

10-04-13
BILOXI
STADIUM SUBLEASE AND USE AGREEMENT

THIS STADIUM SUBLEASE AND USE AGREEMENT ("Agreement") is made and entered into as of the ____ day of _____, 2013, by and among MISSISSIPPI PROFESSIONAL BASEBALL, LLC ("MPB") or its designee and the CITY OF BILOXI, MISSISSIPPI (the "City").

WITNESSETH:

WHEREAS, MPB owns and operates a Class AA Southern League professional baseball franchise which was previously known as the _____ and is currently known as the _____ (the "Club"); and

WHEREAS, the City has leased the Overall Site from Beau Rivage Resorts, Inc. ("Beau Rivage" or "Landlord") pursuant that certain Ground Lease Agreement and Sublease Agreement dated _____, 2013, (the "Ground Lease/Parking/Garage Sublease"); and,

WHEREAS, MPB intends to move the Club to the City, to sublease the Stadium Site (as hereinafter defined), to exhibit the Club Home Games (as hereinafter defined).

WHEREAS, MPB and the City desire to more fully set forth their full and complete understanding of the terms and conditions under which the Stadium will be developed, the Club will occupy and manage the Stadium Site on a year-round basis and, unless otherwise provided herein, play all Club Home Games therein, subject to Beau Rivage's and the City's use of the Stadium, and Special Events as set forth herein); and

WHEREAS, the parties hereto desire that this Agreement shall set forth their full and complete understanding with respect to subject matter herein.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the premises, the mutual promises and covenants herein contained, and other good and valuable consideration, the receipt, sufficiency and adequacy of which are expressly acknowledged, MPB and the City, each intending to be legally bound, do hereby mutually agree as follows:

1. Definitions. As used herein, the following terms shall have the following meanings:

(a) ADA. "ADA" shall have the meaning set forth in Section 6(c).

(b) Additional Rent. The term "Additional Rent" shall mean the per ticket sold charge with respect to tickets sold by MPB for all Club Home Games and MPB Events (including tickets sold to suite holders or attributable to suite usage per Section 9(a)(ii) herein as additional rent as set forth in the schedule attached hereto as Exhibit R.

(c) Agreement. The term "Agreement" shall have the meaning set forth in the introductory paragraph above.

(d) Applicable Law. The term "Applicable Law" shall mean all applicable laws, ordinances, judgments, rules, regulations, requirements, conditions, mandatory guidelines or directives of any applicable government agency having jurisdiction over the Stadium Site or the subject matter of this Agreement or the parties hereto.

(e) Architect. The term "Architect" shall have the meaning set forth in Section 6(b) hereof.

(f) Base Rent. The term "Base Rent" shall have the meaning set forth in Section 10.

(g) Baseball Season. The term "Baseball Season" shall mean, as to each calendar year of the Term, the regular annual period of play of a full season of professional baseball games and related activities by the Club at the Stadium from March 15 to the date on which the Club's last game is played during the applicable League season, including any and all pre-season games, regular season games, exhibition games, post-season "playoff" games and "all-star" games, or September 15, whichever shall later occur.

(h) Beneficial Occupancy. The term "Beneficial Occupancy" shall mean the date when the Stadium Site and appurtenant improvements (including, without limitation, drainage facilities and other improvements required for operation and use of the Stadium) have been delivered to MPB such that the Stadium has been given all necessary legal clearances and is substantially complete so that MPB may utilize the Stadium for the purposes intended by this Agreement to operate its business of selling, marketing, displaying and conducting Club Home Games.

(i) Capital Maintenance and Repairs. The term "Capital Maintenance and Repairs" shall have such meaning as described in Section 14.

(j) Capital Maintenance Restricted Fund. The term "Capital Maintenance Restricted Fund" shall mean the restricted City fund as more particularly described in Section 16 ("Capital Restricted Maintenance Fund").

(k) City. The term "City" shall have the meaning in the introductory paragraph of the Agreement above.

(l) City Events. The term "City Events" shall mean those special events, concerts, festivals and other similar activities sponsored by the City pursuant to the terms set out in Section 5, for which no Additional Rent based upon admission tickets shall be due from MPB.

(m) Claims. The term "Claims" shall have the meaning set forth in Section 21 (a).

(n) Club. The term "Club" shall mean a Class "AA" minor league professional baseball franchise owned and operated by MPB or MPB's successors or assigns.

(o) Club Home Game. The term "Club Home Game" shall mean all professional minor league baseball games played in the Stadium involving the Club or its parent affiliate club

players as a participant, including without limitation all pre-season games, regular season games, exhibition games, post-season "playoff" games and "all-star" games.

(p) Competitor. The term "Competitor" shall have the meaning set forth in Section 5(g).

(q) County. The term "County" shall mean Harrison County, Mississippi.

(r) Development Site. The term "Development Site" shall mean that portion of the "Overall Site" on which additional commercial development may be authorized pursuant to the terms and conditions contained in the Ground Lease/Parking Garage Sublease, as is more particularly described in Exhibit "D" which is attached hereto and incorporated herein by reference and is also referred as the "North End Premises".

(s) Effective Date. The term "Effective Date" shall have the mean set forth in the introductory paragraph of the Agreement above.

(t) Emergency. The term "Emergency" shall mean a condition which (1) involves a danger to public health or safety or (2) is likely to result in immediate, substantial damage to the Stadium Site.

(u) Facilities Criteria. The term "Facilities Criteria" shall mean the document agreed to by the City and MPB attached hereto as Exhibit "F" and each of the items listed therein.

(v) Ground Lease. The term "Ground Lease" shall have the meaning set forth in the introductory paragraph of the Agreement above.

(w) Initial Term. The term "Initial Term" shall have the meaning set forth in Section 3(a).

(x) Landlord. The term "Landlord" shall mean Beau Rivage Resorts, Inc. or any successors in interest.

(y) League. The term "League" shall mean the Southern League of the National Association of Professional Baseball Leagues, Inc. and its successors, and any such other Double-A or higher professional baseball league affiliated with Major League Baseball that MPB in its sole discretion may affiliate the Club during the Term.

(z) MPB. The term "MPB" shall have the meaning in the introductory paragraph of the Agreement above.

(aa) MPB Event. The term "MPB Event" shall mean any and all events authorized, promoted and/or staged by MPB in the Stadium Site hereunder which are not Club Home Games, including, without limitation, the rental for use of the Stadium Site by third parties for special events, concerts, festivals and other similar activities, but excluding City Events.

(bb) Overall Site. The term "Overall Site" shall mean that certain tract of land situated in Biloxi, Mississippi, as more specifically set forth in Exhibit "O" attached hereto and incorporated herein by reference, which Overall Site has been leased to the City by Beau Rivage pursuant to the Ground Lease/Parking Garage Sublease, which includes the Stadium Site, the Parking Garage Site, the Development Site and the Pedestrian Bridge, which will be located over U.S. Highway 90 from the Overall Site to a site on the South side of U.S. Highway 90.

(cc) Parking Garage. The term "Parking Garage" shall mean that structure built on a portion of the Overall Site the use of which is addressed in the Ground Lease/Parking Garage Sublease, as its location more specifically set forth in Exhibit "P" attached hereto and incorporated herein by reference.

(dd) Parking Garage Site. The term "Parking Garage Site" shall mean that portion of the Overall Site the use of which is addressed in the Ground Lease/Parking Garage Sublease, as more specifically set forth in Exhibit "P" attached hereto and incorporated herein by reference.

(ee) Prohibited Person(s). The term "Prohibited Person" or "Prohibited Persons" shall have the meaning set forth in Section 46(b)(vii).

(ff) Renewal Term. The term "Renewal Term" shall have the meaning set forth in Section 3(a).

(gg) Routine Maintenance. The term "Routine Maintenance" shall have the meaning set forth in Section 13.

(hh) Stadium. The term "Stadium" shall mean the physical improvements consisting of a baseball stadium to be located upon the Stadium Site of approximately 6,000 seats consisting of fixed seating and other customer seating in other areas within the Stadium which should include party deck(s), picnic area(s), the berm, pavilion, beer garden, and other similar areas to the extent necessary to provide seating areas for up to 6,000 customers; and clubhouses, administrative and storage areas, interior batting cages and tunnels, bullpen pitching mounds, pitcher warm-up areas, a video board/scoreboard, and including all ancillary structures, sidewalks, paving and curbing, substantially in accordance with the plans dated May 24, 2013, Schematic Plans of Dale Partners which have been approved by the parties to this Agreement, together with all other appurtenances and improvements, as the same currently exists or as it may from time to time hereafter be expanded or modified.

(ii) Stadium FF&E. The term "Stadium FF&E" shall have the meaning set forth in Section 7(c) and as more specifically described in Exhibit "X".

(jj) Stadium Parking. The term "Stadium Parking" shall mean the 150 dedicated parking spaces for MPB players, administrators and suite holders to be provided by the City in the North End Premises adjacent to the Stadium and the 35 parking spaces to be provided to MPB by Beau Rivage in the Parking Garage.

(kk) Stadium Site. The term "Stadium Site" or "Site" shall mean the real property as more particularly described in Exhibit "S" attached hereto and incorporated herein by reference and which is also known as the "Demised Premises".

(ll) Sublease. The term "Sublease" as used in this Agreement shall mean any sublease of any portion of the Overall Site, or any other agreement or arrangement (including a license agreement, concession agreement or other similar arrangement) made by MPB or the City granting any third party the right to occupy, use or possess any portion of the Overall Site.

(mm) Suite. The term "Suite" shall mean all suites, skyboxes, or other separate or seating or game viewing areas that are let to individuals or entities independently from the purchase of admission tickets.

(nn) Term. "Term" shall have the meaning set forth in Section 3(a).

(oo) Use Agreement. The term "Use Agreement" shall have the meaning set forth in Section 5(c).

2. Leased Premises.

Subject to the terms and conditions of the Ground Lease/Parking Garage Sublease and this Agreement, the City does hereby sublease to MPB and MPB does hereby lease from the City the following described real property, lying and being situated in the City of Biloxi, the Second Judicial District of Harrison County, State of Mississippi: (See Exhibit "S" attached hereto.)

3. Term.

Unless otherwise terminated as provided in this Agreement, the initial term ("Term") of this Agreement shall be for twenty-one (21) years, commencing on the effective date of this Agreement and ending on the twenty-first anniversary thereof. MPB shall have the option, upon the terms and conditions set forth herein, to extend the Term for Two (2), Five (5) year periods (the "Renewal Term"), by notifying the City in writing of its exercise of said option at least twelve (12) months prior to the expiration date of the Term or Renewal Terms. Rent payable for the Renewal Term period shall remain the same as the original Term. The term of this Stadium Sublease will run concurrently with the Ground Lease/Parking Garage Sublease.

4. Ownership of the Stadium and the Site. The Stadium shall be owned by the City pursuant to the Ground Lease/Parking Garage Sublease, and the Stadium shall be built by the City on the Site. The City shall sublease the Stadium and Stadium Site to MPB pursuant hereto. MPB shall not have any ownership interest in the Stadium or the Stadium Site or any improvements placed by the City. Notwithstanding the foregoing, it is understood that if any improvement to the Stadium is owned by MPB and is capable of removal at the end of the Term, then MPB shall retain ownership thereof and have the right to remove and dispose of such improvement as it deems appropriate in accordance with Sections 17 and 18.

