

## THE CONCESSION REGIME

Following its decision to open Macau’s gaming industry, the MSAR granted three concessions in March 2002 following an international tender process, under the terms of the Macau Gaming Law and other related legislation which authorises the Macau Government to award up to three gaming concessions. Our operating subsidiary, SJM, upon winning the tender along with two other companies, became one of the three Concessionaires in Macau under the concession regime. The Macau Government subsequently and successively authorised three sub-concessions permitting each of SJM, Galaxy and Wynn Macau to enter into the sub-concession contracts with its respective Sub-Concessionaire to operate casino games in Macau. The sub-concessions and the granting of the sub-concessions, which are contemplated in both the Macau Gaming Law and the Concession Contracts, are prohibited unless specifically authorised by the Macau Government. The existing concessions and sub-concessions do not place any limit on the number of gaming facilities that may be operated under each concession or sub-concession, although governmental approval is required before a casino commences operations. As at the Latest Practicable Date, SJM operated 19 of the 30 casinos in Macau. Of the remaining casinos in Macau, Galaxy operated five casinos, Venetian Macau and Melco PBL each operated two casinos, and Wynn Macau and MGM Grand Paradise each operated one casino. For more information on the Concessionaires and Sub-Concessionaires, see “Industry Overview — Concessionaires and Sub-Concessionaires.”

A Concessionaire or Sub-Concessionaire may increase the number of gaming tables it operates upon sending an advance notice to the DICJ. The DICJ considers the general market conditions in the gaming industry such as the supply and demand of gaming tables and the general economic outlook of Macau in approving the request.

Details of the concessions are set forth below:

<b><u>Concessionaire<sup>(1)</sup>:</u></b>	<b><u>SJM</u></b>	<b><u>Galaxy</u></b>	<b><u>Wynn Macau</u></b>
Sub-Concessionaires:	MGM Grand Paradise	Venetian Macau	Melco PBL
Committed investment of the Concessionaire:	MOP4.7 billion (HK\$4.6 billion)	MOP8.8 billion <sup>(2)</sup> (HK\$8.5 billion)	MOP4.0 billion <sup>(3)</sup> (HK\$3.9 billion)
Term:	18 years to 31 March 2020	20 years to 26 June 2022	20 years to 26 June 2022
Special levy:			
Contribution to a public foundation in Macau for promotion, development and study of culture, society, economy, education, science and charity events:	1.6% of gaming revenue <sup>(5)</sup>	1.6% of gaming revenue <sup>(5)</sup>	1.6% of gaming revenue <sup>(5)</sup>
Contribution to the MSAR for urban development, tourism promotion and social security of the MSAR:	1.4% of gaming revenue <sup>(4)(5)</sup>	2.4% of gaming revenue <sup>(5)</sup>	2.4% of gaming revenue <sup>(5)</sup>
Total:	3.0% of gaming revenue <sup>(5)</sup>	4.0% of gaming revenue <sup>(5)</sup>	4.0% of gaming revenue <sup>(5)</sup>

Source: DICJ

(1) The MSAR is precluded by the Macau Gaming Law from granting more than three gaming concessions. Under the concession contracts, the MSAR undertook to SJM, Galaxy and Wynn Macau not to grant any additional gaming concessions before 1 April 2009. The Macau Government subsequently and successively authorised three sub-concessions permitting each of SJM, Galaxy and Wynn Macau to enter into the sub-concession contract with its respective Sub-Concessionaire to operate casino games in Macau.

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- (2) Under the sub-concession contract between Galaxy and Venetian Macau, as authorised by the Macau Government. Venetian Macau is responsible for MOP4.4 billion of Galaxy's original investment obligations of MOP8.8 billion under the Galaxy concession.
- (3) Under the sub-concession contract between Wynn Macau and Melco PBL, as authorised by the Macau Government. Melco PBL is required to invest at least MOP4.0 billion in Macau for one resort-hotel-casino complex to be concluded and open to the public in December 2010.
- (4) Under the Concession Contract, the MSAR and SJM agreed that SJM would only contribute only 1.4% of the gaming revenue taking into consideration SJM's commitment to be jointly responsible with STDN for Macau's navigation channel dredging service with the support of the corresponding consideration costs. There are no similar arrangements between the MSAR and the other two Concessionaires.
- (5) The contribution percentages are subject to changes upon re-negotiation between the Concessionaires and the MSAR in 2010.

