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# UNITED STATES
# SECURITIES AND EXCHANGE COMMISSION
**WASHINGTON, D.C. 20549**

# FORM 10-Q

**(Mark One)**

**x QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the quarterly period ended June 30, 2012**

**OR**

**o TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the transition period from to**

**Commission file number: 0-24206**

# PENN NATIONAL GAMING, INC.
(Exact name of registrant as specified in its charter)

| **Pennsylvania** | **23-2234473** |
|---|---|
| (State or other jurisdiction of incorporation or organization) | (I.R.S. Employer Identification No.) |

**825 Berkshire Blvd., Suite 200**
**Wyomissing, PA 19610**
(Address of principal executive offices) (Zip Code)

**610-373-2400**
(Registrant's telephone number, including area code)

**Not Applicable**
(Former name, former address, and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act:

| | |
|---|---|
| Large accelerated filer x | Accelerated filer o |
| Non-accelerated filer o (Do not check if a smaller reporting company) | Smaller reporting company o |

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o No x

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

| **Title** | **Outstanding as of July 26, 2012** |
|---|---|
| Common Stock, par value $.01 per share | 76,595,488 (includes 286,255 shares of restricted stock) |

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This report contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Actual results may vary materially from expectations. Although Penn National Gaming, Inc. and its subsidiaries (collectively, the "Company") believe that our expectations are based on reasonable assumptions within the bounds of our knowledge of our business and operations, there can be no assurance that actual results will not differ materially from our expectations. Meaningful factors that could cause actual results to differ from expectations include, but are not limited to, risks related to the following: our ability to receive and maintain, or delays in obtaining, the regulatory approvals required to own, develop and/or operate our facilities, or other delays or impediments to completing our planned acquisitions or projects, including favorable resolution of any related litigation, including the recent appeal by the Ohio Roundtable addressing the legality of video lottery terminals in Ohio and the lawsuit to protect our interests in Iowa; our ability to secure state and local permits and approvals necessary for construction; construction factors, including delays, unexpected remediation costs, local opposition and increased cost of labor and materials; our ability to receive timely regulatory approval for and to otherwise complete our planned acquisition of Harrah's St. Louis (failure to do so could, among other things, result in the loss of certain deposits); our ability to successfully integrate Harrah's St. Louis into our existing business; our ability to reach agreements with the thoroughbred and harness horseman in Ohio and to otherwise maintain agreements with our horseman, pari-mutuel clerks and other organized labor groups; the passage of state, federal or local legislation (including referenda) that would expand, restrict, further tax, prevent or negatively impact operations in or adjacent to the jurisdictions in which we do or seek to do business (such as the expansion of gaming under consideration in Maryland and Illinois or a smoking ban at any of our facilities); the effects of local and national economic, credit, capital market, housing, and energy conditions on the economy in general and on the gaming and lodging industries in particular; the activities of our competitors and the emergence of new competitors (traditional and internet based); increases in the effective rate of taxation at any of our properties or at the corporate level; our ability to identify attractive acquisition and development opportunities and to agree to terms with partners for such transactions; the costs and risks involved in the pursuit of such opportunities and our ability to complete the acquisition or development of, and achieve the expected returns from, such opportunities; our expectations for the continued availability and cost of capital; the outcome of pending legal proceedings; changes in accounting standards; our dependence on key personnel; the impact of terrorism and other international hostilities; the impact of weather; and other factors as discussed in the Company's Annual Report on Form 10-K for the year ended December 31, 2011, subsequent Quarterly Reports on Form 10-Q and Current Reports on Form 8-K as filed with the United States Securities and Exchange Commission. The Company does not intend to update publicly any forward-looking statements except as required by law.



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**PENN NATIONAL GAMING, INC. AND SUBSIDIARIES**

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**PART I. FINANCIAL INFORMATION**
**ITEM 1. FINANCIAL STATEMENTS**

**Penn National Gaming, Inc. and Subsidiaries**
**Condensed Consolidated Balance Sheets**
**(in thousands, except share and per share data)**
**(unaudited)**

| | June 30, 2012 | December 31, 2011 |
|---|---|---|
| **Assets** | | |
| **Current assets** | | |
| Cash and cash equivalents | $ 204,126 | $ 238,440 |
| Receivables, net of allowance for doubtful accounts of $3,467 and $4,115 at June 30, 2012 and December 31, 2011, respectively | 53,602 | 55,455 |
| Insurance receivable | — | 1,072 |
| Prepaid expenses | 40,536 | 39,801 |
| Deferred income taxes | 31,856 | 32,306 |
| Other current assets | 47,289 | 48,715 |
| Total current assets | 377,409 | 415,789 |
| **Property and equipment, net** | 2,420,087 | 2,277,200 |
| **Other assets** | | |
| Investment in and advances to unconsolidated affiliates | 216,478 | 174,116 |
| Goodwill | 1,178,136 | 1,180,359 |
| Other intangible assets, net | 471,380 | 421,593 |
| Debt issuance costs, net of accumulated amortization of $7,977 and $4,860 at June 30, 2012 and December 31, 2011, respectively | 30,261 | 33,310 |
| Other assets | 89,238 | 103,979 |
| Total other assets | 1,985,493 | 1,913,357 |
| **Total assets** | $ 4,782,989 | $ 4,606,346 |
| | | |
| **Liabilities** | | |
| **Current liabilities** | | |
| Current maturities of long-term debt | $ 42,600 | $ 44,559 |
| Accounts payable | 30,332 | 39,582 |
| Accrued expenses | 106,673 | 113,699 |
| Accrued interest | 17,301 | 17,947 |
| Accrued salaries and wages | 75,390 | 85,285 |
| Gaming, pari-mutuel, property, and other taxes | 45,551 | 49,559 |
| Income taxes | — | 5,696 |
| Insurance financing | 6,999 | 16,363 |
| Other current liabilities | 58,791 | 53,650 |
| Total current liabilities | 383,637 | 426,340 |
| | | |
| **Long-term liabilities** | | |
| Long-term debt, net of current maturities | 2,059,433 | 1,998,606 |
| Deferred income taxes | 152,209 | 167,576 |
| Noncurrent tax liabilities | 36,870 | 33,872 |
| Other noncurrent liabilities | 7,686 | 8,321 |
| Total long-term liabilities | 2,256,198 | 2,208,375 |
| | | |
| **Shareholders' equity** | | |
| Preferred stock ($.01 par value, 1,000,000 shares authorized, 12,275 shares issued and outstanding at June 30, 2012 and December 31, 2011) | — | — |
| Common stock ($.01 par value, 200,000,000 shares authorized, 76,589,626 and 76,213,126 shares issued at June 30, 2012 and December 31, 2011, respectively) | 760 | 756 |
| Additional paid-in capital | 1,411,670 | 1,385,355 |
| Retained earnings | 728,488 | 583,202 |
| Accumulated other comprehensive income | 2,236 | 2,318 |
| Total shareholders' equity | 2,143,154 | 1,971,631 |
| **Total liabilities and shareholders' equity** | $ 4,782,989 | $ 4,606,346 |

See accompanying notes to the consolidated financial statements.



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**Penn National Gaming, Inc. and Subsidiaries**
**Condensed Consolidated Statements of Income**
**(in thousands, except per share data)**
**(unaudited)**

| | Three Months Ended June 30, | | Six Months Ended June 30, | |
|---|---|---|---|---|
| | 2012 | 2011 | 2012 | 2011 |

| | | | | |
|---|---|---|---|---|
| **Revenues** | | | | |
| Gaming | $ 634,846 | $ 622,873 | $ 1,290,923 | $ 1,231,984 |
| Food, beverage and other | 109,955 | 94,391 | 222,863 | 179,680 |
| Management service fee | 3,614 | 4,037 | 7,057 | 7,354 |
| Revenues | 748,415 | 721,301 | 1,520,843 | 1,419,018 |
| Less promotional allowances | (35,864) | (33,422) | (72,233) | (64,116) |
| Net revenues | 712,551 | 687,879 | 1,448,610 | 1,354,902 |
| | | | | |
| **Operating expenses** | | | | |
| Gaming | 330,875 | 327,033 | 671,044 | 647,789 |
| Food, beverage and other | 84,985 | 75,257 | 172,789 | 143,849 |
| General and administrative | 115,251 | 102,322 | 231,248 | 205,798 |
| Depreciation and amortization | 56,791 | 54,230 | 110,128 | 107,388 |
| Insurance recoveries, net of deductible charges | (3,366) | (11,555) | (7,229) | (13,249) |
| Total operating expenses | 584,536 | 547,287 | 1,177,980 | 1,091,575 |
| Income from operations | 128,015 | 140,592 | 270,630 | 263,327 |
| | | | | |
| **Other income (expenses)** | | | | |
| Interest expense | (17,823) | (26,109) | (35,866) | (55,135) |
| Interest income | 246 | 96 | 465 | 149 |
| Gain (loss) from unconsolidated affiliates | 1,054 | 431 | 2,739 | (1,923) |
| Other | 1,474 | (701) | 471 | (2,344) |
| Total other expenses | (15,049) | (26,283) | (32,191) | (59,253) |
| | | | | |
| **Income from operations before income taxes** | 112,966 | 114,309 | 238,439 | 204,074 |
| Taxes on income | 46,299 | 38,320 | 93,153 | 76,557 |
| **Net income** | $ 66,667 | $ 75,989 | $ 145,286 | $ 127,517 |
| | | | | |
| **Earnings per common share:** | | | | |
| Basic earnings per common share | $ 0.70 | $ 0.79 | $ 1.54 | $ 1.32 |
| Diluted earnings per common share | $ 0.63 | $ 0.71 | $ 1.37 | $ 1.19 |

See accompanying notes to the consolidated financial statements.



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**Penn National Gaming, Inc. and Subsidiaries**
**Condensed Consolidated Statements of Comprehensive Income**
**(in thousands) (unaudited)**

| | Three Months Ended June 30, | | Six Months Ended June 30, | |
|---|---|---|---|---|
| | 2012 | 2011 | 2012 | 2011 |
| Net income | $ 66,667 | $ 75,989 | $ 145,286 | $ 127,517 |
| Other comprehensive income, net of tax: | | | | |
| Change in fair value of interest rate swap contracts | | | | |
| Unrealized holding losses arising during the period on effective hedges, net of income tax benefit of $120 and $242, respectively | — | (212) | — | (430) |
| Less: Reclassification adjustments for losses included in net income, net of income taxes of $1,546 and $3,852, respectively | — | 2,707 | — | 6,835 |
| Change in fair value of interest rate swap contracts, net | — | 2,495 | — | 6,405 |
| Foreign currency translation adjustment during the period | (455) | 122 | (167) | 497 |
| Unrealized holding gains on corporate debt securities arising during the period | 155 | 578 | 85 | 910 |
| Other comprehensive (loss) income | (300) | 3,195 | (82) | 7,812 |
| Comprehensive income | $ 66,367 | $ 79,184 | $ 145,204 | $ 135,329 |

See accompanying notes to the consolidated financial statements.



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**Penn National Gaming, Inc. and Subsidiaries**
**Condensed Consolidated Statements of Changes in Shareholders' Equity**
**(in thousands, except share data) (unaudited)**

| | Preferred Stock | | Common Stock | | Additional Paid-In Capital | Retained Earnings | Accumulated Other Comprehensive (Loss) Income | Total Shareholders' Equity |
|---|---|---|---|---|---|---|---|---|
| | Shares | Amount | Shares | Amount | | | | |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Balance, December 31, 2010 | 12,275 | $ — | 78,414,022 | $ 779 | $ 1,446,932 | $ 337,940 | $ (7,885) | $ 1,777,766 |
| Stock option activity, including tax benefit of $2,058 | — | — | 357,616 | 4 | 19,917 | — | — | 19,921 |
| Restricted stock activity | — | — | 97,005 | — | 2,182 | — | — | 2,182 |
| Change in fair value of interest rate swap contracts, net of income taxes of $3,610 | — | — | — | — | — | — | 6,405 | 6,405 |
| Change in fair value of corporate debt securities | — | — | — | — | — | — | 910 | 910 |
| Foreign currency translation adjustment | — | — | — | — | — | — | 497 | 497 |
| Cumulative-effect of adoption of amendments to ASC 924 regarding jackpot liabilities, net of income taxes of $1,068 | — | — | — | — | — | 2,911 | — | 2,911 |
| Net income | — | — | — | — | — | 127,517 | — | 127,517 |
| Balance, June 30, 2011 | 12,275 | $ — | 78,868,643 | $ 783 | $ 1,469,031 | $ 468,368 | $ (73) | $ 1,938,109 |
| | | | | | | | | |
| Balance, December 31, 2011 | 12,275 | $ — | 76,213,126 | $ 756 | $ 1,385,355 | $ 583,202 | $ 2,318 | $ 1,971,631 |
| Stock option activity, including tax benefit of $2,478 | — | — | 380,576 | 4 | 24,085 | — | — | 24,089 |
| Restricted stock activity | — | — | (4,076) | — | 2,230 | — | — | 2,230 |
| Change in fair value of corporate debt securities | — | — | — | — | — | — | 85 | 85 |
| Foreign currency translation adjustment | — | — | — | — | — | — | (167) | (167) |
| Net income | — | — | — | — | — | 145,286 | — | 145,286 |
| Balance, June 30, 2012 | 12,275 | $ — | 76,589,626 | $ 760 | $ 1,411,670 | $ 728,488 | $ 2,236 | $ 2,143,154 |

See accompanying notes to the consolidated financial statements.



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**Penn National Gaming, Inc. and Subsidiaries**
**Condensed Consolidated Statements of Cash Flows**
**(in thousands) (unaudited)**

| Six Months Ended June 30, | 2012 | 2011 |
|---|---|---|
| **Operating activities** | | |
| Net income | $ 145,286 | $ 127,517 |
| Adjustments to reconcile net income to net cash provided by operating activities: | | |
| Depreciation and amortization | 110,128 | 107,388 |
| Amortization of items charged to interest expense | 3,290 | 6,189 |
| Gain on sale of fixed assets | (1,037) | (234) |
| (Gain) loss from unconsolidated affiliates | (2,739) | 1,923 |
| Deferred income taxes | (14,383) | 27,592 |
| Charge for stock-based compensation | 15,307 | 12,349 |
| (Increase) decrease, net of businesses acquired | | |
| Accounts receivable | (505) | (2,431) |
| Insurance receivable | 1,072 | (709) |
| Prepaid expenses and other current assets | 11,316 | 42,808 |
| Other assets | (5,191) | (1,515) |
| (Decrease) increase, net of businesses acquired | | |
| Accounts payable | (2,647) | 1,138 |
| Accrued expenses | (7,026) | (12,531) |
| Accrued interest | (646) | (2,731) |
| Accrued salaries and wages | (9,895) | (7,053) |
| Gaming, pari-mutuel, property and other taxes | (4,008) | (7,995) |
| Income taxes | (15,278) | — |
| Other current and noncurrent liabilities | 4,506 | 5,320 |
| Other noncurrent tax liabilities | 3,336 | (6,048) |
| Net cash provided by operating activities | 230,886 | 290,977 |
| **Investing activities** | | |
| Expenditures for property and equipment, net of reimbursements | (254,178) | (107,250) |
| Proceeds from sale of property and equipment | 2,803 | 610 |
| Investment in joint ventures | (39,600) | (80,725) |
| Decrease in cash in escrow | 15,500 | 30,000 |
| Acquisitions of businesses and licenses, net of cash acquired | (50,000) | 12,585 |
| Net cash used in investing activities | (325,475) | (144,780) |
| **Financing activities** | | |
| Proceeds from exercise of options | 8,534 | 7,695 |
| Proceeds from issuance of long-term debt, net of issuance costs | 151,932 | 28,670 |
| Principal payments on long-term debt | (93,305) | (103,095) |
| Proceeds from insurance financing | — | 892 |
| Payments on insurance financing | (9,364) | (6,817) |
| Tax benefit from stock options exercised | 2,478 | 2,058 |
| Net cash provided by (used in) financing activities | 60,275 | (70,597) |
| **Net (decrease) increase in cash and cash equivalents** | (34,314) | 75,600 |
| Cash and cash equivalents at beginning of year | 238,440 | 246,385 |
| Cash and cash equivalents at end of period | $ 204,126 | $ 321,985 |

| | | | | |
|---|---|---|---|---|
| **Supplemental disclosure** | | | | |
| Cash paid for interest | $ | 38,966 | $ | 53,313 |
| Cash paid for income taxes | $ | 115,054 | $ | 28,619 |

See accompanying notes to the consolidated financial statements.



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**Penn National Gaming, Inc. and Subsidiaries**
**Notes to the Condensed Consolidated Financial Statements**

## 1. Organization and Basis of Presentation

Penn National Gaming, Inc. ("Penn") and subsidiaries (collectively, the "Company") is a diversified, multi-jurisdictional owner and manager of gaming and pari-mutuel properties. As of June 30, 2012, the Company owns, manages, or has ownership interests in twenty-seven facilities in the following nineteen jurisdictions: Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Mississippi, Missouri, Nevada, New Jersey, New Mexico, Ohio, Pennsylvania, Texas, West Virginia, and Ontario.

The accompanying unaudited condensed consolidated financial statements of the Company have been prepared in accordance with United States ("U.S.") generally accepted accounting principles ("GAAP") for interim financial information and with the instructions for Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by GAAP for complete consolidated financial statements. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included.

The condensed consolidated financial statements include the accounts of Penn and its subsidiaries. Investment in and advances to unconsolidated affiliates are accounted for under the equity method. All significant intercompany accounts and transactions have been eliminated in consolidation.

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenue and expenses for the reporting periods. Actual results could differ from those estimates. For purposes of comparability, certain prior year amounts have been reclassified to conform to the current year presentation.

Operating results for the six months ended June 30, 2012 are not necessarily indicative of the results that may be expected for the year ending December 31, 2012. The notes to the consolidated financial statements contained in the Annual Report on Form 10-K for the year ended December 31, 2011 should be read in conjunction with these condensed consolidated financial statements. The December 31, 2011 financial information has been derived from the Company's audited consolidated financial statements.

## 2. Summary of Significant Accounting Policies

### Revenue Recognition and Promotional Allowances

Gaming revenue is the aggregate net difference between gaming wins and losses, with liabilities recognized for funds deposited by customers before gaming play occurs, for chips and "ticket-in, ticket-out" coupons in the customers' possession, and for accruals related to the anticipated payout of progressive jackpots. Progressive slot machines, which contain base jackpots that increase at a progressive rate based on the number of coins played, are charged to revenue as the amount of the jackpots increase.

Food, beverage and other revenue, including racing revenue, is recognized as services are performed. Racing revenue includes the Company's share of pari-mutuel wagering on live races after payment of amounts returned as winning wagers, its share of wagering from import and export simulcasting, and its share of wagering from its off-track wagering facilities.

Revenue from the management service contract for Casino Rama is based upon contracted terms and is recognized when services are performed.

Revenues are recognized net of certain sales incentives in accordance with Financial Accounting Standards Board (the "FASB") Accounting Standards Codification ("ASC") 605-50, "Revenue Recognition—Customer Payments and Incentives." The Company records certain sales incentives and points earned in point-loyalty programs as a reduction of revenue.

The retail value of accommodations, food and beverage, and other services furnished to guests without charge is included in gross revenues and then deducted as promotional allowances. The estimated cost of providing such promotional allowances is primarily included in food, beverage and other expense.