5. Use of Premises.

(a) Exclusive Use. In accordance with the terms and conditions of this Agreement, the City hereby grants to MPB or its designee the exclusive right to use, manage and operate (which management and operation may be delegated at the sole discretion of MPB) and permit designated third parties to use the Stadium for all purposes allowable under the terms of this Agreement during the Term including, without limitation, the exclusive right to exhibit, promote, schedule and play Club Home Games and college and high school games in the Stadium during the Baseball Season, to authorize, promote and/or stage MPB Events in the Stadium and to retain all revenues derived from its operation and management of the Stadium, subject only to Beau Rivage's right to retain naming rights revenues as set forth in Section 9(b), City Events, the City's right to Additional Rent as set forth in Section 10, and the City's rights to retain naming rights revenues as set forth in Section 9(b).

(b) Stadium Site Use. Commencing with the Club's 2015 Baseball Season and expiring at the conclusion of the Club's 2034 Baseball Season, MPB shall continuously and exclusively operate the Club at the Stadium for such twenty-one (21) year period and except as otherwise set forth herein shall play all of its Club Home Games at the Stadium (as dictated by the League) during each Baseball Season beginning in 2015 and each Baseball Season thereafter for the Term. Furthermore, MPB shall have the right to annually play three Club Home Games at an alternate location, provided MPB shall pay to the City Additional Rent in an amount equivalent to the amount that would have been due had those games been played in the Stadium. All other Club Home Games shall be played at the Stadium. From time to time during the Term, MPB may also utilize the Stadium for any of its additional minor league franchise's games in the event a need may arise due to adverse weather or otherwise. The terms and conditions of this Agreement that apply to Club Home Games shall be applied to such additional MPB games played hereunder. The parties acknowledge that it is the purpose of this Agreement and the intent of the parties that the Stadium be utilized for the entirety of the year, including those parts of the year exclusive of the Baseball Season or when there is no Home Game played, and that the Stadium will generate revenue for the parties every month of the year.

(c) Third Party Events. Notwithstanding MPB's exclusive right to utilize the Stadium Site, MPB reserves the right and agrees to make the Stadium Site available to third parties during the Term for other events, including, but not limited to, City Events. All such events, excluding City Events, shall be conducted pursuant to a Use Agreement, in substantially the same form as attached hereto as Exhibit "U" ("Use Agreement"), which shall also include those provisions specifically required for inclusion by this Stadium Sublease and by the Ground Lease/Parking Garage Sublease. In addition, the terms and conditions of this Agreement that apply to Club Home Games, including but not limited to, Additional Rent provisions, shall be applied to such Third Party Events or other events occurring on the Stadium Site hereunder. It is the intent of the parties that these Third Party Events will generate revenue for the parties in every month of the year. MPB agrees to make the accounting and collection of any Additional Rent on all Third Party Events a requirement in any Use Agreement authorizing a Third Party Event. MPB, in its sole discretion, shall control contracting for all non-professional baseball games or events, including but not limited to, college and high school baseball games or events.

(d) Sublease, Concession and License Agreements. In accordance with the terms and provisions of the Ground Lease/Parking Garage Sublease between the City and Beau Rivage, MPB shall not allow any sub-lessee to enter into subleases, concession agreements, license

agreement or any other agreement by which a person acquires the right to occupy the Demised Premises ("Sublease Tenant") without the consent of Beau Rivage, which consent Beau Rivage shall not unreasonably withhold so long as: (i) neither the Sublease Tenant or any of its principals or affiliates is a Competitor; (ii) the Sublease Tenant's business background check and reputation shall meet or exceed generally excepted commercial standards; and (iii) Beau Rivage receives all information necessary to complete a background check on the Sublease Tenant and, based on that check, has determined in its sole and exclusive discretion that such assignee will not cause Beau Rivage or its affiliates to be in violation of any restrictions, conditions, reporting or other similar obligation imposed by the gaming laws or gaming authorities. All agreements permitting a Sublease Tenant shall include Beau Rivage's standard provision allowing for termination in the event any of the MGM Group (as defined below) privilege licenses are jeopardized by Sublease Tenant, and said standard provision is hereby incorporated in said agreement by reference.

(e) City Events. Subject to MPB's exclusive right to utilize the Stadium Site, the City reserves the right to utilize the Stadium Site during each year of the Term of this Agreement and any Renewal thereof for ten (10) City Events per year, including, but not limited to, concerts, special events, festivals, and other similar activities, at no charge to the City, subject to the Club Home Game schedule, or prior reservation by MPB for MPB Events or Third Party Events. The City shall give thirty (30) days notice of the scheduling of a City Event so that the Stadium may be reserved. If the date requested by the City for a City Event does not conflict with a previously scheduled Home Game, MPB Event or Third Party Event, the Stadium shall be reserved for the noticed City Event. If MPB incurs any expenses related to the use of the Stadium by the City for a City Event, MPB will be reimbursed for those expenses.

(f) Competitor Covenant. Neither the City, MPB or any other person shall enter into any contract to license, sublease, "4-wall" or otherwise occupy any portion of the Demised Premises with a Competitor of Beau Rivage without Beau Rivage's prior written consent which may be withheld in Beau Rivage's sole and absolute discretion. Neither the City, MPB nor any other person shall enter into any contract that provides advertising or signage rights to the Demised Premises or any portion thereof to a Competitor. Neither the City, MPB or any other person shall enter into any contract or grant any rights with respect to the operation of any portion of the Demised Premises to a Competitor without Beau Rivage's prior consent which may be withheld in Beau Rivage's sole and absolute discretion. Notwithstanding the above, MPB or another permitted sub-lessee may enter into agreements for Stadium suites, premium seating, single event promotions, concerts, ticket sales, preferred parking, scoreboard advertising, scoreboard signage and outfield signage sponsorship opportunities and allow for the use of logos by said Competitors in these agreements so long as such agreements are on commercially reasonable terms as offered to parties that are not Competitors. In addition and notwithstanding the foregoing, upon Beau Rivage's consent, which consent shall not be unreasonably, withheld, conditioned or delayed, Competitors may be allowed to sponsor or hold events in the Stadium provided members of the general public are offered admission at a cost consistent with the costs for other events held by sub-lessee. For the purposes of this Lease "Competitor" shall mean any individual, corporation, partnership, limited liability company or other entity which is either directly, indirectly or through an affiliated company or principal, engaged in or proposes to engage in the development, ownership, operation or management of gaming facilities. Such

agreements may not diminish Additional Rent due to the City based upon ticket sales and ticket usage regardless of whether tickets are bundled with other Stadium amenities without a separate ticket charge; in such an event MPB shall pay the City Additional Rent based upon the number of tickets so provided as a bundled amenity or product.

(g) Access to Overall Site. The City and Beau Rivage shall be afforded reasonable access to the Overall Site for purposes consistent with this Agreement.

6. Stadium Development.

(a) Ground Lease/Parking Garage Sublease. The City has acquired possession of and all of its ownership rights to the Stadium Site as described in the legal description attached hereto as Exhibit "S" by ground lease from Beau Rivage. The City represents that it has acquired or will acquire any and all rights, permits and licenses necessary to take possession of and develop the Stadium Site, to build the Stadium on the Stadium Site and to allow MPB to exclusively operate and manage the same, without any liens or encumbrances of any kind, and that the City's performance of this Agreement, and each party's exercise of such party's rights under this Agreement, will not conflict with or result in a breach of any agreement to which Beau Rivage and/or the City is a party. The Stadium Site shall be leased for a period of twenty-one (21) years and any renewals thereof to the City by Beau Rivage in accordance with the Ground Lease/Parking Garage Sublease.

(b) Development of Stadium. The Stadium shall be developed and built on the Stadium Site by the City. The City shall finance, pay, and contract for the development of the Stadium and ancillary Parking Garage, and Pedestrian Bridge with a budget of funding which shall not exceed the sum of \$36 Million Dollars, and shall be responsible for all work, construction and installation of the Stadium, in accordance with both Major and Minor League Baseball stadium construction requirements provided to the City by MPB. The City anticipates employing Dale Partners as the lead architect ("Architect") to design the Stadium. The City further anticipates employing W. G. Yates & Sons Construction Company as Construction Manager. MPB acknowledges that it provided the City with the Facilities Criteria as attached as Exhibit "F" and all rules, regulations and requirements of Major and Minor League Baseball for the construction and equipping of the proposed AA stadium. Prior to entering into construction contracts with Dale and Yates for the Stadium, the City shall provide copies of then existing design and construction documents, and MPB and Beau Rivage will be given the opportunity for review and comment for a period not to exceed seven (7) days. The City will use its best efforts to accommodate the suggested changes, provided that the changes do not cause the budget to exceed the sum of \$36 Million Dollars. After the Dale and Yates contracts are executed but after construction starts, MPB and Beau Rivage may suggest changes to the construction and the City will do its best to accommodate those suggested changes, so long as the \$36 Million Dollar budget is not exceeded. The following items are to be constructed as part of the Stadium: interior batting cages, picnic area(s), pavilion(s), party deck, and bullpen areas will be located in user friendly areas as determined by the Architect after consultation with the City and MPB, with preference being given to the locations preferred by MPB, provided that MPB's preferred location(s) do not cause an increase in the \$36 Million Dollar project budget limitation.

(c) Standards/Liability. The City represents that the Stadium shall meet or exceed the design requirements and standards listed in the Facilities Criteria and the rules, regulations and requirements of Major and Minor League Baseball as provided to the City by MPB. Assuming that the design requirements and standards listed in the Facilities Criteria and the rules, regulations and requirements of Minor League Baseball provided by MPB are correct, the City represents to MPB that the Stadium has been designed to comply with the Americans with Disabilities Act of 1990, as amended ("ADA") and Applicable Law. The City represents to MPB that the design, development and construction of all areas of the Stadium shall comply with all Applicable Law, including, without limitation, the ADA. Provided that such responsibility is not based either upon an act or omission of MPB or reliance by the City on design criteria provided by MPB, MPB shall have no responsibility or liability in regard to the design, safety, sufficiency, adequacy or legality thereof. The City shall, to the extent permitted by law, indemnify and hold MPB harmless from and against all of the foregoing. Assuming the representations of City are true and correct, MPB represents and warrants that it will operate the Stadium in compliance with the ADA and all Applicable Law and MPB shall indemnify and hold the City harmless from and against all of the foregoing.

7. Stadium Financing.

(a) Stadium Costs Generally. Except as otherwise set forth herein, the City shall be responsible for all costs and expenses associated with the financing, design, development, installation and construction of the Stadium. The City shall provide all required funds to design, develop, install and construct the Stadium in an amount and on terms as necessary in order to meet all of its obligations under the terms of this Agreement, provided that the total costs, including hard and soft costs, of the Stadium shall not exceed the total sum of \$36 Million Dollars.

(b) Site Costs. The City shall be responsible for the cost and expense of all land, soil testing, civil engineering, site preparation costs, rough grading, excavation costs, flood control, hardscaping and landscaping costs, related to the Stadium Site. Site Costs shall be included in the computation of the \$36 Million Dollar maximum.

