

LOCAL DEVELOPMENT AGREEMENT

THIS LOCAL DEVELOPMENT AGREEMENT (this "**Agreement**") is made and entered into as of this 2nd day of December, 2019 by and among (i) the Board of Commissioners of Vigo County, Indiana (the "**County**") and Spectacle Jack, LLC, an Indiana limited liability company ("**Company**").

RECITALS

WHEREAS, The 2019 Regular Session of the Indiana General Assembly enacted House Enrolled Act 1015, which was signed by the Governor on May 8, 2019 ("HEA 1015");

WHEREAS, HEA 1015 authorized the Indiana Gaming Commission ("IGC") to award one license to conduct inland gaming in the County subject to the satisfaction of certain conditions ("License");

WHEREAS, One of the conditions is that an applicant for a License must have a local development agreement with the County; and

WHEREAS, The Company has represented to the County that it intends to file an application with the IGC for a License and wishes to enter into a local development agreement with the County conditioned upon its receipt of the License.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Company, intending to be legally bound, agree as follows:

ARTICLE I. DEFINITIONS

Section 1.01 Defined Terms. For purposes of this Agreement, the following terms shall have the meanings specified or referenced below:

"**Act**" means Indiana Code Sections 4-33-4-1, *et seq.*

"**AGR**" means adjusted gross receipts, as defined in Indiana Code Section 4-33-2-2, from the operation of the Casino.

"**AGR Commitment**" has the meaning set forth in Section 4.01.

"**Agreement**" has the meaning set forth in the first paragraph of this Agreement.

"**Business Day**" means any day that is not a Saturday, Sunday or other day on which banks are authorized or required to close in the State of Indiana.

"**Casino**" means an inland casino owned by the Company and located County.

"**Change of Control**" means the sale or transfer of Fifty-One percent (51%) or more of the equity of the Company or the sale of its License. For the avoidance of doubt, it does not include

any financing transaction, including but not limited to sale of the Company's property to a real estate investment trust.

"**County**" has the meaning set forth in the first paragraph of this Agreement.

"**Company**" has the meaning set forth in the first paragraph of this Agreement.

"**Company Effectiveness Conditions**" has the meaning set forth in Section 2.02.

"**County Effectiveness Conditions**" has the meaning set forth in Section 2.01.

"**Effective Date**" means the date that the County Effectiveness Conditions and Company Effectiveness Conditions have been satisfied.

"**Future Projects**" has the meaning set forth in Section 5.02.

"**Governmental Permits**" has the meaning set forth in Section 3.06.

"**HEA 1015**" has the meaning set forth in the **Recitals**.

"**IGC**" has the meaning set forth in the **Recitals**.

"**Legal Opinion**" means an opinion issued by the Office of the County's Attorney, in form and substance acceptable to the Company, opining, among other things, that (i) the County has the authority to enter into and perform its obligations under this Agreement; and (ii) the County has obtained all necessary administrative, legislative and regulatory approvals to enter into and perform its obligations under this Agreement.

"**License**" has the meaning set forth in the **Recitals**.

"**Local**" means located in the County.

"**Party**" and "**Parties**" means each Party or all parties, as the case may be, to this Agreement.

"**Person**" means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture or other entity of whatever nature.

"**Reconciliation**" has the meaning set forth in Section 4.02.

"**Sports Wagering**" means wagering conducted under Indiana Code 4-38-1-1 et.seq. on athletic and sporting events involving human competitors and other events approved by the IGC.

