

EXHIBIT K

FORM OF RESTRICTED PARTY RADIUS RESTRICTION AGREEMENT*

This Radius Restriction Agreement ("**RRA**") is made as of this ____ day of _____, 20__, by _____ (the "**Restricted Party**"), having its office at _____ to and for the benefit of the City of Chicago, Illinois, a municipal corporation and home rule unit of local government existing under the Constitution of the State of Illinois (the "**City**"). Restricted Party and the City shall be referred to herein individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

A. _____, LLC, a Delaware limited liability company (the "**Developer**"), and the City have executed that certain Host Community Agreement dated _____, 20__, as the same may from time to time be amended ("**Agreement**," with capitalized terms herein having the same meaning as therein defined, unless expressly otherwise defined herein), which Agreement sets forth the terms and conditions upon which Developer has agreed to develop, construct, operate and maintain the Project.

B. The Restricted Party, as an indirect owner of Developer who is not a Passive Investor, will benefit from the financial success of Developer.

C. The execution and delivery of this RRA is required under the terms of the Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and in order to induce the City to execute and deliver the Agreement, the Restricted Party, acknowledging that, but for the execution and delivery of this RRA, the City would not have entered into the Agreement with Developer, hereby covenants and agrees as follows:

1. The Restricted Party shall not itself, directly or indirectly, nor permit any of its subsidiaries or any Persons controlled by it, directly or indirectly, to: (i) manage, operate or become financially interested in any casino, whether land based or riverboat, or in any other establishment at which Gambling Games or historical horse racing are authorized (a "**Restricted Activity**"), within the Restricted Area other than the Project; (ii) make application for any franchise, permit or license to manage or operate any Restricted Activity within the Restricted Area other than the Project; or (iii) respond positively to any request for proposal to develop, manage, operate or become financially interested in any Restricted Activity within the Restricted Area (the "**Radius Restriction**") other than the Project.

2. It is the desire of the Parties that the provisions of this RRA be enforced to the fullest extent permissible under the laws and public policies in each jurisdiction in which enforcement might be sought. Accordingly, if any particular portion of this RRA shall ever be adjudicated as invalid or unenforceable, or if the application thereof to any Party or circumstance

* Certain provisions of this Agreement will need to be modified for the Restricted Parties who are individuals.

shall be adjudicated to be prohibited by or invalidated by such laws or public policies, such section or sections shall be (i) deemed amended to delete therefrom such portions so adjudicated or (ii) modified as determined appropriate by such a court, such deletions or modifications to apply only with respect to the operation of such section or sections in the particular jurisdictions so adjudicating on the Parties and under the circumstances as to which so adjudicated.

3. The Restricted Party hereby represents and warrants that:

(a) it is duly organized, validly existing and in good standing under the applicable laws of the jurisdiction of its formation, with full power and authority to execute and deliver this RRA and consummate the transactions contemplated hereby; and

(b) the execution and delivery of this RRA and the consummation and performance by it of the transactions contemplated hereby: (1) have been duly authorized by all actions required under the terms and provisions of the instruments governing its existence (“**Governing Instruments**”) and the laws of the jurisdiction of its formation; (2) create legal, valid and binding obligations of it enforceable in accordance with the terms hereof, subject to the effect of any applicable bankruptcy, moratorium, insolvency, reorganization or other similar law affecting the enforceability of creditors’ rights generally and to the effect of general principles of equity which may limit the availability of equitable remedies (whether in a proceeding at law or in equity); (3) do not require the approval or consent of any Governmental Authority having jurisdiction over it, except those already obtained; and (4) do not and will not constitute a violation of, or default under, its Governing Instruments, any Government Requirements, agreement, commitment or instrument to which it is a party or by which any of its assets are bound, except for such violations or defaults under any Government Requirements, agreements, commitments or instruments that would not result in a material adverse change in the condition financial or otherwise, or in the results of operations or business affairs of the Restricted Party and its subsidiaries, considered as one enterprise.

4. The Restricted Party covenants with the City as follows:

(a) none of the representations and warranties in this RRA contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained therein or herein not misleading;

(b) the Restricted Party shall give notice to the City promptly upon the occurrence of any Event of Default. Each notice pursuant to this subparagraph shall be accompanied by a statement setting forth details of the Event of Default referred to therein and stating what action Related Party proposes to take with respect thereto; and

5. The City may declare the Restricted Party to be in default under this RRA upon the occurrence of any of the following events (each, an “**Event of Default**”):

(a) If the Restricted Party fails to comply with any covenants and agreements made by it in this RRA and such noncompliance continues for thirty (30) days after written notice from the City, provided, however, that if any such noncompliance is

reasonably susceptible of being cured within sixty (60) days, but cannot with due diligence be cured within thirty (30) days, and if the Restricted Party commences to cure any noncompliance within said thirty (30) days and diligently prosecutes the cure to completion, then the Restricted Party shall not during such period of diligently curing be in default hereunder as long as such default is completely cured within sixty (60) days of the first notice of such default to the Restricted Party; and

(b) If any representation or warranty made by the Restricted Party hereunder was false or misleading in any material respect as of the time made.