(c) MPB Financial Commitments. Unless otherwise provided in the Construction Documents or in Exhibit "X" attached hereto, MPB shall be responsible for such furniture, fixtures and equipment it deems necessary for installation at the Stadium FF&E ("Stadium FF&E"). A non-exclusive list of MPB FF&E is listed in Exhibit "X". MPB shall select and contract with vendors it deems appropriate in connection with securing such Stadium FF&E for the Stadium. All such Stadium FF&E shall be owned by MPB. MPB shall be responsible for any replacement Stadium FF&E. All other Stadium FF&E will be purchased in the discretion and at the cost and expense of MPB. For avoidance of doubt MPB and the City acknowledge and agree that structural components, systems components or integral components or parts of the Stadium shall not be deemed Stadium FF&E.

8. Completion.

(a) Beneficial Occupancy Date. The City agrees to use its best efforts to have the Stadium available for Beneficial Occupancy on or before March 28, 2015. MPB will be

responsible for securing, at its own expense, an alternative playing site(s), if needed, prior to the date of Beneficial Occupancy. Stadium Rent will be pro-rated during that period that the Stadium and/or the Site is not available for Beneficial Occupancy based on the Annual Stadium Rent compared to the unavailable number of days in the 2015 Baseball Season. For purposes of this paragraph, the 2015 Baseball Season begins on April 5, 2015, provided, that the total costs of the Stadium shall not exceed the total sum of \$36 Million Dollars, and ends on September 15, 2015. The City will use its best efforts to assist MPB in locating and securing an alternative playing site should that be necessary for the 2015 Baseball Season.

(b) MPB Remedies. The City acknowledges that its covenant to have the Stadium available for Beneficial Occupancy on or before March 28, 2015, is of great importance to MPB, and that in the event the Stadium is not available for Beneficial Occupancy on or before March 28, 2015, MPB will suffer damages, the actual amount of which would be impractical or extremely difficult to determine, that the liquidated damages amounts set forth below are reasonable pre-estimates of what MPB's monetary damages would be in the event the Stadium is not available for Beneficial Occupancy on or before March 28, 2015, and it is the parties' intention that the City provide MPB with liquidated damages to compensate MPB if the Stadium is not available for Beneficial Occupancy on or before March 28, 2015, rather than penalties to deter the City from breaching this Agreement and/or to punish the City. Therefore, in the event the Stadium is not available for Beneficial Occupancy on or before March 28, 2015, plus additional time for performance attributable to *force majeure*, then MPB will have the following available remedy:

MPB may suspend their performance of the Agreement until the Stadium is available for Beneficial Occupancy, and the City agrees to pay to MPB as liquidated damages an amount of \$10,000.00 per Club Home Game for each Club Home Game for which the Stadium is not available for Beneficial Occupancy after March 28, 2015, plus additional time for performance attributable to *force majeure*. The number of games to which this liquidated damages provision shall apply shall be determined according to the game schedule established by MPB in the ordinary course of operations.

MPB acknowledges and agrees that the remedies set forth in this Section 8(b) shall be MPB's sole and exclusive remedies with respect to a breach of Section 8(a) by the City.

9. Revenue Streams. MPB shall be entitled to all revenue streams, now known or hereafter devised, in connection with the year-round operation of the Stadium during the Term for any and all events at the Stadium except as otherwise provided herein. The foregoing notwithstanding, the following provisions more specifically address certain revenue streams:

(a) Tickets and Suites.

(i) Event Tickets. MPB or its assigns, in its sole discretion, shall set ticket prices and entry fees for all events at the Stadium and/or the Site other than City Events and Third Party Events, including all season tickets and Suite tickets. The City and third parties, respectively, shall set their own ticket prices for City Events and Third Party Events. Except for the Additional Rent and as otherwise provided herein, MPB shall be entitled to receive all revenue collected by

MPB for all tickets for all such events. MPB shall also be entitled to charge admission, participation and related fees and charges in connection with the operation of any other activities at the Stadium Site, except for City Events and Third Party Events. Except as set forth in Section 10 below, no ticket surcharges, charges, or other fees are or will be instituted by the City for admissions to baseball-related events at the Stadium Site without MPB's prior written consent. The use of the Stadium Site by third parties for MPB Events shall be subject to a Use Agreement by and between such entity and MPB. MPB agrees to make the accounting and collection of any Additional Rent on all Third Party Events a requirement in any Use Agreement authorizing a Third Party Event.

(ii) Suites. MPB may rent or license Suites for a term not to exceed the Term of this Agreement, and any options to renew, or extensions of suite leases, must coincide with any extension negotiated between MPB and the City under this Agreement. MPB, in its sole discretion, shall set prices for the rental or license of all Suites, including but not limited to Suites for all events at the Stadium. MPB shall be entitled to receive and retain one hundred percent (100%) of all revenues from the rental or license of such Suites except that Additional Rent shall be paid on all tickets sold to Suite holders. At least one Suite shall be designated for MPB's use and one Suite for Beau Rivage's use for which Additional Rent for tickets sold shall be paid in accordance with the terms of this Agreement. MPB shall either require all users of suites to purchase tickets for individuals in attendance at games or MPB Events, or require them to pay Additional Rent on all available seats in a Suite for each game or MPB Event for which a suite has been leased, including any suite which has been "comped" to Beau Rivage or to a third party. Other Suites may be licensed by the Club on a daily basis for which Additional Rent (as to the ticket sold) shall be applicable.

(b) Naming Rights.

Subject to the terms and conditions set forth herein, Beau Rivage shall have the exclusive right to the naming rights to the Stadium. Notwithstanding the foregoing, MPB and the League shall have the right to approve any such Naming Rights designation in advance, such approval not to be unreasonably withheld, conditioned or delayed, and MPB shall have the right to approve or disapprove any name selected for the Stadium, such approval not to be unreasonably withheld, conditioned or delayed. All signage associated with the naming rights shall be paid for, provided by and maintained by the City or MPB at Beau Rivage's cost, including the cost of electricity utilized by such signage, except for such signage which may be provided for in the initial plans and specifications. Subject to the terms and conditions set forth herein, the City retains the right and all revenues associated therewith to name the field located within the Stadium. The City shall have the right to sell or assign the field naming rights to a third party; however, the City shall not sell or assign the naming rights to the field to a Competitor of Beau Rivage. A purchase or assignment of the field naming rights does not preclude or limit the sale or assignment of advertising rights by MPB in the Stadium to any seller of goods, services or products the same or similar to those offered or sold by the naming rights purchaser and the naming rights purchaser is not preclude or limited from purchasing other advertising rights or space from MPB because of the purchase of the field naming rights. In the event of a sale or assignment, the party to whom the naming rights to the field are sold or assigned shall be responsible for all signage, including, but not limited to, all construction, maintenance and electricity usage associated with said signage. The field naming rights purchaser shall be entitled

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to a minimum of three (3) signs located within the Stadium, the locations of which shall be approved by MPB and which do not interfere with the operation of baseball and which approval shall not be unreasonably delayed, conditioned or withheld.

(c) Concessions.

(i) Sales. Except for City Events, MPB or its designees shall be the exclusive concessionaires and shall sell, and retain all revenues from, all concession items at all events held in and at the Stadium Site. Such concession items shall include but shall not be limited to, in MPB's sole discretion, all foods, beverages (alcoholic and non-alcoholic), scorecards, programs, yearbooks, hats, jerseys, t-shirts, souvenirs, other sports apparel and merchandise, including but not limited to novelty items carrying MPB logo (and all related subsidiaries') merchandise, as well as any interactive games, video games, batting or pitching cages and other entertainment oriented retail or food service item, including any event-related activities scheduled by MPB. Except for City Events, MPB's rights hereunder shall include, without limitation, the exclusive right to vend concession and novelty items from permanent or portable concession units located at the Stadium provided any portable concession units are in compliance with all Applicable Laws. MPB may assign any or all of its exclusive rights to sell concessions to third parties as MPB determines in its sole discretion. For City Events, the City reserves at its option the right to designate permitted concessionaires and MPB reserves the right to determine, on a case by case basis, whether the City concessionaire may be allowed to use the Stadium for the requested City Event. Notwithstanding the foregoing, no concessionaires shall be Competitors of Beau Rivage.

(ii) Equipment. MPB shall maintain at its own cost all equipment, machinery, menu boards and related facilities necessary to sell such concessions during all events.

(d) Advertising/Signage.

Except as otherwise set forth herein, MPB shall have the exclusive right and shall bear the cost to erect, install or affix commercial, non-commercial, identifying, and any other signage, advertising and sponsorship material, banners, and related items, both temporary and permanent, on or in the Stadium Site, including, without limitation, on the outfield fences, interior and exterior walls, marquee or matrix signs, utility poles and Stadium Site grounds and fencing, billboards, pedestrian walkways, entrances, exits, pavilions and other public gathering places, for the purpose of promoting MPB, the Stadium Site, advertising, marketing and promoting third party products and services, designating or associating certain areas of the Stadium Site with third party products and services, and/or decorating or otherwise enhancing the Stadium Site, and MPB may also include such third party advertising, marketing and promotion in and on any publications (including programs and scorecards) which may be sold at the Stadium Site, all revenues from all sources and all events derived from such advertising, as well as all promotions or sponsorships, including all revenues from scoreboard/video board advertising, but excluding revenues from the placement of the naming rights purchaser's name on the field as provided by Section 9(b), shall be retained by MPB and all such signage shall be installed and maintained in accordance with Applicable Laws. If necessary, the City shall, to the extent permissible by law, assist MPB in obtaining any permits or licenses required under the laws or regulations of any government authority and necessary to the scoreboard message center and billboard advertising.

All advertising contracts and advertising signage contracts which include a bundled admission ticket or tickets shall be subject to the Additional Rent of Section 10 of this Agreement. All advertising visible from the exterior of the Stadium shall be subject to Beau Rivage's prior written consent, which shall not be unreasonably withheld, conditioned or delayed.

(e) Broadcasting.

(i) MPB or its designee shall have the exclusive right at its own expense to broadcast, televise, and cablecast, by any form of transmission or distribution whatsoever, Club Home Games, MPB Events and Third Party Events which may be scheduled, promoted, and held at the Stadium Site during the Term of this Agreement and shall retain one hundred percent (100%) of all revenues which may be generated thereby. MPB shall exercise its right to broadcast, televise, cablecast and distribute such events at such times and in such a manner as it shall consider appropriate. The City agrees not to charge MPB or its selected broadcasters any fees or expenses related to the rights granted to MPB under this subsection that are not equally applicable to all other entities.

(ii) The City or its designee shall have the exclusive right at its own expense to broadcast, televise, and cablecast, by any form of transmission or distribution whatsoever, all City Events which may be scheduled, promoted, and held at the Stadium Site during the Term of this Agreement and shall retain one hundred percent (100%) of all revenues which may be generated thereby. The City shall exercise its right to broadcast, televise, cablecast and distribute such events at such times and in such a manner as it shall consider appropriate. The City shall reimburse MPB any and all expenses associated with such rights, if any.

(f) Restrictions on Gaming.

Neither MPB nor any third party shall engage in or allow any gaming operations on the Stadium Site.