"**Vigo County Community Improvement Foundation, Inc.**" means an Indiana Not For Profit Corporation, qualified under the provisions of Section 501 (c) (3) of the Internal Revenue Code, to be formed at the expense of Company for the purpose of supporting The City Of Terre Haute & Vigo County Community Plan, as it may be amended and revised from time to time. The foundation will be governed by a Five (5) member Board of Directors, each of whom must be a

registered voter in the County, appointed as follows: One (1) member of the Vigo County Council appointed by the President of the County Commissioners; One (1) member of the Terre Haute City Council appointed by Mayor of Terre Haute, Indiana; One (1) member appointed by the President of Terre Haute Chamber of Commerce; and two (2) members appointed by the Company. Upon the occurrence of a Change of Control, the members appointed by the Company shall, without any further action, cease to be members of the Board of Directors. The Mayor of Terre Haute and the President of the County Commissioners shall each appoint one member to fill the vacancies.

Section 1.02 Rules of Construction. In this Agreement, (a) the singular includes the plural and the plural includes the singular; (b) words importing any gender include the other gender; (c) references to statutes are to be construed as including all statutory provisions consolidating, amending or replacing the statute referred to; (d) the words "including," "includes" and "include" shall be deemed to be followed by the words "without limitation"; and (e) references to Persons include their respective successors and permitted assigns. All references herein to Recitals, Articles, Sections and Exhibits shall be deemed references to Recitals in, Articles and Sections of, and Exhibits to, this Agreement unless the context shall otherwise require. All the agreements or instruments herein referenced shall mean such agreements or instruments as the same may from time to time be modified, supplemented, amended or amended and restated, or the terms thereof waived or modified to the extent permitted by, and in accordance with, the terms thereof and of this Agreement.

ARTICLE II. EFFECTIVE DATE CONDITIONS PRECEDENT

Section 2.01 County Effective Date Conditions Precedent. The County shall have the right to terminate this Agreement by giving written notice to the Company within two hundred and seventy (270) Business Days after the execution date if the following conditions (the "***County Effectiveness Conditions***") have not been satisfied:

- (a) The IGC shall have approved this Agreement, and any terms required by the IGC as a condition to such approval shall have been incorporated herein:
and
- (b) The IGC shall have awarded the License to the company

Section 2.02 Company Effective Date Conditions Precedent. The Company shall have the right to terminate this Agreement by giving written notice to the County within two hundred and seventy (270) Business Days after the execution date if the following conditions (the "***Company Effectiveness Conditions***") have not been satisfied:

- (a) The IGC shall have approved this Agreement, and any terms required by the IGC as a condition to such approval shall have been incorporated herein;
- (b) The Company shall have received the Legal Opinion;
- (c) The Company shall have received copies of all legally necessary administrative, legislative and regulatory approvals, orders, ordinances, resolutions and other documents evidencing the County's authority to enter into and perform all of its obligations under this Agreement; and

- (d) The IGC shall have awarded the License to the Company.

ARTICLE III. REPRESENTATIONS, WARRANTIES, AND COVENANTS

Section 3.01 Authority of the Parties. The Company represents and warrants to the County, and the County represents and warrants to the Company, that each has the authority and has obtained all necessary consents and approvals to enter into and perform its obligations under this Agreement.

Section 3.02 Insurance. The Company shall secure and maintain, at its sole cost and expense, all insurance, in no less than the minimum amounts required by the IGC. The Company shall name the County as an additional insured on its commercial general liability policy relating to the Casinos. The Company shall maintain workers compensation insurance as required by applicable law.

Section 3.03 Employment Matters. The Company shall use its commercially reasonable efforts to recruit, train, and upgrade employees who reside within the County.

Section 3.04 Unionized Labor. The Company covenants and agrees to endeavor to maximize its use of unionized labor paid at prevailing rates, consistent with the applicable trade, in connection with the construction of any Future Projects, to the extent that such unionized labor can provide quality labor at competitive prices as determined by the Company in its sole discretion. The County and the Company agree to use their commercially reasonable efforts to encourage building trades to enter into project agreements with local contractors with the objective of giving preferential hiring to qualified residents of Vigo, County Indiana.

Section 3.05 Local Vendors. Company covenants and agrees to use commercially reasonable efforts to endeavor to use Local suppliers and vendors to support the operations of the Casino, including any development, construction, and equipping of any Future Projects; *provided*, that such suppliers and vendors can provide quality goods and/or services at competitive prices.