The following information in connection with contributions to the Macau Government is common to all Concessionaires and Sub-Concessionaires:

Special gaming tax:	35% of gaming revenue; plus
Annual gaming premium:	<ul style="list-style-type: none"><li>● MOP30 million (HK\$29.1 million) per annum fixed premium;</li><li>● MOP300,000 (HK\$291,262.1) per annum per VIP gaming table;</li><li>● MOP150,000 (HK\$145,631.1) per annum per mass market gaming table; and</li><li>● MOP1,000 (HK\$970.9) per annum per electric or mechanical gaming machine including slot machines.</li></ul>

Source: *DICJ*

Following the granting of the concessions in 2002, each of SJM, Galaxy and Wynn Macau entered into a concession contract, which sets out the terms and conditions of its concession with the MSAR. SJM executed its Concession Contract with the MSAR on 28 March 2002, which was subsequently amended on 19 April 2005 and published in the Macau Official Gazette on 4 May 2005. The Concession Contract for SJM, as amended, contains similar terms and conditions as those in the other concession contracts. See "Regulation — Overview of Macau's Regulatory Framework on Gaming Operations — Overview." The Concessionaires and the Sub-Concessionaires entered into sub-concession contracts, which were authorised by the Macau Government.

### *The Concession Contract*

The Concession Contract and its related laws and regulations set out the terms and conditions upon which the MSAR granted the concession to SJM. Under the Concession Contract, SJM holds an 18-year concession beginning on 1 April 2002 and expiring on 31 March 2020 to operate casino games and other gaming areas as approved and authorised by the Macau Government. SJM may operate other gaming-related activities, provided that it receives prior approval from the Macau Government. Upon expiration of the Concession Contract on 31 March 2020, the MSAR may grant an extension of up to a maximum of seven years to SJM pursuant to Macau Gaming Law.

The Concession Contract requires approval of the Macau Government for transfers of shares in SJM, or of any rights over or inherent to such shares, including the grant of voting rights or other stockholder's rights to persons other than the original owners, as well as for the creation of any charge,

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lien or encumbrance on such shares. Furthermore, the Concession Contract requires approval of the Macau Government for transfers of shares, or of any rights over such shares, in any of the direct or indirect stockholders in SJM, provided that such shares or rights are directly or indirectly equivalent to an amount that is equal to or higher than 5% of SJM's share capital. As provided in the Concession Contract, this approval requirement will not apply, however, if the securities are listed and tradable on a stock market and the Concession does not require the listing of a shareholder of SJM to be approved by the Macau Government. In addition, the Concession Contract requires that the Macau Government be given notice of the creation of any encumbrance or the grant of voting rights or other stockholder's rights to persons other than the original owners on shares in any of the direct or indirect stockholders in SJM, provided that such shares or rights are indirectly equivalent to an amount that is equal to or higher than 5% of SJM's share capital. This notice requirement will not apply, however, to securities listed as tradable on a stock exchange. In addition, SJM, as a Concessionaire, must obtain prior approval from the Macau Government for the issuance of shares or bonds or the listing of its shares. This requirement only applies to SJM, and not to its respective shareholders. The transfer or creation of encumbrances over SJM's assets is also subject to similar approval and reporting requirements for shares. To ensure SJM's suitability and financial capacity as a Concessionaire, the Macau Government requires SJM's directors, certain key employees and shareholders holding 5% or more of SJM's share capital to apply for, and be subject to, suitability assessment and on-going suitability review. The Macau Government may investigate the relevant individuals at any time and may deny the application for, or a finding of, suitability for any cause it deems reasonable. SJM is also required to notify and obtain prior approval from the Macau Government before it may provide loans to, or enter into similar contracts with, SJM's board of directors, shareholders and key employees in its casinos. In addition, the Chief Executive of the MSAR, at his or her discretion, has the right to require that SJM's issued share capital be increased if necessary and duly justified on a case-by-case basis.