10. Stadium Rent. MPB shall pay the City annual base rent ("Base Rent") during the Term in the amount of One Hundred and Fifty Thousand \$150,000.00 and 00/100 Dollars (\$150,000.00) per year, due and payable on October 1 of each lease year. In addition, during the Term, MPB shall pay the City a per ticket sold charge with respect to tickets sold by MPB for all Club Home Games and MPB Events (including tickets sold to suite holders or attributable to suite usage per Section 9(a)(ii) above, and attributed to or bundled with advertising contracts pursuant to Section 9(d) as additional rent (the "Additional Rent") as set forth in the schedule attached hereto as Exhibit "R". The foregoing notwithstanding, MPB may provide complimentary tickets to Club Home Games which are not subject to the Additional Rent provision, provided said "comped" tickets are either issued to a public service or military organization, or issued as a part of a promotion to maximize ancillary revenue generated at the Stadium. Additional Rent does not apply to complimentary tickets provided to coaches, staff, players and medical staff for professional and college teams. During the Term, MPB shall require any third party event sponsor to pay a per ticket sold charge with respect to tickets sold for Third Party Events or other events (including tickets sold to suite holders) as Additional Rent, as more particularly set forth in Exhibit "D" hereto. The Additional Rent shall be paid to the City by MPB on a monthly basis thirty (30) days in arrears beginning May 1, 2015. The Additional

Field Code Changed

Rent shall apply to all admission tickets (including tickets sold to suite holders, attributable to suite usage, and attributable to "comped" suites) sold by or on behalf of MPB and sold by or on behalf of any third party event holder, but not to any other revenues, such as revenues from the rental of Suites. MPB and/or any Third Party shall provide a true and correct listing of MPB's and/or Third Party Event tickets sold for purposes of determining the Additional Rent, certified by an officer of MPB and/or a Third Party Event vendor.

11. Security. MPB shall be responsible for providing security sufficient to control vehicular and pedestrian traffic within the Stadium Site. MPB shall, at MPB's expense, provide qualified security and crowd control personnel to protect the public health, safety and welfare at all MPB Events. Any third party shall at its own expense, provide qualified security and crowd control personnel to protect the public health, safety and welfare at all Third Party Events. City shall, at City's expense, provide qualified security and crowd control personnel to protect the public health, safety and welfare at all City Events. As required by Mississippi law, the City shall be responsible for traffic control on public streets.

12. Utilities. At the City's expense, the Stadium Site shall be furnished with access to domestic water, sufficient electrical capacity to operate and manage the Stadium Site (including, without limitation, capacity for lighting and equipment for night baseball games), sewage, irrigation and drainage systems with maximum outsource. In consideration of the Base Rent and Additional Rent set forth in Section 10, and as part of the City program of maintenance of City assets, the City shall be responsible for either providing to the facility at no cost to MPB or the payment of the following utility expenses: electricity, water, sewer, and gas related to the Stadium Site. MPB shall be responsible for the payment of electronic based utilities, including but not limited to, telephone, internet services, satellite and cable and other television charges, etc. and other related expenses

13. Routine Maintenance. Unless otherwise provided to the contrary, MPB shall be responsible for all "Routine Maintenance" of the Stadium, excluding, however, Routine Maintenance associated with ordinary use of the Parking Garage. "Routine Maintenance" shall be defined as the provision of labor and materials which are required to keep the Stadium in good order and repair (normal wear and tear excepted) and which are of a routine, regular and predictable nature given the age of the Stadium and the use to which it has been put. Examples of Routine Maintenance include the following:

(a) Keep clean at all times all areas of the Stadium, including but not limited to interior bowl seating, restrooms, press box, Club offices, Suite areas, concessions areas, and clubhouses/locker rooms, provided, however, that the City at its expense will provide services to maintain all areas outside the Stadium fencing, including mowing all grass on an as needed basis, but not less than every two weeks, landscape maintenance outside the Stadium, trash litter pick-up and haul away of trash and all other exterior maintenance and cleaning of the parking areas outside the Stadium fencing.

(b) Garbage and trash clean-up and removal at the Stadium to the trash receptacles after each event at the Stadium and garbage removal from the Stadium Site, as required by City ordinance.

(c) Mow, fertilize, seed, reseed, water, and otherwise maintain the baseball playing surface in the Stadium in accordance with League standards.

(d) Prepare and line the baseball playing surface of the Stadium prior to each Club Home Game and provide such grounds keeping and other maintenance services during such events as appropriate League standards shall require.

(e) Maintain and repair all baseball equipment, including all hitting screens, tarps, batting cages, portable backstops, all other moveable on-field facilities and player equipment.

(f) Paint, repair and maintain all non-public areas of the Stadium that are under MPB's exclusive control (including, without limitation, suites, concession areas, offices and clubhouses), but specifically excluding any exposed steel structure and the roof or other public areas.

(g) Repair and maintain all equipment related to concessions, retail and entertainment activities at the Stadium.

(h) Provide pest control.

(i) Routine maintenance and repair of the scoreboard/video board.

(j) Maintain, repair and replace television monitors, if necessary.

(k) Maintain, repair and replace all fixtures and equipment owned and installed by MPB.

(l) Routine inspection and minor maintenance of the HVAC, plumbing, electrical, water, sewage, and field drainage systems, and escalators and elevators (if any), including periodic cleaning, lubricating and servicing and replacement of incidental parts.

(m) Replace light bulbs (excluding Stadium field light tower bulbs), fuses and circuit breakers as they burn out or need replacement. Replacement of necessary stock shall be the responsibility of MPB.

(n) Any other maintenance that is not classified as Capital Maintenance or Repair.

14. Capital Maintenance and Repair. The City shall be responsible for paying for the cost of, all "Capital Maintenance and Repair" of the Stadium. Annually, the City shall, in conjunction with MPB, prepare an ongoing three-year Capital Maintenance Plan. "Capital Maintenance and Repair" shall be defined as provision of all labor and materials which are required to repair, restore and/or replace, when necessary, all structural components, systems components or integral components or parts of the Stadium. Structural components include but are not limited to all foundations, footings, structural members, piers, columns, walls, roofs, ramps and steps. Systems components include but are not limited to, video boards/scoreboards, heating, ventilating, air conditioning, plumbing, electrical, gas and water systems, escalators and elevators, and integral components and parts include, but are not limited to, parking lots and

access road surface and curb repairs, parking lot and access road lighting installations, (such as towers, poles, lamps wires and conduits), and light towers. Examples of Capital Maintenance and Repair include, without limitation, the following:

(a) Replace and/or refurbish and/or overhaul of HVAC, plumbing, electrical, water and sewerage, fire systems (including, without limitation, fire pumps and motors, wet and dry sprinkler distribution piping and sprinkler heads).

(b) Repair and/or replace cracked and/or disintegrated concrete spalling, broken pipes floor drains, traps and associated piping and/or leaking roofs and/or ceilings and/or sections thereof, unless they consist of routine repairs which may be reasonably performed by MPB; provided, however, that in no case will MPB be obligated to make repairs which are important to the structural integrity of the Stadium.

(c) Paint and reapply all paint, traffic coatings, sealers and/or protective materials on all surfaces of the Stadium not covered under Section 13(f), including, without limitation, restrooms and any other areas to which the public has access, as well as the recoating and repainting of all portions of the roof and exposed steel structure as needed but no more frequently than every five (5) years, application of applied sealants and coatings (waterproof and otherwise) to all concrete floors, wall panels and other surfaces as needed but no more frequently than every five (5) years, reapplication of slip-resistant materials on all walkways and surfaces as needed but no more than every five (5) years, re-caulking and replacement of pre-formed gaskets on all expansion joints located in the concrete floors or in the walls as needed but no later than every five (5) years. The City shall not be held to the five (5) year obligations if MPB agrees that such actions are not necessary at such time.

(d) Repair and replace all walls and fencing, netting, including the outfield wall, padding, interior walls, and other exterior and perimeter chain link and other fencing exclusive of that portion of the fence or wall used for advertising purposes

(e) Replacement of carpeting, ceramic or vinyl tile after the fifth year of operation of the Stadium and no more than once every five (5) years, and only if necessary.

(f) Replace, if necessary, both isolated and entire sections of seats and seat standards, filigrees and cup holders, and integral components thereof including all replacement parts, unless they can be reasonably repaired by MPB.

(g) Repair, restore and/or replace, when necessary, elevators and integral components and parts including, but not limited to parking lots and access road surface and curb repairs, parking lot and access road lighting installations, (such as towers, poles, lamps wires and conduits), and Stadium field light towers within the Stadium.

(h) Repair, restore and/or replace, when necessary, all concessions fixtures and equipment (e.g., counters, countertops, roll-down doors, plumbing and sinks, and lighting), except those owned and installed by MPB.

(i) Maintain, if necessary, any asphalt, gravel and other automobile and footpath surfaces on the Site by supplementing with gravel for satisfactory coverage on a periodic basis, but in any event no less than once a year.

(j) Winterize the Stadium each Fall, if necessary, to prevent freezing of pipes in the Stadium buildings.

(k) Capital maintenance and repair of the scoreboard/video board, sound system and public address system, unless they consist of routine maintenance.

(l) Repairs due to electrical failures including lightening strikes, utility surges or short circuits in risers, panels, disconnects, transformers, circuit boards, main switches and overload protection and control hardware.

(m) Elevator operational, safety and performance upgrades required by code changes or direction of City inspector.

(n) A periodic structural review of the Stadium every five (5) years to ensure that the Stadium maintains its structural integrity in compliance with all Applicable Laws.

15. Performance of Capital Maintenance and Repairs. The City shall timely perform all Capital Maintenance and Repairs in accordance with all applicable safety and construction standards and regulations and Applicable Laws and MPB shall not be responsible for performing such work. Such work will be performed by the City through contractors and subcontractors pursuant to State bidding requirements, it being the objective of the parties that such work be completed in an economical and efficient manner, consistent with the nature and quality of the Stadium, and in accordance with all applicable federal, state and local laws, ordinances and regulations. Except as otherwise specifically provided herein, MPB shall not be responsible in any way for paying for any items involving Capital Maintenance and Repairs.

16. Capital Maintenance Restricted Fund.

(a) Funding. Commencing August 1, 2015, the City shall establish the Capital Maintenance Restricted Fund in its municipal budget. The Capital Maintenance Restricted Fund shall be initially funded with a contribution of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) from MPB which is to be paid on or before August 1, 2015, and a contribution of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) from the City, and shall be further funded with an annual contribution of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) from MPB payable to the City and a similar contribution of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) from the City on the anniversary date of this Agreement for Capital Maintenance and Repairs for the remainder of the term of this Agreement and any renewal(s) thereof. The Capital Maintenance Restricted Fund shall be maintained as a separate restricted fund by the City in its municipal budget, and the amounts in the Capital Maintenance Restricted Fund, including all earnings on such amounts, shall be disbursed, with the approval of MPB, from time to time solely for the purpose of financing Capital Maintenance and Repairs at the Stadium and/or the Site during the Term (except as otherwise provided herein). Capital Maintenance and Repairs shall be funded using available funds in the Capital Maintenance

Restricted Fund to the extent such funds are available. Funds in the Capital Maintenance Restricted Fund shall be held and managed by the City. Capital Maintenance and Repairs in excess of any funds accumulated in the Capital Maintenance Restricted Fund shall remain the responsibility of the City.

