



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 13-71

of the SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; and

WHEREAS, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of the tribal members, and with protecting and managing the lands and treaty resources and rights of the Tribe; and

WHEREAS, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education, and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe; and

WHEREAS, the Tribe is a federally recognized Indian Tribe possessing reserved power, including powers of self-government; and

WHEREAS, Casino staff have negotiated the terms of a Purchase and License Agreement with Bally Technologies for the purchase of software, hardware, peripherals, and installation, as well as subsequent purchases; and

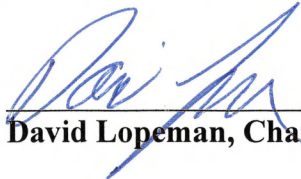
WHEREAS, in order to induce Bally to complete and execute the Agreement for and perform the same, it is necessary for the Tribal Council to ratify and approve the terms and conditions of a limited waiver of sovereign immunity, which authority is reserved to Tribal Council, and consent that the Casino be subject to binding arbitration with respect to certain claims for payment under the Agreement.

NOW THEREFORE BE IT RESOLVED, that the Squaxin Island Tribal Council hereby approves the limited waiver of sovereign immunity at p. 23 of the Agreement; and

NOW THEREFORE BE IT FINALLY RESOLVED, that the Tribal Council hereby authorizes Michael Starr, CEO to do any and all acts necessary to enter and carry out the Agreement.

CERTIFICATION

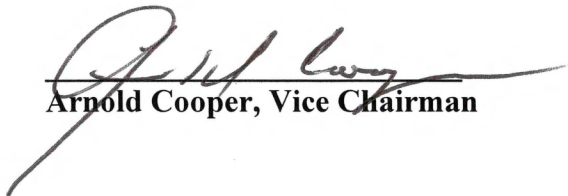
The Squaxin Island Tribal Council does hereby certify that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 12 day of September, 2013, at which time a quorum was present and was passed by a vote of 6 for and 0 against with 0 abstentions.



David Lopeman, Chairman

Attested by: 

Peter Kruger Sr., Secretary



Arnold Cooper, Vice Chairman



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PURCHASE AND LICENSE AGREEMENT

This PURCHASE AND LICENSE AGREEMENT (“Agreement”) is entered into as of the date of Customer’s signature below (“Effective Date”) by and between Bally Gaming, Inc. d/b/a Bally Technologies, a Nevada corporation (“Bally”) and Squaxin Island Tribe of Squaxin Island Reservation, Washington, a federally-recognized Indian Tribe, d/b/a Little Creek Casino (“USER”).

WHEREAS, Bally and USER desire to enter into this Agreement allowing USER the non-exclusive right and license to use Bally computer software and embedded firmware embedded in or downloaded into devices manufactured by Bally and others, and the data generated therefrom (collectively, the “Software”) at the following prices as set forth on Exhibit A, incorporated and attached hereto, subject to the restrictions contained within this Agreement.

WHEREAS, Bally and USER further desire to provide for the sale and purchase of certain computer equipment, peripherals, and devices set forth on Exhibit A, consisting of equipment manufactured or otherwise produced by Bally (“Bally Hardware”) and computer room equipment, peripherals, and software manufactured by third parties (“Computer Room Equipment”), as each may be required in conjunction with operation of the Software.

WHEREAS, Bally intends to provide professional services to USER, including but not limited to installation services, training services and project management services, for the implementation and use of the Software, Bally Hardware and Computer Room Equipment by USER (“Professional Services,” as defined further herein).

Bally and USER agrees as follows:

1. LICENSE:

Bally hereby grants to USER the non-exclusive and personal right and perpetual license, without the right to sublicense, to use each program in the Software solely as described in this Agreement. The Software shall be used by USER solely at its physical, land-based authorized casino locations and related physical, land-based facilities set forth on Exhibit A (“Authorized Casino(s)”) in conjunction with Bally Hardware and Computer Room Equipment. This license grant specifically excluded any usage of the Software other than as described in the Agreement. Such exclusions include, without limitation, usage under NRS 463.745, et seq., and similar regulations and statutes.

USER agrees that some, or possibly all, of the Software described in Exhibit A is restricted to a maximum number of tangible table games per Authorized Casino and a maximum number of tangible gaming machines per Authorized Casino, as set forth in Exhibit A.

USER agrees to pay Bally for this non-exclusive license of the Software as set forth on Exhibit A.

The Software is deemed installed and operational on the date that Bally provides the Software to USER for USER'S first operation of the software on the casino floor area of the Authorized Casino ("Go-Live Date").

The term of this Software license shall begin on the Go-Live Date.

USER agrees not to remove or destroy any proprietary markings or legends placed upon or contained within the Software or any related materials or documents.

For each software product, Bally shall deliver, at no additional charge, one copy each of the following basic materials: object program code in machine readable form, system implementation instructions and required procedures, and any other program, routines, subroutines or related material necessary for the general use of the Software, which are normally furnished to the users of the Software.

This software license is for the use of executable programs only and not for the use of source program code. All ownership of the Software including, but not limited to, derivative works or modifications remains vested with Bally. The grant of this non-exclusive license shall not be construed as a demand contract for nonexistent products. This Agreement shall not obligate Bally to provide a license for any software products that are not in existence or available to Bally's customers at the time of the Effective Date.

2. HARDWARE AND HARDWARE MAINTENANCE:

The USER agrees to purchase the Bally Hardware and Computer Room Equipment from Bally at the price set forth next to each such item on Exhibit A. USER agrees to purchase the minimum prerequisite Bally Hardware and Computer Room Equipment as recommended by Bally and USER is solely responsible for providing, installing, and maintaining sufficient kind and quantity of Bally Hardware and Computer Room Equipment for the Software to perform in an acceptable manner. USER acknowledges that Bally will maintain a security interest in the Bally Hardware and Computer Room Equipment until USER makes all payments required under this Agreement in full. At the request of Bally, USER will join with Bally in executing one or more financing statements pursuant to the Uniform Commercial Code in a form satisfactory to Bally. USER further authorizes Bally to file a financing statement signed only by Bally in all places where necessary to perfect Bally's security interest in the Bally Hardware and Computer Room Equipment in all jurisdictions where such authorization is permitted under the Uniform Commercial Code. Bally will not supply, unpack, install, operate, install Software on, render support services for, nor maintain in any way, USER'S desktop computers, cabling, data communications or any component not a part of the Bally Hardware or Computer Room Equipment described in Exhibit A.

USER agrees to purchase a maintenance agreement from the Computer Room Equipment's manufacturer or authorized supplier which provides for the repair and maintenance of the Computer Room Equipment at the Authorized Casino(s).

USER agrees to maintain, at USER'S expense, Bally's then current recommended quantity of spare parts for the Bally Hardware and Computer Room Equipment, as applicable. In the event USER returns defective Bally Hardware to Bally for repair and the defect is caused by missing parts, damage resulting from excessive wear and tear, neglect, improper handling or maintenance by USER, or any reason other than failure of an electronic or mechanical component, USER agrees to pay the cost of repair, including labor, parts, and material costs, at Bally's then prevailing rates and charges. USER agrees to pay its expenses for shipping Bally Hardware to Bally for repair. Bally agrees to pay its expenses for returning repaired parts to USER.

3. HARDWARE RESTOCKING:

USER acknowledges that the Bally Hardware and Computer Room Equipment described in Exhibit A to this Agreement, if any, will be shipped to USER's Authorized Casino(s) prior to the Go-Live Date of the Software described in Exhibit A to this Agreement. The parties shall mutually inspect and audit USER's Authorized Casino(s) prior to shipment of the Bally Hardware and Computer Room Equipment described in Exhibit A (the "Floor Audit") to confirm that USER agrees to proceed with installing the exact Bally Hardware and Computer Room Equipment described in Exhibit A. Any changes requested by USER with respect to the Bally Hardware and Computer Room Equipment described in Exhibit A must be mutually-agreed upon by the parties. After the Floor Audit, if USER orders additional Bally Hardware or Computer Room Equipment ("Additional Hardware") that will replace any of the Bally Hardware or Computer Room Equipment described in Exhibit A, USER shall return any such Bally Hardware or Computer Room Equipment described in Exhibit A to be replaced at USER's sole cost and expense if such Bally Hardware or Computer Room Equipment to be replaced has been delivered to USER. Bally shall apply a credit in the amount of 85% of the original price of the replaced Bally Hardware or Computer Room Equipment toward the price of the corresponding Additional Hardware ordered by USER, unless such replaced Bally Hardware or Computer Room Equipment is damaged upon return to Bally, in which case the credit applied by Bally shall be determined by Bally in proportion to the amount of damage to the returned Bally Hardware or Computer Room Equipment ("Restocking Charge"). USER shall be solely responsible for any remaining difference in the cost of the Additional Hardware after this credit has been applied. USER shall not receive any such credit from Bally for any Bally Hardware or Computer Room Equipment returned to Bally at any time after such Bally Hardware or Computer Room Equipment has been installed at USER'S Authorized Facility and first used in commercial operations by USER. During the Term of this Agreement, this Restocking Charge shall be applied in the same manner as applied to the original Bally Hardware and Computer Room Equipment described in Exhibit A to all subsequent Bally Hardware and Computer Room Equipment ordered by USER from Bally, including any Bally Hardware and Computer Room Equipment ordered as set forth in any amendments or addendums to this Agreement.