6. Remedies:

(a) Upon an Event of Default, the City shall have the right if it so elects to: (i) any and all remedies available at law or in equity; or (ii) institute and prosecute proceedings to enforce in whole or in part the specific performance of this RRA by the Restricted Party, or to enjoin or restrain the Restricted Party from commencing or continuing said breach, or to cause by injunction the Restricted Party to correct and cure said breach or threatened breach without the need to post any bond therefor. None of the remedies enumerated herein is exclusive and nothing herein shall be construed as prohibiting the City from pursuing any other remedies at law, in equity or otherwise available to it under this RRA, including seeking damages for breach of this Agreement.

(b) The rights and remedies of the City whether provided by law or by this RRA, shall be cumulative, and the exercise by the City of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach, to the extent permitted by law. No waiver made by the City shall apply to obligations beyond those expressly waived in writing.

7. If any of the provisions of this RRA, or the application thereof to any Person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this RRA, or the application of such provision or provisions to Persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and every provision of this RRA shall be valid and enforceable to the fullest extent permitted by law.

8. This writing is intended by the Parties as a final expression of this RRA, and is intended to constitute a complete and exclusive statement of the term of the agreement among the Parties. There are no promises or conditions, expressed or implied, unless contained in this writing. No course of dealing, course of performance or trade usage, and no parol evidence of any nature, shall be used to supplement or modify the terms of this RRA. No amendment, modification, termination or waiver of any provision of this RRA, shall in any event be effective unless the same shall be in writing and signed by the City, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No waiver shall be implied from the City's delay in exercising or failing to exercise any right or remedy against Developer or any Restricted Party in connection with any radius restriction imposed on Developer or any Restricted Party under the Agreement or under any other Radius Restriction Agreement.

9. Notices shall be given as follows:

(a) Any notice, demand or other communication which any Party may desire or may be required to give to any other Party hereto shall be in writing delivered by (i) hand-delivery, (ii) a nationally recognized overnight courier, or (iii) mail (but excluding electronic mail, i.e., "e-mail") addressed to a Party at its address set forth below, or to such other address as the Party to receive such notice may have designated to all other Parties by notice in accordance herewith:

If to City: Mayor
City of Chicago
121 N. LaSalle Street, 5th Floor
Chicago, Illinois 60602

with copies to: Corporation Counsel
City of Chicago
121 N. LaSalle Street, Room 600
Chicago, Illinois 60602

If to the
Restricted Party: _____

with copies to: _____

(b) Any such notice, demand or communication shall be deemed delivered and effective upon actual delivery.

10. [Intentionally Omitted].

11. The terms of this RRA shall bind and benefit the legal representatives, successors and assigns of the City and the Restricted Party.

12. This RRA shall be governed by, and construed in accordance with, the local laws of the State without application of its law of conflicts principles.

13. Submission to Jurisdiction

(a) The Parties expressly agree that the sole and exclusive place, status and forum of this RRA shall be the City. All actions and legal proceedings which in any way relate to this RRA shall be solely and exclusively brought, heard, conducted, prosecuted, tried and determined within the City. It is the express intention of the Parties that the exclusive venue of all legal actions and procedures of any nature whatsoever which

related in any way to this RRA shall be the Circuit Court of Cook County, Illinois, or the United States District Court for the Northern District of Illinois (the "**Court**").

(b) If at any time during the Term, the Restricted Party is not a resident of the State or has no officer, director, employee, or agent thereof available for service of process as a resident of the State, or if any permitted assignee thereof shall be a foreign corporation, partnership or other entity or shall have no officer, director, employee, or agent available for service of process in the State, the Restricted Party or its assignee hereby designates the Secretary of State of the State of Illinois, as its agent for the service of process in any court action between it and the City or arising out of or relating to this RRA and such service shall be made as provided by the laws of the State for service upon a non-resident.

14. The Restricted Party acknowledges that it expects to derive a benefit as a result of the Agreement to Developer because of its relationship to Developer, and that it is executing this RRA in consideration of that anticipated benefit.

CITY OF CHICAGO, ILLINOIS, a municipal corporation

By: _____
Its: _____

[insert other signature blocks]

[Signature Page – Radius Restriction Agreement]