(b) Procedure for Use of Capital Maintenance Restricted Fund. MPB will submit requests to the City to expend funds from the Capital Maintenance Restricted Fund during the Term as necessary including, without limitation, after each periodic structural review as described in Section 14(n). Upon the presentation of supporting documentation for such expenses, the City may approve the expenditure so long as it determines in good faith that the expenditure(s) is a Capital Maintenance and Repair. The City shall provide MPB an accounting of the previous year's Capital Maintenance expenditures and Restricted Fund balance by February 1st of the following year.

(c) Emergency. MPB shall immediately contact the City in the event of an Emergency and provide the City with all pertinent information pertaining thereto that it may reasonably request.

17. MPB Improvements.

(a) Discretionary Improvements. Once the Stadium is available for Beneficial Occupancy, MPB shall have the right, from time to time, at its own expense, to make alterations and improvements to the Stadium, as shall be reasonably necessary or appropriate (but which shall not constitute Capital Maintenance and Repair), in MPB's judgment, for MPB's conduct of its business, provided that prior to the commencement of any alteration or any improvement, MPB shall have provided the City with written notice of its plans and specifications and in the event such proposed alteration or improvement is in excess of \$20,000, the City and Beau Rivage shall each have the right to approve such alteration or improvement, such approval not to be unreasonably withheld or delayed. Unless such alterations and improvements are fixed and not capable of being removed or would damage the remaining structure or, would cause damage to or adversely affect the functionality of the Stadium as a AA Minor League Baseball facility, all such alterations and improvements paid for by MPB herein shall remain the property of MPB during and after the expiration or termination of this Agreement.

(b) Professional Baseball Required Improvements. MPB shall provide the City with written notice of any alterations or improvements to the Stadium required to meet professional baseball standards of the League, National Association of Professional Baseball Clubs or other governing body after the date of this Agreement and applicable to MPB's playing at the same professional baseball classification level as the Club, and the City shall be obligated to make any such alterations and improvements in such time frame as is required by the applicable league in order to meet such standards at the City's expense provided such League or other required improvements are implemented uniformly across the League and not implemented solely against the City and provided such requirement does not constitute an improvement which would be the responsibility of MPB under this Agreement.

(c) MPB shall not permit or suffer any mechanics' or materialmen's lien to be filed against the Stadium Site and Stadium parking by reason of work, labor, services or materials

performed or furnished to MPB or anyone holding any part of the Stadium Site and Stadium parking under MPB. If any such lien shall at any time be filed as aforesaid, MPB may contest the same in good faith, but, notwithstanding such contest, MPB shall, within fifteen (15) days after the filing thereof, cause such lien to be released of record by payment, bond, order of a court of competent jurisdiction, or otherwise in a manner satisfactory to Beau Rivage and the City. In the event of MPB's failure to release of record any such lien within the aforesaid period the City may remove said lien by paying the full amount thereof or by bonding or in any other manner the City deems appropriate, without investigating the validity thereof, and irrespective of the fact that MPB may contest the propriety or the amount thereof, and MPB, upon demand, shall pay the City the amount so paid out by the City in connection with the discharge of said lien, together with interest thereon and reasonable expenses incurred in connection therewith, including reasonable attorneys' fees, which amounts are due and payable in full to the City as Additional Rent on the first day of the next following month. Nothing contained in this Agreement shall be construed as consent on the part of the City or Beau Rivage to subject any of its interest in the Stadium Site and Stadium parking to any lien or liability under the lien laws of the State of Mississippi. MPB's obligation to observe and perform any of the provisions of this section shall survive the earlier termination or expiration of this Agreement. Beau Rivage shall have the right to post and maintain on the Stadium Site or Stadium parking any notice of non-responsibility provided for under Applicable Law. Upon completion of MPB's work, MPB shall furnish to the City and Beau Rivage lien waivers from all contractors, subcontractors and materialmen who provided work, labor, services, equipment or material to MPB.

18. Return of Stadium. At the termination of this Agreement, MPB agrees to return the Stadium to its original or subsequently improved condition, ordinary wear and tear excepted after inspection of the Stadium, which inspection shall be made jointly by the City, Beau Rivage and MPB. Promptly after such inspection at the termination of any occupancy, MPB shall have the option to either (i) make any necessary repairs; or (ii) pay the City for any damages to the premises or to personal property, ordinary wear and tear excepted, except to the extent said damage was caused by a party other than MPB or a licensee of MPB during a Club Home Game or MPB Event. MPB shall have the right upon termination of this Agreement, within sixty (60) days thereafter, to remove from the premises all movable property which is not permanently affixed to the structure and which is not owned by the City, including without limitation all concession equipment and broadcasting equipment.

19. Taxes. MPB or its assigns shall pay or cause to be paid all ad valorem, real and personal property taxes and other applicable taxes due on its personal property and due on its leasehold interest in the real property, and other improvements on the Stadium Site, created by this Agreement. A letter may be obtained by MPB from the Harrison County Tax Assessor as to an estimate based on MPB's leasehold interest in the Stadium and in the personal property located in the Stadium.

20. Operating Permits. MPB shall secure such permits, variances, and licenses as may be necessary or desirable to operate the Stadium Site as is contemplated by this Agreement.

21. Insurance.

(a) MPB Insurance. Throughout the Term, MPB shall provide and maintain, at its expense, the policies of insurance and coverages set forth on Schedule 1 of this Agreement which shall protect the City and Beau Rivage from any claim, damage, liability loss, or expense to persons or property (hereinafter, "Claims") caused by, resulting from, arising out of or in connection with MPB's or its permittee's use of the Demised Premises and the Stadium parking or its duties and obligations pursuant to this Agreement.

(b) City Insurance. The City intends to provide, at its expense, the initial policies of insurance and coverages as set forth on Schedule 2 of this Agreement. After the expiration of the first year and continuing on an annual basis, the City shall also disclose to Beau Rivage the amounts of its renewal insurance coverage, which coverage may change from time to time.

(c) Beau Rivage Insurance. Throughout the Term, Beau Rivage shall provide and maintain, at its expense, the policies of insurance and coverages set forth on Schedule 1 of this Agreement which shall protect the City from any claim, damage, liability loss, or expense to persons or property (hereinafter, "Claims") caused by, resulting from, arising out of or in connection with Beau Rivage's or its permittee's use of the Parking Garage or the Beau Rivage Use Facilities or its duties and obligations pursuant to this Agreement.

(d) Insurance During Design and Construction. Prior to the commencement of any work on the Demised Premises and the Stadium parking, the City shall require all contractors that perform work on the Demised Premises to provide and maintain, at no expense to Beau Rivage or MPB, the policies of insurance and coverages as set forth on Schedule 3 to this Agreement. During the time which the Improvements are under original construction, the City shall provide and maintain (or cause its architect and general contractor/subcontractors to provide and maintain) the policies of insurance which shall protect the architect, general contractor (and its subcontractors), the City, MPB and Beau Rivage from any Claims caused by, resulting from, arising out of or in connection with the design and construction of the Improvements in commercially reasonable and customary amounts (the "Initial Construction Insurance Requirements").

22. Indemnification.

(a) Indemnification Obligations of the City. The City shall, to the fullest extent permitted by law, indemnify Beau Rivage and its parent company, subsidiaries and affiliates, and their respective officers, directors, agents and employees (the "Beau Rivage Indemnified Parties") and MPB and its subsidiaries and affiliates, and officers, directors, agents and employees, from and against any and all Losses incurred in connection with or arising directly or indirectly, in whole or in part, out of (i) the death of any person or any injury, accident, loss or damage whatsoever caused to any person or to the property of any person which may occur on or adjacent to the Demised Premises and Stadium parking and which may be caused by any negligent acts or omissions of the City or its agents, or (ii) any default by the City in the observation or performance of any of the terms, covenants or conditions of this Agreement to be observed or performed on the part of the City. The City's total liability to Beau Rivage and MPB and their related Indemnified Parties for any Losses caused in part by the fault of the City shall not exceed

the percentage share that the City's fault bears to the total fault of all entities and individuals adjudicated to be at fault as determined on the basis of comparative fault principles.

(b) Indemnification Obligations of MPB. MPB shall indemnify the Beau Rivage Indemnified Parties and the City and its Mayor, Council members, agents and employees, from and against any and all Losses incurred in connection with or arising directly or indirectly, in whole or in part, out of (i) the death of any person or any injury, accident, loss or damage whatsoever caused to any person or to the property of any person which may occur on or adjacent to the Demised Premises and Stadium parking and which may be caused by any negligent acts or omissions of MPB or its Agents, (ii) MPB's negligence, or (iii) any default by MPB in the observation or performance of any of the terms, covenants or conditions of the Stadium Sublease to be observed or performed on the part of MPB. MPB's total liability pursuant to this section shall not exceed the percentage share that MPB's fault bears to the total fault of all entities and individuals adjudicated to be at fault as determined on the basis of comparative fault principles.

(c) Indemnification Obligations of Beau Rivage. Beau Rivage shall indemnify the City and Mayor, Council members, agents and employees and MPB and its subsidiaries and affiliates, and respective officers, directors, agents and employees from and against any and all Losses incurred in connection with or arising directly or indirectly, out of any negligent acts or omissions of Beau Rivage or its agents. Beau Rivage's total liability pursuant to this section shall not exceed the percentage share that Beau Rivage's fault bears to the total fault of all entities and individuals adjudicated to be at fault as determined on the basis of comparative fault principles.

(d) Environmental Indemnity. MPB agrees to indemnify, hold harmless and, at the City's option, defend (with counsel satisfactory to the City) the City, the City's affiliates and all of their respective directors, officers, employees, agents and contractors from and against any claims, judgments, liens, damages, penalties, fines, expenses, liabilities or losses arising during or after the Term which are in any way related to any leak, spill, release, discharge, emission or disposal of toxic or hazardous substances affecting the Demised Premises which occurs during the Term, unless the toxic or hazardous substances are present solely as a result of the actions or inactions of the City, the City's affiliates or any of their respective directors, officers, employees, agents or contractors or unless such toxic or hazardous substances were present on the Demised Premises prior to the date of Beneficial Occupancy.

23. Default and Remedies.

(a) Except as otherwise specifically set forth herein, when any party hereto shall breach, violate, or fail to fully perform any material term or provision herein contained, the non-breaching party shall have the right to pursue any right available at law or in equity.

(b) The Ground Lease/Parking Garage Sublease shall contain a provision that, in the event of termination of said Ground Lease/Parking Garage Sublease for any reason other than either: i) the expiration of its original and renewal periods, ii) or the failure of MPB to both own and operate the Ball Club and to conduct its Club Home Games in the Stadium as required herein,

Beau Rivage shall permit MPB to continue to utilize the Stadium under the terms of this Stadium Sublease as a Lessee.

24. Time is of the Essence. Unless specific time periods are identified herein, in all other matters concerning or affecting this Agreement, time is of the essence.

25. Quiet Use and Enjoyment. During MPB's use and occupancy of the Stadium Site under this Agreement and for so long as MPB is not in default, the City covenants that MPB shall have and be entitled to the quiet enjoyment with respect to the use and occupancy of the Stadium Site and the privileges herein granted without interruption or interference by any person claiming by, through or under the City. Specifically, the City shall defend MPB in such peaceful and quiet use and possession against the claims of all persons claiming by, through or under the City, except to the extent that certain rights to use the Stadium Site, or any portion of it, may be reserved in accordance with this Agreement. Subject to the provisions of Section 5(f), there shall be no use of personal property owned or controlled by MPB without MPB's prior written consent, which consent shall not be unreasonably withheld.