4. MONTHLY MAINTENANCE:

The Hardware Maintenance are provided by Bally and included in the monthly maintenance fees set out on Exhibit A to this Agreement for the Hardware ("Hardware

Monthly Maintenance”). Software Support Services and the Software Upgrade Services described below are provided by Bally and included in the monthly maintenance fees set out on Exhibit A to this Agreement for the Software (collectively, “Software Monthly Maintenance”; Software Monthly Maintenance and Hardware Monthly Maintenance, collectively, “Monthly Maintenance”).

With respect to Hardware Monthly Maintenance services, such services shall commence as of the expiration of the warranty described in Section 16 and continue a term concurrent to the remainder of the initial 1-year Software Monthly Maintenance services term described below. With respect to Software Monthly Maintenance services, such Software Monthly Maintenance services shall commence as of the Go-Live Date and continue for an initial term of one (1) year. Upon expiration of such initial Software Monthly Maintenance services term, the term for both Hardware Monthly Maintenance and Software Monthly Maintenance shall automatically renew for additional, concurrent one (1) year renewal terms, until such time as either party provides the other party with written notice of its intention not to renew the Monthly Maintenance services, which notice must be provided no less than ninety (90) days prior to the expiration of the then-current term.

A. HARDWARE:

Subject to USER’s timely payment of then-prevailing Bally Hardware Maintenance fees, Bally shall provide Bally Hardware Maintenance solely for Card Readers and Game Monitoring Units (“GMUs”, a Bally Hardware item). The Bally Hardware Maintenance fees for Card Readers and GMUs include software and firmware upgrades for the Card Readers or GMUs and replacement of defective Card Reader or GMU parts during the normal course of business only. No Card Reader or GMU upgrade is included. This Agreement is not a guarantee of uninterrupted operation of the Card Reader or GMU. USER specifically agrees and acknowledges that, with respect to Bally iVIEW Hardware, Bally offers Software Maintenance only and does not offer Bally Hardware Maintenance.

For avoidance of doubt, USER expressly agrees and acknowledges that Bally offers game monitoring functionality in two separate Bally product versions: a hardware version, i.e., the GMU, and a software version, the “Soft GMU”. This Section 4.A. shall apply solely to the GMU. In the event that USER has elected to license Soft GMU functionality under this Agreement, such Soft GMU shall be subject to the terms and conditions of Sections 4.B. and 4.C. below.

B. SOFTWARE SUPPORT SERVICE:

Bally will maintain a software support and update service to provide Software error or defect repair (“Software Support Services”).

Software Support Services provided by Bally are reserved for calls that relate to routine, normal-course software operability and repair. Bally shall provide a telephone contact point so that the USER can notify Bally of the need for support services twenty four (24) hours per day, seven (7) days per week as follows:

- (i) 8:00 a.m. to 4:00 p.m. – Standard Service, Local Time

During the hours of 8:00 a.m. to 4:00 p.m. Local Time, Monday through Friday, excluding holidays, Bally will accept any and all business calls relating to required maintenance, problem solving, or explanation concerning any aspect of the Software. "Local time" for USERS who are not in the same location as a Bally office is the local time of the nearest Bally office. Bally shall respond to a service call by telephone within two (2) hours of USER's placement of call to the Bally Help Desk and if necessary have a customer support representative at USER's Authorized Casino or accessing the Software by modem, if technically feasible, within four (4) hours of USER's telephone call to the Bally Help Desk notifying Bally of a problem with, or issue concerning the Software.

(ii) 4:00 p.m. to 8:00 a.m. – After Hours Service, Local Time

During the hours of 4:00 p.m. to 8:00 a.m. Local Time, and all hours on Saturday and Sunday, and all holidays, Bally will accept After Hour Service calls for which USER agrees to pay to Bally a service charge based upon the actual service time incurred in connection with said call at Bally's then-current retail rates and charges and for which USER will be required to sign an authorization form for chargeable services.

(iii) Emergency Service, Standard Service and After Hours Service

Bally shall respond to a call concerning an Emergency by telephone within two (2) hours of USER's placement of the call and, if necessary, have a customer support representative at USER's Authorized Casino or accessing the Software by modem, if technically feasible, within four (4) hours of USER's telephone call to Bally notifying Bally of a problem with, or issue concerning the Software. In the event that such Emergency is of a critical nature which Bally deems cannot be resolved remotely, Bally shall, at Bally's sole cost and expense, provide qualified Bally personnel on-site at the Authorized Casino and use commercially reasonable efforts to resolve such Emergency within a commercially reasonable period, consistent with gaming industry standard practice for systems service providers. As used herein, calls of an "Emergency" nature shall be deemed to be assistance necessary to make the Software operational and functional following a material and substantial disruption in the performance of the Software.

All computer programs, including the Software, contain errors.

In the event of any error or defect with the Software, Bally will use reasonable efforts to repair such error or defect to restore the Software to good working order and deliver such repaired Software code (including "bug fixes" and/or "patches") to USER for USER's installation. To the extent that USER requests that Bally install such repaired Software code or otherwise provide Software Support Services at USER's Authorized Casino(s), USER agrees to pay for such services at Bally's then-current rate, and also all reasonable food, lodging, business overhead and transportation expenses incurred by Bally personnel ("Reimbursable Expenses"). To the extent that USER requests that Bally install such repaired Software code or otherwise provide Software Support Services at USER's Authorized Casino(s), USER agrees to pay for such services at Bally's then-current rate, and also all reasonable food, lodging, business overhead and transportation expenses incurred by Bally personnel ("Reimbursable Expenses").

Bally shall have no obligation to provide Software Support Services hereunder in the event of (a) errors or defects contained in the Software which are the result of improper handling or use of the Software by USER, USER'S employees or agents; or (b) errors or defects in the Software which have been previously reported by USER and for which successful program or procedure corrections have been submitted to USER by Bally; or (c) errors caused by alterations or revisions to the Software made by USER; or (d) errors or defects arising from failures in the design, operation or use of USER'S computer systems, data communications network, procedures, or third party equipment and systems.

For the term of this Agreement USER shall employ two persons who have successfully completed Bally's core training classes for the then current edition of the Software. Furthermore, for the Software Monthly Maintenance term, USER shall maintain for Bally's use, at USER'S expense, an operating, direct dial telephone line, modem or other applicable remote access connection to the Software, Bally Hardware and Computer Room Equipment, as applicable, per Bally's specifications.

C. SOFTWARE UPDATE SERVICE:

Provided that USER makes timely payment of Bally's then-prevailing Software Monthly Maintenance fees, Bally shall notify USER of all enhancements or updates, if any, developed by Bally for the Software identified in Exhibit A as such enhancements and updates may become available and are generally offered by Bally to customers ("Software Update Service"). These enhancements and updates are provided strictly for the specific Software products identified in Exhibit A to this Agreement. Software products which are either in development or not specifically provided to USER under this Agreement are NOT enhancements and updates, and will require USER and Bally to mutually supplement this Agreement in writing or execute a new Agreement in order for USER to license such software products.

Bally agrees to make one (1) copy of each enhancement or update available to USER in a timely manner as long as USER's payments for Monthly Maintenance are not delinquent. To the extent that USER requests that Bally install such enhancement or update at USER's Authorized Casino(s), USER agrees to pay for such services at Bally's then-current rate, and also all Reimbursable Expenses.

5. FORMS:

USER shall be responsible for the design, production, postage, freight charges, printing storage, and use of all hard copy forms used in connection with any program of the Software and for supplies, materials, and equipment not listed in this Agreement. USER agrees that the form layout for all pre-printed forms to be used for any program of the Software will be in accordance with Bally's specifications which shall be made available to USER by Bally.

6. TRADE SECRETS AND MODIFICATIONS:

USER understands, acknowledges and agrees that the Software, Bally Hardware, documentation supporting the Software and Bally Hardware and other materials are

proprietary information that includes trade secrets and confidential information (“Trade Secrets”) or contain information which constitutes Trade Secrets. All Trade Secrets, and any other intellectual property interests in the Software and Bally Hardware belonging to Bally which arise under any federal, state, local or tribal laws, including but not limited to copyright or patent rights interests, belong solely to Bally. USER shall maintain all Trade Secrets with absolute confidentiality and not release any Trade Secrets or information relating to Trade Secrets to any third parties not a part of this Agreement. Except as permitted under this Agreement, or in a separate written agreement between Bally and USER, USER shall not allow any parties, except for Bally, to work upon, modify, review, examine, adjust, reverse engineer, alter or change the Software, Bally Hardware, documentation supporting the Software and Bally Hardware. This limitation shall not preclude USER from using the Software and Bally Hardware to operate the Authorized Casino(s) in the matter prescribed by the supporting documentation or from using, maintaining or repairing the Software and Bally Hardware if USER discontinues Monthly Maintenance payments to Bally, provided USER is not otherwise in breach of this Agreement. USER agrees to display Bally’s copyrights, trademarks and trade-names and other intellectual property protection disclosures in connection with the use of the Software and Bally Hardware.