Furthermore, the casinos, gaming equipment and other assets allocated to the exploitation and operation of gaming activity, which are subject to reversion to the MSAR on 31 March 2020 or upon termination of the Concession if at an earlier date, shall also not be subject to any pledge, charge or other encumbrances, save and except with prior authorisation from the MSAR.

The criteria for determining whether a particular asset must revert to the MSAR upon the termination of the Concession are set out by both the Macau Gaming Law (Law 16/2001) and the Concession Contract.

There are two different situations which present two different criteria:

- (a) As stated in clause 41 of the Concession Contract and in article 37 of the Macau Gaming Law, certain assets may be made available to SJM as part of the Concession. While such assets must be returned to the MSAR by the end of the Concession, during the Concession SJM is entitled to the possession, usage and fruition of such assets. According to clause 111 of the Concession Contract, the only such asset made available to SJM was the original Casino Lisboa, and for a determined period.
- (b) As stated in clause 43 of the Concession Contract and in article 40 of the Macau Gaming Law, certain assets of SJM are revertible to the MSAR. Under the terms of the Concession Contract and Macau Gaming Law, the casinos as well as equipment used in gaming shall revert, free without any compensation, automatically to the MSAR.

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Clause 42 of the Concession Contract specifies that such casinos should be perfectly defined (when functioning in premises with non-casino areas), setting the criteria that only such gaming areas should be considered part of the casino.

The MSAR imposes a special gaming tax on the Concessionaires and Sub-Concessionaires at the rate of 35% of gaming revenue, payable on a monthly basis. The special gaming tax accounted for approximately 61.4%, 75.8% and 76.1% of the MSAR's total public revenue for fiscal years 2005, 2006 and 2007, making it the biggest contributor to the MSAR's public revenue. The MSAR also requires the Concessionaires and Sub-Concessionaires to pay a percentage of the gaming revenue as special levy to be given to (i) a public foundation designated by the MSAR that funds educational programs and other events and (ii) the Macau Government for urban development, tourism promotion and social security. Until 31 December 2006, SJM enjoyed a special exemption from payment of complementary tax, which acts as a tax on profit, pursuant to the Dispatch of Chief Executive No. 30/2004. SJM subsequently applied to the Chief Executive of the MSAR for this renewal of a exemption, approval of which was granted on 8 December 2007, effective 1 January 2007 until 31 December 2011. All Concessionaires and Sub-concessionaires currently in operation, with the exception of MGM Grand Paradise, which commenced gaming operations on 18 December 2007, have been granted this special exemption from complementary tax. The relevant exemption periods are:

- (a) For SJM: Fiscal year 2007 until fiscal year 2011 (inclusive), pursuant to the Dispatch from the Chief Executive of MSAR No. 333/2007, dated 8 December 2007.
- (b) For Venetian Macau: Fiscal year 2004 until fiscal year 2008 (inclusive), pursuant to the Dispatch from the Chief Executive of MSAR No. 250/2004, dated 30 September 2004.
- (c) For Galaxy: Fiscal year 2004 until fiscal year 2008 (inclusive), pursuant to the Dispatch from the Chief Executive of MSAR No. 249/2004, dated 30 September 2004.
- (d) For Wynn Macau: Fiscal year 2006 until fiscal year 2010 (inclusive), pursuant to the Dispatch from the Chief Executive of MSAR No. 283/2006, dated 19 September 2006.
- (e) For Melco PBL: Fiscal year 2007 until fiscal year 2011 (inclusive), pursuant to the Dispatch from the Chief Executive of MSAR No. 180/2007, dated 7 June 2007.