26. Destruction of Stadium.

(a) If all or any significant portion of the Stadium is damaged or destroyed by fire or other casualty, the City or MPB shall have the option of terminating the Agreement, and shall give the other written notice of such intent within ninety (90) days of such damage or destruction.

(b) Alternatively, if all or any significant portion of the Stadium is damaged or destroyed by fire or other casualty, the City may choose to repair and rebuild the Stadium to its condition immediately before such loss or the condition required by law, whichever is greater, with such repair and rebuilding to be completed as soon as is possible giving due attention to the Baseball Season after such fire or other casualty occurs, and in any event not later than three hundred fifty (350) days after such fire or other casualty occurs. If in MPB's good faith judgment there is substantial interference with the operation of MPB's activities or use of the Stadium requiring MPB to temporarily use other stadium facilities, there shall be an abatement of all monies due hereunder from MPB to the City for the period of such interference. It is specifically understood by and between the parties that during the period of such interference, MPB shall have the right to schedule its activities or events at another stadium and MPB's obligations pursuant to this Agreement shall be abated during such interruption. If in MPB's good faith judgment, the Stadium is not, cannot, or will not be restored to the condition immediately before such casualty or the condition required by law, whichever is the greater, within three hundred fifty (350) days after the fire or other casualty occurs, MPB may terminate this Agreement by giving the City thirty (30) days written notice from the date of the City's notice of the intent to rebuild.

28. Condemnation.

(a) Taking. If, by an exercise of the right of eminent domain or by conveyance made in response to the threat thereof (in either case, a "Taking"), all or any portion of the Demised Premises is taken, this Agreement shall, at the election of the City (or at the election of MPB if

all or substantially all of the Demised Premises are taken), be terminated on the earlier of (i) the vesting of title to the Demised Premises in the condemning authority, or (ii) the taking of possession of the Demised Premises by the condemning authority (in either case the "Date of Taking"). MPB and the City shall then divide the net award based on any Taking of the Demised Premises (i.e., the total award less costs of obtaining the award, including attorneys' and appraisers' fees) by first retiring any outstanding bonds issued by the City for the construction of the Stadium, and then any remaining amount shall be divided based on their respective interests in the Demised Premises and the Improvements located thereon, as determined by agreement or by any court of competent jurisdiction, but subject to the rights of any party who holds a valid lien against any of their interests in the Demised Premises; and provided, however, that such respective interests shall be appraised as if (i) this Agreement had not been terminated, and (ii) the City and MPB were permitted to continue to operate the Demised Premises for the permitted uses under this Agreement for the remaining Term.

(b) Restoration of Improvements. If the City has not terminated this Agreement because of a Taking, the City shall promptly take all actions which may be necessary to restore any Improvements on the Demised Premises.

(c) The City's Award. In connection with any Taking subject to this Section 19, the City may prosecute its own claim by separate proceedings against the condemning authority for additional damages legally due to it (such as the loss of fixtures which the City was entitled to remove and relocation expenses).

(d) MPB's Award. In connection with any Taking subject to this Section 19, MPB may prosecute its own claim by separate proceedings against the condemning authority for additional damages legally due to it (such as the loss of fixtures which MPB was entitled to remove and relocation expenses).

29. Recording. A memorandum of this Agreement and MPB's interest in the Stadium Site shall be recorded in the real estate records of Harrison County, Mississippi, by the City.

30. Club Name. During the term of this Agreement, the City may, subject to the approval of MPB, name the Club and the name may include "Biloxi." All uniforms and all uniforms, programs, scorecards, novelty items, advertising, tickets, and similar items will so state, provided that the Club and the City may not include the name or trademark of any Competitor of Beau Rivage. MPB shall have the right to obtain such copyright, trademark, and service mark protection for the name so chosen and all derivations thereof for its own account, all of which shall thereupon be the exclusive property of MPB. All costs and expenses related to a name change, including, but not limited to signage affected by name changes, shall be borne by MPB; however, no name change can remove "Biloxi" from the name.

31. Notices. Any and all notices required or permitted to be given hereunder shall be deemed given when actually received, if delivered personally, or upon receipt, if deposited with the U.S. Postal Service, first class postage prepaid, certified or registered mail, return receipt requested and addressed as follows:

(a) If to MPB: Mr. Ken Young
18228 U. S. Highway 41 North
Lutz, FL 33549

Mr. Tim Bennett
P. O. Box _____
Biloxi, MS 39533-0____

With a copy to: Robert F. Wood, Esq.
Purdie & Metz, PLLC
402 Legacy Park (39157)
P. O. Box 2659
Ridgeland, MS 39158-2659

(b) If to the City: Mayor, City of Biloxi
P.O. Box 429
Biloxi, MS 39533-0429

With a copy to: Ronald G. Peresich, Esq.
Page, Mannino, Peresich & McDermott, PLLC
759 Vieux Marché Mall (39530)
P. O. Drawer 289
Biloxi, MS 39533-0289

i. If to Beau Rivage:
Beau Rivage Resorts, Inc., d/b/a Beau Rivage
Resort and Casino
875 Beach Boulevard
Biloxi, MS 39530
Attn:
Telephone: (228) 386-7128

With a copy to:

Beau Rivage Resorts, Inc, d/b/a Beau Rivage
Resort and Casino
875 Beach Boulevard
Biloxi, MS 39530
Telephone: (228) 386-7128

Attn: In House Counsel

and

MGM Resorts International
3950 Las Vegas Blvd., South
Las Vegas, Nevada 89119
Attn: Corporate Legal

32. Assignment/Change of Control.

(a) Except as hereinafter provided, MPB may not assign, convey or transfer this Agreement (whether via majority stock sale, sale of all or substantial all assets, merger, by operation of law or otherwise) without the written consent of the City, which shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, MPB's interest in this Agreement may be assigned, conveyed, or transferred without the consent of the City only if (i) the Club and/or MPB is sold or ownership is transferred, and such sale, conveyance or transfer is approved by the League, and (ii) a third party purchaser that is awarded the franchise of the Club or of the majority interest therein obligates itself in writing to this Agreement in exactly the same manner as MPB is obligated by this Agreement, in which case such purchaser shall have all of the rights and obligations of MPB hereunder (including, without limitation, the obligation to maintain a Club at the Stadium for the Term of this Agreement) and MPB shall have no further obligations or liability hereunder for any actions occurring after such assignment, provided MPB is not in default under any terms of this Agreement at the time of assignment, conveyance or transfer of this Agreement.

(b) Except as hereinafter provided, the City may not assign, convey or transfer this Agreement (except as collateral security) without the written consent of MPB, which shall not be unreasonably withheld or delayed.

(c) Notwithstanding anything to the contrary set forth in this Section 30, this Agreement shall not be assigned, conveyed or transferred to any gaming competitor of Beau Rivage under any circumstances.

(d) If the Southern League, Minor League Baseball, and Major League Baseball all approve assignment of this Agreement, the City must approve the assignment to another ownership group, subject to the same terms and conditions of this Agreement.

33. Gaming License Provisions.

(a) As a condition to the effectiveness of any sublease, Beau Rivage shall receive all information reasonably necessary to complete a background check on the subtenant or licensee and, based on that check, has determined in its reasonable discretion that such subtenant or licensee will not cause Beau Rivage or its affiliates to be violation of any gaming laws or to be subject to addition scrutiny, restrictions, conditions, reporting or other similar obligation imposed by the gaming laws.

(b) Each sublease shall provide that the subtenant may not assign the sublease or enter into any sub-sublease without Beau Rivage first receiving all information reasonably necessary to complete a background check on the assignee or subtenant, and, based on that

check, Beau Rivage has determined in its reasonable discretion that such assignee or subtenant will not cause Beau Rivage or its affiliates to be in violation of any gaming laws to be subject to additional scrutiny, restrictions, conditions, reporting or other similar obligation imposed by the gaming laws.

(c) Each sublease shall contain an agreement by the subtenant to comply with all the terms and conditions of this Agreement (to the extent applicable). In addition, each sublease shall include the following language (as the same may be modified to conform to the defined term in such sublease): "Subtenant acknowledges that Beau Rivage and Beau Rivage's affiliates are businesses that are or may be subject to and exist because of privileged licenses issued by government agencies. If requested to do so by Beau Rivage, Subtenant and Subtenant's agents, employees and subcontractors shall obtain any license, qualification, clearance or the like which shall be requested or required by any of them by Beau Rivage or any regulator authority having jurisdiction over Beau Rivage or Beau Rivage's affiliates. If Subtenant or Subtenant's agents, employees, or subcontractors fails to satisfy such requirement or if Beau Rivage or Beau Rivage's affiliates is directed to cease business with Subtenant or Subtenant's agents, employees or subcontractors by any such authority, or if Beau Rivage shall in good faith determine, in Beau Rivage's sole and absolute judgment, that Subtenant, or any of Subtenant's agent's employees, subcontractors or representatives, (a) is or might be engaged in, or is about to be engaged in any activity or activities, or (b) was or is involved in any relationship, either of which could or does jeopardize Beau Rivage's business or such licenses or those of a parent company, subsidiary or affiliate, or if any such license is threatened to be, or is, denied, curtailed, suspended or revoked, this sublease may be immediately terminated by Beau Rivage or MPB without further liability from Beau Rivage or Sub-Landlord to Subtenant. In addition, Subtenant hereby acknowledges that it is illegal for a denied license applicant or revoked licensee, or a business organization under the control of a denied license applicant or a revoked licensee, to enter into, or attempt to enter into a contract, as permitted by Beau Rivage without the prior approval of the gaming authorities. Subtenant hereby affirms, represents and warrants to Beau Rivage that Subtenant is in not a denied license applicant, a revoke licensee or a business organization under the control of a denied license applicant or a revoked licensee, and Subtenant hereby agrees that this sublease is subject to immediate termination by Beau Rivage or Sub-Landlord without further liability from Beau Rivage or Sub-Landlord to Subtenant if Subtenant should become a denied license applicant, a revoked licensee, or a business organization under the control of a denied license applicant or a revoked licensee.