7. NO ASSIGNMENT:

USER understands, acknowledges and agrees that, the Software License granted under this Agreement are for use only at the Authorized Casino(s) and are personal to USER. Except as provided in this Agreement, USER has no rights in and is not permitted to sell, assign, lease, license, or in any manner encumber, pledge, convey, or transfer (collectively, “License Transfer”) to any third-party person or entity who is not an affiliate of USER as of the Effective Date (“Transferee”), without Bally’s express written consent, whether by operation of law or change of control of USER, the Authorized Casino(s), or third-party purchase of the majority stock, assets or capital ownership thereof, including through bankruptcy: (i) any of the Software; (ii) any of USER’s license rights under this Agreement; or (iii) any of USER’s interests in this Agreement, whether in part or in the entirety of this Agreement.

For avoidance of doubt, USER understands, acknowledges and agrees that this section is expressly intended to prohibit the transfer of the Software License from USER to (a) any third party as a result of sale, transfer of the majority of USER’s assets or stock or the acquisition of USER’s corporate entity or the Authorized Casino by a third party, or (b) any other authorized gaming location that is not the Authorized Casino(s), without the express written consent of Bally.

USER further understands, acknowledges and agrees that Bally’s consent to such License Transfer may require payment of transfer fees from Transferee to Bally in consideration for Transferee’s use of the Software Licenses.

8. PROFESSIONAL SERVICES:

Bally will provide USER with professional services, including but not limited to those services described in further detail in this section comprising of facility review, installation, training, project management, data conversion (if applicable), project

consulting services, and any other related services (collectively referred to herein as “Professional Services”) for installation of the Software, Bally Hardware and Computer Room Equipment at the Authorized Casino(s), as set forth in Exhibit A to this Amendment. USER acknowledges that Bally has set forth an estimate of total fees for Professional Services at the Authorized Casino(s) in Exhibit A and USER acknowledges and agrees that the amount of time and materials actually incurred by Bally in providing Professional Services may be more or less than described in Exhibit A to this Agreement. After the Effective Date, Bally shall commence Professional Services for the Authorized Casino(s) and invoice USER monthly for all Professional Services fees incurred, with such invoices due upon receipt. USER agrees to pay for all Reimbursable Expenses incurred by Bally, in providing Professional Services any and all Professional Services to USER. All fees and expenses incurred and charged by Bally in providing Professional Services shall be non-refundable, regardless of whether or not some or all of the Software, Bally Hardware or Computer Room Equipment is installed at an Authorized Casino.

(a) **Facility Review.** Prior to installing the Software, Bally Hardware or Computer Room Equipment, Bally agrees to conduct a pre-installation review of the Authorized Casino(s) and/or USER’s related facilities. USER agrees to promptly make, at USER’S expense, any reasonable repairs or adjustments to the Authorized Casino(s) and/or USER’S related facilities as required by Bally to install, support and operate the Software, Bally Hardware and Computer Room Equipment, to protect the safety of Bally employees and conduct training. Bally may delay or interrupt any Professional Services rendered at the Authorized Casino(s) and/or USER’S related facilities until USER repairs or makes adjustments to the Authorized Casino(s) and/or USER’S related facilities that are acceptable to Bally. USER also agrees to provide at no expense to Bally, office workspace near the placement site of the Computer Room Equipment, which include basic office furnishings, desks and chairs, telephones and at least two data communications network connections to the Computer Room Equipment.

(b) **Installation.** As soon as reasonably practical, Bally shall install the Software, Bally Hardware and Computer Room Equipment (as applicable) with the dates and time or times of installation to be agreed upon by Bally and USER at the Authorized Casino(s). USER agrees that one or more programs of the Software may be separately installed before proceeding with the installation of a separate program of the Software. USER agrees to fully cooperate with Bally and to make available to Bally the facilities and necessary personnel for the purpose of installation.

Bally does not install GMUs. USER is responsible for providing sufficient trained manpower to install GMUs to Bally’s specifications and according to a schedule to be mutually agreed to by the Parties during the pre-installation review of USER’S facilities.

(c) **Project Management.** Bally shall provide project management services for USER at the Authorized Casino(s) for coordination of installation, training, implementation and other services provided by Bally as related to the overall installation and use of the Software, Bally Hardware and Computer Room Equipment by USER at the Authorized Casino, prior to, during and after the Go-Live Date as applicable and as described in Exhibit A.

(d) **Training.** USER agrees to pay for training services as set forth on Exhibit A for the Authorized Casino(s). Before installation, two or more of USER'S employees responsible for oversight or supervision of the Software, Bally Hardware and Computer Room Equipment shall complete training classes set forth in Exhibit A at one of Bally's authorized training facilities. All of the training subjects and time required for training shall be set forth in Exhibit A, unless USER requests additional training, at which time USER and Bally shall negotiate a separate agreement for this additional training. Bally allocates limited training facility seats in the order reservations are received and USER'S failure to reserve training class seats in advance may delay installation. All costs of training at Bally's facilities are to be paid by USER.

In the event USER requests training at the Authorized Casino(s) or USER'S related facilities and Bally agrees to train USER'S employees at USER'S requested site, USER agrees to cooperate fully with Bally in making USER'S personnel and facilities available for all and any preparation and training. In the event USER requests additional training, USER agrees to pay Bally for that additional training at Bally's then applicable rates and charges. USER agrees to pay any cancellation fees set forth in Exhibit A, if any training sessions at USER'S facilities or at Bally's training facilities are canceled by USER.

(e) **Data Conversion.** This is not an agreement to *make data from/to Other Systems available to/from the Software* ("Conversion"). Bally does not endorse third parties that do Conversion. At Bally's sole option, Bally may elect to render assistance to USER in matters pertaining to Conversion including, but not limited to, telephone consultation, attending meetings, preparing specifications, and developing computer programs to implement Conversion. In the event Bally agrees to perform Conversion services, USER agrees to pay Bally's then current rates, fees and charges and reimburse Bally for all expenses incurred. USER acknowledges that Conversion may fail, render the Software unusable or diminish the Software's performance.

(f) **Project Consulting Services.** In the event USER desires to have specific project work performed by Bally to add additional features or functions to the Software for USER'S use at the Authorized Casino that is not included in the description of professional services set forth in Exhibit A to this Agreement or not otherwise included in Software Monthly Maintenance services, Bally and USER shall enter into a separate scope of work project plan for such services, which will be billed by Bally on a time and materials basis at Bally's then-current rates and charges for such project work. All such project consulting services shall be billed monthly, upon Bally commencing work, and any fees for such project consulting services rendered shall be non-refundable. All work product shall be the sole and exclusive property of Bally, along with all patent, trademark, copyright, trade secret or other intellectual property rights, however, Bally shall license such works to USER under the same terms and conditions as set forth in this Agreement. In the event USER terminates a project consulting services agreement prior to completion of the project, Bally shall continue to invoice time and materials incurred up to the date Bally receives notice of such termination from USER and at which time Bally shall deliver work completed to date to USER and render no further services to USER under that particular project consulting services agreement. Bally shall have sole discretion to incorporate any deliverable provided to USER into Bally's base Software product. Bally may perform such project consulting services in any of its offices worldwide, depending on availability. Costs shall be associated to products created as a

result of a project consulting services agreement, if the enhanced product is to be carried forward to higher release or when applying a service patch. Such costs will be determined as part of the project consulting services plan for such upgrade estimates.

9. REPRESENTATIONS OF USER:

USER represents covenants and warrants that:

- (a) USER conducts business as an enterprise of the Squaxin Island **Tribe**), a federally recognized Indian Tribe, USER is duly organized, validly existing and in good standing under the laws of USER's tribal government, USER currently has a gaming compact with is approved and in good standing with the State of Washington for Class III gaming and USER'S gaming compact is approved by the United States Secretary of the Interior under the Indian Gaming Regulatory Act.
- (b) USER and any parties executing this Agreement on behalf of USER are duly authorized to enter into this Agreement.
- (c) The execution, delivery and performance by USER of this Agreement, shall not constitute a breach of any provision of applicable law or contained in any agreement to which USER is a party.
- (d) USER shall promptly inform Bally with such other information concerning its affairs and property as Bally may reasonably request from time to time hereafter, and shall promptly notify Bally of any condition or event of which the USER shall have knowledge which constitutes a breach or an event of default of any term, condition, warranty, representation or provision in this Agreement or in any other agreement, document or instrument, now or hereafter executed by the USER and delivered to Bally, and/or material adverse change in the financial condition of the USER.
- (e) That USER shall not violate any of the terms and conditions of this Agreement.