The amounts included in promotional allowances for the three and six months ended June 30, 2012 and 2011 are as follows:



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| | Three Months Ended June 30, | | Six Months Ended June 30, | |
|---|---|---|---|---|
| | 2012 | 2011 | 2012 | 2011 |
| | (in thousands) | | | |
| Rooms | $ 6,265 | $ 5,528 | $ 12,559 | $ 10,739 |
| Food and beverage | 27,236 | 25,461 | 54,715 | 48,689 |
| Other | 2,363 | 2,433 | 4,959 | 4,688 |
| Total promotional allowances | $ 35,864 | $ 33,422 | $ 72,233 | $ 64,116 |

The estimated cost of providing such complimentary services for the three and six months ended June 30, 2012 and 2011 are as follows:

| | Three Months Ended June 30, | | Six Months Ended June 30, | |
|---|---|---|---|---|
| | 2012 | 2011 | 2012 | 2011 |
| | (in thousands) | | | |
| Rooms | $ 2,307 | $ 2,010 | $ 4,663 | $ 4,024 |
| Food and beverage | 18,175 | 18,645 | 36,655 | 36,264 |
| Other | 1,429 | 1,440 | 2,951 | 2,794 |
| Total cost of complimentary services | $ 21,911 | $ 22,095 | $ 44,269 | $ 43,082 |

**Gaming and Racing Taxes**

The Company is subject to gaming and pari-mutuel taxes based on gross gaming revenue and pari-mutuel revenue in the jurisdictions in which it operates. The Company primarily recognizes gaming and pari-mutuel tax expense based on the statutorily required percentage of revenue that is required to be paid to state and local jurisdictions in the states where or in which wagering occurs. In certain states in which the Company operates, gaming taxes are based on graduated rates. The Company records gaming tax expense at the Company's estimated effective gaming tax rate for the year, considering estimated taxable gaming revenue and the applicable rates. Such estimates are adjusted each interim period. If gaming tax rates change during the year, such changes are applied prospectively in the determination of gaming tax expense in future interim periods. Finally, the Company recognizes purse expense based on the statutorily required percentage of revenue that is required to be paid out in the form of purses to the winning owners of horseraces run at the Company's racetracks in the period in which wagering occurs. For the three and six months ended June 30, 2012, these expenses, which are recorded primarily within gaming expense in the condensed consolidated statements of income, were $266.6 million and $543.5 million, respectively, as compared to $270.4 million and $534.5 million for the three and six months ended June 30, 2011, respectively.

**Earnings Per Share**

The Company calculates earnings per share ("EPS") in accordance with ASC 260, "Earnings Per Share" ("ASC 260"). Basic EPS is computed by dividing net income applicable to common stock, excluding net income attributable to noncontrolling interests, by the weighted-average number of common shares outstanding during the period. Diluted EPS reflects the additional dilution for all potentially-dilutive securities such as stock options and unvested restricted shares.

At June 30, 2012, the Company had outstanding 12,275 shares of Series B Redeemable Preferred Stock (the "Preferred Stock"), which the Company determined qualified as a participating security as defined in ASC 260. Under ASC 260, a security is considered a participating security if the security may participate in undistributed earnings with common stock, whether that participation is conditioned upon the occurrence of a specified event or not. In accordance with ASC 260, a company is required to use the two-class method when computing EPS when a company has a security that qualifies as a "participating security." The two-class method is an earnings allocation formula that determines EPS for each class of common stock and participating security according to dividends declared (or accumulated) and participation rights in undistributed earnings. A participating security is included in the computation of basic EPS using the two-class method. Under the two-class method, basic EPS for the Company's Common Stock is computed by dividing net income applicable to common stock by the weighted-average common shares outstanding during the period. Diluted EPS for the Company's Common Stock is computed using the more dilutive of the two-class method or the if-converted method.

The following table sets forth the allocation of net income for the three and six months ended June 30, 2012 and 2011 under the two-class method:



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| | Three Months Ended June 30, | | Six Months Ended June 30, | |
|---|---|---|---|---|
| | 2012 | 2011 | 2012 | 2011 |
| | (in thousands) | | | |
| Net income | $ 66,667 | $ 75,989 | $ 145,286 | $ 127,517 |
| Net income applicable to preferred stock | 12,914 | 14,396 | 28,183 | 24,185 |
| Net income applicable to common stock | $ 53,753 | $ 61,593 | $ 117,103 | $ 103,332 |

The following table reconciles the weighted-average common shares outstanding used in the calculation of basic EPS to the weighted-average common shares outstanding used in the calculation of diluted EPS for the three and six months ended June 30, 2012 and 2011:

| | Three Months Ended June 30, | | Six Months Ended June 30, | |
|---|---|---|---|---|
| | 2012 | 2011 | 2012 | 2011 |
| | (in thousands) | | | |
| Determination of shares: | | | | |
| Weighted-average common shares outstanding | 76,257 | 78,387 | 76,126 | 78,275 |
| Assumed conversion of dilutive employee stock-based awards | 2,595 | 1,858 | 2,471 | 1,694 |
| Assumed conversion of preferred stock | 27,278 | 27,278 | 27,278 | 27,278 |
| Diluted weighted-average common shares outstanding | 106,130 | 107,523 | 105,875 | 107,247 |

The Company is required to adjust its diluted weighted-average common shares outstanding for the purpose of calculating diluted EPS as follows: 1) when the price of the Company's Common Stock is less than $45, the diluted weighted-average common shares outstanding is increased by 27,277,778 shares (regardless of how much the stock price is below $45); 2) when the price of the Company's Common Stock is between $45 and $67, the diluted weighted-average common shares outstanding is increased by an amount which can be calculated by dividing $1.23 billion (face value) by the current price per share of the Company's Common Stock, which will result in an increase in the diluted weighted-average common shares outstanding of between 18,320,896 shares and 27,277,778 shares; and 3) when the price of the Company's Common Stock is above $67, the diluted weighted-average common shares outstanding is increased by 18,320,896 shares (regardless of how much the stock price exceeds $67).

Options to purchase 1,700,528 shares and 3,125,403 shares were outstanding during the three and six months ended June 30, 2012, respectively, but were not included in the computation of diluted EPS because they were antidilutive. Options to purchase 2,816,053 shares and 2,894,152 shares were

outstanding during the three and six months ended June 30, 2011, respectively, but were not included in the computation of diluted EPS because they were antidilutive.

The following table presents the calculation of basic and diluted EPS for the Company's Common Stock:

| | Three Months Ended June 30, | | Six Months Ended June 30, | |
|---|---|---|---|---|
| | 2012 | 2011 | 2012 | 2011 |
| | (in thousands, except per share data) | | | |
| **Calculation of basic EPS:** | | | | |
| Net income applicable to common stock | $ 53,753 | $ 61,593 | $ 117,103 | $ 103,332 |
| Weighted-average common shares outstanding | 76,257 | 78,387 | 76,126 | 78,275 |
| Basic EPS | $ 0.70 | $ 0.79 | $ 1.54 | $ 1.32 |
| | | | | |
| **Calculation of diluted EPS:** | | | | |
| Net income | $ 66,667 | $ 75,989 | $ 145,286 | $ 127,517 |
| Diluted weighted-average common shares outstanding | 106,130 | 107,523 | 105,875 | 107,247 |
| Diluted EPS | $ 0.63 | $ 0.71 | $ 1.37 | $ 1.19 |

**Stock-Based Compensation**

The Company accounts for stock compensation under ASC 718, "Compensation-Stock Compensation," which requires the Company to expense the cost of employee services received in exchange for an award of equity instruments based on the grant-date fair value of the award. Stock based compensation expense for the three and six months ended June 30, 2012 was $7.4 million and $15.3 million, respectively, as compared to $6.1 million and $12.3 million for the three and six months ended June 30, 2011. This expense is recognized ratably over the requisite service period following the date of grant.



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The fair value for stock options was estimated at the date of grant using the Black-Scholes option-pricing model, which requires management to make certain assumptions. The risk-free interest rate was based on the U.S. Treasury spot rate with a term equal to the expected life assumed at the date of grant. Expected volatility was estimated based on the historical volatility of the Company's stock price over a period of 6.64 years, in order to match the expected life of the options at the grant date. There is no expected dividend yield since the Company has not paid any cash dividends on its Common Stock since its initial public offering in May 1994 and since the Company intends to retain all of its earnings to finance the development of its business for the foreseeable future. The weighted-average expected life was based on the contractual term of the stock option and expected employee exercise dates, which was based on the historical and expected exercise behavior of the Company's employees. Forfeitures are estimated at the date of grant based on historical experience.

The following are the weighted-average assumptions used in the Black-Scholes option-pricing model at June 30, 2012 and 2011:

| | 2012 | 2011 |
|---|---|---|
| Risk-free interest rate | 0.84% | 2.04% |
| Expected volatility | 45.78% | 47.24% |
| Dividend yield | — | — |
| Weighted-average expected life (years) | 6.64 | 5.77 |
| Forfeiture rate | 5.00% | 5.00% |

Beginning in the fourth quarter of 2010, the Company began issuing cash-settled phantom stock unit awards, which vest over a period of four to five years. Cash-settled phantom stock unit awards entitle employees and directors to receive cash based on the fair value of the Company's Common Stock on the vesting date. These phantom stock unit awards are accounted for as liability awards and are re-measured at fair value each reporting period until they become vested with compensation expense being recognized over the requisite service period in accordance with ASC 718-30 "Compensation—Stock Compensation, Awards Classified as Liabilities." As of June 30, 2012, there was $14.0 million of total unrecognized compensation cost that will be recognized over the grants remaining weighted average vesting period of 3.4 years. For the three and six months ended June 30, 2012, the Company recognized $1.3 million and $2.5 million, respectively, of compensation expense associated with these awards, as compared to $0.6 million and $1.0 million for the three and six months ended June 30, 2011, respectively.

Additionally, starting in 2011, the Company has issued stock appreciation rights to certain employees, which vest over a period of four years. The Company's stock appreciation rights are accounted for as liability awards since they will be settled in cash. The fair value of these awards is calculated during each reporting period and estimated using the Black-Scholes option pricing model based on the various inputs discussed previously. As of June 30, 2012, there was $12.5 million of total unrecognized compensation cost that will be recognized over the awards remaining weighted average vesting period of 3.1 years. For the three and six months ended June 30, 2012, the Company recognized $1.1 million and $2.5 million, respectively, of compensation expense associated with these awards, as compared to $0.4 million and $0.7 million for the three and six months ended June 30, 2011, respectively.

**Accounting for Derivatives and Hedging Activities**

The Company uses fixed and variable-rate debt to finance its operations. Both funding sources have associated risks and opportunities, such as interest rate exposure, and the Company's risk management policy permits the use of derivatives to manage this exposure. The Company does not hold or issue derivative financial instruments for trading or speculative purposes. Thus, uses of derivatives are strictly limited to hedging and risk management purposes in connection with managing interest rate exposure. Acceptable derivatives for this purpose include interest rate swap contracts, futures, options, caps, and similar instruments.

When using derivatives, the Company has historically desired to obtain hedge accounting, which is conditional upon satisfying specific documentation and performance criteria. In particular, the underlying hedged item must expose the Company to risks associated with market fluctuations and

the instrument used as the hedging derivative must generate offsetting effects in prescribed magnitudes. If these criteria are not met, a change in the market value of the financial instrument and all associated settlements would be recognized as gains or losses in the period of change.

Under cash flow hedge accounting, effective derivative results are initially recorded in other comprehensive income ("OCI") and later reclassified to earnings, coinciding with the income recognition relating to the variable interest payments being hedged (i.e., when the interest expense on the variable-rate liability is recorded in earnings). Any hedge ineffectiveness (which represents the amount by which hedge results exceed the variability in the cash flows of the forecasted transaction due to the risk being hedged) is



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recorded in current period earnings. Under cash flow hedge accounting, derivatives are included in the consolidated balance sheets as assets or liabilities at fair value.

Previously, the Company had a number of interest rate swap contracts in place. These contracts served to mitigate income volatility for a portion of the Company's variable-rate funding. In effect, these interest rate swap contracts synthetically converted the portion of variable-rate debt being hedged to the equivalent of fixed-rate funding. Under the terms of the swap contracts, the Company received cash flows from the swap contract counterparties to offset the benchmark interest rate component of variable interest payments on the hedged financings, in exchange for paying cash flows based on the swap contracts' fixed rates. These two respective obligations were net-settled periodically. The fair value of the Company's interest rate swap contracts was measured at the present value of all expected future cash flows based on the LIBOR-based swap yield curve as of the date of the valuation, subject to a credit adjustment to the LIBOR-based yield curve's implied discount rates. The credit adjustment reflected the Company's best estimate as to the Company's credit quality. There were no outstanding interest rate swap contracts as of June 30, 2012 and December 31, 2011.

**3. New Accounting Pronouncements**

In December 2011, the FASB issued amendments to enhance disclosures about offsetting and related arrangements. This information will enable the users of the financial statements to evaluate the effect or potential effect of netting arrangements on an entity's financial position, including the effect or potential effect of rights of setoff associated with certain financial and derivative instruments. These amendments are effective for annual reporting periods, and interim periods within those years, beginning on or after January 1, 2013. The disclosures required by these amendments should be provided retrospectively for all comparative periods presented. Management does not believe that these amendments will have an impact on the consolidated financial statements.

In June 2011, the FASB issued amendments to guidance regarding the presentation of comprehensive income. The amendments eliminate the option to present components of OCI as part of the statement of changes in stockholders' equity. The amendments require that comprehensive income be presented in either a single continuous statement or in two separate but consecutive statements. In a single continuous statement, the entity would present the components of net income and total net income, the components of OCI and a total of OCI, along with the total of comprehensive income in that statement. In the two-statement approach, the entity would present components of net income and total net income in the statement of net income and a statement of OCI would immediately follow the statement of net income and include the components of OCI and a total for OCI, along with a total for comprehensive income. The amendments also require the entity to present on the face of the financial statements any reclassification adjustments for items that are reclassified from OCI to net income in the statement(s) where the components of net income and the components of OCI are presented. The amendments do not change the items that must be reported in OCI, when an item of OCI must be reclassed to net income or the option to present components of OCI either net of related tax effects or before related tax effects. The amendments, excluding the specific requirement to present on the face of the financial statements any reclassification adjustments for items that are reclassified from OCI to net income in the statement(s) where the components of net income and the components of OCI are presented which was deferred by the FASB in December 2011, are effective for fiscal years, and interim periods within those years, beginning after December 15, 2011 and are to be applied retrospectively. The Company adopted the guidance, except for the deferred requirement to present reclassification adjustments in the statement(s) where the components of net income and the components of OCI are presented, as of January 1, 2012. The Company has presented comprehensive income in two separate but consecutive statements.

**4. Pending Acquisition**

On May 7, 2012, the Company announced that it has entered into a definitive agreement to acquire 100% of the equity of Harrah's St. Louis gaming and lodging facility from Caesars Entertainment for a purchase price of approximately $610 million. While the acquisition is a stock transaction, it will be treated as an asset transaction for tax purposes. This will enable the Company to amortize the goodwill and other fair value adjustments for tax purposes. The acquisition reflects the continuing efforts of the Company to expand its regional operating platform with a facility in a large metropolitan market. The transaction is subject to customary closing conditions and regulatory approvals and upon closing, the Company will re-brand Harrah's St. Louis with its Hollywood-themed brand. The purchase price of the transaction will be funded through an add-on to the Company's senior secured credit facility. Harrah's St. Louis is located adjacent to the Missouri River in Maryland Heights, Missouri, directly off I-70 and approximately 22 miles northwest of downtown St. Louis. The facility is situated on over 294 acres along the Missouri River and features approximately 109,000 square feet of gaming space with approximately 2,100 slot machines, 59 table games, 21 poker tables, a 500 guestroom hotel, nine dining and entertainment venues and structured and surface parking.



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**5. Investment In and Advances to Unconsolidated Affiliates**

As of June 30, 2012, investment in and advances to unconsolidated affiliates represents the Company's 50% interest in Freehold Raceway, its 50% investment in Kansas Entertainment, LLC ("Kansas Entertainment"), which is a joint venture with International Speedway Corporation ("International Speedway"), and its 50% joint venture with MAXXAM, Inc. that owns and operates racetracks in Texas. Refer to the Company's Annual Report on Form 10-K for the year ended December 31, 2011 for further details of accounting for investments in and advances to unconsolidated affiliates.

*Kansas Entertainment*

Kansas Entertainment opened its $391 million facility, inclusive of licensing fees, on February 3, 2012. The facility features a 95,000 square foot casino with approximately 2,000 slot machines, 52 table games and 12 poker tables, a 1,253 space parking structure, as well as a variety of dining and entertainment facilities. The Company and International Speedway shared equally in the cost of developing and constructing the facility. The Company's share of the project is anticipated to be approximately $145 million of which the Company has incurred $135.6 million through June 30, 2012. During the six months ended June 30, 2012, the Company funded $39.1 million for capital expenditures and other operating expenses, as compared to $11.2 million and $21.4 million during the three and six months ended June 30, 2011, respectively.

**6. Property and Equipment**

Property and equipment, net, consists of the following:

| | June 30, 2012 | December 31, 2011 |
|---|---|---|
| | (in thousands) | |
| Land and improvements | $ 372,633 | $ 362,402 |
| Building and improvements | 1,854,582 | 1,715,144 |
| Furniture, fixtures, and equipment | 1,149,001 | 1,021,362 |
| Leasehold improvements | 16,910 | 16,910 |
| Construction in progress | 208,239 | 256,459 |
| Total property and equipment | 3,601,365 | 3,372,277 |
| Less accumulated depreciation | (1,181,278) | (1,095,077) |
| Property and equipment, net | $ 2,420,087 | $ 2,277,200 |

Total property and equipment, before accumulated depreciation, increased by $229.1 million primarily due to expenditures for Hollywood Casino Toledo, which opened on May 29, 2012, and Hollywood Casino Columbus, which is under construction and expected to open early in the fourth quarter of 2012.

Depreciation expense, for property and equipment, totaled $56.7 million and $109.9 million for the three and six months ended June 30, 2012, respectively, as compared to $53.4 million and $105.8 million for the three and six months ended June 30, 2011, respectively. Interest capitalized in connection with major construction projects was $3.0 million and $5.9 million for the three and six months ended June 30, 2012, respectively, as compared to $1.0 million and $1.8 million for the three and six months ended June 30, 2011, respectively.



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**7. Long-term Debt and Derivatives**

Long-term debt, net of current maturities, is as follows:

| | June 30, 2012 | December 31, 2011 |
|---|---|---|
| | (in thousands) | |
| Senior secured credit facility | $ 1,776,500 | $ 1,715,750 |
| $325 million 8 ¾% senior subordinated notes due August 2019 | 325,000 | 325,000 |
| Other long-term obligations | — | 1,949 |
| Capital leases | 2,161 | 2,215 |
| | 2,103,661 | 2,044,914 |
| Less current maturities of long-term debt | (42,600) | (44,559) |
| Less discount on senior secured credit facility Term Loan B | (1,628) | (1,749) |
| | $ 2,059,433 | $ 1,998,606 |

The following is a schedule of future minimum repayments of long-term debt as of June 30, 2012 (in thousands):

| | |
|---|---|
| Within one year | $ 42,600 |
| 1-3 years | 137,695 |
| 3-5 years | 891,728 |
| Over 5 years | 1,031,638 |
| Total minimum payments | $ 2,103,661 |

**Senior Secured Credit Facility**

The Company's senior secured credit facility had a gross outstanding balance of $1,776.5 million at June 30, 2012, consisting of $369.0 million drawn under the revolving credit facility, a $665.0 million Term Loan A facility, and a $742.5 million Term Loan B facility. Additionally, at June 30, 2012, the Company was contingently obligated under letters of credit issued pursuant to the senior secured credit facility with face amounts aggregating $23.9 million, resulting in $307.1 million of available borrowing capacity as of June 30, 2012 under the revolving credit facility.

**Covenants**

The Company's senior secured credit facility and $325 million 8$^{3}/_{4}$% senior subordinated notes require it, among other obligations, to maintain specified financial ratios and to satisfy certain financial tests, including fixed charge coverage, interest coverage, senior leverage and total leverage ratios. In addition, the Company's senior secured credit facility and $325 million 8$^{3}/_{4}$% senior subordinated notes restrict, among other things, the Company's ability to incur additional indebtedness, incur guarantee obligations, amend debt instruments, pay dividends, create liens on assets, make investments, engage in mergers or consolidations, and otherwise restrict corporate activities.