34. Hazardous Substances.

(a) MPB shall not, without the prior written consent of Beau Rivage and the City, cause or permit, knowingly or unknowingly, any Hazardous Material (as defined below) to be brought or remain upon, kept, used, discharged, leaked, or emitted in or about, or treated at the Stadium Site and Stadium parking, except for supplies and cleaning solution in nominal quantities typically used in the ordinary course of MPB's business and customarily used in similar businesses or activities expressly permitted to be undertaken at the Stadium Site and Stadium parking by the City and Beau Rivage provided that MPB's use and storage of such products complies with all Applicable Laws. As used in this Agreement, "Hazardous Materials" shall mean any hazardous, toxic or radioactive substance, material, matter or waste which is or

becomes regulated by any federal, state or local law, ordinance, order, rule, regulation, code or any other governmental restriction or requirement, and shall include asbestos, petroleum products and the terms "Hazardous Substance" and "Hazardous Waste" as defined in the Comprehensive Environmental Response, Compensation and Liability Act as amended 42 U.S.C. Section 9601 et seq. ("CERCLA") and the Resource Conservation and Liability Act, as amended 42 U.S.C. Section 9601 et seq. ("RCRA"). To obtain Beau Rivage's and the City's consent, MPB shall prepare an "Environmental Audit for Beau Rivage's review. Such Environmental Audit shall contain: (i) the name(s) of each Hazardous Material and a Material Safety Data Sheet ("MSDS") as required by the Occupational Safety and Health Act; (ii) the volume proposed to be used, stored and/or treated at the Stadium Site and Stadium parking (monthly); (iii) the purpose of such Hazardous Material; (iv) the proposed on-premises disposal entity; and (the name(s) of the proposed off-premises disposal entity; and (vi) an emergency preparedness plan in the event of a release. Additionally, the Environmental Audit shall include copies of all required federal, state, and local permits concerning or related to the proposed use, storage, or treatment of any Hazardous Material at the Stadium Site and Stadium parking. MPB shall submit a new Environmental Audit whenever it proposes to use, store, or treat a new Hazardous Material at the Stadium Site Stadium parking or when the volume of existing Hazardous Materials to be used, stored, or treated at the Stadium Site and Stadium parking expands by more than ten percent (10%) during any thirty (30) period. If Beau Rivage in its reasonable judgment finds the Environmental Audit acceptable, then the City and Beau Rivage shall deliver to MPB, their respective written consents. Notwithstanding such consents, either the City or Beau Rivage may revoke its consent if (i) MPB fails to remain in full compliance with applicable environmental permits and/or an other requirements under any federal, state, or local law, ordinance, order, rule, regulation, code or any other governmental restriction or requirement (including but not limited to CERCLA and RCRA) which in any way regulate, govern or impact MPB's possession, use, storage, treatment or disposal of said Hazardous Materials. In addition, MPB represents and warrants to the City and Beau Rivage that (i) MPB shall apply for and remain in compliance with any and all federal, state or local permits in regard to Hazardous Materials; (ii) MPB shall report to any and all applicable governmental authorities any release of reportable of any Hazardous Materials as required by any and all federal, state or local laws, ordinances, orders, rules, regulations, codes or any other governmental restrictions; (iii) MPB, within five (5) days of receipt, shall send to the City and Beau Rivage a copy of any notice, order, inspection, report, or other document issued by an governmental authority relevant to MPB's compliance status with environmental or health and safety laws; and, (iv) MPB shall remove from the Stadium Site and Stadium parking all Hazardous Materials at the termination of this Agreement.

(b) If MPB breaches its obligations under this section, the City and/or Beau Rivage may immediately take any and all action reasonably appropriate to remedy the same, including taking all appropriate action to clean up or remediate any contamination resulting from MPB's use, generation, storage, or disposal of Hazardous Materials. MPB shall defend, indemnify, and hold harmless the City, Beau Rivage and its representatives and agents from and against any and all claims, demands, liabilities, causes of actions, suits, judgments, damages and expenses (including reasonable attorneys' fees and cost of clean up and remediation) arising from MPB's failure to comply with the provisions of this section. This indemnity provision shall survive the earlier termination or expiration of this Agreement.

35. Binding Effect. This Agreement shall inure to the benefit of and remain fully binding upon the parties hereto and their respective successors and permitted assigns.

36. Status of Parties. The parties hereto shall be deemed and construed as independent contractors for all purposes and not as the agent, employee, representative or servant of the other.

37. No Waiver or Breach. No failure of either party to insist upon exact compliance with the terms and, provisions herein contained shall be deemed or construed as a waiver of any subsequent breach of this Agreement.

38. Severability. If any provisions of this Agreement shall be declared invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect unless so construing the Agreement would produce an inequitable result.

39. Governing Law and Jurisdiction. This Agreement shall be construed and enforced in accordance with the laws of the State of Mississippi. The parties hereby submit to the jurisdiction of the federal and state courts of the Second Judicial District of Harrison County, Mississippi for the purposes of all legal proceedings arising out of or relating to this Agreement and the parties irrevocably waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the venue of any such proceeding which is brought in such a court.

40. Force Majeure. No party shall be considered in breach or default in the performance of its obligations hereunder if such performance is prevented or delayed because of war, hostilities, revolution, civil commotion, epidemic, accident, labor disputes, fire, wind, flood, including, but not limited to, hurricanes and tropical storms, or because of any law, order, proclamation, regulation or ordinances of any government or of any subdivision thereof, or because of acts of God; or for any other cause beyond the reasonable control of the party affected. Upon the occurrence of a *force majeure* event, the affected party shall inform the other party without delay, and shall provide a written statement to the other party with respect to such event within thirty (30) business days from its occurrence. Such written statement shall include a precise description of the *force majeure* event and the reasons for the delay or the inability to perform the obligations affected thereby. If the affected party does not inform the other party and/or does not provide the written statement described above, until such time as the notice are provided it shall be liable for the non-performance of its obligations during the continuance of the *force majeure* event and all consequences caused by and resulting therefrom but only to the extent such failure to inform was prejudicial to the rights of the other party. Notwithstanding the foregoing, neither (a) normal delay, postponement or cancellation due to normal weather conditions, (b) internal strike motivated by, by way of example, salary demands or dissatisfaction with general working conditions or any other factor(s) within the reasonable control of the party (*i.e.*, resolvable by management decision) nor (c) the legislative acts of the City of Biloxi shall constitute a *force majeure* event.

41. Multiple Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be original and all of which shall constitute on and the same instrument.

42. Third Party Beneficiary. This Agreement confers rights and benefits upon Beau Rivage. No person, other than the parties and Beau Rivage, has any rights or remedies under the Agreement. The parties may not amend or terminate this Agreement without the prior written consent, which may not be unreasonably withheld, of Beau Rivage.

43. Entire Agreement. This Agreement and its Exhibits shall constitute the entire agreement between the parties hereto with respect to the subject matter herein contained. There are no agreements or understandings between the parties hereto, whether oral or written, regarding the subject matter hereof, which have not been embodied herein or incorporated herein by reference.

44. League Approval. MPB represents and warrants that this Agreement has been approved by the League, National Association of Professional Baseball Leagues and Major League Baseball and in all respects. This Agreement shall in all respects be subject to the rules and regulations of the League, National Association of Professional Baseball Leagues and Major League Baseball and MPB represents that no further approval is necessary from the Minor or Major Leagues or National Association of Professional Baseball League. Upon request of a party, MPB shall provide guidance with respect to such rules and regulations and no party shall be deemed in breach of this Agreement based on such rules and regulations of which a party was not previously made aware.

45. City Actions as Sub-Lessor. To the extent that the consent or cooperation of the City is called for in any section of this Agreement, the City's action shall be in its capacity as Sub Lessor and not as a governmental entity, and i) shall neither be considered a waiver of any party's obligation to comply with Applicable Law; ii) nor shall it be considered a granting of any waiver from any such law or regulation requested by any party; iii) nor shall it be considered a waiver of the City's governmental obligation to apply and enforce all laws and regulations with regard to any party's action; and, iv) nor shall it be considered a waiver of the City's duty to act in the best interest of the public in the exercise of its statutorily delegated discretionary authority when acting in its governmental capacity.

46. Representations and Warranties.

(a) Representations and Warranties of the City.

The City hereby makes the following representations and warranties:

(i) Organization. The City is a municipal corporation of the State of Mississippi duly organized and validly existing under the laws of the State of Mississippi and has the requisite power and authority to enter into and perform its obligation under this Agreement.

(ii) Authorization/Consents. This Agreement has been duly authorized by all necessary governmental action on the part of the City and does not require notice to or the consent or approval of any trustee or holder of any indebtedness or any other person, except such as have been, or on or before the Commencement Date will have been, duly given or obtained.

(iii) Execution. This Agreement, upon the execution and delivery hereof, will constitute a legal, valid and binding obligation of the City, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

(iv) No Violation. Neither the execution, delivery or performance of this Agreement by the City, nor the consummation by the City of the transactions contemplated hereby, nor compliance by the City with the provisions hereof conflicts or will conflict with, nor results in or will result in the breach of any provisions of, the organizational documents of the City, any applicable law binding on the City or any, contract, lease or other instrument to which the City is a party or by which it or any of its property is bound.

(v) Litigation. There is no action, suit, investigation or proceeding pending or, to its knowledge, threatened against the City before any court, arbitrator or administrative or governmental body and which, if decided adversely to the City's interest, would have an adverse effect upon the ability of the City to perform its obligations under this Agreement.

(b) Representations and Warranties of MPB.

MPB hereby makes the following representations and warranties:

(i) Organization. MPB is a limited liability company duly organized and validly existing under the laws of the State of Mississippi and has the requisite power and authority to enter into and perform its obligation under this Agreement and is qualified to perform its duties hereunder and is authorized to do business in the State of Mississippi.

(ii) Authorization/Consents. This Agreement has been duly authorized by all necessary action on the part of MPB and does not require notice to or the consent or approval of any trustee or holder of any indebtedness or any other person, except such as have been, or on or before the Effective Date will have been, duly given or obtained.

(iii) Execution. This Agreement, upon the execution and delivery hereof, will constitute a legal, valid and binding obligation of MPB, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

(iv) No Violation. Neither the execution, delivery or performance of this Agreement by MPB, nor the consummation by MPB of the transactions contemplated hereby, nor compliance by MPB with the provisions hereof conflicts or will conflict with, nor results in or will result in the breach of any provisions of, the operating/organizational documents of MPB, any Applicable Law binding on MPB or any indenture, mortgage, contract, lease or other instrument to which MPB is a party or by which it or any of its property is bound. MPB holds and shall maintain all licenses, permits and other certifications necessary to perform its duties hereunder.

(v) Litigation. There is no action, suit, investigation or proceeding pending or, to its knowledge, threatened against MPB before any court, arbitrator or administrative or governmental body and which, if decided adversely to MPB's interest, would have an adverse effect upon the ability of MPB to perform its obligations under this Agreement.

(vi) Sufficient Resources. MPB has and shall have maintained until termination of this Agreement sufficient facilities, expertise, staff, assets, and other resources to perform its duties hereunder.

(vii) Neither MPB nor any person or corporate entity with which MPB has entered into a contract is (A) identified on the OFAC List or otherwise qualifies as a "Prohibited Person" or (B) is in violation of any legal requirement relating to anti-money laundering or anti-terrorism, including those related to transacting business with "Prohibited Persons" or the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, U.S. Public Law 107-56, and the related regulations issued thereunder, including temporary regulations, all as amended from time to time. "OFAC List" is the Specially Designated Nationals list published by the U.S. Treasury Department Office of Foreign Asset Control.

(viii) MPB will fully cooperate with the City and provide any and all information and documentation necessary and/or required by the State of Mississippi (Mississippi Department of Environmental Quality, Mississippi Development Authority, Mississippi Department of Transportation, or any other applicable agency) necessary to procure the grants and sales tax rebates. MPB also agrees and represents that they will provide ongoing information and disclosures as may be required by the grant/rebate programs for the quarterly or annual reporting and closeout.