Section 3.06 Governmental Permits. The Company covenants and agrees to endeavor to obtain and maintain all licenses, permits, and certifications required for the lawful construction of any Future Project (except for those which, by their nature, are customarily required to be obtained by the County) and the operation of the Casino, including, but not limited to, zoning reclassifications and/or variances, site plan approval, permits and approvals of such other federal, state, and local agencies as are necessary to provide alcoholic beverage service, food service, construction, operation, maintenance, and overall public health (collectively, the "***Governmental Permits***"). The County agrees to cooperate with the Company's efforts to secure the Governmental Permits, including, but not limited to, joining in such proceedings and applications as may be necessary to obtain or maintain Governmental Permits, the Company's right to bring such proceedings and applications in the County's name, the County's provision of such Governmental Permits from the County, and the County's commencement and prosecution of such condemnation and other proceedings as may be necessary to furnish utilities or other property rights to or for any Future Project; *provided*, that the County shall not be liable for the payment of any costs or expenses in connection with any such proceedings or applications. The Company shall reimburse and indemnify the County for its share of any and all reasonable costs or expenses that the County

may incur in connection any such proceedings or applications. In no event, however, shall the County's cooperation be deemed to require the County or any agency or instrumentality thereof to surrender or refrain from exercising its customary municipal authority regarding zoning approval, site plan approval, demolition and/or building permits or certificates of inspection and/or occupancy.

Section 3.07 Marketing Program. The Company covenants and agrees to cooperate with the County to formulate and execute a marketing program for the County to promote the Casino and the County; provided, neither party shall be required to contribute any funds to formulate and/or execute such marketing program.

ARTICLE IV. PAYMENT OBLIGATIONS

Section 4.01 AGR Commitment Payment(s). Except as otherwise provided in this Agreement, and subject to the provisions hereof commencing on the tenth (10th) day of the first full calendar month after the Effective Date and continuing on the tenth (10th) calendar day of each month thereafter that this Agreement remains in full force and effect, the Company shall pay The Vigo County Community Improvement Foundation, Inc.:

- (a) An amount equal to three percent (3%) of Adjusted Gross Receipts (AGR Commitment); and
- (b) An amount equal to three percent (3%) of the Company's net commission received from any sports wagering vendor (as that term is defined by the Indiana Code), before any other fees are deducted or other adjustments are made to such commission by the Company.

Section 4.02 Reconciliation. The County and the Company shall perform a reconciliation (each a "***Reconciliation***") of the payments of the AGR Commitment made by the Company with the actual AGR for each calendar quarter within thirty (30) days after the last day of each calendar quarter. Any overpayment of the AGR Commitment with respect to a calendar quarter shall be deducted from the next monthly AGR Commitment installment(s) due and payable. The Company agrees to pay any underpayment of the AGR Commitment with respect to a calendar quarter with the next monthly AGR Commitment installment due and payable.

Section 4.03 Financial Reporting. The Company shall maintain and keep or cause to be maintained and kept full and accurate books and records within the County or such other accessible location, which may reasonably assist the County in determining the revenues supporting the AGR Commitment and all other financial commitments of the Company hereunder. If the Company maintains permanent records in a computerized format, the Company shall provide to the County, on reasonable request, a detailed index thereto.

Section 4.04 Periodic Review. Every five (5) years or as requested by Company or County following a material event or change to market, legislative, or operational conditions, the County and the Company shall review and reconsider the provisions of this Agreement and their ongoing respective rights and obligations to assess the equity thereof with respect to each Party in light of then-current market conditions affecting the operation and maintenance of the Casinos.

The Company and the County shall negotiate in good faith any modification of this Agreement necessary to implement the results of such review and reconsideration.