SJM is also required to remit annually to the MSAR a gaming premium with a fixed portion and a variable portion based on the number and type of gaming tables and electronic gaming machines operated by SJM as described below. The fixed portion is MOP30.0 million, while the variable portion is dependent upon the number of gaming tables or gaming machines. The variable portion of the gaming premium shall not be less than MOP45.0 million per annum. SJM is required to pay the fixed portion of the gaming premium by the 10th of January of each year or upon the request of the MSAR, make the payment on a monthly basis, and one-twelfth of the variable portion of the gaming premium must be paid by the 10th day of each month. SJM is required under clause 33 of the Concession Contract and section 432 of the Macau Commercial Code to maintain a legal reserve fund equal to one-fourth of its share capital. In addition, the Concession Contract requires SJM to provide, for the first five years ending on 31 March 2007, a Bank Guarantee of an amount not exceeding MOP700.0 million (HK\$679.6 million), and replace it with a Bank Guarantee of an amount not exceeding MOP300.0 million (HK\$291.3 million) to cover the period from 1 April 2007 to 27 September 2020, 180 days after the termination of the Concession Contract. The guarantee for the first five years has been reduced from MOP700.0 million (HK\$679.6 million) to MOP500.0 million (HK\$485.4 million) pursuant to a notice from the Chief Executive of the MSAR dated 20 April 2005.

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Under the terms of the Concession Contract, SJM is required to carry certain types of insurance policies for the entire duration of the Concession. As at the Latest Practicable Date, SJM maintained all-risk property insurance for substantially all of its owned and leased properties, buildings, equipment and gaming-related inventories such as chips relating to its casino and slot machine operations. SJM is also required by the Concession Contract to carry general third-party liability insurance in connection with the operation of casino games located in the MSAR and the development of gaming-related services included in the Concession that are not already covered by existing insurance policies.

Our Macau legal advisors have considered the DICJ's confirmation dated 4 June 2008 which confirms full compliance by SJM of all of its obligations as a gaming concessionaire in the MSAR.

There are no renewal conditions imposed under the Concession Contract. However, the Macau Government may impose new conditions for renewal. See "Risk Factors — Risks Relating to Our Business — The Macau Government may unilaterally terminate the Concession Contract for cause without compensation, or SJM may fail to secure its extension." The Concession Contract has been granted for a term of 18 years, until 31 March 2020, and will expire upon its term. Up to six months prior to the expiry date, the Concession Contract may be extended by the Macau Government for a maximum of two additional years, up to a limit of 20 years. Beyond such 20 years limit, it may be exceptionally extended by the Macau Government, if duly justified, up to a further limit of five years.

The following table sets out some of the major terms and conditions of the Concession Contract:

Committed investment	MOP4.7 billion (HK\$4.6 billion) <sup>(1)</sup>
Term	18 years to 31 March 2020
Special gaming tax	35% of gaming revenue
Annual gaming premium	MOP30.0 million (HK\$29.1 million) per annum fixed premium MOP300,000.0 (HK\$291,262.1) per annum per VIP gaming table MOP150,000.0 (HK\$145,631.1) per annum per mass market gaming table MOP1,000.0 (HK\$970.9) per annum per electric or mechanical gaming machine including slot machines
Special levy	
Contribution to a public foundation in Macau	1.6% of gaming revenue — for promotion, development or study of culture, society, economy, education, science and charity events <sup>(2)(4)</sup>
Contribution to the MSAR	1.4% of gaming revenue — for urban development, tourism promotion and social security <sup>(3)(4)</sup>
<b>Total</b>	<b>3.0% of gaming revenue<sup>(4)</sup></b>

(1) Total investment committed by SJM in Grand Lisboa and Ponte 16 is approximately HK\$8.8 billion upon completion, of which HK\$8.2 billion has been invested for construction and development as at 30 April 2008.

(2) Under the Concession Contract, SJM is required to contribute 1.6% of gaming revenue to a public foundation designated by the Macau Government.

(3) During the negotiation of the Concession Contract, it was agreed between SJM and the MSAR that SJM would contribute only 1.4% of the gaming revenue taking into consideration SJM's commitment to be jointly responsible with STDM for Macau's navigation channel dredging service.

(4) The contribution percentages are subject to changes upon re-negotiation between SJM and the MSAR in 2010.