At June 30, 2012, the Company was in compliance with all required financial covenants.

**Interest Rate Swap Contracts**

There were no outstanding interest rate swap contracts as of June 30, 2012 and December 31, 2011. The effect of derivative instruments on the condensed consolidated statement of income for the three months ended June 30, 2011 was as follows (in thousands):



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| Derivatives in a Cash Flow Hedging Relationship | Gain (Loss) Recognized in OCI on Derivative (Effective Portion) | Location of Gain (Loss) Reclassified from AOCI into Income (Effective Portion) | Gain (Loss) Reclassified from AOCI into Income (Effective Portion) | Location of Gain (Loss) Recognized in Income on Derivative (Ineffective Portion) | Gain (Loss) Recognized in Income on Derivative (Ineffective Portion) |
|---|---|---|---|---|---|
| Interest rate swap contracts | $ (332) | Interest expense | $ (3,625) | None | $ — |
| Total | $ (332) | | $ (3,625) | | $ — |

| Derivatives Not Designated as Hedging Instruments | Location of Gain (Loss) Recognized in Income on Derivative | Gain (Loss) Recognized in Income on Derivative |
|---|---|---|
| Interest rate swap contracts | Interest expense | $ (1) |
| Total | | $ (1) |

The effect of derivative instruments on the condensed consolidated statement of income for the six months ended June 30, 2011 was as ollows (in thousands):

| Derivatives in a Cash Flow Hedging Relationship | Gain (Loss) Recognized in OCI on Derivative (Effective Portion) | Location of Gain (Loss) Reclassified from AOCI into Income (Effective Portion) | Gain (Loss) Reclassified from AOCI into Income (Effective Portion) | Location of Gain (Loss) Recognized in Income on Derivative (Ineffective Portion) | Gain (Loss) Recognized in Income on Derivative (Ineffective Portion) |
|---|---|---|---|---|---|
| Interest rate swap contracts | $ (672) | Interest expense | $ (8,173) | None | $ — |
| Total | $ (672) | | $ (8,173) | | $ — |

| Derivatives Not Designated as Hedging Instruments | Location of Gain (Loss) Recognized in Income on Derivative | Gain (Loss) Recognized in Income on Derivative |
|---|---|---|
| Interest rate swap contracts | Interest expense | $ (4) |
| Total | | $ (4) |

In addition, during the three and six months ended June 30, 2011, the Company amortized to interest expense $0.6 million and $2.5 million, respectively, in OCI related to the derivatives that were de-designated as hedging instruments under ASC 815, “Derivatives and Hedging.”

**8. Income Taxes**

A reconciliation of the liability for unrecognized tax benefits is as follows:

| | Noncurrent tax liabilities (in thousands) |
|---|---|
| Balance at January 1, 2012 | $ 33,872 |
| Additions based on current year positions | 418 |
| Additions based on prior year positions | 3,180 |
| Payments made on account | (262) |
| Currency translation adjustments | (338) |
| Balance at June 30, 2012 | $ 36,870 |

The increase in the Company’s liability for unrecognized tax benefits during the six months ended June 30, 2012 was primarily due to recording interest expense accruals for previously recorded unrecognized tax benefits.

The Company’s effective tax rate (income taxes as a percentage of income from operations before income taxes) increased to 41.0% and 39.1% for the three and six months ended June 30, 2012, respectively, as compared to 33.5% and 37.5% for the three and six months ended June 30, 2011, respectively. The primary reason for the increase is due to the reversal of previously recorded unrecognized tax benefits in the second quarter of 2011 for years that either have been favorably settled or where the statute of limitations has lapsed.



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**9. Commitments and Contingencies**

**Litigation**

The Company is subject to various legal and administrative proceedings relating to personal injuries, employment matters, commercial transactions and other matters arising in the normal course of business. The Company does not believe that the final outcome of these matters will have a material adverse effect on the Company's consolidated financial position or results of operations. In addition, the Company maintains what it believes is adequate insurance coverage to further mitigate the risks of such proceedings. However, such proceedings can be costly, time consuming and unpredictable and, therefore, no assurance can be given that the final outcome of such proceedings may not materially impact the Company's consolidated financial condition or results of operations. Further, no assurance can be given that the amount or scope of existing insurance coverage will be sufficient to cover losses arising from such matters.

The following proceedings could result in costs, settlements, damages, or rulings that materially impact the Company's consolidated financial condition or operating results.The Company believes that it has meritorious defenses, claims and/or counter-claims, and intends to vigorously defend itself or pursue its claims.

Gaming licenses in Iowa are typically issued jointly to a gaming operator and a local charitable organization known as a Qualified Sponsoring Organization ("QSO"). The agreement between the Company's gaming operator subsidiary in Iowa, Belle of Sioux City, L.P. (the "Belle") and its QSO, Missouri River Historical Development, Inc. ("MRHD"), was set to expire in early July 2012, but was extended through the August 23, 2012 Iowa Racing and Gaming Commission ("IRGC") meeting. On July 12, when presented with an extension of our QSO/operating agreement for our Sioux City facility through March 2015, the IRGC failed to approve the extension and urged a shorter extension. The IRGC also announced at the same meeting the schedule for requests for proposals for a new land based Woodbury County casino. Applications and financing proposals will be due by November 15, 2012 and the IRGC is expected to award that license to a gaming operator and a QSO by April 18, 2013. On July 6, 2012, the Belle filed a lawsuit against the IRGC, challenging the gaming regulators ruling to open up the gaming license to bidding for the land based casino on a variety of legal claims. Further, the Belle's ability to continue its operations may also be impacted by its ability to renew or extend its existing docking lease, which expires in January 2013, or to locate a suitable site to construct a land-based facility. Our Argosy Casino Sioux City facility has goodwill and other intangible assets of $92.8 million, along with property and equipment, net of $10.9 million at June 30, 2012. Additionally, this facility had net revenues and income from operations of $29.8 million and $9.6 million, respectively, for the six months ended June 30, 2012, which represented 2.1% and 3.5% of the Company's consolidated results. Any disruptions in Argosy Casino Sioux City's operations related to the items described above could result in a significant non-cash impairment charge in future periods as well as the loss of future earnings associated from this property.

On September 11, 2008, the Board of County Commissioners of Cherokee County, Kansas (the "County") filed suit against Kansas Penn Gaming, LLC ("KPG," a wholly-owned subsidiary of Penn created to pursue a development project in Cherokee County, Kansas) and the Company in the District Court of Shawnee County, Kansas. The petition alleges that KPG breached its pre-development agreement with the County when KPG withdrew its application to manage a lottery gaming facility in Cherokee County and currently seeks in excess of $50 million in damages. In connection with their petition, the County obtained an ex-parte order attaching the $25 million privilege fee (which is included in current assets) paid to the Kansas Lottery Commission in conjunction with the gaming application for the Cherokee County zone. The defendants have filed motions to dissolve and reduce the attachment. Those motions were denied. Following discovery, both parties have filed dispositive motions and the motions were argued on April 20, 2012.

**10. Segment Information**

The Company has aggregated its properties into three reportable segments: (i) Midwest, (ii) East/West, and (iii) Southern Plains, which is consistent with how the Company's Chief Operating Decision Maker reviews and assesses the Company's financial performance.

The Midwest reportable segment consists of the following properties: Hollywood Casino Lawrenceburg, Hollywood Casino Aurora, Hollywood Casino Joliet, Argosy Casino Alton, and Hollywood Casino Toledo, which opened on May 29, 2012. It also includes the Company's Casino Rama management service contract, Hollywood Casino Columbus, which is currently under construction and scheduled to open early in the fourth quarter of 2012, and the Mahoning Valley and Dayton Raceway projects which the Company anticipates completing in 2014.

The East/West reportable segment consists of the following properties: Hollywood Casino at Charles Town Races, Hollywood Casino Perryville, Hollywood Casino Bangor, Hollywood Casino at Penn National Race Course, Zia Park Casino, and M Resort.



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The Southern Plains reportable segment consists of the following properties: Argosy Casino Riverside, Argosy Casino Sioux City, Hollywood Casino Baton Rouge, Hollywood Casino Tunica, Hollywood Casino Bay St. Louis, Boomtown Biloxi, and the Company's 50% investment in Kansas Entertainment, which owns the Hollywood Casino at Kansas Speedway.

The Other category consists of the Company's standalone racing operations, namely Beulah Park, Raceway Park, Rosecroft Raceway, Sanford-Orlando Kennel Club, and the Company's joint venture interests in Sam Houston Race Park, Valley Race Park and Freehold Raceway. It also included the Company's joint venture interest in the Maryland Jockey Club which was sold in July 2011. If the Company is successful in obtaining gaming operations at these locations, they would be assigned to one of the Company's regional executives and reported in their respective reportable segment. The Other category also includes the Company's corporate overhead operations which does not meet the definition of an operating segment under ASC 280, "Segment Reporting," and Bullwhackers.

The following tables present certain information with respect to the Company's segments. Intersegment revenues between the Company's segments were not material in any of the periods presented below.

| | Midwest | East/West | Southern Plains | Other | Total |
|---|---|---|---|---|---|
| | | | (in thousands) | | |
| **Three months ended June 30, 2012** | | | | | |
| Net revenues | $ 217,975 | $ 348,652 | $ 137,405 | $ 8,519 | $ 712,551 |
| Income (loss) from operations | 47,139 | 76,732 | 37,532 | (33,388) | 128,015 |
| Depreciation and amortization | 19,645 | 21,784 | 11,212 | 4,150 | 56,791 |
| Gain (loss) from unconsolidated affiliates | — | — | 1,276 | (222) | 1,054 |
| Capital expenditures | 109,079 | 15,882 | 8,881 | 677 | 134,519 |

| | | | | | |
|---|---|---|---|---|---|
| **Three months ended June 30, 2011** | | | | | |
| Net revenues | 214,403 | 318,614 | 146,509 | 8,353 | 687,879 |
| Income (loss) from operations | 69,809 | 69,485 | 29,284 | (27,986) | 140,592 |
| Depreciation and amortization | 15,609 | 21,116 | 14,841 | 2,664 | 54,230 |
| (Loss) gain from unconsolidated affiliates | — | — | (804) | 1,235 | 431 |
| Capital expenditures | 34,532 | 11,461 | 5,426 | 1,307 | 52,726 |
| | | | | | |
| **Six months ended June 30, 2012** | | | | | |
| Net revenues | 423,086 | 719,281 | 287,125 | 19,118 | 1,448,610 |
| Income (loss) from operations | 93,422 | 160,622 | 82,243 | (65,657) | 270,630 |
| Depreciation and amortization | 37,197 | 44,026 | 22,600 | 6,305 | 110,128 |
| Gain (loss) from unconsolidated affiliates | — | — | 2,954 | (215) | 2,739 |
| Capital expenditures | 210,959 | 26,541 | 12,813 | 3,865 | 254,178 |
| | | | | | |
| **Six months ended June 30, 2011** | | | | | |
| Net revenues | 428,214 | 606,997 | 301,600 | 18,091 | 1,354,902 |
| Income (loss) from operations | 122,484 | 129,223 | 68,793 | (57,173) | 263,327 |
| Depreciation and amortization | 31,252 | 41,683 | 29,505 | 4,948 | 107,388 |
| Loss from unconsolidated affiliates | — | — | (1,126) | (797) | (1,923) |
| Capital expenditures | 67,738 | 25,455 | 12,054 | 2,003 | 107,250 |
| | | | | | |
| **Balance sheet at June 30, 2012** | | | | | |
| Total assets | 2,123,147 | 1,222,677 | 1,055,614 | 381,551 | 4,782,989 |
| Investment in and advances to unconsolidated affiliates | — | 119 | 149,258 | 67,101 | 216,478 |
| Goodwill and other intangible assets, net | 973,600 | 226,048 | 394,018 | 55,850 | 1,649,516 |
| | | | | | |
| **Balance sheet at December 31, 2011** | | | | | |
| Total assets | 1,897,164 | 1,265,438 | 1,034,506 | 409,238 | 4,606,346 |
| Investment in and advances to unconsolidated affiliates | — | 110 | 107,204 | 66,802 | 174,116 |
| Goodwill and other intangible assets, net | 925,822 | 226,234 | 394,018 | 55,878 | 1,601,952 |

**11. Fair Value of Financial Instruments**

The following methods and assumptions are used to estimate the fair value of each class of financial instruments for which it is practicable to estimate:



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*Cash and Cash Equivalents*

The fair value of the Company's cash and cash equivalents approximates the carrying value of the Company's cash and cash equivalents, due to the short maturity of the cash equivalents.

*Investment in Corporate Debt Securities*

The fair value of the investment in corporate debt securities is estimated based on a third party broker quote. The investment in corporate debt securities is measured at fair value on a recurring basis.

*Long-term Debt*

The fair value of the Company's Term Loan B component of the senior secured credit facility and senior subordinated notes is estimated based on quoted prices in active markets and as such is a Level 1 measurement (see Note 12). The fair value of the remainder of the Company's senior secured credit facility approximates its carrying value as it is variable rate debt. The fair value of the Company's other long-term obligations approximates its carrying value.

The estimated fair values of the Company's financial instruments are as follows (in thousands):

| | June 30, 2012 | | December 31, 2011 | |
|---|---|---|---|---|
| | Carrying Amount | Fair Value | Carrying Amount | Fair Value |
| **Financial assets:** | | | | |
| Cash and cash equivalents | $ 204,126 | $ 204,126 | $ 238,440 | $ 238,440 |
| Investment in corporate debt securities | 6,755 | 6,755 | 6,790 | 6,790 |
| **Financial liabilities:** | | | | |
| Long-term debt | | | | |
| Senior secured credit facility | 1,774,872 | 1,775,609 | 1,714,001 | 1,716,720 |
| Senior subordinated notes | 325,000 | 359,938 | 325,000 | 353,438 |
| Other long-term obligations | — | — | 1,949 | 1,949 |

**12. Fair Value Measurements**

ASC 820, "Fair Value Measurements and Disclosures," establishes a hierarchy that prioritizes fair value measurements based on the types of inputs used for the various valuation techniques (market approach, income approach, and cost approach). The levels of the hierarchy are described below:

- Level 1: Observable inputs such as quoted prices in active markets for identical assets or liabilities.

- Level 2: Inputs other than quoted prices that are observable for the asset or liability, either directly or indirectly; these include quoted prices for similar assets or liabilities in active markets, such as interest rates and yield curves that are observable at commonly quoted intervals.

- Level 3: Unobservable inputs that reflect the reporting entity's own assumptions, as there is little, if any, related market activity.

The Company's assessment of the significance of a particular input to the fair value measurement requires judgment, and may affect the valuation of assets and liabilities and their placement within the fair value hierarchy.

The following tables set forth the assets measured at fair value on a recurring basis, by input level, in the consolidated balance sheets at June 30, 2012 and December 31, 2011 (in thousands):

| | Balance Sheet Location | Quoted Prices in Active Markets for Identical Assets or Liabilities (Level 1) | Significant Other Observable Inputs (Level 2) | Significant Unobservable Inputs (Level 3) | June 30, 2012 Total |
|---|---|---|---|---|---|
| Assets: | | | | | |
| Investment in corporate debt securities | Other assets | $ — | $ 6,755 | $ — | $ 6,755 |



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| | Balance Sheet Location | Quoted Prices in Active Markets for Identical Assets or Liabilities (Level 1) | Significant Other Observable Inputs (Level 2) | Significant Unobservable Inputs (Level 3) | December 31, 2011 Total |
|---|---|---|---|---|---|
| Assets: | | | | | |
| Investment in corporate debt securities | Other assets | $ — | $ 6,790 | $ — | $ 6,790 |

The valuation technique used to measure the fair value of the investment in corporate debt securities was the market approach. See Note 11 for a description of the input used in calculating the fair value measurement of investment in corporate debt securities.

There were no long-lived assets measured at fair value on a non-recurring basis during the six months ended June 30, 2012.

**13. Insurance Recoveries and Deductibles**

*Hollywood Casino Tunica Flood*

On May 1, 2011, Hollywood Casino Tunica was forced to close as a result of flooding by the Mississippi River. Due to the flooding, access to the property was temporarily cut off and the property sustained minor damage. The property reopened on May 25, 2011.

At the time of the flood, the Company carried property insurance coverage with a flood limit of $300 million for both property damage and business interruption applicable to this event. This coverage included a $5 million property damage and two day business interruption deductible for the peril of flood.

The Company has received $15.4 million in insurance proceeds related to the flood at Hollywood Casino Tunica, with $3.4 million and $8.4 million received during the three and six months ended June 30, 2012, respectively. As the insurance recovery amount exceeded the net book value of assets believed to be damaged and other costs incurred as a result of the flood, the Company recorded a pre-tax gain of $3.4 million and $7.2 million during the three and six months ended June 30, 2012, respectively. During the second quarter of 2012, the insurance claim for the flood at Hollywood Casino Tunica was settled and as such no further proceeds will be received.



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**ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

**Our Operations**

We are a leading, diversified, multi-jurisdictional owner and manager of gaming and pari-mutuel properties. As of June 30, 2012, we own, manage, or have ownership interests in twenty-seven facilities in the following nineteen jurisdictions: Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Mississippi, Missouri, Nevada, New Jersey, New Mexico, Ohio, Pennsylvania, Texas, West Virginia, and Ontario. We believe that our portfolio of assets provides us with diversified cash flow from operations.

We have made significant acquisitions in the past, and expect to continue to pursue additional acquisition and development opportunities in the future. In 1997, we began our transition from a pari-mutuel company to a diversified gaming company with the acquisition of the Charles Town property and the introduction of video lottery terminals in West Virginia. Since 1997, we have continued to expand our gaming operations through strategic acquisitions (including the acquisitions of Hollywood Casino Bay St. Louis and Boomtown Biloxi, CRC Holdings, Inc., Hollywood Casino Corporation, Argosy Gaming Company, Zia Park Casino, Sanford-Orlando Kennel Club and The M Resorts LLC (the "M Resort") in June 2011), greenfield projects (such as at Hollywood Casino at Penn National Race Course, Hollywood Casino Bangor and Hollywood Casino Perryville), and property expansions (such as Hollywood Casino at Charles Town Races and Hollywood Casino Lawrenceburg). Most recently, we, along with our joint venture partner, opened Hollywood Casino at Kansas Speedway on February 3, 2012 and we also opened our Hollywood Casino Toledo facility on May 29, 2012. We anticipate opening our facility in Columbus, Ohio early in the fourth quarter of 2012. Finally, on May 7, 2012, we announced a definitive agreement to acquire Harrah's St. Louis facility, which we expect to close in the fourth quarter of 2012.

The vast majority of our revenue is gaming revenue, derived primarily from gaming on slot machines (which represented approximately 88% and 93% of our gaming revenue in 2011 and 2010, respectively) and to a lesser extent, table games, which is highly dependent upon the volume and spending levels of customers at our properties. Other revenues are derived from our management service fee from Casino Rama, our hotel, dining, retail, admissions, program sales, concessions and certain other ancillary activities, and our racing operations. Our racing revenue includes our share of pari-mutuel wagering on live races after payment of amounts returned as winning wagers, our share of wagering from import and export simulcasting, and our share of wagering from our off-track wagering facilities.

Key performance indicators related to gaming revenue are slot handle and table game drop (volume indicators) and "win" or "hold" percentage. Slot handle is the gross amount wagered for the period cited. The win or hold percentage is the net amount of gaming wins and losses, with liabilities recognized for accruals related to the anticipated payout of progressive jackpots. Our slot hold percentages have consistently been in the 6% to 10% range over the past several years. Given the stability in our slot hold percentages, we have not experienced significant impacts to earnings from changes in these percentages.

