

## SCHEDULE "A" - ADDITIONAL TERMS AND CONDITIONS

This is Schedule "A" to the agreement between \* ("\*") and MGE Niagara Entertainment Inc., operator of Casino Niagara and Niagara Fallsview Casino Resort ("MGE"), dated the \_\_\_\_ day of \_\_\_\_\_, 2019 (the "Agreement").

### 1. Incorporation by Reference

All of the provisions contained in this Schedule are incorporated by reference and shall be deemed an integral part of the Agreement, with the same force and effect as if set forth in full therein.

### 2. Conflict between Schedule and Agreement

In the event of a conflict or inconsistency between the provisions of this Schedule and any provision in the body of the Agreement (or any schedule, exhibit or appendix thereto) the parties acknowledge and agree that the provisions of this Schedule shall prevail and govern.

### 3. Gaming Control Act, 1992

\* must obtain and maintain the applicable registration (or exemption) with the Alcohol and Gaming Commission of Ontario ("AGCO") under the *Gaming Control Act, 1992*, S.O. 1992, c.24 and the Regulations thereto, as amended (collectively the "*Act*"). Notwithstanding any other provision of this Agreement, MGE shall have no liability toward \*, and no payments shall be made to \* pursuant to this Agreement (or otherwise) unless it is validly registered (or exempt) in the appropriate category under the *Act*. \* will have no recourse of any kind against MGE, the Ontario Lottery and Gaming Corporation ("OLG"), their subsidiaries, affiliates, successors and assigns, nor their respective directors, officers, employees and agents if nonpayment or nonperformance by MGE is due to the fact that \* is not validly registered (or exempt) in the appropriate category under the *Act*.

\* acknowledges that employees of suppliers registered with the AGCO, who maintain or repair gaming equipment at Casino Niagara and/or Niagara Fallsview Casino Resort (collectively "Niagara Casinos") are not permitted to play casino games or purchase lottery tickets at the Niagara Casinos.

### 4. Termination

4.1 Termination Upon Notice Without Cause. Notwithstanding any other provision of this Agreement, MGE may terminate this Agreement without liability and without limiting or waiving any of its other rights or remedies upon a minimum of thirty (30) days prior written notice to \*.

4.2 Termination Upon Notice With Cause. Notwithstanding any other provision of this Agreement, MGE may terminate this Agreement forthwith without liability and without limiting or waiving any of its other rights or remedies upon written notice to \* if: (a) \* fails to register, is no longer validly registered or is in violation of any of its obligations under the *Act*; (b) \* is in breach of any of its obligations, representations and/or warranties under this Agreement; (c) an action, claim, judgment or writ of execution against \* may in MGE's reasonable opinion jeopardize any gaming/regulatory license or permit held or applied for by MGE or harm the continued business operations of \*; and/or (d) \* is unable to pay its debts when due, or is insolvent, is ordered or adjudged to be bankrupt, is placed in the hands of a receiver, enters into any scheme or composition with its creditors, is dissolved, liquidated or wound up, or makes any assignment for the benefit of its creditors.

### 5. Access

Where services or on-site activities are being performed hereunder, \* shall comply at all times and in all respects with: (a) the Sensitive Area Access requirements of the AGCO (where applicable); and (b) the rules and regulations applicable to MGE's premises.

### 6. Currency

Except as otherwise expressly provided, all dollar amounts in this Agreement are stated in Canadian currency.

## 7. Compliance with Laws

In all aspects of the performance of this Agreement \* shall comply with and be bound by all applicable federal, provincial and local laws, orders, rules, regulations, ordinances, by-laws, guidelines, standards, limitations, controls, prohibitions or other requirements which are contained in, issued under or otherwise adopted pursuant to such laws.

## 8. Indemnification

\* shall indemnify and save harmless MGE, its subsidiaries, affiliates, successors and assigns, together with their respective directors, officers, employees and agents (collectively the "Indemnitees") from and against all losses, damages, liabilities, costs, expenses (including actual legal expenses), fines, penalties, assessments or charges of every nature and kind whatsoever which any of the Indemnitees incur, suffer or are put to arising out of or in connection with: (a) the negligence of \*, its directors, officers, employees, agents or contractors in the performance of this Agreement; and/or (b) a breach under the Agreement, or tortious acts or omissions of \*, its directors, officers, employees, agents or contractors in the performance of this Agreement. In no event will \* be required to indemnify any of the Indemnitees for that portion, if any, of the losses, damages, liabilities, costs, expenses (including actual legal expenses), fines, penalties, assessments or charges of any kind referred to in this section attributable to any negligence or intentional wrongdoing of any of the Indemnitees.