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The Concession Contract also contains various general covenants and obligations, including those listed below:

SJM shall, amongst other obligations:

- submit periodic, detailed financial and operating reports to the Macau Government and furnish any other information that the Macau Government may request;
- arrange for its casinos to remain open for operations on a daily basis;
- ensure the proper management and operation of casino games;
- hire staff with appropriate qualifications;
- undertake and operate casino games in a fair and honest manner and free from the influence of criminal activities;
- safeguard and ensure the MSAR's tax revenue from operation of casino games;
- maintain required insurance coverage; and
- return the gaming equipment and apparatus in Macau to the MSAR on 31 March 2020 or upon termination of the Concession, if at an earlier date.

The Macau Government has the right to unilaterally terminate the Concession Contract for cause, after providing SJM with the opportunity to remedy, for SJM's non-compliance with fundamental obligations under the Concession Contract and the applicable MSAR laws such as:

- operation of casino games without permission or operation of business beyond the scope of the Concession;
- abandonment of approved business or suspension of business without justifiable reasons for more than seven consecutive days or 14 non-consecutive days within one calendar year;
- transfer of all or part of SJM's gaming operations in Macau in violation of the relevant laws and administrative regulations governing the operation of casino games;
- failure to pay taxes, premiums, levies or other amounts payable to the MSAR;
- refusal or failure to resume operations or failure to continue operations due to on-going serious disruption or insufficiency of its organisation or operations following the temporary assumption of operations by the Macau Government;
- repeated refusal of the inspection and supervision of the Macau Government or repeated failure to comply with decisions of the Macau Government, in particular, DICJ's Instructions;
- repeated non-compliance with fundamental obligations stipulated in the applicable laws under the concession regime;
- failure to complete the construction projects specified in the Investment Plan by their required dates or suitable alternatives approved by the Macau Government;
- refusal or failure to provide or replenish the Bank Guarantee or surety in the Concession Contract within the prescribed period;
- bankruptcy or insolvency;

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- non-compliance with Macau laws, regulations and/or DICJ's Instructions for the purpose of AML and CTF;
- fraudulent activity to the detriment of the public interest; and
- serious violation of the applicable rules for the operation of casino games or harm to fairness of the casino games.

These events could ultimately lead to the termination of SJM's Concession without compensation to SJM or even result in potential liability to SJM. Upon such termination, all of SJM's casinos, slot machine operations and related equipment and property rights to the casino premises in Macau would be automatically transferred to the MSAR without compensation to SJM and we would cease to generate any revenue from SJM's gaming operations. Our Macau legal advisors are of the view that unlawful granting of credit by SJM's Gaming Promoters or Mass Market Service Providers would not be considered a serious breach by SJM that would lead to termination of SJM's concession, but such eventual breach of the gaming credit law would rather constitute a breach by such Gaming Promoters that would lead to the impeachment of such Gaming Promoters' continuation of credit granting or, ultimately, the termination of the respective promoter's licence. Nevertheless and although remote, if SJM, repeatedly and systematically disrespected or did not impose measures to prevent the continuation of such breaches by the respective Gaming Promoter and/or Mass Market Service Provider, then, ultimately, it could lead to a termination of the Concession if seen by the MSAR Government as a systematic disrespect of a fundamental obligation contained in the Concession regime.

Beginning in April 2009, the Macau Government may exercise its right to redeem the Concession Contract by providing SJM with at least one-year prior written notice. In such event, SJM is entitled to fair compensation. The amount of such compensation will be determined based on the earnings of the Grand Lisboa during the taxable year prior to the redemption, before deducting interest, depreciation and amortisation, multiplied by the number of remaining years before expiration of the Concession.

In addition, SJM must comply with certain fundamental obligations as required and set out by law and the Concession Contract. The breach of these fundamental obligations, including but not limited to acquiring the necessary funds to punctually and completely fulfil any obligation regarding its business and any necessary investment obligation in accordance with the provisions of the Concession Contract and implementing the plans according to the provisions of the Investment Plan, provides the Macau Government the right to terminate the Concession.

