of William J. Koman as recorded on M-837, Page 635 of the City of St. Louis Missouri Records, with the eastern right-of-way line of Riverview Drive at Station 7+13.79, 125.00 foot right; thence leaving said corner along said right-of-way line, South 81 degrees 36 minutes 58 seconds East, a distance of 30.09 feet to the POINT OF BEGINNING of the herein described tract of land; thence continuing along said right-of-way line, North 10 degrees 27 minutes 38 seconds East, a distance of 385.12 feet to a point; thence North 70 degrees 14 minutes 56 seconds East, a distance of 83.88 feet to a point on the southern right-of-way line of Interstate Highway 270; thence along said southern right-of-way line, South 74 degrees 08 minutes 23 seconds East, a distance of 716.75 feet to a point; thence South 63 degrees 47 minutes 57 seconds East, a distance of 90.55 feet to a point on the existing high-bank of the Mississippi River; thence along said existing high-bank the following courses; South 33 degrees 42 minutes 47 seconds West, a distance of 133.01 feet to a point; thence South 23 degrees 48 minutes 03 seconds West, a distance of 190.07 feet to a point; thence North 81 degrees 36 minutes 58 seconds West, a distance of 777.36 feet back to the POINT OF BEGINNING and containing 309,978 square feet or 7.116 acres more or less.

PARCEL 2  
4.701 ACRES

A tract of land in U.S. Survey 114 in the City of St. Louis Missouri, Township 47 North, Range 7 East, and being part of Lot 6 of the Subdivision of the Estate of Benjamin F. Watkins as recorded in Book 9, Page 37 of the City of St. Louis Missouri records and being more particularly described as follows:

COMMENCING at a point marking the intersection of the eastern right-of-way line of Riverview Drive with the southern line of said U.S. Survey 114; thence leaving the southern line of said U.S. Survey 114 along the eastern line of said Riverview Drive, North 16 degrees 34 minutes 38 seconds East, a distance of 11.58 feet to a point; thence South 73 degrees 25 minutes 22 seconds East, a distance of 30.00 feet to a point; thence North 23 degrees 11 minutes 51 seconds East, a distance of 253.21 feet to the POINT OF BEGINNING of the herein described tract of land; thence continuing along said right-of-way line,

North 23 degrees 11 minutes 51 seconds East, a distance of 180.47 feet to a point; thence North 16 degrees 26 minutes 36 seconds East, a distance of 276.97 feet to a point; thence leaving said right-of-way line, South 81 degrees 36 minutes 58 seconds East, a distance of 385.25 feet to a point; thence South 08 degrees 32 minutes 44 seconds West, a distance of 516.26 feet to a point marking the northeastern corner of property now or formerly of the City of St. Louis as recorded in Book 5258, Page 41 and 8835, Page 543 of the said City of St. Louis Missouri Records; thence along the northern line of said City of St. Louis property, North 73 degrees 25 minutes 38 seconds West, a distance of 474.30 feet back to the POINT OF BEGINNING and containing 204,783 square feet or 4.701 acres more or less.

**LIST OF EXHIBITS AND ATTACHMENTS**

EXHIBIT A Lease and Development Agreement

Exhibit 1 Casino Project Site (Legal Description)

Exhibit 2 City Real Estate (Legal Description)

Exhibit 3 Joint Venture Property (Legal Description)

Exhibit 4 Improvements to Casino Project Site

Exhibit 5 Easement Agreement

<b>Legislative History</b>				
<b>1ST READING</b>	<b>REF TO COMM</b>	<b>COMMITTEE</b>	<b>COMM SUB</b>	<b>COMM AMEND</b>
<b>11/17/95</b>	<b>11/17/95</b>	<b>NDC</b>		
<b>2ND READING</b>	<b>FLOOR AMEND</b>	<b>FLOOR SUB</b>	<b>PERFECTN</b>	<b>PASSAGE</b>
<b>12/15/95</b>			<b>01/12/96</b>	<b>01/12/96</b>
<b>ORDINANCE</b>	<b>VETOED</b>		<b>VETO OVR</b>	
<b>63622</b>				