## 9. Right of Set-Off

If under this Agreement or any document delivered under this Agreement MGE becomes obligated or liable to pay any money to \*, that sum may, at the election of MGE and without limiting or waiving any right or remedy MGE may have against \*, be set-off against and applied to any amounts which are due and owing by \* to MGE on any account whatsoever, until that amount has been completely set-off.

## 10. Limitation of Liability and Damages

IN NO EVENT SHALL MGE, ITS SUBSIDIARIES, AFFILIATES, SUCCESSORS OR ASSIGNS, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE FOR SPECIAL, CONSEQUENTIAL OR INCIDENTAL COSTS OR DAMAGES OF ANY NATURE OR KIND, HOWEVER CAUSED, WHETHER ARISING FROM THIS AGREEMENT, CONTRACT, TORT, NEGLIGENCE, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO DAMAGES TO PERSONS OR PROPERTY, LOSS OF PROFITS, LOSS OF REVENUE, COST OF CAPITAL, LOSS OF USE OF ANY FACILITIES, PROPERTY OR EQUIPMENT, GOODWILL, OVERHEAD COSTS, PROCUREMENT OF SUBSTITUTE GOODS, OR ANY OTHER LIKE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH COSTS OR DAMAGES.

## 11. Workplace Safety

When services or on-site activities are being performed on MGE's premises by employees of \*, \* acknowledges and agrees that it is the employer of such employees for all purposes, including but not limited to the *Workplace Safety and Insurance Act, 1997*, S.O. 1997, c.16, as amended, and \* shall take such steps as are reasonably necessary to prevent personal injury or property damage by any employee, agent or subcontractor of \*.

## 12. Confidentiality and Privacy

\* agrees on behalf of itself, its directors, officers, employees, agents and contractors that any confidential information or processes received from MGE which in any way relate to the performance of this Agreement shall be the property of MGE, shall be preserved in strict confidence by \* and shall not be disclosed by \* to third persons, except: (a) to professional advisors of \* on a need-to-know basis; (b) if such information has entered the public domain (other than through the actions of \*) or is \*'s own confidential

information; (c) as required by law; or (d) with the prior written consent of MGE. \* warrants that it conducts its business in accordance with laws, regulations and industry guidelines relating to privacy, including (where applicable) the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5, as amended, to ensure proper collection, use and disclosure of personal information and agrees not to use or disclose personal information collected from or provided by MGE in connection with this Agreement for any reason, except with MGE's prior written consent or as required by law.

### 13. Product Warranty

All products supplied to MGE by \* under this Agreement shall: (a) be conveyed with clear title, free of claims of any nature by any third person; (b) be of merchantable quality, free from all defects in design, workmanship and materials; (c) be fit for the particular purpose for which they are purchased; (d) be in compliance with all applicable laws, rules and regulations, including but not limited to all industry standards; and (e) be manufactured and provided in strict accordance with the specifications provided to \*. The warranties contained in this section are in addition to and are not to be construed as restricting or limiting any warranties or remedies of MGE, express or implied, which are provided by this Agreement or at law. Any attempt by \* to limit, disclaim or restrict any such warranties or remedies of MGE in any manner whatsoever shall be null, void and ineffective.

### 14. Rights of Both Parties

Except as otherwise expressly provided, this Agreement does not limit any rights of either party to enter into contracts or transactions with third parties, provided such contracts or transactions will not require that party to act in a manner which is inconsistent with its obligations under this Agreement or adversely affect the performance of such obligations.

### 15. Authority

Each of the parties represents and warrants to the other that: (a) it is duly formed and in good standing under the laws of its jurisdiction of incorporation/formation; (b) it has all necessary power and authority to enter into this Agreement and it possesses all regulatory approvals necessary for the proper performance of all of its obligations hereunder; (c) the execution and performance of this Agreement has been approved by all necessary action on its part and this Agreement constitutes the legal, valid and binding obligation of such party, enforceable against it in accordance with its terms; and (d) the undersigned representative of such party is duly authorized to execute this Agreement on its behalf.

### 16. Heirs, Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and permitted assigns, as the case may be, of each of the parties hereto.

### 17. No Agency or Partnership

The parties understand and agree that this Agreement does not make them an agent or legal representative of each other for any purpose whatsoever and that no partnership, franchise or joint venture is intended to be created hereby. Neither party is granted any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of or in the name of the other or to bind the other in any manner whatsoever. \* is acting as an independent contractor of MGE in connection with this Agreement and persons retained by \* as employees, agents or contractors shall not be deemed to be employees, agents or contractors of MGE for any purpose whatsoever.

### 18. Assignment and Delegation

\* shall not assign any of its rights or interest or delegate any of its duties or obligations under this Agreement without the prior written consent of MGE, and unless and until the proposed assignee or delegate is validly registered (or exempt) with the AGCO in the appropriate category under the *Act*. No assignment or delegation by \* (with or without MGE's consent) shall relieve \* of any of its obligations under this Agreement or prejudice any of MGE's rights against \*, whether arising before or after the date of any assignment or delegation.