For table games, customers usually purchase cash chips at the gaming tables. The cash and markers (extensions of credit granted to certain credit worthy customers) are deposited in the gaming table's drop box. Table game win is the amount of drop that is retained and recorded as casino gaming revenue, with liabilities recognized for funds deposited by customers before gaming play occurs and for unredeemed gaming chips. As we are focused on regional gaming markets, our table win percentages are fairly stable as the majority of these markets do not regularly experience high-end play which can lead to volatility in win percentages. Therefore, changes in table game win percentages do not typically have a material impact to our earnings. However, as discussed in our analysis of gaming revenues in a later section of this management's discussion and analysis, the introduction of table games in July 2010 at Hollywood Casino at Charles Town Races and Hollywood Casino at Penn National Race Course has led to a significant increase in our gaming revenues and earnings in our East/West segment.

Our typical property slot hold percentage is in the range of 6% to 10% of slot handle, and our typical table game win percentage is in the range of 12% to 25% of table game drop.

Our properties generate significant operating cash flow, since most of our revenue is cash-based from slot machines, table games, and pari-mutuel wagering. Our business is capital intensive, and we rely on cash flow from our properties to generate operating cash to repay debt, fund capital maintenance expenditures, fund new capital projects at existing properties and provide excess cash for future development and acquisitions.

We continue to expand our gaming operations through the implementation and execution of a disciplined capital expenditure program at our existing properties, the pursuit of strategic acquisitions and the development of new gaming properties, particularly in attractive regional markets. Current capital projects are ongoing at several of our new and existing properties, including our facility





under construction in Columbus, Ohio. Additional information regarding our capital projects is discussed in detail in the section entitled "Liquidity and Capital Resources—Capital Expenditures" below.

**Segment Information**

We have aggregated our properties into three reportable segments: (i) Midwest, (ii) East/West, and (iii) Southern Plains, which is consistent with how our Chief Operating Decision Maker reviews and assesses our financial performance.

The Midwest reportable segment consists of the following properties: Hollywood Casino Lawrenceburg, Hollywood Casino Aurora, Hollywood Casino Joliet, Argosy Casino Alton, and Hollywood Casino Toledo, which opened on May 29, 2012. It also includes our Casino Rama management service contract, Hollywood Casino Columbus, which is currently under construction and scheduled to open early in the fourth quarter of 2012, and the Mahoning Valley and Dayton Raceway projects which we anticipate completing in 2014.

The East/West reportable segment consists of the following properties: Hollywood Casino at Charles Town Races, Hollywood Casino Perryville, Hollywood Casino Bangor, Hollywood Casino at Penn National Race Course, Zia Park Casino, and M Resort.

The Southern Plains reportable segment consists of the following properties: Argosy Casino Riverside, Argosy Casino Sioux City, Hollywood Casino Baton Rouge, Hollywood Casino Tunica, Hollywood Casino Bay St. Louis, Boomtown Biloxi, and includes our 50% investment in Kansas Entertainment, LLC ("Kansas Entertainment"), which owns the Hollywood Casino at Kansas Speedway.

The Other category consists of our standalone racing operations, namely Beulah Park, Raceway Park, Rosecroft Raceway, Sanford-Orlando Kennel Club, and our joint venture interests in Sam Houston Race Park, Valley Race Park and Freehold Raceway. It also included our joint venture interest in the Maryland Jockey Club which was sold in July 2011. If we are successful in obtaining gaming operations at these locations, they would be assigned to one of our regional executives and reported in their respective reportable segment. The Other category also includes our corporate overhead operations which does not meet the definition of an operating segment under Accounting Standards Codification 280, "Segment Reporting," and our Bullwhackers property.

**Executive Summary**

Economic conditions continue to impact the overall domestic gaming industry as well as operating results. We believe that current economic conditions, including, but not limited to, high unemployment levels, low levels of consumer confidence, weakness in the housing and consumer credit markets and increased stock market volatility, have resulted in reduced levels of discretionary consumer spending compared to historical levels.

We believe our strengths include our relatively low leverage ratios compared to the regional casino companies that we directly compete against and the ability of our operations to generate positive cash flow. These two factors have allowed us to develop what we believe to be attractive future growth opportunities. We have also made investments in joint ventures and certain racetrack operations that we believe may allow us to capitalize on additional gaming opportunities in certain states if legislation or referenda are passed that permit and/or expand gaming in these jurisdictions.

*Financial Highlights:*

We reported net revenues and income from operations of $712.6 million and $128.0 million, respectively, for the three months ended June 30, 2012 compared to $687.9 million and $140.6 million, respectively, for the corresponding period in the prior year and net revenues and income from operations of $1,448.6 million and $270.6 million, respectively, for the six months ended June 30, 2012 compared to $1,354.9 million and $263.3 million, respectively, for the corresponding period in the prior year. The major factors affecting our results for the three and six months ended June 30, 2012, as compared to the three and six months ended June 30, 2011, were:

- Increases in net revenues of $30.0 million and $112.3 million for the three and six months ended June 30, 2012, respectively, and increases in income from operations of $7.2 million and $31.4 million for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, from our East/West segment. This was primarily due to the acquisition of the M Resort on June 1, 2011, an increase in gaming revenue at Hollywood Casino at Charles Town Races primarily due to the continued impact from the introduction of table games in July 2010 coupled with mild weather in the first quarter of 2012, and an increase in gaming revenue at Hollywood Casino Perryville primarily due to continued growth in this relatively new gaming market as well as mild weather in the first quarter of 2012. Additionally, our East/West segment results



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were favorably impacted by the introduction of table games at Hollywood Casino Bangor on March 16, 2012 and an increase in gaming revenue at Zia Park Casino.

- New competition in our Midwest segment, namely a new casino opening in July 2011 near Hollywood Casino Aurora and Hollywood Casino Joliet, as well as a recent opening on June 1, 2012 of a new racino in Columbus, Ohio which has negatively impacted Hollywood Casino Lawrenceburg. This impact was partially mitigated by the expiration of the 3% surcharge in July 2011 for Hollywood Casino Aurora and Hollywood Casino Joliet, as well as decreased marketing and payroll costs at these three properties due to a realignment of costs with business demand.

- The opening of Hollywood Casino Toledo on May 29, 2012.

- Income from operations at our Midwest segment was also impacted by a pre-tax insurance gain of $16.8 million and $18.5 million at Hollywood Casino Joliet during the three and six months ended June 30, 2011, respectively.

- The February 3, 2012 opening of our joint venture, Hollywood Casino at Kansas Speedway, which negatively impacted the results at our Argosy Riverside property in our Southern Plains segment.

- Income from operations at our Southern Plains segment was also impacted by a pre-tax insurance gain of $3.4 million and $7.2 million at Hollywood Casino Tunica during the three and six months ended June 30, 2012, respectively, compared to pre-tax insurance loss at Hollywood Casino Tunica of $5.2 million for the three and six months ended June 30, 2011.

- Management’s continued focus on cost management that has resulted in improved operating margins at 12 of our 16 gaming facilities, that we operated in both periods, for the six months ended June 30, 2012 compared to the corresponding period in the prior year.

- Net income decreased by $9.3 million for the three months ended June 30, 2012, as compared to the three months ended June 30, 2011, but increased by $17.8 million for the six months ended June 30, 2012, as compared to the six months ended June 30, 2011, primarily due to the variances explained above, and an increase in income taxes partially offset by lower interest expense.

*Segment Developments:*

The following are recent developments that have had or will have an impact on us by segment:

*Midwest*

- The Hollywood Casino Columbus project, a $400 million Hollywood-themed casino in Columbus, Ohio, inclusive of $50 million in licensing fees, is under construction with a planned casino opening of up to 3,000 slot machines, 70 table games and 30 poker tables, structured and surface parking, as well as food and beverage outlets and an entertainment lounge. We expect that Hollywood Casino Columbus will open early in the fourth quarter of 2012. Hollywood Casino Toledo, a $320 million Hollywood-themed casino in Toledo, Ohio, inclusive of $50 million in licensing fees, opened on May 29, 2012 and features 2,000 slot machines, 60 table games and 20 poker tables, structured and surface parking, as well as food and beverage outlets and an entertainment lounge. Additionally, in June 2011, we agreed to pay an additional $110 million over ten years to the State of Ohio in return for certain clarifications from the State of Ohio with respect to various financial matters and limits on competition within the ten year time period.

- In March 2012, we announced that we had entered into a non-binding memorandum of understanding (“MOU”) with the State of Ohio that establishes a framework for relocating our existing racetracks in Toledo and Grove City to Dayton and Austintown (located in the Mahoning Valley), respectively, where we intend to develop new integrated racing and gaming facilities, each budgeted at approximately $275 million inclusive of license and relocation fees but excluding potential credits of up to $25 million per facility for qualifying costs incurred at our Raceway Park and Beulah Park racetracks. Pursuant to this arrangement, we would pay the state a $75 million relocation fee per facility and the Ohio Lottery Commission would retain 33.5% of video lottery terminal revenues. In addition, the MOU restricts any other gaming facility from being located within 50 miles of our Columbus and Toledo casinos, as well as our relocated racetracks, with certain exceptions. In June 2012, we announced that we had formally filed applications with the Ohio Lottery Commission for Video Lottery Sales Agent Licenses for our Ohio racetracks, and with the Ohio State Racing Commission for permission to relocate the racetracks. The new Austintown facility, which will be a thoroughbred track, will be located on 184 acres in Austintown’s Centrepointe Business Park near the intersection of Interstate 80 and Ohio Route 46. The Dayton facility, a standardbred track, will be located on 125 acres on the site of an abandoned Delphi Automotive plant near Wagner Ford and Needmore roads in North Dayton. Both of the new racetrack facilities will feature up to 1,500 video lottery terminals, as well as various restaurants, bars and other amenities.



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- On October 21, 2011, The Ohio Roundtable filed a complaint in the Court of Common Pleas in Franklin County, Ohio against a number of defendants, including the Governor, the Ohio Lottery Commission and the Ohio Casino Control Commission. The complaint alleges a variety of substantive and procedural defects relative to the approval and implementation of video lottery terminals as well as several counts dealing with the taxation of standalone casinos. We, along with the other two casinos in Ohio, have filed motions for judgment on the pleadings. Oral argument on the motions was held in April 2012. In May 2012, the complaint was dismissed; however, the plaintiffs have now filed an appeal.

- In July 2011, we entered into a new interim agreement with the Ontario Lottery and Gaming Corporation ("OLGC") for the operation of the Casino Rama facility through March 31, 2012, which was subsequently extended in January 2012 for an additional six months through September 30, 2012. In March 2012, the OLGC canceled its process of evaluating bids for a new five year operating contract for the facility (which included a limit on operating fees exceeding $5 million per year). Although the bid process has been canceled and the parties are constructively discussing another extension, there can be no assurance that the OLGC will select us to manage the property beyond September 30, 2012.

- On July 18, 2011, the tenth licensed casino in Illinois opened in the city of Des Plaines. This facility is a new source of competition for Hollywood Casino Aurora and Hollywood Casino Joliet and has had a negative impact on these properties' financial results. However, the 3% surcharge Hollywood Casino Aurora and Hollywood Casino Joliet paid to subsidize local horse racing interests is no longer required with the opening of the Des Plaines facility.

- On June 1, 2012, a new racino at Scioto Downs in Columbus, Ohio opened, which has had a negative impact on Hollywood Casino Lawrenceburg's financial results. In addition, a proposed casino in Cincinnati, Ohio is anticipated to open in 2013. This new facility will have a significant adverse impact on Hollywood Casino Lawrenceburg. Additionally, new racinos in Ohio are planned at Lebanon Raceway and River Downs, which is located in Cincinnati, Ohio. Lebanon Raceway hopes to begin construction in 2012 with a fall 2013 completion date. An expected opening date for River Downs is unknown at this time. Both Lebanon Raceway and River Downs have filed applications for a license and can seek to install up to 2,500 video lottery terminals. We anticipate the opening of these new racinos will have an adverse impact on Hollywood Casino Lawrenceburg.

*East/West*

- In our East/West segment, the proposed casino complex at the Arundel Mills mall in Anne Arundel, Maryland opened on June 6, 2012, and plans to significantly increase its slot machine offerings by the end of 2012. Hollywood Casino at Charles Town Races and Hollywood Casino Perryville will face increased competition and their results have been and will continue to be negatively impacted by the opening of this casino. In addition, the Maryland Legislature recently adjourned without taking action on a proposed gaming expansion bill which could potentially bring a sixth casino to Maryland, the latest version of which excluded our Rosecroft property as an eligible slots location, and table games to all Maryland casinos. However, in late July, the Governor announced he is calling a Special Session of the Legislature on August 9th to consider gaming expansion at which time we will continue to aggressively push for the inclusion of Rosecroft Raceway as a potential sixth gaming location in the state at the current gaming tax levels. If legislation is passed that authorizes the selection of another gaming site in Prince George County, Maryland rather than Rosecroft Raceway, our results of operations would be adversely impacted as it would present increased competition for our Hollywood Casino at Charles Town Races and Hollywood Casino Perryville facilities.

- Hollywood Casino Bangor introduced table games on March 16, 2012 with the addition of six blackjack tables, a roulette table and seven poker tables. Table games were approved by voters in Penobscot County in November 2011.

*Southern Plains*

- On May 7, 2012, we announced that we have entered into a definitive agreement to acquire 100% of the equity of Harrah's St. Louis gaming and lodging facility from Caesars Entertainment for a purchase price of approximately $610 million. While the acquisition is a stock transaction, it will be treated as an asset transaction for tax purposes. This will enable us to amortize the goodwill and other fair value adjustments for tax purposes. The acquisition reflects the continuing efforts of the Company to expand its regional operating platform with a facility in a large metropolitan market. The transaction is subject to customary closing conditions and regulatory approvals and, upon closing, we will re-brand Harrah's St. Louis with our Hollywood-themed brand. The purchase price of the transaction will be funded through an add-on to our senior secured credit facility. Harrah's St. Louis is located adjacent to the Missouri River in Maryland Heights, Missouri, directly off I-70 and approximately 22 miles northwest of downtown St. Louis. The facility is situated on over 294 acres along the Missouri River and features approximately 109,000 square feet of gaming space with approximately 2,100 slot machines, 59 table games, 21 poker tables, a 500 guestroom hotel, nine dining and entertainment venues and structured and surface parking.



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- Kansas Entertainment opened its $391 million facility, inclusive of licensing fees, on February 3, 2012. The facility features a 95,000 square foot casino with approximately 2,000 slot machines, 52 table games and 12 poker tables, a 1,253 space parking structure, as well as a variety of dining and entertainment facilities. We and International Speedway Corporation shared equally in the cost of developing and constructing Hollywood Casino at Kansas Speedway. Our share of the project is anticipated to be approximately $145 million of which we have incurred $135.6 million through June 30, 2012. The opening of this casino has and will continue to negatively impact the financial results of our Argosy Riverside property due to their close proximity to one another.

- On May 1, 2011, Hollywood Casino Tunica was forced to close as a result of flooding by the Mississippi River. Due to the flooding, access to the property was temporarily cut-off and the property sustained minor damage. The property reopened on May 25, 2011. At the time of the flood, we carried property insurance coverage with a flood limit of $300 million for both property damage and business interruption applicable to this event. This coverage included a $5 million property damage and two day business interruption deductible for the peril of flood. We have received $15.4 million in insurance proceeds related to the flood at Hollywood Casino Tunica, with $3.4 million and $8.4 million received during the three and six months ended June 30, 2012, respectively. As the insurance recovery amount exceeded the net book value of assets believed to be damaged and other costs incurred as a result of the flood, we recorded a pre-tax gain of $3.4 million and $7.2 million during the three and six months ended June 30, 2012, respectively. During the second quarter of 2012, the insurance claim for the flood at Hollywood Casino Tunica was settled and as such no further proceeds will be received.

- Gaming licenses in Iowa are typically issued jointly to a gaming operator and a local charitable organization known as a Qualified Sponsoring Organization ("QSO"). The agreement between our gaming operator subsidiary in Iowa, Belle of Sioux City, L.P. (the "Belle") and its QSO, Missouri River Historical Development, Inc. ("MRHD"), was set to expire in early July 2012, but was extended through the August 23, 2012 Iowa Racing and

Gaming Commission ("IRGC") meeting. On July 12, when presented with an extension of our QSO/operating agreement for our Sioux City facility through March 2015, the IRGC failed to approve the extension and urged a shorter extension. The IRGC also announced at the same meeting the schedule for requests for proposals for a new land based Woodbury County casino. Applications and financing proposals will be due by November 15, 2012 and the IRGC is expected to award that license to a gaming operator and a QSO by April 18, 2013. On July 6, 2012, the Belle filed a lawsuit against the IRGC, challenging the gaming regulators ruling to open up the gaming license to bidding for the land based casino on a variety of legal claims. Further, the Belle's ability to continue its operations may also be impacted by its ability to renew or extend its existing docking lease, which expires in January 2013, or to locate a suitable site to construct a land-based facility. Our Argosy Casino Sioux City facility has goodwill and other intangible assets of $92.8 million, along with property and equipment, net of $10.9 million at June 30, 2012. Additionally, this facility had net revenues and income from operations of $29.8 million and $9.6 million, respectively, for the six months ended June 30, 2012, which represented 2.1% and 3.5% of the Company's consolidated results. Any disruptions in Argosy Casino Sioux City's operations related to the items described above could result in a significant non-cash impairment charge in future periods as well as the loss of future earnings associated from this property.

- Construction on a new riverboat casino and hotel in Baton Rouge, Louisiana has begun with a planned opening in August 2012. The opening of this riverboat casino will have an adverse effect on the financial results of Hollywood Casino Baton Rouge. In addition, a casino in Biloxi opened in late May 2012, which will have an adverse effect on the financial results of our Boomtown Biloxi property.

**Critical Accounting Estimates**

We make certain judgments and use certain estimates and assumptions when applying accounting principles in the preparation of our consolidated financial statements. The nature of the estimates and assumptions are material due to the levels of subjectivity and judgment necessary to account for highly uncertain factors or the susceptibility of such factors to change. We have identified the accounting for long-lived assets, goodwill and other intangible assets, income taxes and litigation, claims and assessments as critical accounting estimates, as they are the most important to our financial statement presentation and require difficult, subjective and complex judgments.

We believe the current assumptions and other considerations used to estimate amounts reflected in our consolidated financial statements are appropriate. However, if actual experience differs from the assumptions and other considerations used in estimating amounts reflected in our consolidated financial statements, the resulting changes could have a material adverse effect on our consolidated results of operations and, in certain situations, could have a material adverse effect on our financial condition.

For further information on our critical accounting estimates, see Item 7. "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the notes to our audited consolidated financial statements included in our Annual



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Report on Form 10-K for the year ended December 31, 2011. There has been no material change to these estimates for the six months ended June 30, 2012.

**Results of Operations**

The following are the most important factors and trends that contribute to our operating performance:

- The fact that most of our properties operate in mature competitive markets. As a result, we expect a majority of our future growth to come from prudent acquisitions of gaming properties (such as our pending acquisition of Harrah's St. Louis gaming and lodging facility from Caesars Entertainment), jurisdictional expansions (such as the February 2012 opening of a casino through a joint venture in Kansas, the May 2012 opening of Hollywood Casino Toledo, the anticipated opening of Hollywood Casino Columbus early in the fourth quarter of 2012 and the opening of video lottery terminal facilities at two racetracks in Ohio which are expected to commence operations in 2014), expansions of gaming in existing jurisdictions (such as the introduction of table games in July 2010 at Hollywood Casino at Charles Town Races and Hollywood Casino at Penn National Race Course, and more recently at Hollywood Casino Bangor in March 2012) and expansions/improvements of existing properties.

- The fact that a number of states are currently considering or implementing legislation to legalize or expand gaming. Such legislation presents both potential opportunities to establish new properties (for example, in Kansas where we opened a casino through a joint venture in February 2012, in Ohio where we have opened a casino in Toledo in May 2012 and plan to open a casino in Columbus early in the fourth quarter of 2012, and in Maryland where we opened Hollywood Casino Perryville on September 27, 2010) and increased competitive threats to business at our existing properties (such as the introduction of commercial casinos in Kansas, Maryland, Ohio, and potentially Kentucky, an additional casino in Illinois which opened on July 18, 2011, gaming expansion in Baton Rouge, Louisiana, and the introduction of tavern licenses in several states).