10. DEFAULT BY USER:

An event of "Default by USER" shall occur if:

(a) The USER fails to make "New Installation" or "Professional Services" payments as described in Section 19(a)(1) or 19(b)(1) owed to Bally when due and payable under this Agreement, and such non-payment remains uncured by USER within thirty (30) days of Bally's written notice to USER;

(b) Without Prejudice to Section 10(a) above USER breaches any other condition of this Agreement, or fails for any reason to make payment as agreed when such payments are due, and the failure of USER to cure or remedy such default or breach continues for thirty (30) days after receipt of notice thereof from Bally;

(c) The insolvency of USER or the institution of any voluntary or involuntary proceedings under any insolvency or bankruptcy law; the adjudication of

USER as bankrupt or an insolvent; the appointment of a receiver of USER'S property; or an assessment by USER for the benefit of creditors;

(d) Any material representation or warranty made by USER in this Agreement, or in conjunction with the execution of this Agreement, or in any other document or certificate furnished by USER to Bally which was incorrect in any material respect when made;

(e) Bally reasonably believes, in good faith, that the prospect of payment or performance by USER under this Agreement is materially impaired; or

(f) USER breaches any express or implied representations made under this Agreement, or engages in conduct which otherwise constitutes a material breach of this Agreement at law or equity.

11. BALLY'S REMEDIES:

In addition to any other remedy available at law or in equity or contained herein, in the event of Default by USER of this Agreement, Bally shall have the following remedies which are cumulative and concurrent with any other remedy, provided hereunder or otherwise available at law or equity:

(a) In the event of Default by USER under Sections 10(a) or 10(c) of this Agreement, Bally may immediately terminate this Agreement and the Software license granted under this Agreement. Upon termination of this Agreement under this Section 11(a), USER shall immediately discontinue all further use of the Software, and Bally may enter USER'S facilities, including Authorized Casino(s) to inspect the Bally Hardware and Computer Room Equipment to determine USER's compliance therewith, and take possession of the Software, and/or require USER to deliver the Software to a place designated by Bally.

(b) In the event of Default by USER under any Section other than Sections 10(a) or 10(c) of this Agreement, Bally may terminate its obligations under this Agreement, including but not limited to Monthly Maintenance and Professional Services, and pursue any legal or equitable remedies that may be available to Bally as permitted under this Agreement. Notwithstanding any termination under this Section 11(b), USER shall remain entitled to continue to sue the Software version installed at the time of termination under the license grant specified in Section 1 above, but Bally shall have no further obligations except as set forth in Section 30 and Section 38 below.

(c) All provisions of this Agreement regarding Bally's ownership of the Software, security interests in the Bally Hardware and Computer Room Equipment, if applicable, provisions relating to protection of Bally under the Agreement remain in full force and effect as selected by Bally.

12. REPRESENTATIONS OF BALLY:

Bally covenants, warrants and represents that:

- (a) Bally conducts business as a Nevada corporation, and is duly registered, licensed and qualified to do business and is in good standing in all countries, municipalities, provinces and states where such registration, licensing and qualifications is required;
- (b) Bally is authorized to enter into this Agreement;
- (c) The execution, delivery and performance of Bally under this Agreement shall not constitute a breach of any provision of applicable law or contained in any agreement to which Bally is a party;
- (d) Bally shall promptly notify USER of any condition or event of which Bally shall have knowledge which constitutes a breach or an event of default of any term, condition, warranty, representation, or provision in this Agreement;
- (e) Bally reserves the right to use third parties, consultants, subcontractors and any personnel Bally deems necessary to fulfill Bally's obligations under this Agreement;
- (f) Bally reserves the right to include, as part of the Software, access restriction devices and methods to prohibit unauthorized access to our copyright library, proprietary information including confidential information and trade secrets, and other intellectual property rights in the Software Bally may own.
- (g) Bally represents that the Software contains features designed to, and Bally reserves the right to, disable the Software for (1) the enforcement of the license limits of this Agreement; (2) USER'S failure to make payments to Bally as due under this Agreement; (3) USER'S Default of this Agreement either under the terms of this Agreement or at law or equity.

13. DEFAULT BY BALLY:

An event of "Default by Bally" shall occur if:

- (a) Bally breaches any condition of this Agreement and Bally fails to cure or remedy such default or breach within thirty (30) days after receipt of express written notice thereof from USER or if the default or breach is of such a nature that it cannot be reasonably cured within 30 days Bally fails to provide USER with a commercially reasonable written plan to cure such breach or default;
- (b) Bally is or becomes insolvent or Bally institutes any voluntary proceedings under any insolvency or bankruptcy law; Bally is adjudicated as bankrupt or insolvent; there is the appointment of a receiver of Bally's property; or there is an assignment by Bally for the benefit of creditors; or

- (c) Any representation or warranty made by Bally herein or in any other document or certificate furnished by Bally to USER is incorrect in any material respect and Bally knew of such error when made.

14. USER'S REMEDIES:

In addition to any other remedy available at law or in equity or contained herein, in the event of Default by Bally of this Agreement, USER shall have the following remedies that are cumulative and concurrent with any other remedy:

- (a) USER may pursue any legal or equitable remedies that may be available to USER as permitted under this Agreement; and
- (b) USER may have third parties maintain the Software, Bally Hardware and Computer Room Equipment until any breach by Bally is cured, however any third-parties are bound the same terms and conditions of USER as set forth in this Agreement, including any provisions regarding Software license rights, confidentiality, trade secret protection, and any other protections of Bally's rights to the Software, Bally Hardware and Computer Room Equipment and as may otherwise arise under this Agreement.

15. INDEMNIFICATION:

With regard to intellectual property infringement claims brought by Third Parties ("Infringement Claim(s)"), Bally agrees to indemnify and defend USER against any claim that the Software infringes on any patent, copyright or other intellectual property rights of any third parties (not a party to this Agreement) when used by USER in accordance with the terms of this Agreement, for an amount subject to but not to exceed the limits of Bally's liability set forth in Section 17. Bally's agreement to defend and indemnify USER is subject to the condition that USER promptly notify Bally in writing of any such suit or proceeding, or significant threat thereof, and the further condition that USER gives Bally full authority, information and assistance in defending such a suit or proceeding of Infringement Claims of a third party.

In the event of an Infringement Claim, Bally shall have the right, at Bally's option, either to obtain for USER the right to continue using the Software, substitute other software with equivalent functional capabilities, or modify the Software so that it no longer infringes on any intellectual property rights of third parties while retaining equivalent functions.

Bally shall have no liability to defend or indemnify USER for any Infringement Claims that (i) result from use of the Software with other software not provided by Bally if such infringement could have been avoided by not using the other software; (ii) resulting from any modification of the Software by USER if such infringement could have been avoided by not modifying the Software; (iii) if USER has materially breached or defaulted under the Agreement and, has not cured such default after receiving notice from Bally as provided under this Agreement; (iv) if USER has defaulted under the Agreement and the default is the cause for the claim; or (v) if USER misuses or uses the Software for illegal purposes or purposes not contemplated in this Agreement.

Subject to any limitations set forth in this Agreement, Bally agrees to indemnify USER against any damages from third party claims resulting in bodily injury or property damage to that party (“Tort Claim(s)”), but only to the extent USER’S third party liability is (1) not caused by USER’S negligence or conduct, (2) is directly caused by Bally’s negligent or intentional conduct and (3) only to the extent Bally has insurance coverage for such Tort Claims. Upon USER’S written request, subject to Bally’s insurance carrier’s approval, Bally will obtain a contractual indemnity endorsement and/or name USER as additional insured. Bally will also request the insurance company to provide USER with advance written notice of any cancellation of the policy and Bally reserves the right to change insurance carriers, coverage or cancel said insurance policy at anytime. USER agree to promptly pay the actual charges Bally incurs in naming USER as an additional insured, and a reasonable administrative fee for obtaining such indemnity endorsement and/or naming USER as an additional insured.

16. WARRANTIES:

For a period of ninety (90) days from delivery, Bally warrants to USER that the Bally Hardware, if properly installed by USER pursuant to Bally’s specifications, will be free from defects in workmanship under normal use and service. The 90-day warranty period shall not be extended by the time of repair or for any other reason. Bally’s obligations under this limited warranty for Bally Hardware shall be limited to the repair or replacement, in Bally’s sole discretion of the defective Bally Hardware.

USER acknowledges that the Computer Room Equipment is manufactured and supplied by third parties. BALLY HEREBY DISCLAIMS ANY AND ALL WARRANTIES WITH REGARD TO THE COMPUTER ROOM EQUIPMENT. USER further acknowledges that the scope of Bally’s work under this Agreement pertaining to the Computer Room Equipment is limited to installation, training, and support services as required by this Agreement for services associated with this Agreement. When USER pays Bally in full as required under this Agreement, Bally will assign any applicable manufacturer’s warranty, if any, of the Computer Room Equipment to USER.

17. WARRANTY DISCLAIMER AND LIMITATION OF LIABILITY:

Except as otherwise expressly stated herein, Bally disclaims any and all express or implied warranty, condition, or guaranty, including any implied warranty of merchantability or fitness for a particular purpose and other obligations on the part of Bally for or with respect to the Software, Bally Hardware and Computer Room Equipment or any Professional Services provided by Bally associated with this Agreement. Further, Bally shall have no liability for any errors, defects or other problems caused in use of the Software, Bally Hardware and Computer Room Equipment resulting directly or indirectly from any use with products not provided by Bally or any modifications, alterations, additions or other changes made by USER to the Software, Bally Hardware and Computer Room Equipment without prior authorization from Bally.

IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, ECONOMIC, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO ANY LOST PROFITS OR LOSS OF BUSINESS REVENUES, OR ANY AND ALL OTHER LOSSES OR

DAMAGES TO THE OTHER PARTY OR ANY THIRD PARTIES INCLUDING BUT NOT LIMITED TO THE OTHER PARTY'S CUSTOMERS AND VENDORS. EACH PARTY UNDERSTANDS, ACKNOWLEDGES AND AGREES TO WAIVE ALL SUCH LIABILITY AND CONSENTS TO WAIVER, EVEN IF THE WAIVING PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Bally and USER further agree that Bally's cumulative liability to USER for all claims arising out or relating to this Agreement, including Bally's indemnification obligations for Infringement Claims as described in Section 15, shall be limited to the total sum of the amounts actually paid by USER for any particular Bally Hardware or Software products pursuant to this Agreement from which such claim(s) may arise, excluding ongoing maintenance payments. This amount shall not include any sums paid for installation, training and other charges paid under this Agreement not directly related to the purchase price of Software and Bally Hardware. The provisions of this Agreement allocate the risk between USER and Bally and Bally's pricing reflects this allocation of risk and the limitation of liability specified herein.

18. WAIVER:

It is understood and agreed, any law, custom or usage to the contrary notwithstanding, that the Parties shall have the right at all times to enforce the covenants and provisions of this Agreement in strict accordance with the terms thereof, notwithstanding any conduct or custom on the part of either in refraining from so doing at any time or times; and further, that the failure of the Parties at any time or times to enforce their rights under said covenants and provisions strictly in accordance with the same shall not be construed as having created a custom in any way or manner contrary to the specific terms and provisions of this Agreement or as having in any way or manner modified, altered or waived the same. No waiver by either Party of any default or breach by the other herein shall be construed as a waiver of any subsequent default or breach.

19. BALLY'S RATES, CHARGES AND PAYMENT TERMS:

Bally's then applicable rates and charges means the fees and charges contained within the price list currently being used by Bally at the time the rate or charge is incurred. This definition also applies to any Software, Bally Hardware and Computer Room Equipment or other products and services described in any Exhibits to this Agreement.

As specifically set forth herein, USER agrees to pay all fees, expenses, rates and charges according to the following:

(a) **Software, Bally Hardware and Computer Room Equipment:**

New Installation:

- (1) **Deposit-** 50% of the net purchase price of the Software, Bally Hardware and Computer Room Equipment provided by Bally to USER as set forth in Exhibit A to this Agreement ("Net Purchase Price"), excluding any monthly license fees and monthly maintenance fees, shall be paid upon execution of this Agreement by USER.

- (2) Balance- The remaining balance of the Net Purchase Price shall be paid within 30 days of the date of Bally's invoice(s) to USER for the applicable Software, Bally Hardware or Computer Room Equipment provided to USER by Bally comprising the balance of any then-unpaid portions of the Net Purchase Price.

Post Installation:

All product, license fees, and maintenance invoices to be paid within 30 days of the date of Bally's invoice to USER.

(b) **Professional Services:**

- (1) From the Effective Date of this Agreement and continuing through the course of installation at each Authorized Casino, Bally shall provide Professional Services to USER as described in estimates contained in Exhibit A to this Agreement. Bally shall invoice USER on a monthly basis for the time, expenses and materials of the Professional Services rendered in the immediately preceding month.
- (2) In the event Bally provides Professional Services to USER for projects or products not described or provided for under this Agreement, USER and Bally shall enter into a separate written agreement for such Professional Services. Bally shall invoice USER on a monthly basis for the time and materials of these Professional Services rendered in the immediately preceding month.
- (3) All fees and expenses for Professional Services rendered, including but not limited to facility review, installation, training, project management, data conversion (if applicable), project consulting services, and any other related services, shall be non-refundable at the time such services are rendered by Bally, regardless of whether or not USER completes installation of the Software, Bally Hardware and Computer Room Equipment at the Authorized Casino(s).

(c) **Monthly Maintenance:**

- (1) After the Go-Live Date at the Authorized Casino(s), Bally's fees for maintenance and support services as described in Section 4 and 5 of this Agreement for the Authorized Casino(s) shall commence, in accordance with the maintenance and support payment terms per Authorized Casino(s) as set forth in Exhibit A, which rates are subject to Bally's customary price increases in the standard course of business and shall be due upon the date of Bally's invoice to USER for such fees. In the event of any such price increases, Bally shall provide USER with no less than thirty (30) days prior written notice.
- (2) Game & Table Count Reporting: On or before the fifteenth (15th) day of each calendar month, USER shall provide Bally with Game and Table Count Reports using Bally's forms ("Reports"), which shall provide sufficient information from the preceding month to allow Bally to accurately bill USER's Monthly Maintenance for Bally's invoicing purposes. In the event that Reports are not received by the 15th day of each calendar month, Bally shall utilize the game and table counts from the last Report received, and no credits will be issued to USER for any invoices issued based on such past Reports.
- (3) Right to Audit: Bally may, upon thirty days' prior written notice to USER, audit USER's records related to game and table counts, during regular business hours and in a manner which shall not unduly interrupt USER's normal course of

business. Bally's right to audit shall be limited to a maximum of two times per year and shall be at Bally's sole cost and expense; provided however that, in the event that Bally's audit reveals game and table count deficiencies of greater than five percent of the quantities reported to Bally for the applicable calendar quarter, USER shall reimburse Bally for reasonable travel and other such expenses incurred in conducting the audit, and Bally shall invoice USER the deficiency amount of Monthly Maintenance fees, plus interest at the rates set forth in subparagraph (d) below, which amount shall be payable within thirty (30) days of the date of Bally's invoice.

- (d) **Late Payment:** Bally shall have the right to charge interest, payable immediately upon demand, on late payments at the lower of (i) 1.5% per month on any payment(s) not made or (ii) the highest rate permitted by law.
- (e) **Security Interest:** If the terms of payment for Bally Hardware, Computer Room Equipment and/or Software are set forth on an installment payment schedule from USER, USER agrees to allow Bally to maintain a security interest in the Bally Hardware, Computer Room Equipment and/or Software and will cooperate with Bally to assist Bally in completing any forms separate from this Agreement that are required to perfect Bally's security interest in the Bally Hardware, Computer Room Equipment and/or Software with any necessary local, state or federal officials.

20. DESIGNATED REPRESENTATIVE:

USER designates Michael Starr, CEO ("USER'S Representative") as its sole representative to act on USER'S behalf and to make commitments on behalf of USER concerning installation of the Software, Bally Hardware, Computer Room Equipment and training. USER'S Representative shall have authority to make decisions concerning the Software, Bally Hardware and Computer Room Equipment selected, approve project plans for installation and any other matters, approve payments offered to Bally under this Agreement, to obtain for Bally any material information required to install Software, Bally Hardware and Computer Room Equipment and to train employees, and any other decisions reasonably necessary for implementation of any aspect of this Agreement.

21. USER'S RESPONSIBILITIES:

For purposes of this Agreement, USER data communications network is the wiring, communications equipment, software, and services used (a) to interconnect parts of the Computer Room Equipment, and (b) to cause the Computer Room Equipment to exchange data with *systems and devices not supplied by Bally* ("Other Systems"). USER will, at USER'S expense, supply, operate, monitor, and maintain a data communications network and Other Systems in such a way to be compatible with and not interrupt the operation of the Bally Hardware, Computer Room Equipment and Software. USER agrees Bally is not responsible or liable for any delay, malfunction, or loss resulting from the design, performance, installation, compatibility, operation, use, or any failure of USER'S data communications network and/or Other Systems.

To the extent that USER is licensing Bally's iVIEW DM products, the parties agree to provide for standardization and interoperability of gaming machines located at Authorized Casino. As such, USER shall:

- a. Ensure that all third-party gaming machine operating systems operating at Authorized Casino support SAS and any released versions of the gaming Standards Association's G2S and GDS protocols.
- b. Secure a license from its third-party gaming machine vendors which will allow Bally to resize game content for the limited purposes of accommodating marketing, bonus, system and employee content on a gaming machine. Such license shall include access to all protocols necessary to allow for remapping of touch screen coordinates and the interface of all video displays on such third-party gaming machines and any other efforts necessary to allow Bally's iVIEW DM to operate on such third-party gaming machines.

USER acknowledges that, USER inability to fulfill the obligations set forth above may adversely affect the functionality and performance of Bally's iVIEW DM products.