ARTICLE V. CONTINUING SUPPORT OBLIGATIONS

Section 5.01 License Renewal. The County shall affirmatively support future renewals of the Company's gaming licenses before the IGC unless the Company (i) is in material breach of this Agreement, as the same may be amended, modified, restated or superseded, or (ii) has failed to negotiate in good faith in connection with the Periodic Review as defined in Section 4.04 above conducted at the time of the license renewal application then being considered.

Section 5.02 Future Company Development. The Company agrees to discuss with the County its plans for Future Projects relating to the economic development, infrastructure and facilitating.

Section 5.03 Condition to Entitlement to Future AGR Commitment Payments. Subject at all time to events of *force majeure*, the absence of a material breach by the County under this Agreement of its obligations as set forth in the provisions above License Support Obligations which breach is not cured by the County following notice and a reasonable opportunity to cure (an "Other Material Breach") shall be a further condition to the County's entitlement to receive any AGR Commitment payments that would otherwise have been payable after such Other Material Breach, up to the full amount of such AGR Commitment payments that are necessary to cure such Other Material Breach.

If the County fails to cure any such Other Material Breach within a reasonable period not to exceed fifteen (15) Business Days after receipt of such notice (each, an "Other Material Breach"), the Company shall have the right, in its sole discretion, (a) to withhold from any payment of AGR Commitment otherwise payable to the County an amount equal to the cost of curing such Other Material Breach, and (b) to use the amount so withheld to cure such Other Material Breach and/or to deposit such amount into a segregated interest-bearing account pending resolution of any dispute with the County regarding such Other Material Breach.

ARTICLE VI. MISCELLANEOUS

Section 6.01 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Indiana, without reference to the choice-of-law principles thereof.

Section 6.02 Arbitration. Except to the extent that administrative remedies are required to be exhausted under the rules of the IGC, all controversies and claims arising hereunder shall be settled by binding arbitration in Vigo County, Indiana in accordance with the rules of the American Arbitration Association. The County and the Company shall each select an arbitrator, and the two arbitrators so selected shall select a third arbitrator to constitute the arbitration panel. The costs and expenses of the arbitration shall be borne equally by the Parties. All judicial actions or proceedings brought in connection with such arbitration shall be litigated in the courts of Vigo County, Indiana or the United States District Court for the Southern District of Indiana.

To the Company: Spectacle Jack, LLC
Attn: Roderick J. Ratcliff, Chairman & CEO
111 Monument Circle, Suite 777
Indianapolis, Indiana 46204
Email: rratcliff@spectacleentertainment.com
Telephone: 317-656-8787

And: Spectacle Jack, LLC
Attn: John S. Keeler, General Counsel
111 Monument Circle, Suite 777
Indianapolis, Indiana 46204
Email: jkeeler@spectacleentertainment.com
Telephone: 317-656-8782

Upon at least ten (10) days' prior written notice, each Party shall have the right to change its address to any other address. Nothing herein shall be deemed to relieve the Company from compliance with any state or federal law or rule respecting service of process.

Section 6.08 Compliance with Indiana Code Section 4-33-23-8. All Parties to this Agreement recognize the authority of the IGC over this Agreement, including, without limitation, the authority to disapprove all or part of this Agreement, to verify and ensure payments made under this Agreement, to verify and ensure expenditures by recipients, to verify and ensure compliance with the purposes of the Agreement, and to act concerning modification to the Agreement. All Parties to this Agreement agree to comply fully with any requests for information or directives related to the exercise of the IGC's authority.

[Signature Page Follows]

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

**The BOARD OF COMMISSIONERS OF
VIGO COUNTY, INDIANA**

By: Brad Anderson
Name: Brad Anderson
Title: President

By: Judith A. Anderson
Name: Judy Anderson
Title: Member

By: Brendan Kearns
Name: Brendan Kearns
Title: Member

**SPECTACLE JACK, LLC, an Indiana
limited liability company**

By: John S. Keeler
Name: John S. Keeler
Title: Vice President & General Counsel