### **Investment obligations under the Concession Contract**

As part of the requirements under the Concession Contract, SJM must make certain capital investments of a pre-agreed value in Macau within a specified period. The Macau Government may request or approve the request to make changes in the plans and specifications of SJM's properties in Macau. Under the Investment Plan, SJM is obligated to invest in the construction and development of Fisherman's Wharf (by June 2007), Ponte 16 (by December 2007) and the Grand Lisboa (by June 2008). In relation to the investment obligations, SJM is only required to construct and develop such projects and to fulfil, at least, the minimum amount of investment committed on the Concession Contract and there are no obligations imposed to maintain any of the projects, with the exception of any casinos that might be located on such properties in order to comply with the rules and obligations concerning the mandatory reversion to the MSAR by the end of the concession. If SJM fails to invest at least MOP4.7 billion (HK\$4.6 billion), after completing the three construction projects as set out in

the Investment Plan, SJM is obligated to invest the unused portion of the MOP4.7 billion either in projects relating to its gaming operations, subject to the Macau Government's approval, or in other major public infrastructure constructions as designated by the Macau Government. SJM completed the construction of Fisherman's Wharf in December 2005. SJM distributed its interests in Fisherman's Wharf in December 2005 prior to our Reorganisation. The investment cost in Fishermen's Wharf before SJM distributed its interest in December 2005 was HK\$57.2 million. SJM reached an agreement with the Macau Government on 25 January 2006 to carve out Fisherman's Wharf from SJM's investment obligation as specified under the Investment Plan. As a result of this agreement, none of the capital expenditures incurred by SJM in the construction of Fisherman's Wharf were credited by the Macau Government towards SJM's required MOP4.7 billion investment obligation. On 4 June 2008, DICJ issued a certificate affirming that, as of 4 June 2008, SJM had fulfilled its obligations under the Concession. We therefore believe SJM has met its required investment obligations through its investments in the Grand Lisboa and Ponte 16. SJM is currently constructing the Grand Lisboa and Ponte 16. Phase I of the Grand Lisboa was completed in February 2007 with the opening of its mass market gaming floors. VIP rooms commenced operations in August 2007. Phase II, which includes a hotel, is expected to be completed in the second half of 2008. Phase I of Ponte 16 commenced operations on 1 February 2008 while the rest of the Ponte 16 facilities is expected to be completed by the end of 2008. See "Risk Factors — Risk Related to our Business — SJM could encounter substantial cost increase or delays in the development of one or more of its new projects, which could prevent or delay the opening of such projects." Total investment committed by SJM in these projects is approximately HK\$8.8 billion upon completion, of which HK\$8.2 billion has been invested for construction and development as at 30 April 2008.

### *The Sub-Concession Contract*

As authorised by the Macau Government, SJM entered into a sub-concession contract with MGM Grand Paradise on 19 April 2005 to operate casino games and a hotel casino resort which opened in December 2007. MGM Grand Paradise paid SJM US\$200.0 million (HK\$1,560.0 million) as consideration for the MGM Sub-Concession. Under the terms of the MGM Sub-Concession, MGM Grand Paradise paid SJM HK\$177.1 million, representing the difference between a pre-agreed amount and the actual land premium amount that MGM Grand Paradise paid to the Macau Government.

The MGM Sub-Concession sets out the terms and conditions of the sub-concession entered into between SJM and MGM Grand Paradise for the operation by MGM Grand Paradise of casino games in the MSAR, as authorised by the Macau Government. The Macau Government issued letters on 19 April 2005 and 20 April 2005, which approved the MGM Sub-Concession, undertaking obligations towards MGM Grand Paradise on the MGM Sub-Concession and exonerating SJM from any and all liabilities arising out of the MGM Sub-Concession. Each of SJM and MGM Grand Paradise has its own obligations towards the Macau Government and neither is responsible for the compliance by the other of its own obligations. SJM is not liable in any way for, and will not suffer any consequences arising from, the lack of fulfillment of any of MGM Grand Paradise's obligations or requirements under the MGM Sub-Concession, or from its own act.

Under the MGM Sub-Concession, MGM Grand Paradise holds a 15-year sub-concession beginning on 19 April 2005 and expiring on 31 March 2020 to operate casino games in casinos and other gaming areas as approved and authorised by the Macau Government from time to time. Under the terms of the MGM Sub-Concession, MGM Grand Paradise is required to pay a special levy of 4% of its gaming revenue along with a fixed and variable portion of the gaming premium on the same terms as those specified in the Concession Contract.