- The actions of government bodies can affect our operations in a variety of ways. For instance, the continued pressure on governments to balance their budgets could intensify the efforts of state and local governments to raise revenues through increases in gaming taxes or via an expansion of gaming. In addition, government bodies may restrict, prevent or negatively impact operations in the jurisdictions in which we do business (such as the implementation of smoking bans).

- The continued demand for, and our emphasis on, slot wagering entertainment at our properties.

- The successful execution of the development and construction activities currently underway at a number of our facilities, as well as the risks associated with the costs, regulatory approval and the timing of these activities.

- The risks related to economic conditions and the effect of such conditions on consumer spending for leisure and gaming activities, which may negatively impact our operating results and our ability to continue to access financing at favorable terms.

The results of operations for the three and six months ended June 30, 2012 and 2011 are summarized below:

| | Three Months Ended June 30, | | Six Months Ended June 30, | |
|---|---|---|---|---|
| | 2012 | 2011 | 2012 | 2011 |
| | (in thousands) | | | |
| Revenues: | | | | |

| | | | | |
|---|---|---|---|---|
| Gaming | $ 634,846 | $ 622,873 | $ 1,290,923 | $ 1,231,984 |
| Food, beverage and other | 109,955 | 94,391 | 222,863 | 179,680 |
| Management service fee | 3,614 | 4,037 | 7,057 | 7,354 |
| Revenues | 748,415 | 721,301 | 1,520,843 | 1,419,018 |
| Less promotional allowances | (35,864) | (33,422) | (72,233) | (64,116) |
| Net revenues | 712,551 | 687,879 | 1,448,610 | 1,354,902 |
| | | | | |
| Operating expenses: | | | | |
| Gaming | 330,875 | 327,033 | 671,044 | 647,789 |
| Food, beverage and other | 84,985 | 75,257 | 172,789 | 143,849 |
| General and administrative | 115,251 | 102,322 | 231,248 | 205,798 |
| Depreciation and amortization | 56,791 | 54,230 | 110,128 | 107,388 |
| Insurance recoveries, net of deductible charges | (3,366) | (11,555) | (7,229) | (13,249) |
| Total operating expenses | 584,536 | 547,287 | 1,177,980 | 1,091,575 |
| Income from operations | $ 128,015 | $ 140,592 | $ 270,630 | $ 263,327 |



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Certain information regarding our results of operations by segment for the three and six months ended June 30, 2012 and 2011 is summarized below:

| | Net Revenues | | Income (loss) from Operations | |
|---|---|---|---|---|
| **Three Months Ended June 30,** | **2012** | **2011** | **2012** | **2011** |
| | **(in thousands)** | | | |
| Midwest | $ 217,975 | $ 214,403 | $ 47,139 | $ 69,809 |
| East/West | 348,652 | 318,614 | 76,732 | 69,485 |
| Southern Plains | 137,405 | 146,509 | 37,532 | 29,284 |
| Other | 8,519 | 8,353 | (33,388) | (27,986) |
| **Total** | $ 712,551 | $ 687,879 | $ 128,015 | $ 140,592 |

| | Net Revenues | | Income (loss) from Operations | |
|---|---|---|---|---|
| **Six Months Ended June 30,** | **2012** | **2011** | **2012** | **2011** |
| | **(in thousands)** | | | |
| Midwest | $ 423,086 | $ 428,214 | $ 93,422 | $ 122,484 |
| East/West | 719,281 | 606,997 | 160,622 | 129,223 |
| Southern Plains | 287,125 | 301,600 | 82,243 | 68,793 |
| Other | 19,118 | 18,091 | (65,657) | (57,173) |
| **Total** | $ 1,448,610 | $ 1,354,902 | $ 270,630 | $ 263,327 |

*Revenues*

Revenues for the three and six months ended June 30, 2012 and 2011 were as follows (in thousands):

| **Three Months Ended June 30,** | **2012** | **2011** | **Variance** | **Percentage Variance** |
|---|---|---|---|---|
| Gaming | $ 634,846 | $ 622,873 | $ 11,973 | 1.9% |
| Food, beverage and other | 109,955 | 94,391 | 15,564 | 16.5% |
| Management service fee | 3,614 | 4,037 | (423) | (10.5)% |
| Revenues | 748,415 | 721,301 | 27,114 | 3.8% |
| Less promotional allowances | (35,864) | (33,422) | (2,442) | (7.3)% |
| Net revenues | $ 712,551 | $ 687,879 | $ 24,672 | 3.6% |

| **Six Months Ended June 30,** | **2012** | **2011** | **Variance** | **Variance** |
|---|---|---|---|---|
| Gaming | $ 1,290,923 | $ 1,231,984 | $ 58,939 | 4.8% |
| Food, beverage and other | 222,863 | 179,680 | 43,183 | 24.0% |
| Management service fee | 7,057 | 7,354 | (297) | (4.0)% |
| Revenues | 1,520,843 | 1,419,018 | 101,825 | 7.2% |
| Less promotional allowances | (72,233) | (64,116) | (8,117) | (12.7)% |
| Net revenues | $ 1,448,610 | $ 1,354,902 | $ 93,708 | 6.9% |

In our business, revenue is driven by discretionary consumer spending, which has been impacted by weakened general economic conditions such as, but not limited to, high unemployment levels, low levels of consumer confidence, weakness in the housing market and increased stock market volatility.

We have no certain mechanism for determining why consumers choose to spend more or less money at our properties from period to period and as such cannot quantify a dollar amount for each factor that impacts our customers' spending behaviors. However, based on our experience, we can generally offer some insight into the factors that we believe were likely to account for such changes. In instances where we believe one factor may have had a significantly greater impact than the other factors, we have noted that as well. However, in all instances, such insights are based only on our reasonable judgment and professional experience, and no assurance can be given as to the accuracy of our judgments.

*Gaming revenue*

Gaming revenue increased by $12.0 million, or 1.9%, and $58.9 million, or 4.8%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to the variances explained below.

Gaming revenue for our East/West segment increased by $20.3 million, or 7.2%, for the three months ended June 30, 2012, as compared to the three months ended June 30, 2011, primarily due to the acquisition of the M Resort on June 1, 2011 and an increase in gaming revenue at Hollywood Casino at Charles Town Races primarily due to the continued impact from the introduction of table games in July 2010 partially offset by a slight impact from the partial opening of a casino complex at the Arundel Mills mall in Maryland in June 2012. Additionally, our East/West segment results were favorably impacted by the introduction of table games at Hollywood Casino Bangor on March 16, 2012 and an increase in gaming revenue at Zia Park Casino.

Gaming revenue for our East/West segment increased by $82.6 million, or 15.1%, for the six months ended June 30, 2012, as compared to the six months ended June 30, 2011, primarily due to the acquisition of the M Resort on June 1, 2011, an increase in gaming revenue at Hollywood Casino at Charles Town Races primarily due to the continued impact from the introduction of table games in July 2010 coupled with mild weather in the first quarter of 2012, an increase in gaming revenue at Hollywood Casino Perryville primarily due to continued growth in this relatively new gaming market as well as mild weather in the first quarter of 2012, the introduction of table games at Hollywood Casino Bangor on March 16, 2012, and an increase in gaming revenue at Zia Park Casino.

We anticipate a significant decline in gaming revenue in our East/West segment in the second half of 2012, particularly at our Hollywood Casinos at Charles Town Races and Perryville. This is due to the recent June 2012 partial opening of a casino complex in Maryland, which we anticipate will significantly expand its slot machine offerings in the second half of 2012.

Gaming revenue for our Midwest segment increased by $1.6 million, or 0.8%, for the three months ended June 30, 2012, as compared to the three months ended June 30, 2011, due to the opening of Hollywood Casino Toledo on May 29, 2012, which generated $22.7 million of gaming revenue for the three months ended June 30, 2012. Our other properties in our Midwest segment had revenue declines primarily due to the impact of new competition, namely a new casino opening in July 2011 near Hollywood Casino Aurora and Hollywood Casino Joliet, as well as a recent opening on June 1, 2012 of a new racino in Columbus, Ohio which has negatively impacted Hollywood Casino Lawrenceburg.

Gaming revenue for our Midwest segment decreased by $7.4 million, or 1.8%, for the six months ended June 30, 2012, as compared to the six months ended June 30, 2011, primarily due to decreases in gaming revenues at the properties which were negatively impacted by new competition previously mentioned above, which were partially offset by $22.7 million in gaming revenues generated from the opening of Hollywood Casino Toledo on May 29, 2012.

We expect a significant increase in gaming revenue in our Midwest segment in the second half of 2012 due to the May 29th opening of Hollywood Casino Toledo and the opening of Hollywood Casino Columbus which is expected to open early in the fourth quarter of 2012.

Gaming revenue for our Southern Plains segment decreased by $9.3 million, or 6.9%, and $15.0 million, or 5.3%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to a decrease in gaming revenue at Argosy Casino Riverside primarily due to the opening of our Hollywood Casino at Kansas Speedway joint venture in February 2012.

*Food, beverage and other revenue*

Food, beverage and other revenue increased by $15.6 million, or 16.5%, and $43.2 million, or 24.0%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to the acquisition of the M Resort on June 1, 2011.

*Promotional allowances*

The retail value of accommodations, food and beverage, and other services furnished to guests without charge is included in gross revenues and then deducted as “promotional allowances”. Our promotional allowance levels are determined based on various factors such as our marketing plans, competitive factors, economic conditions, and regulations. Promotional allowances increased by $2.4 million, or 7.3%, and $8.1 million, or 12.7%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to the acquisition of the M Resort on June 1, 2011.





*Operating Expenses*

Operating expenses for the three and six months ended June 30, 2012 and 2011 were as follows (in thousands):

| Three Months Ended June 30, | 2012 | 2011 | Variance | Percentage Variance |
|---|---|---|---|---|
| Gaming | $ 330,875 | $ 327,033 | $ 3,842 | 1.2% |
| Food, beverage and other | 84,985 | 75,257 | 9,728 | 12.9% |
| General and administrative | 115,251 | 102,322 | 12,929 | 12.6% |
| Depreciation and amortization | 56,791 | 54,230 | 2,561 | 4.7% |
| Insurance recoveries, net of deductible charges | (3,366) | (11,555) | 8,189 | 70.9% |
| Total operating expenses | $ 584,536 | $ 547,287 | $ 37,249 | 6.8% |

| Six Months Ended June 30, | 2012 | 2011 | Variance | Percentage Variance |
|---|---|---|---|---|
| Gaming | $ 671,044 | $ 647,789 | $ 23,255 | 3.6% |

| | | | | |
|---|---|---|---|---|
| Food, beverage and other | 172,789 | 143,849 | 28,940 | 20.1% |
| General and administrative | 231,248 | 205,798 | 25,450 | 12.4% |
| Depreciation and amortization | 110,128 | 107,388 | 2,740 | 2.6% |
| Insurance recoveries, net of deductible charges | (7,229) | (13,249) | 6,020 | 45.4% |
| Total operating expenses | $ 1,177,980 | $ 1,091,575 | $ 86,405 | 7.9% |

*Gaming expense*

Gaming expense increased by $3.8 million, or 1.2%, and $23.3 million, or 3.6%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to the variances explained below.

Gaming expense for our East/West segment increased by $8.6 million, or 5.1%, and $37.7 million, or 11.5%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to the acquisition of the M Resort on June 1, 2011 and an overall increase in gaming taxes resulting from increased taxable gaming revenue mentioned above at Hollywood Casino at Charles Town Races and Hollywood Casino Perryville, as well as to a lessor extent at Hollywood Casino Bangor and Zia Park Casino.

Gaming expense for our Midwest segment decreased by $0.9 million, or 0.9%, and $8.0 million, or 3.8%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to an overall decrease in gaming taxes resulting from decreased taxable gaming revenue for Hollywood Casino Joliet, Hollywood Casino Aurora and Hollywood Casino Lawrenceburg primarily due to previously mentioned new competition, as well as the expiration of the 3% surcharge in July 2011 for Hollywood Casino Joliet and Hollywood Casino Aurora which had been required to subsidize local horse racing interests. These properties also had decreased marketing and payroll costs for the three and six months ended June 30, 2012 compared to the corresponding period in the prior year due to realignment of costs with decreased business demand resulting from the new competition. These decreases were partially offset by the opening of Hollywood Casino Toledo on May 29, 2012.

Gaming expense for our Southern Plains segment decreased by $3.8 million, or 7.4%, and $6.1 million, or 5.8%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to an overall decrease in gaming taxes resulting from decreased taxable gaming revenue mentioned above for Argosy Casino Riverside, as well as decreased payroll costs at this property due to realignment of costs associated with lower business demand subsequent to the opening of our joint venture at Hollywood Casino at Kansas Speedway.

*Food, beverage and other expenses*

Food, beverage and other expenses increased by $9.7 million, or 12.9%, and $28.9 million, or 20.1%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to the acquisition of the M Resort on June 1, 2011.

*General and administrative expenses*

General and administrative expenses include expenses such as compliance, facility maintenance, utilities, property and liability insurance, surveillance and security, and certain housekeeping services, as well as all expenses for administrative departments



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such as accounting, purchasing, human resources, legal and internal audit. General and administrative expenses also include lobbying expenses.

General and administrative expenses increased by $12.9 million, or 12.6%, and $25.5 million, or 12.4%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to the variances explained below.

General and administrative expenses for our East/West segment increased by $4.2 million, or 15.4%, and $11.5 million, or 22.1%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to the acquisition of the M Resort on June 1, 2011.

General and administrative expenses for our Midwest segment increased by $4.4 million, or 17.5%, and $6.1 million, or 12.0%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to the opening of Hollywood Casino Toledo on May 29, 2012. Additionally, costs associated with the anticipated early fourth quarter opening of Hollywood Casino Columbus were offset by declines at our other properties in the Midwest segment which had reduced costs in light of lower business volumes due to new competition.

General and administrative expenses for Other increased by $4.5 million, or 18.5%, and $7.9 million, or 15.7%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to increased compensation costs to support our growing organization, as well as to a lessor extent transaction costs of $0.8 million incurred in the second quarter of 2012 for the acquisition of Harrah’s St. Louis.

*Depreciation and amortization expense*

Depreciation and amortization expense increased by $2.6 million, or 4.7%, and $2.7 million, or 2.6%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to the variances explained below.

Depreciation and amortization expense for our Midwest segment increased by $4.0 million, or 25.9%, and $5.9 million, or 19.0%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to the opening of Hollywood Casino Toledo on May 29, 2012.

Depreciation and amortization expense for our East/West segment increased by $0.7 million, or 3.2%, and $2.3 million, or 5.6%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to the acquisition of the M Resort on June 1, 2011.

Depreciation and amortization expense for our Southern Plains segment decreased by $3.6 million, or 24.5%, and $6.9 million, or 23.4%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to decreased depreciation and amortization expense at Hollywood Casino Bay St. Louis and Boomtown Biloxi primarily related to replacement assets that were purchased after Hurricane Katrina being fully depreciated in third quarter of 2011.

*Insurance recoveries, net of deductible charges*

Insurance recoveries, net of deductible charges during the three and six months ended June 30, 2012 were related to a pre-tax insurance gain of $3.4 million and $7.2 million, respectively, for the flood at Hollywood Casino Tunica. Insurance recoveries, net of deductible charges during the three months and six months ended June 30, 2011 were related to a pre-tax insurance gain of $16.8 million and $18.5 million, respectively, for a fire at Hollywood Casino Joliet, partially offset by a pre-tax insurance loss of $5.2 million for the flood at Hollywood Casino Tunica for the three and six months ended June 30, 2011.



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*Other income (expenses)*

Other income (expenses) for the three and six months ended June 30, 2012 and 2011 were as follows (in thousands):

| Three Months Ended June 30, | 2012 | 2011 | Variance | Percentage Variance |
|---|---|---|---|---|
| Interest expense | $ (17,823) | $ (26,109) | $ 8,286 | 31.7% |
| Interest income | 246 | 96 | 150 | 156.3% |
| Gain from unconsolidated affiliates | 1,054 | 431 | 623 | 144.5% |
| Other | 1,474 | (701) | 2,175 | 310.3% |
| Total other expenses | $ (15,049) | $ (26,283) | $ 11,234 | 42.7% |

| Six Months Ended June 30, | 2012 | 2011 | Variance | Percentage Variance |
|---|---|---|---|---|
| Interest expense | $ (35,866) | $ (55,135) | $ 19,269 | 34.9% |
| Interest income | 465 | 149 | 316 | 212.1% |
| Gain (loss) from unconsolidated affiliates | 2,739 | (1,923) | 4,662 | 242.4% |
| Other | 471 | (2,344) | 2,815 | 120.1% |
| Total other expenses | $ (32,191) | $ (59,253) | $ 27,062 | 45.7% |

*Interest expense*

Interest expense decreased by $8.3 million, or 31.7%, and $19.3 million, or 34.9%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to the expiration of all interest rate swap contracts in 2011, redemption of our $250 million 6 ¾% senior subordinated notes in August 2011 and higher capitalized interest for the three and six months ended June 30, 2012 compared to the corresponding period in the prior year, all of which were partially offset by higher interest on our senior secured credit facility entered into in July 2011 primarily due to higher interest rates and to a lesser extent higher outstanding balances. In 2011, we funded the redemption of our $250 million 6 ¾% senior subordinated notes with our revolving credit facility under the 2011 senior secured credit facility.

*Gain (loss) from unconsolidated affiliates*

We recorded a gain from unconsolidated affiliates of $1.1 million and $2.7 million for the three and six months ended June 30, 2012, respectively, primarily due to our share of earnings from Kansas Entertainment for the three and six months ended June 30, 2012 which opened in February 2012.

*Other*

Other changed by $2.2 million, or 310.3%, and $2.8 million, or 120.1%, for the three and six months ended June 30, 2012, respectively, as compared to the three and six months ended June 30, 2011, primarily due to foreign currency translation gains for the three and six months ended June 30, 2012, as compared to foreign currency translation losses for the three and six months ended June 30, 2011.

*Taxes*

Our effective tax rate (income taxes as a percentage of income from operations before income taxes) increased to 41.0% and 39.1% for the three and six months ended June 30, 2012, respectively, as compared to 33.5% and 37.5% for the three and six months ended June 30, 2011, respectively. The primary reason for the increase is due to the reversal of previously recorded unrecognized tax benefits in the second quarter of 2011 for years that either have been favorably settled or where the statute of limitations has lapsed.

Our projected annual effective tax rate can vary from period to period depending on, among other factors, the geographic and business mix of our earnings and the level of our tax credits. Certain of these and other factors, including our history of pre-tax earnings, are taken into account in assessing our ability to realize our net deferred tax assets.

**Liquidity and Capital Resources**

Historically, our primary sources of liquidity and capital resources have been cash flow from operations, borrowings from banks and proceeds from the issuance of debt and equity securities.

Net cash provided by operating activities totaled $230.9 million and $291.0 million for the six months ended June 30, 2012 and 2011, respectively. The decrease in net cash provided by operating activities of $60.1 million for the six months ended June 30, 2012 compared to the corresponding period in the prior year is comprised primarily of an increase in income tax payments of $86.4 million, cash paid to employees of $35.0 million and cash paid to suppliers and vendors of $30.2 million, and a decrease in insurance recoveries of $6.0 million, all of which were partially offset by an increase in cash receipts from customers of $92.7 million and a decrease in interest payments of $18.5 million. The increase in cash receipts collected from our customers and the increase in higher cash payments for operating expenses for the six months ended June 30, 2012 compared to the prior year was primarily due to the previously discussed growth in our East/West segment. The increase in cash paid to employees for the six months ended June 30, 2012 compared to the prior year was primarily due to the acquisition of the M Resort on June 1, 2011 and the opening of Hollywood Casino Toledo in late May 2012. Additionally, the increase in income tax payments was primarily due to significantly higher taxable income for the six months ended June 30, 2012 compared to the corresponding period in the prior year primarily due to higher levels of pre-tax book income coupled with legislation passed in the later part of 2010, “Tax Relief Act of 2010,” that allowed 100 percent bonus depreciation for qualifying new assets acquired and placed in service through 2011.