USER agrees to perform, in a timely manner, any tasks outlined and required in the current edition of the Bally's supporting documentation including, but not limited to, performing daily data backup procedures and retaining a system administrator whom Bally deems to be experienced in the processes of administering the Computer Room Equipment

22. REGULATORY COMPLIANCE:

- (a) *License Approvals.* This Agreement is contingent on any necessary initial and continued approvals and licenses from any regulatory authorities having jurisdiction over the parties or the subject matter of this Agreement. Each party shall promptly apply to the appropriate regulatory authorities for any licenses and approvals necessary for that party to perform under this Agreement, shall diligently pursue its applications and pay all associated costs and fees, and shall otherwise cooperate with any requests, inquiries, or investigations of any regulatory authorities or law enforcement agencies in connection with Bally, its affiliates, or this Agreement. If any license or approval necessary for either party to perform under this Agreement is denied, suspended, or revoked, this Agreement shall be void effective the date of the denial, suspension, or revocation, provided, however, that if the denial, suspension, or revocation affects performance of the Agreement in part only, the parties may by mutual agreement continue to perform under this Agreement to the extent it is unaffected by the denial, suspension, or revocation.
- (b) *Bally Compliance Program.* USER acknowledges that Bally Technologies, Inc. ("Bally Technologies") (Bally's parent company), as a company operating under privileged licenses in a highly regulated industry, maintains the "Bally Technologies Compliance Program" to protect and preserve the name, reputation, integrity, and good will of Bally Technologies and its subsidiaries and affiliates (including Bally) through a thorough review and determination of the integrity and fitness, both initially and thereafter, of any person or company that performs work for those companies or with which those companies are otherwise

associated, and to monitor compliance with the requirements established by gaming regulatory authorities in various jurisdictions around the world. This Agreement and Bally's association with USER are contingent on the continued approval of Bally Technologies and its compliance committee under the Bally Technologies Compliance Program. USER shall cooperate with Bally Technologies and its compliance committee as reasonably requested by Bally Technologies or the committee and shall provide the committee with such information as it may reasonably request. If Bally Technologies, acting on the recommendation of the committee, withdraws its approval of this Agreement or USER, then this Agreement shall be void and neither party shall have any rights thereunder.

- (c) *Default.* It shall be an event of default if Bally Technologies, Inc. or its compliance committee obtains from any source information with respect to USER or this Agreement that would, in the opinion of Bally Technologies or the committee or both, jeopardize the gaming licenses, permits, or status of Bally Technologies or any of its subsidiaries or affiliates (including Bally) with any gaming commission, board, or similar regulatory or law enforcement authority.
- (d) *Compliance Program.* Bally acknowledges that USER, as a company operating under privileged licenses in a highly regulated industry, maintains a compliance program to protect and preserve the name, reputation, integrity, and good will of USER through a thorough review and determination of the integrity and fitness, both initially and thereafter, of any person or company that performs work for those companies or with which those companies are otherwise associated, and to monitor compliance with the requirements established by gaming regulatory authorities in various jurisdictions around the world. This Agreement and USER's association with Bally are contingent on the continued approval of USER and its compliance committee under USER's compliance program. Bally shall cooperate with USER and its compliance committee as reasonably requested and shall provide the committee with such information as it may reasonably request. If USER, acting on the recommendation of the committee, withdraws its approval of this Agreement or Bally, then this Agreement shall be void and neither party shall have any rights thereunder.
- (e) *Default.* It shall be an event of default if USER or its compliance committee obtains from any source information with respect to Bally or this Agreement that would, in the opinion of USER or the committee or both, jeopardize the gaming licenses, permits, or status of USER or any of its subsidiaries or affiliates with any gaming commission, board, or similar regulatory or law enforcement authority.

23. THIRD-PARTY BENEFICIARY:

No provision of this Agreement is intended to benefit any party other than USER and Bally and their authorized successors and assignees, if any, and no provision of this Agreement shall be enforceable by any other party pursuant to a third party beneficiary theory and or any other theory.

24. EXCUSED PERFORMANCE:

Neither Party shall be deemed to be in default or to have breached any provision of this Agreement as a result of delay, failure in performance, or interruption of service, resulting directly or indirectly from acts of God, acts of civil or military authority, civil disturbance, wars, strikes or other labor disputes, fires, transportation contingencies, laws, regulations, acts or orders of any government agency or official thereof, other catastrophes or any other circumstances beyond such party's reasonable control.

25. ACCESS:

Upon seventy-two (72) hours advance notice, USER hereby grants Bally or Bally's authorized representative reasonable access to the Authorized Casino(s) and USER'S related facilities where the Software is being used to verify the compliance with the terms, limitations and conditions of this Agreement. With Bally's seventy-two (72) hour advance notice, USER grants Bally reasonable access to the Authorized Casino(s) and USER'S related facilities for a reasonable duration for demonstrating the Software to regulatory agencies and to prospective clients and investors. While at the Authorized Casino(s) and USER'S related facilities, Bally shall comply with applicable security and regulatory requirements and shall not interfere with the operation of business at the Authorized Casino(s). Bally and USER agree that Bally shall have no access to any personal data of USER's employees or customers while performing its obligations under this Agreement.

26. ATTORNEY FEES:

The prevailing party shall be entitled to recover reasonable attorney fees and costs (including fees and costs of appeal) incurred in connection with any action or proceeding between the parties arising out of or related to this Agreement.

27. TAXES:

Payment of any and all federal, state, tribal and local excise, sales, use, duty, and other taxes, as may be applicable to this Agreement, are the sole responsibility of the USER and are in addition to the license fee or any other allowable fees or charges provided for herein. In the event Bally is legally obligated to pay the same, USER agrees that the fees, rates and charges payable by it hereunder shall be increased to account for such payment by Bally.

28. FREIGHT:

Bally Hardware and Computer Room Equipment shall be delivered Ex Works Las Vegas, Nevada. Payment for all freight and delivery charges shall be the sole responsibility of USER and is in addition to the license fee or any other allowable fees or charges provided for herein. In the event Bally is legally obligated to pay the same, USER agrees that the charges payable by it hereunder shall be increased to account for such payment by Bally.

29. RIGHT TO COPY:

USER may copy the Software, in whole or in part, for USER'S own internal use in testing and evaluating the Software or for purposes of back-up or archiving. USER may install the Software on an unlimited number of client workstations and no more than one (1) server at any one time for each casino authorized under this Agreement without Bally's prior written consent. With reference to copies USER makes of the Software, USER agree to reproduce any Bally copyright notices and any proprietary legends appearing thereon, and to include the same on all copies you make in whole or in part.

30. PROPRIETARY INFORMATION:

Unless specifically authorized in writing by Bally, USER agrees to keep in confidence and take reasonable efforts under the circumstances to prevent the disclosure to any person or persons outside your organization, or to any unauthorized person or persons, all information of Bally which includes but is not limited to proprietary information, trade secrets, confidential information (or limited rights nature) and received from Bally. USER agrees not to divulge, publicize, reveal or otherwise disclose to any other person or organization the specific terms of this Agreement and any proprietary information exchanged between the parties, except as may be required by the laws, rules or regulations of local, state, provincial, or federal governmental authorities. This provision shall survive execution and termination of this Agreement. USER shall have the right to reproduce, use and disclose all nonproprietary information furnished under this Agreement. Bally agrees to not mark any information as proprietary (or with a limited rights legend or other restrictive marking) that we know to be in the public domain.

USER shall not be liable (subject to any of Bally's patent rights, copyrights, or trademarks) for any use or disclosure if:

- (a) USER takes reasonable efforts under the circumstances to prevent the disclosure of the information to unauthorized persons; or
- (b) The information was in the public domain at the time it was used or disclosed; or
- (c) The information was known to USER prior to the time of receipt from Bally free of any restrictions on its disclosure; or
- (d) The information is disclosed with Bally's prior written approval; or
- (e) USER develops the information independently, provided the person or persons developing such information have not had access to Bally's proprietary information; or
- (f) The information is required to be disclosed by court order.

31. PUBLICITY AND REFERENCE:

USER agrees that Bally may list the names of the Authorized Casino(s), gambling floor area in square feet or meters, gaming machine count, table game count, a brief description of the Authorized Casino(s), photographs of the Authorized Casino(s), and

one or two contact names and telephone numbers in Bally's customer lists, newsletters, press releases, and other material published for the purpose of marketing Bally products and services to prospective clients and investors. USER agrees to provide to Bally, the expense of duplication and shipping to be paid by Bally, one set of USER'S standard publicity photographs which Bally may reproduce and publish for the purpose of marketing products and services to prospective clients and investors.

32. MINIMUM INTERNAL CONTROLS AND COMPLIANCE WITH LAWS:

Bally will comply with the Minimum Internal Control Standards promulgated by the Gaming Commissions in performance of this Agreement, as any other laws and regulations of any entity with jurisdiction over Bally's actions under this Agreement. The Parties will comply with all relevant laws and regulations when performing this Agreement.

33. TICKETING & CASHIERING FUNCTIONS:

Each gaming system obtained hereunder with cashless capability (a "Licensed Cashless Gaming System") is provided under a limited license to one or more of the following U.S. Patent Nos. 5,290,033; 5,265,874; 6,048,269; 5,429,361; 5,470,079; 6,729,957; 6,729,958 and 6,736,725. Any use of a Licensed Cashless Gaming System constitutes the acknowledgement of and agreement to the following "Limited License":

a. Licensed Cashless Gaming System License Rights. Licensed Cashless Gaming Systems are licensed solely for use to facilitate the cashless aspects of gaming machines that are separately licensed under these patents ("Licensed Gaming Machines"). The use of a Licensed Cashless Gaming System to facilitate cashless transactions by an unlicensed gaming machine is an unlicensed use.

b. Other License Limitations. Each Limited License is expressly limited to the original Licensed Cashless Gaming System (i.e., one serial number per license). A license may not be transferred from one gaming system to another. Any unauthorized transfer voids this license.