\* acknowledges that MGE (and its assignees and successors) shall at all times, without notice, have an unfettered right to assign all or any part of this Agreement and the rights and obligations thereunder as MGE (or its assignees or successors) may in its discretion determine from time to time.

### 19. Governing Law and Venue

Regardless of the place of execution or performance, this Agreement shall be governed by, interpreted and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in Ontario without giving effect to the principles of conflicts of laws thereof and the parties irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Ontario with respect to any dispute arising between them in relation to this Agreement.

#### 20. Other Agreements with MGE

Notwithstanding that \* may from time to time be party to other agreements with MGE, nothing in any such other agreement and no exercise of any right thereunder restricts or otherwise affects any obligation or liability of \* under this Agreement and no notice, consent, approval or other communication or decision under or in relation to any such other agreement shall constitute or be relied upon as notice, consent, approval, communication or decision under this Agreement.

#### 21. Non-Waiver

No waiver by any party of any breach of any of the covenants, provisos, conditions, restrictions or stipulations contained in this Agreement will take effect or be binding upon that party unless the same be expressed in writing under the authority of that party's duly authorized representative, and any waiver so given will extend only to the particular breach so waived and will not limit or effect any rights with respect to any other or future breach. No failure by any party to take action in the event of any breach of any of the covenants, provisos, conditions, restrictions or stipulations contained in this Agreement will be construed as a waiver of that party's right to take such action as this Agreement or the law permits and will not limit or affect any rights with respect to any other or future breach.

#### 22. Savings Clause

It is intended that all provisions of this Agreement shall be fully binding and effective between the parties, but in the event that any particular provision or provisions, or part of one, is found to be void, voidable or unenforceable for any reason whatever, then the particular provision or provisions, or part of the provision, shall be deemed severed from the remainder of this Agreement and all other provisions shall remain in full force and effect.

#### 23. Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the subject matter and supercedes and replaces any and all prior agreements, negotiations, understandings, or representations made between the parties concerning the subject matter of this Agreement.

#### 24. Survival upon Termination or Expiration

Any covenant, term, condition or provision of this Agreement which, in order to be effective, must survive the termination or expiration of this Agreement shall survive and remain in force notwithstanding such expiration or other termination for any reason whatsoever. Without limiting the generality of the foregoing, upon the effective date of any termination or expiration of this Agreement, provisions regarding representations and warranties, confidentiality, indemnification, limitation of liability, jurisdiction and venue shall remain in full force and effect and shall survive any such act of termination or expiration.

#### 25. Amendments

No amendment, change or modification of this Agreement shall be valid unless evidenced in writing, signed by duly authorized representatives of the parties hereto.

#### 26. Counterparts

This Agreement may be executed in several counterparts. A counterpart once executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument. Counterparts may be executed either in original or faxed form and the parties may adopt any signatures received by a receiving fax machine as original signatures of the parties provided, however, that any party providing its signature in such manner shall forward to the other party an original of the signed copy of this Agreement which was so faxed promptly upon request.

#### 27. Interpretation

Except as otherwise expressly provided, or as the context otherwise requires, in this Agreement the singular number shall include the plural and vice versa, words importing the masculine gender shall include the

feminine and neuter grounds, and words importing persons shall include firms and corporations and vice versa. The headings contained in this Agreement are for convenience of reference only and shall not affect the meaning of the provisions to which they refer. The language used herein shall be deemed to be the language chosen by the parties to express their mutual intent and shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument (or any portion thereof) to be drafted, or in favour of the party receiving a particular benefit under this Agreement.

28. Time the Essence of the Agreement

Time is of the essence of this Agreement and all provisions of it.

29. Notices

All notices and other communications from either party to the other hereunder shall, except as otherwise expressly provided, be given in writing at the address set forth below, or any subsequent address timely given in writing. Notice shall be deemed to be given: (a) via personal delivery, on the date of actual delivery; (b) via registered mail, return receipt requested, four (4) business days after deposit in the mail; (c) via facsimile transmission, upon transmission and receipt of confirmation thereof by the sender; and (d) via internationally recognized international courier services, upon notice of the receipt:

If to \*, to:

If to MGE, to:

Niagara Fallsview Casino Resort  
 c/o Legal Department  
 6380 Fallsview Boulevard, P.O. Box 300  
 Niagara Falls, Ontario, L2E 6T3

Attention:

Attention: Contracts Administrator

Tel.:

Tel. (905) 371-7516

Fax:

Fax (905) 371-7844

	<b>MGE Niagara Entertainment Inc.</b>
Authorized Signature:	Authorized Signature:
Name and Title:	Name and Title:
Authorized Signature:	Authorized Signature:
Name and Title:	Name and Title:
Date:	Date:

[END]