Net cash used in investing activities totaled $325.5 million and $144.8 million for the six months ended June 30, 2012 and 2011, respectively. Net cash used in investing activities for the six months ended June 30, 2012 included expenditures for property and equipment, net of reimbursements totaling $254.2 million, a gaming license payment of $50.0 million in connection with the May 29, 2012 opening of Hollywood Casino Toledo, and investment in joint ventures of $39.6 million, all of which were partially offset by a decrease in cash in escrow of $15.5 million and proceeds from the sale of property and equipment totaling $2.8 million. The increase in net cash used in investing activities of $180.7 million for the six months ended June 30, 2012 compared to the corresponding period in the prior year was primarily due to increased expenditures for property and equipment of $146.9 million as a result of increased expenditures at our two new facilities in Ohio and the $50.0 million gaming license payment for Hollywood Casino Toledo.

Net cash provided by (used in) financing activities totaled $60.3 million and $(70.6) million for the six months ended June 30, 2012 and 2011, respectively. The increase in net cash provided by financing activities for the six months ended June 30, 2012 compared to the corresponding period in the prior year was primarily due to an increase in borrowings under our revolver in our senior secured credit facility, primarily used for our increased expenditures in Ohio.

*Capital Expenditures*

Capital expenditures are accounted for as either capital project or capital maintenance (replacement) expenditures. Capital project expenditures are for fixed asset additions that expand an existing facility or create a new facility. Capital maintenance expenditures are expenditures to replace existing fixed assets with a useful life greater than one year that are obsolete, worn out or no longer cost effective to repair.

The following table summarizes our expected capital project expenditures by segment for the fiscal year ending December 31, 2012, and actual expenditures for the six months ended June 30, 2012 (excluding licensing fees). The table below should not be utilized to predict future expected capital project expenditures subsequent to 2012.

| Property | Expected for Year Ending December 31, 2012 | Expenditures for Six Months Ended June 30, 2012 | Balance to Expend in 2012 |
|---|---|---|---|
| | | (in millions) | |
| Midwest | $ 351.8 | $ 198.5 | $ 153.3 |
| East/West | 8.4 | 2.9 | 5.5 |
| Southern Plains | 3.1 | 0.4 | 2.7 |
| Other | 0.2 | 0.1 | 0.1 |
| Total | $ 363.5 | $ 201.9 | $ 161.6 |

In November 2009, the “Ohio Jobs and Growth Plan,” a casino ballot proposal calling for an amendment to Ohio’s Constitution to authorize casinos in the state’s four largest cities, Cincinnati, Cleveland, Columbus and Toledo, was approved. Hollywood Casino Toledo, a $320 million Hollywood-themed casino in Toledo, Ohio, inclusive of $50 million in licensing fees, opened on May 29, 2012 and features 2,000 slot machines, 60 table games and 20 poker tables, structured and surface parking, as well as food and beverage outlets and an entertainment lounge. The Hollywood Casino Columbus project, a $400 million Hollywood-themed casino in Columbus, Ohio, inclusive of $50 million in licensing fees, is under construction, with a planned casino opening of up to 3,000 slot machines, 70 table games and 30 poker tables, structured and surface parking, as well as food and beverage outlets and an entertainment lounge. We expect the opening of Hollywood Casino Columbus to occur early in the fourth





quarter of 2012. We have incurred cumulative costs of $294.2 million and $195.3 million as of June 30, 2012 for Hollywood Casino Toledo and Hollywood Casino Columbus, respectively.

During the six months ended June 30, 2012, we spent approximately $52.3 million for capital maintenance expenditures, with $12.4 million at our Midwest segment, $23.7 million at our East/West segment, $12.4 million at our Southern Plains segment, and $3.8 million for Other. The majority of the capital maintenance expenditures were for slot machines and slot machine equipment.

Cash generated from operations and cash available under the revolving credit facility portion of our senior secured credit facility have funded our capital project and capital maintenance expenditures in 2012 to date.

*Debt*

Our senior secured credit facility had a gross outstanding balance of $1,776.5 million at June 30, 2012, consisting of $369.0 million drawn under the revolving credit facility, a $665.0 million Term Loan A facility, and a $742.5 million Term Loan B facility. Additionally, at June 30, 2012, we were

contingently obligated under letters of credit issued pursuant to the senior secured credit facility with face amounts aggregating $23.9 million, resulting in $307.1 million of available borrowing capacity as of June 30, 2012 under the revolving credit facility.

*Covenants*

Our senior secured credit facility and $325 million 8$^{3}/_{4}$% senior subordinated notes require us, among other obligations, to maintain specified financial ratios and to satisfy certain financial tests, including fixed charge coverage, interest coverage, senior leverage and total leverage ratios. In addition, our senior secured credit facility and $325 million 8$^{3}/_{4}$% senior subordinated notes restrict, among other things, our ability to incur additional indebtedness, incur guarantee obligations, amend debt instruments, pay dividends, create liens on assets, make investments, engage in mergers or consolidations, and otherwise restrict corporate activities.

At June 30, 2012, we were in compliance with all required financial covenants.

*Outlook*

Based on our current level of operations and anticipated earnings growth, we believe that cash generated from operations and cash on hand, together with amounts available under our senior secured credit facility (including amounts that can be obtained for the pending Harrah's St. Louis acquisition, see Note 4 for further details), will be adequate to meet our anticipated debt service requirements, capital expenditures and working capital needs for the foreseeable future. However, we cannot be certain that our business will generate sufficient cash flow from operations, that our anticipated earnings growth will be realized, or that future borrowings will be available under our senior secured credit facility or otherwise will be available to enable us to service our indebtedness, including the senior secured credit facility and the senior subordinated notes, to retire or redeem the senior subordinated notes when required or to make anticipated capital expenditures. In addition, we expect a majority of our future growth to come from acquisitions of gaming properties at reasonable valuations, greenfield projects, jurisdictional expansions and property expansion in under-penetrated markets. If we consummate significant acquisitions in the future or undertake any significant property expansions, our cash requirements may increase significantly and we may need to make additional borrowings or complete equity or debt financings to meet these requirements. Our future operating performance and our ability to service or refinance our debt will be subject to future economic conditions and to financial, business and other factors, many of which are beyond our control. See "Risk Factors—Risks Related to Our Capital Structure" in our Annual Report on Form 10-K for the year ended December 31, 2011 for a discussion of the risk related to our capital structure.

We have historically maintained a capital structure comprising a mix of equity and debt financing. We vary our leverage to pursue opportunities in the marketplace and in an effort to maximize our enterprise value for our shareholders. We expect to meet our debt obligations as they come due through internally generated funds from operations and/or refinancing them through the debt or equity markets prior to their maturity.

**ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

The table below provides information at June 30, 2012 about our financial instruments that are sensitive to changes in interest rates. For debt obligations, the table presents notional amounts maturing during the period and the related weighted-average interest rates by maturity dates. Notional amounts are used to calculate the contractual payments to be exchanged by maturity date and the weighted-average interest rates are based on implied forward LIBOR rates at June 30, 2012.



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| | 07/01/12 - 06/30/13 | 07/01/13 - 06/30/14 | 07/01/14 - 06/30/15 | 07/01/15 - 06/30/16 | 07/01/16 - 06/30/17 | Thereafter | Total | Fair Value 6/30/12 |
|---|---|---|---|---|---|---|---|---|
| | (in thousands) | | | | | | | |
| **Long-term debt:** | | | | | | | | |
| Fixed rate | $ — | $ — | $ — | $ — | $ — | $ 325,000 | $ 325,000 | $ 359,938 |
| Average interest rate | | | | | | 8.75% | | |
| Variable rate | $ 42,500 | $ 60,000 | $ 77,500 | $ 60,000 | $ 831,500 | $ 705,000 | $ 1,776,500 | $ 1,775,609 |
| Average interest rate (1) | 2.46% | 2.54% | 2.71% | 2.95% | 3.01% | 4.41% | | |

(1) Estimated rate, reflective of forward LIBOR plus the spread over LIBOR applicable to variable-rate borrowing.

**ITEM 4. CONTROLS AND PROCEDURES**

**Evaluation of Controls and Procedures**

The Company's management, under the supervision and with the participation of our principal executive officer and principal financial officer, has evaluated the effectiveness of the Company's disclosure controls and procedures, as such term is defined under Rule 13a-15(e) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as of June 30, 2012, which is the end of the period covered by this Quarterly Report on Form 10-Q. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well-designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Based on this evaluation, our principal executive officer and principal financial officer concluded that the Company's disclosure controls and procedures were effective as of June 30, 2012 to ensure that information required to be disclosed by the Company in reports we file or submit under the Exchange Act is (i) recorded, processed, summarized, evaluated and reported, as applicable, within the time periods specified in the United States Securities and Exchange Commission's rules and forms and (ii) accumulated and communicated to the Company's management, including the Company's principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosures.

**Changes in Internal Control over Financial Reporting**

There were no changes that occurred during the fiscal quarter covered by this Quarterly Report on Form 10-Q that have materially affected, or are reasonable likely to materially affect, our internal controls over financial reporting.

**PART II. OTHER INFORMATION**

ITEM 1 — Legal Proceedings

Information in response to this Item is incorporated by reference to the information set forth in "Note 9: Commitments and Contingencies" in the Notes to the consolidated financial statements in Part I of this Quarterly Report on Form 10-Q.

ITEM 1A — Risk Factors

We are not aware of any material changes to the risk factors described in the Company's Annual Report on Form 10-K for the year ended December 31, 2011.

ITEM 2 — Unregistered Sales of Equity Securities and Use of Proceeds

The Company did not repurchase any common equity securities during the three months ended June 30, 2012.

ITEM 3 — Defaults upon Senior Securities

Not applicable.

ITEM 4 — Mine Safety Disclosures

None.



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ITEM 5 — Other information

Not applicable.

ITEM 6. EXHIBITS

| Exhibit | Description of Exhibit |
|---|---|
| 10.1* | Equity Interest Purchase Agreement dated as of May 7, 2012 by and among Penn National Gaming, Inc., as Buyer, Harrah's Maryland Heights, LLC, as the Company, Caesars Entertainment Operating Company, Inc., Harrah's Maryland Heights Operating Company, and Players Maryland Heights Nevada, LLC together, as Sellers and Caesars Entertainment Corporation, as Parent |
| 31.1* | CEO Certification pursuant to rule 13a-14(a) or 15d-14(a) of the Securities Exchange Act of 1934. |
| 31.2* | CFO Certification pursuant to rule 13a-14(a) or 15d-14(a) of the Securities Exchange Act of 1934. |
| 32.1* | CEO Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. |
| 32.2* | CFO Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. |
| 101** | Interactive data files pursuant to Rule 405 of Regulation S-T: (i) the Consolidated Balance Sheets at June 30, 2012 and December 31, 2011, (ii) the Consolidated Statements of Income for the three and six months ended June 30, 2012 and 2011, (iii) the Consolidated Statements of Comprehensive Income for the three and six months ended June 30, 2012 and 2011, (iv) the Consolidated Statements of Changes in Shareholders' Equity for the six months ended June 30, 2012 and 2011, (v) the Consolidated Statements of Cash Flows for the six months ended June 30, 2012 and 2011 and (vi) the notes to the Consolidated Financial Statements, tagged as blocks of text. |

* Filed herewith

** Pursuant to Rule 406T of Regulation S-T, the Indenture Data Files on Exhibit 101 hereto are deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, as amended, are deemed not filed for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended, and otherwise are not subject to liability under these sections.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

PENN NATIONAL GAMING, INC.

August 2, 2012

By: /s/ William J. Clifford
William J. Clifford
Senior Vice President Finance and Chief Financial Officer

(Principal Financial Officer)



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| 101** | Interactive data files pursuant to Rule 405 of Regulation S-T: (i) the Consolidated Balance Sheets at June 30, 2012 and December 31, 2011, (ii) the Consolidated Statements of Income for the three and six months ended June 30, 2012 and 2011, (iii) the Consolidated Statements of Comprehensive Income for the three and six months ended June 30, 2012 and 2011, (iv) the Consolidated Statements of Changes in Shareholders' Equity for the six months ended June 30, 2012 and 2011, (v) the Consolidated Statements of Cash Flows for the six months ended June 30, 2012 and 2011 and (vi) the notes to the Consolidated Financial Statements, tagged as blocks of text. |

* Filed herewith.

** Pursuant to Rule 406T of Regulation S-T, the Indenture Data Files on Exhibit 101 hereto are deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, as amended, are deemed not filed for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended, and otherwise are not subject to liability under these sections.

**Exhibit 10.1**

**EXECUTION COPY**

# EQUITY INTEREST PURCHASE AGREEMENT

**dated as of May 7, 2012**

**by and among**

**PENN NATIONAL GAMING, INC.,**
**as Buyer**

**HARRAH'S MARYLAND HEIGHTS, LLC,**
**as the Company**

**CAESARS ENTERTAINMENT OPERATING COMPANY, INC.,**
**HARRAH'S MARYLAND HEIGHTS OPERATING COMPANY, AND**
**PLAYERS MARYLAND HEIGHTS NEVADA, LLC**
**together, as Sellers**

**and**

**CAESARS ENTERTAINMENT CORPORATION,**
**as Parent**

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**EQUITY INTEREST PURCHASE AGREEMENT**

THIS EQUITY INTEREST PURCHASE AGREEMENT (this "Agreement") is made and entered into as of May 7, 2012 (the "Effective Date"), by and among Penn National Gaming, Inc., a Pennsylvania corporation ("Buyer"), Caesars Entertainment Corporation, a Delaware corporation ("Parent"), Caesars Entertainment Operating Company, Inc., a Delaware corporation ("CEOC"), Harrah's Maryland Heights Operating Company, a Nevada corporation ("HMHO"), Players Maryland Heights Nevada, LLC, a Nevada limited liability company ("PMHN", together with CEOC and HMHO, "Sellers"), and Harrah's Maryland Heights, LLC, a Delaware limited liability company (the "Company"). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in Section 14.1.

WHEREAS, Sellers are the beneficial and record owners of all of the issued and outstanding membership interests of the Company (the "Equity Interests");

WHEREAS, the Board of Directors of Parent believes that it is in the best interests of the Company, Sellers and Sellers' members and stockholders to sell all of the Equity Interests; and

WHEREAS, Buyer desires to acquire from Sellers and Sellers desire to sell to Buyer, all of Sellers' right, title and interest in and to the issued and outstanding Equity Interests on the terms and subject to the conditions set forth herein, after which the Company shall become a wholly-owned subsidiary of Buyer.

NOW, THEREFORE, the parties hereto, in consideration of the premises and of the mutual representations, warranties and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

## ARTICLE I.
## PURCHASE AND SALE OF EQUITY INTERESTS

Section 1.1 Purchase and Sale of Equity Interests. Upon the terms and subject to the conditions set forth in this Agreement, at the Closing, Sellers shall sell and Buyer shall purchase from Sellers, the Equity Interests free and clear of all Liens and Encumbrances other than Permitted Liens and Permitted Encumbrances. As a result of Buyer's acquisition of the Equity Interests, Buyer shall indirectly acquire all of the Company's right, title and interest in, and under those certain rights and assets set forth below, free and clear of all Liens and Encumbrances other than Permitted Liens and Permitted Encumbrances, but excluding the Excluded Assets (the "Purchased Assets"):

(a) the Real Property;

(b) subject to Section 1.4, the Assumed Contracts;

(c) the Acquired Personal Property;

(d) Intentionally Omitted;

(e) the Tray Ledger (pursuant to Section 4.2(a));

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(f) the Markers (pursuant to Section 4.2(b));

(g) Intentionally omitted.

(h) the Transferred Marks and Domain Names, the Other Transferred Registered IP, and the other Intellectual Property listed on Section 1.1(h) of the Company Disclosure Letter (collectively, the "Transferred Intellectual Property");

(i) the organizational documents, minute and stock books and records, and corporate seals of the Company;

(j) (i) all corporate records of the Company, (ii) all other books and records of the Company relating exclusively to the Business (except (A) to the extent related to the Excluded Liabilities, the Excluded Assets or otherwise proprietary to Sellers or their Affiliates (other than the Company) and (B) the Customer Database), including all architectural, structural, service manuals, engineering and mechanical plans, electrical, soil, wetlands, environmental, and similar reports, studies and audits in the Company's possession or control, (iii) all plans and specifications for the Casino in the Company's possession or control and (iv) all human resources and other employee-related files and records relating to the Transferred Employees, except to the extent prohibited by Law; *provided*, *however*, Sellers may retain archival copies of all books, files and records as set forth in Section 1.3;

(k) the Customer List;

(l) the Company Permits, Governmental Approvals and Gaming Approvals exclusively related to the Casino, and pending applications therefor, to the extent transferable by Law;

(m) all current assets reflected in the Final Closing Net Working Capital, including Gift Certificates and Accounts Receivable;

(n) all bookings, contracts, or reservations for the use or occupancy of guest rooms and/or meeting and banquet facilities of the Casino which use or occupancy is scheduled to occur on or after the Closing Date;

(o) all advertising, marketing and promotional materials exclusively used or held for use in the Business and to the extent such materials do not include any System Marks and other than the Harrah's Branded Paraphernalia;

(p) all landline telephone numbers used at the Casino on the Closing Date;

(q) all rights, claims, rebates, discounts and credits (including all guarantees, indemnities, warranties and similar rights), performance or other bonds, security or other deposits, advance payments and prepaid rents in favor of the Company to the extent relating exclusively to (i) the Business as of the Closing Date, (ii) the Purchased Assets, or (iii) the Assumed Liabilities;

(r) all goodwill associated with the Business;



(s) all refunds or rebates of Taxes to which Buyer is entitled under Section 12.9(g);

(t) the Rewards Information;

(u) any and all insurance proceeds, condemnation awards or other compensation awards for loss or damage to any Purchased Assets, the Real Property and the Business to the extent occurring after the date hereof but prior to the Closing Date, and all right and claim of Sellers and the Company or any of their respective Affiliates to any such insurance or other compensation not paid by the Closing Date; and

(v) all other assets and properties of the Company exclusively used or held for use in connection with the Business.

Section 1.2 Excluded Assets. Notwithstanding anything to the contrary contained in this Agreement, immediately prior to the Closing, the Company shall assign to Sellers (or their designee) and Sellers (or their designee) shall obtain the right, title and interest in and to each and all of the following assets of the Company (the "Excluded Assets"):

(a) the Excluded Contracts;

(b) any rights, claims and credits (including all guarantees, indemnities, warranties and similar rights) in favor of the Company to the extent relating to (i) any excluded assets set forth in this Section 1.2, (ii) any Excluded Liability or (iii) the operation of the Business prior to the Closing Date, in the case of clause (iii), other than those that are specifically Purchased Assets under Section 1.1;

(c) the Markers listed on Section 1.2(c) of the Company Disclosure Letter;

(d) except for the Tray Ledger and the Markers (other than those Markers listed on Section 1.2(c) of the Company Disclosure Letter) (all of which are part of the Purchased Assets but shall be purchased in accordance with Section 4.2 hereof), and except for the Front Money which shall be treated as set forth in Section 9.11(d) hereof, all chips or tokens of other casinos, cash, cash equivalents, bank deposits or similar cash items of Sellers, the Company or Sellers' Affiliates held at the Casino as of the Closing to the extent not reflected in the Final Closing Net Working Capital;

(e) all refunds or rebates of Taxes to which Sellers are entitled under Section 12.9(g);

(f) all of the human resources and other employee-related files and records, other than such files and records relating exclusively to the Transferred Employees (which files and records Sellers may retain an archival copy of, to the extent permitted by Law);

(g) the Excluded Personal Property;

(h) the Excluded Software;



(i) all indebtedness, accounts payable, or other obligations owed to the Company by any Seller or any of their Affiliates;

(j) without limitation to Buyer's rights pursuant to Sections 1.1(k) and 1.1(t), the Customer Database;

(k) all data, files and other materials located on any storage device (including personal computers and servers) located at the Real Property (other than the books and records described in Section 1.1(j) hereof);

(l) without limitation to Buyer's rights pursuant to Sections 1.1(k) and 1.1(t), the Total Rewards Program and any other player loyalty or rewards program of Sellers or their Affiliates and all customer related data;

(m) any assets set forth on Section 1.2(m) of the Company Disclosure Letter;

(n) the Company Benefit Plans;

(o) the Company Insurance Policies (except as provided in Section 9.15);

(p) the System Marks;

(q) the Harrah's Branded Paraphernalia; and

(r) all other assets and properties of the Company not exclusively used or held for use in connection with the Business.