34. ADDITIONAL TABLE GAMES AND GAMING MACHINES:

In the event USER exceeds the maximum number of tangible table games and/or maximum number of tangible gaming machines set out on Exhibit A, and the excess continues for thirty (30) days, USER shall promptly (a) notify Bally of the excess and (b) pay Bally then-current implementation fees and Software license fees for the excess table games and/or gaming machines.

35. SUBSEQUENT PURCHASES:

USER'S subsequent purchase orders to Bally for additional parts, material, Bally Hardware, Computer Room Equipment and Software pertaining to the Authorized Casino(s) as described in this Agreement, upon written acceptance by Bally such orders shall be deemed to be amendments to Exhibit A and are subject to all of the terms and conditions of this Agreement and its Exhibits.

36. DISPUTE RESOLUTION:

a. *Authority:* Customer represents that it is a tribal enterprise, instrumentality or otherwise duly formed under the laws and authority of the Squaxin Island Tribe of Squaxin Island Reservation, Washington (“Tribe”) and that it is duly authorized to enter into this Agreement.

b. *Limited Waiver of Sovereign Immunity.* Customer hereby grants to Bally a limited waiver of sovereign immunity and consents to the jurisdiction of any federal or tribal court of competent jurisdiction for the sole purpose of compelling or permitting arbitration or enforcing an arbitration award as set forth herein. In no instance shall any enforcement of any kind be allowed against any Tribal assets except net revenues after debt service of the Tribal gaming operations. In no instance shall USER’s cumulative liability for all claims arising under or related to this Agreement exceed Two Million Five Hundred Thousand United States Dollars (\$2,500,000.00). This limited waiver is applicable only to Bally and does not apply to actions by third parties or any disputes outside of this Agreement. Notwithstanding any provision to the contrary, this Agreement contains no waiver of sovereign immunity, express or implied, except as specifically set forth in this paragraph 36(b).

c. *Submission of Disputes to Binding Arbitration.* The parties agree that any and all controversies, disputes or claims of any nature arising directly or indirectly out of or in connection with this Agreement (including without limitation claims relating to the validity, performance, breach, and/or termination of this Agreement) shall be submitted to binding arbitration for final resolution. The arbitration shall follow the Streamlined Rules of JAMS Endispute or other mutually agreed-upon procedures and shall be conducted in a mutually agreeable location.

d. *Enforcement/Compelling Arbitration.* The parties agree that enforcement of any arbitration award, as well as any action to permit or compel arbitration, may be brought in federal court. If the federal court declines jurisdiction, then such action may be brought in Tribal Court. Customer waives any requirement concerning the exhaustion of Tribal Court remedies.

e. *Choice of Law.* The parties choose and adopt Washington State law as governing law of this Agreement, including applicable provisions of the Washington State Uniform Commercial Code. With respect to any action to review or to enforce any arbitration award, the parties agree that the standards and provisions of the Federal Arbitration Act shall apply.

f. *Period of Limitations.* The Parties agree that no arbitration or other legal action arising out of or related to this Agreement may be commenced more than one (1) year after the cause of said action accrues.

g. *Service of Process.* Service of process may be made by any means authorized by the laws or rules of the federal courts. Customer acknowledges that any principal officer of the Tribe is authorized to receive service of process, and that the address of the Tribe

set forth in this Agreement is the authorized address for mailing when service of process is by mail.

g. *No Management Contract.* The parties agree and represent that this Agreement in no way provides or purports to provide to Bally any management authority or controls over the Tribal gaming operations that would require review and approval of this Agreement by the National Indian Gaming Commission (“NIGC”). To the extent the NIGC determines that this Agreement does constitute a Management Contract, the parties agree to cooperate in revising and modifying this Agreement to the extent necessary so that NIGC approval pursuant to 25 U.S.C. Section 2701 et seq. is no longer required. If Bally so requests, the parties agree to jointly submit this Agreement in a timely fashion to the NIGC so that the NIGC may conduct its review and determine whether or not the Agreement does, in fact, constitute a Management Contract.

h. *No Proprietary Interest.* The parties agree that this Agreement is not intended to convey or provide in any way a proprietary interest in the Tribal gaming operations.

i. *Compliance with Tribal Law.* Customer represents that acceptance of the Agreement and the Agreement’s terms and conditions complies with the Tribal laws, rules, and ordinances and any regulations promulgated there under (“Tribal Law”); that Bally’s obligations are solely as set forth in the Agreement; and that Tribal Law places no other obligations upon Bally by operation of law, inclusion by reference or otherwise as of the Effective Date.

37. NOTICES:

Any notice or other communications required or permitted to be given shall be provided in the English language and shall be deemed to be duly given when delivered in person, or seventy-two (72) hours after mailing by DHL or similar carrier, postage prepaid, return receipt requested, to the addresses listed below, or such other address as either party may designate in writing, pursuant to this provision, or one day if notice is given by overnight carrier or by facsimile device provided that the party giving notice can produce proof of delivery or transmission, as applicable.

Bally Gaming, Inc.

ATTN: Legal Department

6601 S. Bermuda Road

Las Vegas, NV 89119

Fax: (702) 584-7990

USER: Squaxin Island Tribe of Squaxin Island
Reservation, Washington, d/b/a Little
Creek Casino

ATTN:

91 West State Route 108

Shelton, Washington 98584

Fax:

With a copy to:
Bally Gaming, Inc.
ATTN: Chief Executive Officer & President

6601 South Bermuda Road
Las Vegas, NV 89119

38. CONFIDENTIALITY:

Each party agrees that all confidential documents, work product and information (including all data, computer code and related materials) received or otherwise obtained from the other party pursuant to this agreement will be received in strict confidence and will be used only for the purposes of performing under this agreement. Without obtaining the prior written consent of the other party, neither party will disclose any such information to any third party, and each party will disclose such information only to such of its officers, employees, and agents that have a need to know such information for the purposes contemplated by this Agreement.

39. NON-SOLICITATION:

Each party further agrees that the other party's employees have received considerable training and investment from such party (the "Employing Party") in order for the Employing Party to fulfill the terms and conditions of this Agreement and as such Employing Party employees are a valuable resource to Employing Party. Unless otherwise previously agreed to in writing between Employing Party and the other party ("Non-employing Party"), the Non-employing Party agrees that the Non-employing Party will not solicit, hire, engage or otherwise contract with in any capacity, including without limitation, as a consultant, agent or any similar type of engagement, any employees of the Employing Party during their employment and for a period of one (1) year after such employees leave their employment with the Employing Party. In the event the Non-employing Party does solicit, hire, engage or otherwise contract with, a former Employing Party employee with in this proscribed time period, the parties agree that the actual damages suffered by the Employing Party shall be difficult to determined, thus the Non-employing Party shall be required to pay the Employing Party the sum of \$100,000.00 (U.S.) for each and every such former the Employing Party employee solicited, hired, engaged, or contracted by the Non-employing Party, as compensation to the Employing Party for the Employing Party's actual damages sustained as a result of the loss of such employee. In the event the provisions of this paragraph are deemed to be considered liquidated damages by a court of competent jurisdiction, the Non-employing Party agrees such damages are fair and appropriate.

40. SURVIVAL:

The Terms of Sections 1, 6, 7, 11, 14, 15,16, 17, 18, 23,24, 25, 26,27, 30, 33, 36, 38 and 39 and any other terms that by their context are intended to be performed or are relevant after the termination of this Agreement, shall survive termination of this Agreement.