(ix) MPB represents and warrants that any person assigned to perform services under this Agreement meets the employment eligibility requirements of all immigration laws of the State of Mississippi and all the requirements of all state and federal immigration and nationalization laws, including but not limited to the Immigration Reform and Control Act of 1986, the Illegal Immigration Reform and Immigration Responsibility Act of 1996 and the Mississippi Employment Protection Act, Miss. Code Ann. Section 71-11-1, et seq.

[Signature Pages to Follow]

DRAFT

IN WITNESS WHEREOF, this Agreement has been executed by duly authorized officers of MPB, and the City, each of whom hereby represents and warrants that he has the full power and authority to execute this Agreement in such capacity, all as of the day and year first above written.

Sworn to and subscribed before me this
____ day of _____, 2013.

MISSISSIPPI PROFESSIONAL BASEBALL, LLC

ATTEST:

By: _____

Its: _____

Notary Public

My Commission Expires:

(NOTARIAL SEAL)

[Signature page Number 1 of 3 to the Stadium Lease and Use Agreement made and entered into
as of the _____ day of _____, 2013]

IN WITNESS WHEREOF, this Agreement has been executed by duly authorized officers of MPB and the City, each of whom hereby represents and warrants that he has the full power and authority to execute this Agreement in such capacity, all as of the day and year first above written.

Sworn to and subscribed before me this ____ day CITY OF BILOXI, MISSISSIPPI
of _____, 2013

ATTEST:

By: _____

Its: _____

Notary Public

My Commission Expires:

(NOTARIAL SEAL)

[Signature page Number 2 of 3 to the Stadium Lease and Use Agreement made and entered into
as of the ____ day of _____, 2013]

Sworn to and subscribed before me this ____ day BEAU RIVAGE RESORTS, INC.
of _____, 2013

ATTEST:

By: _____

Its: _____

Notary Public

My Commission Expires:

(NOTARIAL SEAL)

[Signature page Number 3 of 3 to the Stadium Lease and Use Agreement made and entered into
as of the ____ day of _____, 2013]

EXHIBIT "F"

FACILITIES CRITERIA

DRAFT

EXHIBIT "S"

STADIUM SITE DESCRIPTION

DEMISED PREMISES

A parcel of land located in the City of Biloxi, Mississippi, Second Judicial District of Harrison County, and described more particularly as follows:

Field Code Changed

That parcel consisting of approximately 6.382 acres, and being bounded on the West by the Interstate I-110 right of way, bounded on the South by the 1.587 acre parcel identified on the attached rendering as the "Garage", bounded on the East by the 1.412 acre parcel identified on the attached rendering as the "Plaza", and bounded on the North by the 3.953 acre parcel identified on the attached rendering as the "Development Parcel".

[It is the intent of the parties that this legal description shall be modified and replaced by the ground survey of this site when construction plans are finalized].

EXHIBIT "R"

ADDITIONAL RENT SCHEDULE

	Ticket Price	Surcharge*
AA BASEBALL	TBD	\$2
OTHER BASEBALL EVENTS	TBD	\$1
FESTIVALS	TBD	\$1
CONCERTS	\$0 - \$30	\$2
AND	\$31 - \$45	\$3
OTHER	\$46 - \$75	\$4
EVENTS	\$76 - \$100	\$5
	\$101 or more	\$5

**AA Baseball Ticket Surcharge not to exceed \$500,000/Annually*

EXHIBIT "X" -- MPB STADIUM FF&E

Deleted: " --

MISCELLANEOUS STADIUM FF&E ITEMS (MPB RESPONSIBILITY)

Furniture: Including but not limited to

- * Desks
- * Chairs
- * Tables, office, coffee, phone, conference, medical etc.
- * Lamps, removable
- * Task Lighting, removable
- * Pictures
- * Art work
- * Wall mounted memorabilia

Exterior Furniture/equipment

- * Chairs (non-seating bowl)
- * Trash Receptacles
- * Tables (picnic/restaurant)
- * Umbrellas
- * Compactors Trash, Cardboard, other
- * Shelving units standard, high density, etc.
- * Whirlpools, spas, etc.
- * Treatment Tables
- * Medical equipment
- * Gym and weightlifting equipment

Miscellaneous Equipment:

- * Televisions mounted or other wise
- * Video equipment, cameras, spot lights, tri-pods etc.
- * Phone & data systems (relative to MPB operations)
- * Washers & Dryers
- * Fork Lift
- * Lift trucks
- * Turf Care, mowers, aerators fertilizers, etc.
- * Walkie Talkie Truck & Support Systems
- * Automated ticketing Systems
- * Turnstiles or the equivalent, if utilized
- * Cleaning equipment, gurneys, gas and electric blowers, pressure washers, carts etc
- * Work carts, golf and flatbed type

Kitchen Concession Equipment

- * All kitchen & Cooking Equipment including Stoves, Ovens, grills, microwave etc.
- * Refrigerators portable and hard mounted, walk in coolers
- * Ice machines portable and hard mounted
- * Portable & Secure Mounted Kiosk

EXHIBIT "O"

SITE DESCRIPTION

A parcel of land located in the City of Biloxi, Mississippi, Second Judicial District of Harrison County, and described more particularly as follows:

Field Code Changed

That parcel being bounded on the North by Howard Avenue, bounded on the East by Caillavet Street, bounded on the South by U. S. Highway 90 (Beach Boulevard), and bounded on the West by the Interstate I-110 right of way, containing 13.334 acres, more or less.

[It is the intent of the parties that this legal description shall be modified and replaced by the ground survey of this site when construction plans are finalized].

DRAFT

EXHIBIT "P"

PARKING GARAGE DESCRIPTION

A parcel of land located in the City of Biloxi, Mississippi, Second Judicial District of Harrison County, and described more particularly as follows:

Field Code Changed

That parcel in the southwest corner of the property described in Exhibit "A" to this agreement consisting of approximately 1.587 acres, and being bounded on the West by the Interstate I-110 right of way, bounded on the South by U. S. Highway 90 (Beach Boulevard), bounded on the East by the 1.412 acre parcel identified on the attached rendering as the "Plaza", and bounded on the North by the 6.382 acre parcel identified on the attached rendering as the "Stadium".

[It is the intent of the parties that this legal description shall be modified and replaced by the ground survey of this site when construction plans are finalized].

EXHIBIT "D"

DEVELOPMENT SITE DESCRIPTION

"NORTH END PREMISES" DESCRIPTION

A parcel of land located in the City of Biloxi, Mississippi, Second Judicial District of Harrison County, and described more particularly as follows:

Field Code Changed

That parcel consisting of approximately 3.953 acres, and being bounded on the West by the Interstate I-110 right of way, bounded on the South by the 6.382 acre parcel identified on the attached rendering as the "Stadium", bounded on the East by the 1.412 acre parcel identified on the attached rendering as the "Plaza" and by Caillavet Street, and bounded on the North by Howard Avenue.

[It is the intent of the parties that this legal description shall be modified and replaced by the ground survey of this site when construction plans are finalized].

SCHEDULE 1

LANDLORD/BEAU RIVAGE INSURANCE

Type of Coverage	Requirements
Commercial General Liability Insurance (occurrence form)	Coverage shall include products liability, liquor liability and garagekeepers legal liability. The policy shall have limits of at least US \$1,000,000 per occurrence and US \$2,000,000 per location aggregate for property damage and bodily injury.
Automobile Liability Insurance	US \$1,000,000 combined single limit coverage each accident. This policy shall include coverage for loss due to bodily injury or death of any person, or property damage arising out of the ownership, maintenance, operation or use of any motor vehicle whether owned, non-owned, hired or leased.
Workers' Compensation Insurance	Limits as required by statute in the State of Mississippi covering all of Landlord's personnel performing work or services in connection with its duties and obligations under this Lease.
Employers' Liability Insurance	US \$1,000,000 each accident and each employee for disease.
Umbrella and/or Excess Liability Insurance	US \$50,000,000 each occurrence / aggregate.
Pollution Legal Liability Insurance (claims-made form)	US \$5,000,000 each occurrence / aggregate. The policy shall provide coverage for third-party bodily injury, property damage, cleanup costs and defense costs that may arise in connection with Landlord's duties and obligations in connection with this Lease.

SCHEDULE 2

THE CITY'S INSURANCE

Coverage. Without limiting the City's liability to Landlord and their Affiliates (as defined below), upon execution of the Ground Lease/Parking Garage Sublease and during the Term, the City intends to provide, at its expense, the initial policies of insurance and coverages as set forth below. After the expiration of the first year and continuing on an annual basis, the City shall also disclose to Beau Rivage the amounts of its renewal insurance coverage, which coverage may change from time to time. The City shall be solely responsible for, and required to remedy all, damage or loss to any property caused in whole or in part by the City, the City's subcontractor(s), or anyone employed, directed, or supervised by the City. The required insurance coverage shall be issued by an insurance company or companies with a current A.M. Best Company rating of at least A-: VIII. For the initial period of the Ground Lease/Parking Garage Sublease, the City intends to provide the following minimum coverage:

1. General Liability

\$1,000,000 per occurrence

\$2,000,000 Aggregate

2. Property Coverage

\$15,000,000 for the Stadium

3. Coverage For Certain High Risk Property

Fences	\$50,000
Electronic Scoreboard	\$900,000
Stadium Lights	\$500,000
Baseball Equipment	\$200,000

4. Flood - NFIP

\$500,000

B. Additional Insured. The required commercial general liability, automobile liability and umbrella or excess liability policies shall name the Landlord Indemnified Parties, their Affiliates and their respective directors, officers and employees as additional insureds and include contractual liability coverage for the indemnity provisions contained in the Lease. The additional insured status shall apply to the full limits of liability purchased by the City even if those limits of liability are in excess of those required by the Lease. "Affiliates" shall mean parent, subsidiaries, partnerships, joint ventures and other affiliates. The City's insurance shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of the insurer's liability. The policies shall not exclude claims made against the insured by an additional insured.

C. Certificates of Insurance. Upon execution of the Lease and no later than thirty (30) days prior to the expiration of each insurance policy, the City shall furnish Landlord with certificate(s) of insurance evidencing the required insurance coverage and referencing the Lease. Each certificate will include a provision requiring the insurance carrier to provide directly to the MGM Resorts International Risk Management Department, at 3260 Industrial Rd., Bldg B, Las Vegas, NV 89109-1132, and to Landlord at the address shown in the notices section of the Lease, if any, thirty (30) days advance written notice before any termination, cancellation, or other material change to the policies shown on the certificate takes effect, regardless of whether such action was initiated by the City, other insured or the insurance carrier. For avoidance of doubt, a "material change" in the policy shall mean a change that would result in the City's non-compliance with a material provision of these insurance requirements.

SCHEDULE 3

Insurance During Design and Construction

Initial Construction Insurance Requirements

The City intends to provide the following coverage during design and construction of the Improvements, to include coverage for all vertical structures. This will include, but is not limited to the parking garage, the stadium bowl, offices, sky boxes, concessions, lighting, score boards, and any other furniture, fixture and equipment to be owned by the City. The City and its contractors will have the final determination on the limit of coverage and the duration of construction. At this time, the City intends to have the limits of \$25,000,000 for all perils with the exception of wind and flood. For the perils of wind and flood the City intends to have limits of no less than \$10,000,000 or 30% greater than probable maximum loss. This coverage is not intended to cover any underground infrastructure work and will not be in force until the structure begins its vertical construction stage.