Section 1.3 Retention of Assets. Notwithstanding anything to the contrary contained in this Agreement, Sellers and their Affiliates may retain and use, at their own expense, archival copies of all of the Assumed Contracts, books, records and other documents or materials conveyed hereunder, in each case, which (a) are used in connection with Sellers' or any of their Affiliates' businesses other than the Business or (b) if Sellers, in good faith, determine that Sellers are reasonably likely to need access to, in connection with the preparation or filing of any Tax Returns or compliance with any other Tax reporting obligations or the defense (or any counterclaim, cross-claim or similar claim in connection therewith) of any suit, claim, action, proceeding or investigation (including any Tax audit or examination) against or by Sellers, the Company or any of its Affiliates pending or threatened as of the Closing Date; *provided*,

that Sellers shall, and shall cause their Affiliates to, hold such documents or materials relating to the Business, and all confidential or proprietary information contained therein, confidential pursuant to Section 9.5(b).

Section 1.4 Assignability and Consents.

(a) Notwithstanding anything to the contrary contained in this Agreement, if the attempted or actual conveyance, assignment or transfer to Sellers (or their designee) of any Excluded Assets is non-assignable or non-transferrable, by its terms, without the consent of a third party (each, a "Non-Assignable Excluded Asset"), then Sellers and Buyer shall each use their reasonable best efforts to obtain the authorization, approval, consent or waiver of such other party to the assignment of any such Non-Assignable Excluded Asset. Notwithstanding the



foregoing, in no event shall the failure to obtain a consent with respect to a Non-Assignable Excluded Asset delay or otherwise impede the Closing, but the Closing shall not constitute the sale, conveyance, assignment, transfer or delivery of any such Non-Assignable Excluded Asset, and this Agreement shall not constitute a conveyance, assignment, transfer or delivery of any such Non-Assignable Excluded Asset unless and until such authorization, approval, consent or waiver is obtained. The parties shall enter into a commercially reasonable arrangement to provide that Sellers shall receive the interest of the Company in the benefits and obligations under such Non-Assignable Excluded Asset, and Sellers shall be liable to the Company in a fashion equivalent to what Sellers' Liabilities would be under the Non-Assignable Excluded Asset if it were assigned, until such time as such third party authorization, approval, consent or waiver shall have been obtained, and such arrangement shall include performance by the Company as an agent of Sellers to the extent commercially reasonable. Provided that Sellers are liable for all Liabilities related to a Non-Assignable Excluded Asset that Sellers would otherwise be liable for under this Agreement if such Non-Assignable Excluded Asset constituted an Excluded Asset, Buyer shall, and shall cause the Company to, promptly pay over to Sellers (or their designee) the net amount (after expenses and Taxes) of all payments received by it in respect of such Non-Assignable Excluded Asset. In the event that the Company acts as Sellers' agent or is otherwise required to act to fulfill obligations related to a Non-Assignable Excluded Asset pursuant to this Section 1.4(a), Sellers shall assist and fully cooperate with Buyer and the Company in fulfilling such obligations.

(b) Once authorization, approval or waiver of or consent for the conveyance, assignment or transfer of any such Non-Assignable Excluded Asset is obtained, such Non-Assignable Excluded Asset shall be conveyed, assigned, transferred and delivered to Sellers (or their designee) without any further action by the parties hereto. Notwithstanding anything to the contrary contained in this Agreement, Sellers shall assume all Liabilities in respect of any Non-Assignable Excluded Asset that Sellers would otherwise assume under this Agreement if such Non-Assignable Excluded Asset constituted an Excluded Asset if it is receiving the benefits thereof; *provided*, *further*, that Sellers shall also be liable to the Company for performing its obligations under the arrangements described in Section 1.4(c) hereof.

(c) Buyer understands and agrees that it is solely Buyer's responsibility to obtain any and all operating agreements (other than the Assumed Contracts) necessary to conduct the Business from and after the Closing Date, including replacement software license agreements for the software which will replace the Excluded Software. Subject to the terms hereof, Buyer shall also be responsible for obtaining new licenses and permits for the operation of the Business from and after the Closing. Except as set forth in Section 1.1(l) hereof, no licenses or permits will be transferred by Sellers in connection with the sale of the Equity Interests.

Section 1.5 Removal of Excluded Assets. All items located at the Real Property that constitute Excluded Assets may be removed on or prior to the Closing Date and within ninety (90) days after the Closing Date (the "Removal Period") by Sellers, their Affiliates or their respective Representatives, with the removing party making any repairs necessary as a result of any damage caused during such removal, but without any obligation on the part of Sellers, their Affiliates or any removing party to replace any item so removed. Buyer will provide Sellers, their Affiliates and their respective Representatives with reasonable access to the Real Property to effect such removal, at reasonable times within the Removal Period and after at least one (1)



business day's prior notice to Buyer, and Sellers will use reasonable efforts to minimize disruption to Buyer's operations. Buyer, at its option, will have the right to have a Representative present during any such removal activity. Sellers recognize that Buyer will be replacing Excluded Software and that Buyer desires that its replacement software will be operational as of the Closing. Sellers agree to, and to cause the Company to, cooperate reasonably with Buyer in effecting the transition from Excluded Software to replacement software, by allowing Buyer access to the Real Property to install the replacement software; *provided* that: (a) there shall be no material interference with the Business before the Closing; (b) Sellers shall be reimbursed for any reasonable out-of-pocket costs incurred by the Company in connection with such cooperation; and (c) if Sellers or the Company shall be required to reveal proprietary information of Sellers or their Affiliates to Buyer in connection with such cooperation, then Sellers or the Company will, at Sellers' option, either (i) not de-install third party Excluded Software that is now installed on personal computers that are included in the Acquired Personal Property (unless required to do so by Law or by agreement with the provider of the Excluded Software) and Buyer agrees that Buyer will either obtain new licenses for such Excluded Software or cease to use such Excluded Software following the Closing, or (ii) de-install third party Excluded Software that is now installed on personal computers included in the Acquired Personal Property. Buyer's agreement pursuant to this Section 1.5 shall survive the Closing and shall be covered by Buyer's indemnification obligations in ARTICLE XII hereof and enforceable by Sellers by any means available at Law or equity, including injunctive relief, which Buyer hereby agrees is an appropriate remedy. If Sellers do not remove all of the Excluded Assets located at the Real Property within the Removal Period, then Buyer may dispose of or retain any such remaining Excluded Assets.

## ARTICLE II.
## TREATMENT OF LIABILITIES

Section 2.1 Assumed Liabilities. Upon the terms and subject to the conditions set forth in this Agreement, the Company shall retain and be solely responsible for, and as a result of Buyer's acquisition of the Equity Interests Buyer shall indirectly assume, only the Liabilities of the Company set forth in this Section 2.1, other than the Excluded Liabilities (collectively the "Assumed Liabilities"):

(a) all Liabilities relating to the Purchased Assets or the Business, including all Liabilities, burdens and obligations arising in respect to any Assumed Contracts, accruing, arising out of, or relating to events, occurrences, pending or threatened litigation, acts, omissions and claims happening from and after the Closing;

(b) all Liabilities for replacement of, or refund for, damaged, defective or returned goods relating to the Purchased Assets from and after the Closing, including items purchased in a gift shop or similar facility at the Casino from and after the Closing, but not including any pending product liability or litigation claims relating to the sale of any goods happening prior to the Closing;

(c) all Liabilities with respect to entertainment and hotel reservations relating to the Casino (to the extent reflected in the Final Closing Net Working Capital) from and after the Closing;



(d) all Liabilities for (i) Taxes arising out of or relating to the ownership of the Company or the Purchased Assets after the Closing Date and (ii) Transfer Taxes that are the responsibility of Buyer pursuant to Section 9.9(a), in each case other than any Excluded Taxes (it being agreed and understood that this clause (d) is the only clause of Section 2.1 that applies to Taxes);

(e) any Liabilities relating to the employment of the Transferred Employees by Buyer and its Affiliates (including, following the Closing, the Company and its Subsidiaries) solely to the extent accruing, arising out of, or relating to events, occurrences, acts, omissions and claims happening after the Closing (for the avoidance of doubt, including any Liabilities relating to the termination of any Transferred Employee from and after the Closing);

(f) all current Liabilities reflected in the Final Closing Net Working Capital, including the Progressive Liabilities and the Customer Deposits;

(g) any Liabilities assumed by Buyer pursuant to Section 9.4(f) hereof;

(h) without limiting the rights and obligations of the parties set forth in ARTICLE XII hereof, all Liabilities under Environmental Laws, including Environmental Liabilities relating to, resulting from, caused by or arising out of ownership, operation or control of the Real Property or the other Purchased Assets, arising before or after the Closing Date, and any Liability relating to contamination or exposure to Hazardous Substances at or attributable to the Real Property or the other Purchased Assets;

(i) all of the Company's gaming chips and tokens with respect to the Business, which are branded with the name, design, logo or other similar indicia of the Casino, that are in circulation as of the Closing (collectively, the "Chips and Tokens"); and

(j) any items set forth on Section 2.1 of the Company Disclosure Letter.

Section 2.2 Excluded Liabilities. Notwithstanding anything contained in this Agreement to the contrary, immediately prior to the Closing, the Company shall assign and Sellers shall assume, and from and after such time Sellers shall be responsible for, only the following Liabilities of the Company ("Excluded Liabilities"):

(a) except as specifically listed in Section 2.1, all Liabilities relating to any Purchased Assets or the Business accruing, arising out of, or relating to events, occurrences, pending or threatened litigation, acts, omissions and claims happening or existing prior to the Closing, including all Liabilities arising from any breach of any Assumed Contract by Sellers or the Company on or prior to the Closing;

(b) any Liabilities for any Excluded Taxes;

(c) any Liabilities relating to the Transferred Employees accruing, arising out of, or relating to events, occurrences, pending or threatened litigation, acts, omissions and claims happening or existing prior to the Closing and any Liabilities arising out of or relating to the employment of any directors, employees or other service providers of Sellers or any of their Affiliates (other than the Transferred Employees), regardless of when arising;



(d) any Liabilities owed to any Seller or any of their Affiliates other than the Company;

(e) any Liability that relates to any Excluded Asset, unless otherwise included in the Final Closing Net Working Capital;

(f) any pending product liability or litigation claims relating to the sale of any goods happening prior to the Closing; and

(g) any Liability of the Company for expenses or fees relating to the preparation, negotiation or entering into of this Agreement, including fees of financial advisors, attorneys, consultants and accountants.

## ARTICLE III.
## PURCHASE PRICE AND DEPOSIT

Section 3.1 Purchase Price. At the Closing, as consideration for the Equity Interests, Buyer shall deliver or cause to be delivered by electronic transfer of immediately available funds to an account designated by Sellers a cash payment equal to the sum of (a) six hundred ten million dollars ($610,000,000) (the "Purchase Price") plus (b) the Estimated Closing Payment (which can be a positive or negative number) plus (c) the Estimated Operations Payment. The Purchase Price, together with the Estimated Closing Payment and the Estimated Operations Payment is the "Closing Payment."

Section 3.2 Deposit. On the date hereof, Buyer shall deposit nine million one-hundred fifty thousand dollars ($9,150,000) (the "Deposit") with Deutsche Bank National Trust Company (the "Escrow Agent") pursuant to an escrow agreement in substantially the form attached hereto as Exhibit D (the "Deposit Escrow Agreement") executed and delivered by Parent, Buyer and the Escrow Agent on the Effective Date; *provided, further* that for each two-month period by which the Outside Date is extended by Parent or Buyer pursuant to Section 5.1(b)(ii), Buyer shall, subject to Section 5.1(b)(iii), deposit an additional nine million one-hundred fifty thousand dollars ($9,150,000) (each, an "Extension Deposit") with the Escrow Agent pursuant to the Deposit Escrow Agreement promptly and in any event within three (3) business days of such extension. Upon the Closing, the Deposit and any Extension Deposit,

plus the interest accrued thereon shall be credited against the Purchase Price and the parties shall instruct the Escrow Agent to promptly release and pay the Deposit and any Extension Deposit, plus the interest accrued thereon to Parent (or its designee) pursuant to the terms of the Deposit Escrow Agreement. Upon the termination of this Agreement, the parties shall instruct the Escrow Agent to promptly release and pay the Deposit and any Extension Deposit, plus the interest accrued thereon to Buyer or Parent, as applicable, pursuant to Section 11.2(c) hereof and the terms of the Deposit Escrow Agreement. In the event of any inconsistency between the terms and provisions of the Deposit Escrow Agreement and the terms and provisions of this Agreement, the terms and provisions of this Agreement shall control, absent an express written agreement between the parties hereto to the contrary, which written agreement acknowledges and expressly amends this Section 3.2.

Section 3.3 Allocation of Purchase Price. For federal income Tax and applicable state and local Tax Purposes, Buyer and Sellers hereby agree to treat (and to cause their respective Affiliates to treat) the purchase and sale of Equity Interests pursuant to this Agreement in



accordance with Revenue Ruling 99-6 (Situation 2). No more than thirty (30) days after the Determination Date, Buyer shall prepare and deliver to Sellers a written statement setting forth the allocation of the purchase price (as determined for federal income tax purposes, taking into account any additional amounts payable pursuant to Section 4.3 and any assumed liabilities that are required to be treated as part of the purchase price for federal income tax purposes) among the Purchased Assets (and any other assets that are considered to be acquired for federal income tax purposes) in accordance with Section 1060 of the Code and the Treasury Regulations thereunder (the "Purchase Price Allocation"). Buyer and Sellers shall endeavor in good faith to agree on the Purchase Price Allocation. If Buyer and Sellers have not agreed on the Purchase Price Allocation within sixty (60) days following the Determination Date, then any disputed matter(s) will be finally and conclusively resolved by an independent accounting firm of recognized national standing reasonably acceptable to Buyer and Sellers with no existing relationship with either party (the "Auditor") in accordance with this Agreement, as promptly as practicable, and such resolution(s) will be reflected on the Purchase Price Allocation, *provided that* the resolution for each disputed item contained in the Auditor's determination shall be made subject to the definitions and principles set forth in this Agreement, and shall be consistent with either the position of Sellers or Buyer. Buyer and Sellers shall each use its reasonable best efforts to furnish to the Auditor such work papers and other documents and information pertaining to the disputed item as the Auditor may request. Sellers and Buyer shall bear their own expenses in the preparation and review of the Purchase Price Allocation, except that the fees and expenses of the Auditor shall be borne equally by Buyer on the one hand and Sellers on the other hand. Buyer and Sellers shall file all Tax Returns (including, but not limited to, IRS Form 8594) consistent with the Purchase Price Allocation, and shall not take any position inconsistent with the Purchase Price Allocation or agree to any proposed adjustment to the Purchase Price Allocation by any Governmental Entity, without first giving the other parties prior written notice and an opportunity to confer regarding such adjustment; *provided*, *however*, that the Purchase Price Allocation shall be adjusted by any other amounts paid under this Agreement following the Determination Date that affect the purchase price for federal income tax purposes; and *provided*, *further*, that nothing contained herein shall prevent Buyer or Sellers from settling any proposed deficiency or adjustment by any Governmental Entity based upon or arising out of the Purchase Price Allocation, or require Buyer or Sellers to litigate before any court any proposed deficiency or adjustment by any Governmental Entity challenging the Purchase Price Allocation.

Section 3.4 Risk of Loss. Subject to Section 9.15 hereof, until the Closing, Sellers shall bear the risk of any loss or damage to the Company, including the Purchased Assets, from condemnation, fire, casualty or any other occurrence. Following the Closing, Buyer shall bear the risk of any loss or damage to the Company, including the Purchased Assets, from condemnation, fire, casualty or any other occurrence.

Section 3.5 Tax Withholding. Notwithstanding anything in this Agreement to the contrary, Buyer shall be entitled to deduct and withhold from any amounts otherwise payable under this Agreement to Sellers or any other Person such amounts as are required to be deducted or withheld under the Code, or any provision of applicable Law with respect to the making of such payment. To the extent that amounts are so deducted and withheld and paid over to the applicable Governmental Entity, such deducted and withheld amounts shall be treated for all purposes of this Agreement as having been paid to Sellers or such other Person in respect of which such deduction and withholding were made.



## ARTICLE IV.
## WORKING CAPITAL ADJUSTMENT AND OTHER ADJUSTMENTS

Section 4.1 Estimated Closing Statement. No less than five (5) business days prior to the Closing Date, Sellers shall prepare and deliver to Buyer a written closing statement (the "Estimated Closing Statement") of the Estimated Closing Net Working Capital, including the resulting Estimated Closing Net Working Capital Overage (if any) or Estimated Closing Net Working Capital Shortage (if any), and the proration amounts pursuant to Section 4.6 (to the extent not already reflected in the Estimated Closing Net Working Capital), which Estimated Closing Statement shall be prepared in good faith and on a basis consistent with the preparation of the Financial Information and the calculation of Net Working Capital set forth on Schedule B. Any amounts determined to be due and owing to Sellers pursuant to the Estimated Closing Statement shall be paid by Buyer at the Closing pursuant to Section 3.1 hereof (the "Estimated Closing Payment"). Any amounts determined to be due and owing to Buyer by Sellers pursuant to the Estimated Closing Statement shall reduce the Closing Payment payable to Sellers at the Closing pursuant to Section 3.1.

Section 4.2 Estimated Operations Statement. Not less than five (5) business days prior to the Closing Date, Sellers shall prepare and deliver to Buyer an estimated accounting for the Casino as of the Closing Date of each of the items set forth in this Section 4.2 (the "Estimated Operations Statement"), which Estimated Operations Statement shall be prepared in good faith and on a basis consistent with the calculation of the Tray Ledger and Markers set forth on Schedule C. All amounts determined to be due and owing to Sellers by Buyer pursuant to the Estimated Operations Statement shall be paid by Buyer to Sellers at the Closing, pursuant to Section 3.1 hereof (the "Estimated Operations Payment").

(a) Tray Ledger. Buyer shall purchase the Tray Ledger for the Casino at the face amount of such Tray Ledger as set forth in the Estimated Operations Statement.

(b) Markers. Buyer shall purchase the Markers for the Casino from Sellers at the face amount of such Markers as set forth in the Estimated Operations Statement.

(c) House Funds. Buyer and Sellers shall mutually agree upon a procedure consistent with the counting of House Funds in the Ordinary Course of Business and in accordance with applicable Laws for counting and determining all House Funds as of the Closing, with such amount

being included in the Calculation of the Estimated Closing Net Working Capital. Buyer shall have no obligation to purchase chips or tokens of other casinos, all of which shall be retained by Sellers and are Excluded Assets.

Section 4.3 Final Adjustments.