41. ENTIRE AGREEMENT:

This Agreement and its Exhibits and Addendum, if any, shall constitute the entire understanding and contract between the parties hereto and supersedes any and all prior or contemporaneous oral or written representations or communications with respect to the subject matter hereof, and all of which communications are merged herein. This

agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by both of the parties hereto. All amendments or modifications of this Agreement shall be binding upon the parties despite any lack of consideration so long as the same shall be in writing and executed by the parties hereto. This Agreement has been negotiated by the parties in the English language through their respective legal counsel, and therefore, the parties agree that any ambiguities or discrepancies shall not be interpreted against the drafter.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the date(s) below indicated:

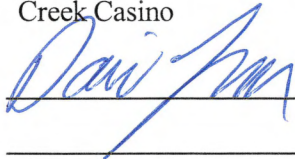
BALLY:

Bally Gaming, Inc. d/b/a Bally
Technologies

By _____
Name _____
(Print name as signed above)
Title _____
Date _____

USER:

Squaxin Island Tribe of Squaxin Island
Reservation, Washington, d/b/a Little
Creek Casino

By  _____
Name _____
(Print name as signed above)
Title _____
Date _____



6601 S. Bermuda Road
Las Vegas, NV 89119

Exhibit A

Customer: **Little Creek Casino**
Attn: **Mark West**
91 W. State Route 108
Shelton, WA 98584

08/12/2013

Quote#: 29480

	<u>List Price</u>
Software	\$534,900.00
Third Party Products	<u>\$219,894.57</u>
Subtotal	\$754,794.57
Services	<u>\$370,975.00</u>
Total	<u>\$1,125,769.57</u>
Line Item Discounts Applied	(\$196,125.00)
<i>Net Purchase Price</i>	<u>\$929,644.57</u>
<i>Deposit (Excludes Bally Services)</i> 50%	\$307,157.91
<i>Net Monthly Maintenance</i>	\$8,911.53

This Quote expires on: Sep 30, 2013

Notes:

- CMP Proposal Includes CMP Software, Peripherals, CMP Virtualized Servers and Estimated Services for Project Management, Installation, Training and Technical Services for Data Conversion of MGAM Player Profiles and Point Totals.
- Exhibit A Does Not Include Computer Room Preparations, MGAM Gateway Server, User PCs, LAN Equipment or CMP Report Printers.
- Terms Include 12 Equal Monthly Payments of Net Purchase Balance @ 0% Interest.
- As An Incentive To Purchase SDS Within 24 Months Of The CMP Contract Signing, Bally Offers Little Creek Casino Full Credit For The Invoiced MGAM Slot Player Integration License Toward The Purchase Of SDS.

Initials _____

Initials _____

This configuration and corresponding prices are for quotation purposes only and are subject to change, without notice, until the parties execute a Bally Purchase and Software License Agreement.

Aug 12, 2013

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6601 S. Bermuda Road
Las Vegas, NV 89119

Exhibit A

Customer: Little Creek Casino
Attn: Mark West
91 W. State Route 108
Shelton, WA US 98584

08/12/2013

Quote #: 29480

Hardware 3rd Party

Part Number	Quantity	Description	Unit Price	Discount %	Net Price	Extended Net Price
AC-70-0333	15	3500 Series Inv Arm Assy 350N Gas Cylinder-Black	\$196.83	-	\$196.83	\$2,952.45
B5-82-0001	1	Model 320 Okidata Printer	\$500.00	-	\$500.00	\$500.00
B5-90-0023-US8	5	Scanner, Barcode MLS9208 USB	\$418.50	-	\$418.50	\$2,092.50
CM-88-0193	4	Printer BOCA Lemur 300DPI Ethernet	\$1,948.00	-	\$1,948.00	\$7,792.00
CM-90-0088	4	Scanner/Snapshell IDR Reading Camera, USB 2.600 DIP	\$1,150.00	-	\$1,150.00	\$4,600.00
CM-90-0219	2	Datacard, CD800, Simplex, Single Sided Printed page	\$3,850.00	-	\$3,850.00	\$7,700.00
WRITE-IN-3PHW	1	IBM CMP Blade Server Quote AQ202773-01	\$163,477.62	-	\$163,477.62	\$163,477.62
CM-90-0216-WALL	16	Touch Screen 15" Wireless, Mintronix Model # MPS000-IW 2GB Vesa m.t.	\$1,923.75	-	\$1,923.75	\$30,780.00
Total Hardware 3rd Party						\$219,894.57

Software

Part Number	Quantity	Description	Unit Price	Discount %	Net Price	Extended Net Price
CM-86-0001	1	Interface, Tag	\$5,000.00	100.00%	\$ 0.00	\$ 0.00
CM-87-0015	1	Interface, POS System (Micros, Infogenesis) License	\$50,000.00	50.00%	\$25,000.00	\$25,000.00
CM-87-0019	1	Interface, Soft Count	\$5,000.00	15.00%	\$4,250.00	\$4,250.00
CM-87-0026	1	Interface, Keno Batch	\$15,000.00	15.00%	\$12,750.00	\$12,750.00
CM-88-0017	1	Interface, Bingo	\$15,000.00	15.00%	\$12,750.00	\$12,750.00
CM-88-0053	1	Slot Player Ratings Integration License	\$50,000.00	50.00%	\$25,000.00	\$25,000.00
CM-88-0061	1,050	CMP Casino Mgmt System License, Per Slot	\$170.00	15.00%	\$144.50	\$151,725.00
CM-88-0082	1,050	CMP Promotions Pack License, Per Slot	\$ 75.00	15.00%	\$ 63.75	\$66,937.50
CM-88-0085	15	CMP TableView License, Per Table	\$4,000.00	15.00%	\$3,400.00	\$51,000.00
CM-88-0090	15	CMP Casino Mgmt System, Per Table	\$510.00	15.00%	\$433.50	\$6,502.50
CM-90-0094	1	CMP Data Import Tool for Player Acct Info Updating	\$10,000.00	49.94%	\$5,006.25	\$5,006.25
CM-90-0212	1	Interface, Service Station Points Redemption	\$10,000.00	15.00%	\$8,500.00	\$8,500.00
OS-66-0026	1	Interface, Hotel Management	\$50,000.00	50.00%	\$25,000.00	\$25,000.00
Total Software						\$394,421.25

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6601 S. Bermuda Road
Las Vegas, NV 89119

Exhibit A

Customer: **Little Creek Casino**
Attn: **Mark West**
91 W. State Route 108
Shelton, WA US 98584

08/12/2013

Quote #: 29480

The following is an estimation of the Bally Technologies Personnel costs for the system installation. This is an estimation only, and can be greater or lesser depending on circumstances that take place prior to and during the installation process. Costs noted below are personnel costs only. USER agrees to pay for all reasonable food, lodging, and transportation expenses incurred by Bally personnel in providing any and all Professional Services to USER. This total can be affected by the casino changing requirements during the installation, or failing to provide adequate agreed upon manpower, or manpower hours to effect the completion of the installation and training by agreed upon date. Bally Gaming & Systems is not responsible for increased installation costs due to dates slipping due to the casino, gaming authority, construction, or any other reason out of Bally's direct control or area of responsibility.

Services

<i>Part Number</i>	<i>Quantity</i>	<i>Description</i>	<i>Unit Price</i>	<i>Discount %</i>	<i>Net Price</i>	<i>Extended Net Price</i>
SYSSVC-07	66	Professional Services	\$200.00	15.00%	\$170.00	\$11,220.00
SYSSVC-08	496	Training Services	\$175.00	15.00%	\$148.75	\$73,780.00
SYSSVC-09	769	Installation Specialist	\$175.00	15.00%	\$148.75	\$114,388.75
SYSSVC-10	300	Project Management	\$200.00	15.00%	\$170.00	\$51,000.00
SYSSVC-11	382	Technical Services	\$200.00	15.00%	\$170.00	\$64,940.00
Total Services						\$315,328.75

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6601 S. Bermuda Road
Las Vegas, NV 89119

Exhibit A

Customer: **Little Creek Casino**
Attn: **Mark West**
91 W. State Route 108
Shelton, WA US 98584

08/12/2013

Quote#: 29480

Monthly Maintenance

Maintenance, Software

Part Number	Quantity	Description	Unit Price	Discount %	Net Price	Extended Net Price
CM-0001-MAINT	1	Interface, Tag - Monthly Maint	\$ 83.33	-	\$ 83.33	\$ 83.33
CM-0015-MAINT	1	Interface, Point-of-Sale System - Monthly Maint	\$833.33	-	\$833.33	\$833.33
CM-0017-MAINT	1	Interface, Bingo - Monthly Maint	\$250.00	-	\$250.00	\$250.00
CM-0019-MAINT	1	Interface, Soft Count - Monthly Maint	\$ 83.33	-	\$ 83.33	\$ 83.33
CM-0053-MAINT	1	Slot Player Ratings Integration License - Monthly Maint	\$833.33	-	\$833.33	\$833.33
CM-0081-MAINT	1,050	CMP Casino Mgmt System Monthly Maint, Per Slot	\$ 2.83	-	\$ 2.83	\$2,971.50
CM-0082-MAINT	1,050	CMP Promotions Pack Monthly Maint, Per Slot	\$ 1.25	-	\$ 1.25	\$1,312.50
CM-0085-MAINT	15	CMP TableView Monthly Maint. Per Table	\$ 66.67	-	\$ 66.67	\$1,000.05
CM-0091-MAINT	15	CMP Casino Mgmt System Monthly Maint, Per Table	\$ 8.50	-	\$ 8.50	\$127.50
CM-0094-MAINT	1	Data Import Tool Monthly Maint	\$166.66	-	\$166.66	\$166.66
CM-0212-MAINT	1	Service Station Points Redemption I/F - Monthly Maintenance	\$166.67	-	\$166.67	\$166.67
CM-8726-MAINT	1	Interface, Keno Batch - Monthly Maint	\$250.00	-	\$250.00	\$250.00
OS-0026-MAINT	1	Interface Hotel Management, Monthly Maintenance	\$833.33	-	\$833.33	\$833.33
Total Maintenance, Software						\$8,911.53
Total Monthly Maintenance						\$8,911.53

Aug 12, 2013

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