(a) No more than ninety (90) days after the Closing Date, Sellers shall prepare and deliver to Buyer a written statement (the "Final Closing Statement") of the Final Closing Net Working Capital, including the resulting Final Closing Net Working Capital Overage (if any) or Final Closing Net Working Capital Shortage (if any), and including a detailed breakdown of the various amounts of each component of Net Working Capital, and the proration amounts pursuant to Section 4.6 (to the extent not already reflected in the Estimated Closing Net Working Capital), which Final Closing Statement shall be prepared in good faith and on a basis consistent with the preparation of the Financial Information and the calculation of Net Working Capital set forth on



Schedule B. Any such amounts determined pursuant to the Final Closing Statement shall be paid to either Sellers or Buyer pursuant to Section 4.3(d) hereof (the "Final Closing Payment").

(b) No more than ten (10) business days after the Closing Date, Sellers shall deliver to Buyer a final accounting as of the Closing of each of the items set forth in Section 4.2 hereof (the "Final Operations Statement"), which Final Operations Statement shall be prepared in good faith and on a basis consistent with the calculation of the Tray Ledger and Markers set forth on Schedule C. Any such amounts determined pursuant to the Final Operations Statement shall be paid to either Sellers or Buyer, as applicable, pursuant to Section 4.3(d) hereof (the "Final Operations Payment").

(c) If Buyer disagrees with the calculation of any amounts on the Final Closing Statement and/or the Final Operations Statement (collectively, the "Final Statements"), Buyer shall, within twenty (20) business days after its receipt of the applicable Final Statement, notify Sellers of such disagreement in writing, setting forth in detail the particulars of such disagreement. Sellers will provide Buyer reasonable access to any of Sellers' records and relevant employees not otherwise available to Buyer as a result of the transactions contemplated hereby, to the extent reasonably related to Buyer's review of the Final Statements. If Buyer does not provide such notice of disagreement within the twenty (20) business day period, Buyer shall be deemed to have accepted the applicable Final Statement and the calculation of all amounts set forth thereon, which shall be final, binding and conclusive for purposes of this Agreement and not subject to any further recourse by Buyer or its Affiliates. If any such notice of disagreement is timely provided, Buyer and Sellers shall use reasonable best efforts for a period of five (5) business days (or such longer period as they may mutually agree) to resolve any disagreements with respect to the calculation of any and all amounts set forth on the applicable Final Statement. If, at the end of such period, the parties are unable to fully resolve the disagreements, the Auditor shall resolve any remaining disagreements. The Auditor shall be instructed to (i) consider only such matters as to which there is a disagreement, (ii) determine, as promptly as practicable, whether the disputed amounts set forth on the applicable Final Statement were prepared in accordance with the standards set forth in this Agreement, and (iii) deliver, as promptly as practicable, to Sellers and Buyer its determination in writing. The resolution for each disputed item contained in the Auditor's determination shall be made subject to the definitions and principles set forth in this Agreement, and shall be consistent with either the position of Sellers or Buyer. Sellers and Buyer shall bear their own expenses in the preparation and review of the Estimated Closing Statement, Final Closing Statement, Estimated Operations Statement and Final Operations Statement, except that the fees and expenses of the Auditor shall be paid one-half by Buyer and one-half by Sellers. The determination of the Auditor shall be final, binding and conclusive for purposes of this Agreement and not subject to any further recourse by Buyer, Sellers or their respective Affiliates. Any dispute with respect to the Final Statements will not affect any undisputed amounts in the Final Statements or the related payments contemplated by Section 4.3(d) hereof. The date on which an amount set forth on a Final Statement is finally determined in accordance with this Section 4.3(c) is hereinafter referred to as the "Determination Date."

(d) Any amounts determined to be due and owing to Sellers from Buyer or to Buyer from Sellers, as applicable, pursuant to this Section 4.3 shall be paid by Sellers to Buyer or by Buyer to Sellers, as applicable, within two (2) business days after the applicable Determination Date.



Section 4.4 Accounts Receivable; Accounts Payable; Deposits.

(a) Accounts Receivable. After the Closing, Parent and Sellers shall promptly deliver to Buyer any cash, checks or other property that they or any of their Affiliates receive to the extent relating to the Accounts Receivable of the Business included in the Final Closing Net Working Capital. After the Closing, Buyer shall promptly deliver to Sellers any cash, checks or other property that Buyer or its Affiliates receive to the extent relating to any Accounts Receivable existing as of the Closing Date and not included in the Final Closing Net Working Capital. Neither party nor their Affiliates shall agree to any settlement, discount or reduction of the Accounts Receivable belonging to the other party. Neither party nor their Affiliates shall assign, pledge or grant any security interest in the Accounts Receivable of the other party.

(b) Accounts Payable. Each party and their Affiliates will promptly deliver to the other a true copy of any invoice, written notice of accounts payable or written notice of a dispute as to the amount or terms of any accounts payable received from the creditor of such accounts payable to the extent such accounts payable is owed by the other party. Should either party discover it has paid an accounts payable belonging to the other party, then Buyer or Sellers, as applicable, shall provide written notice of such payment to the other party and the other party shall promptly reimburse the party that paid such accounts payable all amounts listed on such notice.

(c) Customer Deposits. Customer Deposits received by the Company relating to rooms, services and/or events relating to the period from and after the Closing shall be retained by the Company at the Closing and included in the calculation of the Final Closing Net Working Capital. Sellers shall not have further liability or responsibility after Closing with respect to any Customer Deposits relating to the period from and after the Closing and Sellers and their Affiliates shall be entitled to retain Customer Deposits to the extent of rooms and/or services furnished by Sellers prior to the Closing. "Customer Deposits" include all security and other deposits, advance or pre-paid rents or other amounts and key money or deposits (including any interest thereon) and Front Money.

Section 4.5 Corrective Actions. If, after the Closing, Sellers and Buyer determine that Sellers have transferred to Buyer, directly or indirectly, any assets or Liabilities that, pursuant to the terms of this Agreement, constitute Excluded Assets or Excluded Liabilities, or Sellers have retained any assets

or Liabilities that, pursuant to the terms of this Agreement, constitute Purchased Assets or Assumed Liabilities, then such assets or Liabilities shall be returned or transferred, as applicable, for no additional payment, and the other party shall be obliged to accept such return or transfer.

Section 4.6 Prorations. The prorations relating to the Purchased Assets and the ownership and operation of the Business set forth in this Section 4.6 will be made as of the Closing. The prorations shall be estimated and prepared by Sellers and included in the Estimated Closing Statement and the Final Closing Statement delivered to Buyer pursuant to Section 4.1 and Section 4.3, respectively (in each case to the extent not already reflected in the Estimated Closing Net Working Capital).

(a) Utility meters will be read, to the extent that the utility company will do so, during the daylight hours on the Closing Date (or as near as practicable prior thereto), with



charges to that time paid by Sellers and charges thereafter paid by Buyer. Prepaid utility charges shall be adjusted on the Estimated Closing Statement and Final Closing Statement. Charges for utilities which are un-metered, or the meters for which have not been read on the Closing Date, will be prorated between Buyer and Sellers as of the Closing. Sellers or Buyer, as appropriate, shall, upon receipt, submit a copy of the utility billings for any such charges to the other party and such receiving party shall pay its pro-rata share of such charges to the submitting party within seven (7) days from the date of any such submission (to the extent not already reflected in the Estimated Closing Net Working Capital).

(b) All income and expenses pursuant to the Assumed Contracts will be prorated between Buyer and Sellers as of the Closing Date on the Estimated Closing Statement and Final Closing Statement. Sellers shall receive a credit on the Estimated Closing Statement and Final Closing Statement for (i) the amount of any prepaid rents related to periods from and after the Closing, and (ii) security deposits, or other deposits previously paid by Sellers under the Assumed Contracts, less any such amounts paid to and collected by Sellers under the Assumed Contracts. Any amounts received by Buyer under the Assumed Contracts related to any period prior to the Closing shall be promptly paid to Sellers. Any amounts received by Sellers under the Assumed Contracts related to any period after the Closing shall be promptly paid to Buyer.

Except as otherwise specified in this Section 4.6 or agreed by the parties or with respect to adjustments to the Purchase Price made pursuant to Section 4.3, the net amount of all such prorations will be settled and paid on the Closing Date.

## ARTICLE V.
## CLOSING

Section 5.1 Time and Place.

(a) Unless this Agreement is earlier terminated pursuant to ARTICLE XI hereof, the closing of the transactions contemplated by this Agreement, including the purchase and sale of the Equity Interests (the "Closing"), shall take place promptly (but in no event more than five (5) business days) following the satisfaction or waiver by the applicable party of the conditions set forth in ARTICLE X hereof (other than those conditions to be satisfied or waived at or upon the Closing), at such time and place as is agreed to by the parties (the "Closing Date"), to be effective as of 12:01 a.m. Central Time on the Closing Date.

(b) Notwithstanding the foregoing:

(i) Sellers may postpone the Closing Date as set forth in Section 13.2 hereof;

(ii) the Closing Date shall not be later than the date which is six (6) months after the date of this Agreement (as may be extended pursuant to this Section 5.1, the "Outside Date"), unless extended by Parent or Buyer, one or more times, by a two (2) month period by providing the other with a written notice of an intent to postpone the Closing Date no earlier than ten (10) business days prior to the then-applicable Outside Date and no later than five (5) business days prior to the then-applicable Outside Date (any which extension shall give rise to Buyer's obligation to pay an Extension Deposit pursuant to Section 3.2); *provided*, *however*,



that in no event shall the Closing Date be later than the date which is twelve (12) months after the date of this Agreement; and

(iii) notwithstanding anything to the contrary in this Section 5.1(b), if, at the time of delivery of an extension notice pursuant to Section 5.1(b)(ii), (x) Buyer has taken, or agreed to or committed to take (A) any action in breach of Section 9.13, or (B) any action that has materially delayed, or is reasonably likely to materially delay, the receipt of, or materially impact the ability of a party to obtain, any Required Governmental Consent that has not been obtained, or (C) any action that has caused, or is reasonably likely to cause, any Governmental Entity to commence or re-open a Proceeding that would reasonably be expected to challenge or prevent the transactions contemplated by this Agreement or delay the Closing beyond the Outside Date, then the amount of the Extension Deposit payable by Buyer pursuant to Section 3.2 in connection with such extension shall be equal to twenty-three million three-hundred sixty-three thousand dollars ($23,363,000).

Section 5.2 Deliveries at Closing. The following documents will be executed and/or delivered by Buyer, Sellers and/or the Company, as appropriate, at or prior to the Closing:

(a) Bill of Sale for Personal Property. A Bill of Sale and Assignment substantially in the form attached as Exhibit A (the "Bill of Sale and Assignment"), conveying to Sellers (or their designee) all of the Excluded Assets.

(b) Excluded Liabilities. An Assignment and Assumption Agreement substantially in the form attached as Exhibit B (the "Assignment and Assumption Agreement") to transfer the Excluded Liabilities to Sellers (or their designee), and Sellers agree to execute and deliver such other assumption agreements or other documents required by any Person to effectuate the assumption of the Excluded Liabilities.

(c) FIRPTA Certificate. A duly executed non-foreign person affidavit of each Seller (or, in the case of a Seller that is a disregarded entity, the Person treated as the "transferor" with respect to such Seller within the meaning of Treasury Regulations Section 1.1445-2(b)(2)(iii)) dated as of the Closing Date, sworn under penalty of perjury and in form and substance required under the Treasury Regulations issued pursuant to Section 1445 of the Code, stating that such Seller is not a "foreign person" as defined in Section 1445 of the Code.

(d) Buyer Certificates. The certificates required by Sections 10.3(a) and (b) hereof.

(e) Sellers Certificates. The certificates required by Sections 10.2(a) and (b) hereof.

(f) Trademark Assignment. The short-form Trademark Assignment Agreement substantially in the form attached hereto as Exhibit C (the "Trademark Assignment Agreement"), conveying certain Transferred Intellectual Property from CLC to the Company.

(g) Equity Interests. An Assignment of Equity Interests substantially in the form attached as Exhibit F (the "Assignment of Equity Interests"), conveying to Buyer (or its designee) all of the Equity Interests, and certificates evidencing the Equity Interests, to the extent the Equity Interests are certificated.



(h) Resignations. Resignations, effective as of the Closing Date, of those officers of the Company as Buyer may request in writing no less than ten (10) days prior to the Closing Date.

(i) Other Documents. Any other documents, instruments or agreements which are reasonably requested that are necessary to consummate the transactions contemplated hereby and have not previously been delivered (including execution and delivery by Sellers to the Title Insurer of customary affidavits and other documentation as to matters of title in a form reasonably acceptable to Sellers and Title Insurer to allow Title Insurer to issue the Endorsement).

## ARTICLE VI.
## REPRESENTATIONS AND WARRANTIES OF PARENT AND SELLERS

Parent and Sellers represent and warrant to Buyer that the statements contained in this ARTICLE VI are true and correct as of the date of this Agreement (except as to such representations and warranties that address matters as of a particular date, which are given only as of such date).

Section 6.1 Organization of Parent and Sellers. Parent and Sellers are each duly organized and validly existing under the laws of its state of organization and has all requisite power and authority to own, lease and operate its assets and to carry on its business as now being conducted. Parent and Sellers are each duly qualified or licensed to do business and is in good standing in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification or licensing necessary, except where the failure to be so qualified, licensed or in good standing would not, individually or in the aggregate, be reasonably likely to (x) have a material adverse effect on Parent or Sellers or a Company Material Adverse Effect or (y) materially impair or materially delay the Closing. Each Seller is a direct or indirect wholly-owned Subsidiary of Parent.

Section 6.2 Authority; No Conflict; Required Filings and Consents.

(a) Parent and each Seller have all requisite power and authority to enter into this Agreement and each of the Ancillary Agreements to which it is a party and to consummate the transactions contemplated hereby and thereby. Parent's and each Sellers' execution and delivery of this Agreement and each Ancillary Agreement to which it is a party and the consummation by Parent and Sellers of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of Parent and Sellers. This Agreement has been, and each Ancillary Agreement will be at or prior to the Closing, duly executed and delivered by Parent and Sellers and, assuming the due authorization, execution and delivery by the other parties hereto and thereto, this Agreement constitutes, and each Ancillary Agreement when so executed and delivered will constitute, the valid and binding obligation of Parent and Sellers, enforceable against Parent and Sellers in accordance with their respective terms, subject, as to enforcement, to (i) applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereinafter in effect affecting creditors' rights generally and (ii) general principles of equity.

(b) The execution and delivery by Parent and each Seller of this Agreement and each Ancillary Agreement to which it is a party does not, and the consummation by Parent



and Sellers of the transactions contemplated hereby and thereby and the compliance by Parent and Sellers with any provisions hereof or thereof will not, (i) conflict with, or result in any violation or breach of, any provision of the organization documents of Parent or Sellers, (ii) result in any violation or breach of, or constitute (with or without notice or lapse of time, or both) a default (or give rise to a right of termination, cancellation or acceleration of any obligation or loss of any material benefit) under, or require a consent or waiver under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, lease, Contract or obligation to which Parent or Sellers are a party or by which Parent or Sellers or the Purchased Assets may be bound, (iii) result in the creation of any Lien or Encumbrance (other than Permitted Liens and Permitted Encumbrances) on any of the Purchased Assets pursuant to, any note, bond, mortgage, indenture, agreement, lease, license, permit, franchise, instrument, obligation or other Contract to which Parent or Sellers are a party or by which Parent or Sellers or the Purchased Assets may be bound or affected, or (iv) subject to the governmental filings and other matters referred to in Section 7.2(c) hereof, conflict with or violate any permit, concession, franchise, license, judgment, or Law applicable to Parent or Sellers or the Purchased Assets, except, in the case of clauses (ii), (iii) and (iv), for any such breaches, conflicts, violations, defaults, terminations, cancellations, accelerations, losses or failures to obtain any such consent or waiver which would not, individually or in the aggregate, be reasonably likely to (x) have a material adverse effect on Parent or Sellers or a Company Material Adverse Effect or (y) materially impair or materially delay the Closing.

(c) No consent, approval, finding of suitability, license, permit, waiver, order or authorization of, or registration, declaration or filing with, any court, administrative agency, commission, Gaming Authority or other governmental or regulatory authority or instrumentality ("Governmental Entity") is required by or with respect to Parent or Sellers in connection with the execution and delivery of this Agreement or the Ancillary Agreements by Parent and Sellers, the compliance by Parent and Sellers with any of the provisions hereof or thereof, or the consummation by Parent and Sellers of the

transactions to which they are a party that are contemplated hereby, except for (i) the filing of the notification under, and compliance with any other applicable requirements of, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder (the "HSR Act"), (ii) any approvals and filing of notices required under the Gaming Laws, (iii) such consents, approvals, orders, authorizations, permits, filings, declarations or registrations related to, or arising out of, compliance with statutes, rules or regulations regulating the consumption, sale or serving of alcoholic beverages or tobacco or the renaming or rebranding of the operations at the Real Property, (iv) such other filings, consents, approvals, findings of suitability, licenses, waivers, orders, authorizations, permits, registrations and declarations as may be required under the Laws of any jurisdiction in which Parent and Sellers conduct any business or own any assets, the failure of which to make or obtain would not, individually or in the aggregate, be reasonably likely to have a material adverse effect on Parent or Sellers or a Company Material Adverse Effect and (v) any consents, approvals, orders, authorizations, registrations, permits, declaration or filings required by Buyer or any of its Subsidiaries, Affiliates or key employees (including under the Gaming Laws).

Section 6.3 Title to Equity Interests. Sellers are the record and beneficial owners of all Equity Interests, free and clear of all Liens, Encumbrances or any other restrictions on transfer other than restrictions on transfer arising under applicable securities Laws. Sellers are not party to any option, warrant, purchase right or other Contract (other than this Agreement)



obligating Sellers to sell, transfer, pledge or otherwise dispose of Equity Interests. Sellers are not a party to any voting trust, proxy or other agreement or understanding with respect to the Equity Interests.

Section 6.4 Litigation. There is no action, suit or proceeding, claim, arbitration or investigation against Parent or Sellers, pending, or as to which Parent or Sellers have received any written notice of assertion or which, to Sellers' knowledge, have been threatened against, Sellers, the Purchased Assets, the Real Property or the Business before any Governmental Entity that, individually or in the aggregate, would be reasonably likely to have a Company Material Adverse Effect or materially impair or materially delay the Closing.

## ARTICLE VII.
## REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to Buyer that the statements contained in this ARTICLE VII are true and correct as of the date of this Agreement and as of the Closing (except as to such representations and warranties that address matters as of a particular date, which are given only as of such date), except as expressly set forth herein and in the corresponding section of the Disclosure Letter delivered by the Company to Buyer herewith (the "Company Disclosure Letter"). The Company Disclosure Letter shall be arranged in paragraphs corresponding to the numbered and lettered paragraphs contained in this Agreement and the disclosure in any paragraph shall, to the extent reasonably apparent on the face of such disclosure that the matter disclosed is relevant to another paragraph in this Agreement, qualify such other paragraph.

Section 7.1 Organization of the Company; Capitalization. The Company is duly organized and validly existing under the laws of its state of organization and has all requisite power and authority to own, lease and operate its assets and to carry on the Business as now being conducted. The Company is duly qualified or licensed to do business and is in good standing in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification or licensing necessary, except where the failure to be so qualified, licensed or in good standing would not, individually or in the aggregate, be reasonably likely to (x) have a Company Material Adverse Effect or (y) materially impair or materially delay the Closing. All of the Equity Interests are duly authorized, validly issued, fully paid and nonassessable and were issued in compliance with all applicable Laws. No Person has any rights in, or rights to acquire from the Company, any other equity related interests of the Company or any other securities convertible into, or exercisable or exchangeable for, equity interests of the Company. There are no outstanding options, warrants or other securities or subscription, preemptive or other rights convertible into or exchangeable or exercisable for any equity or voting interests of the Company and there are no "phantom stock" rights, stock appreciation rights or other similar rights with respect to the Company. The Company does not own any direct or indirect equity interest, participation or voting right in any other Person or any options, warrants, convertible securities, exchangeable securities, subscription rights, preemptive rights, rights of first refusal, conversion rights, exchange rights, repurchase rights, stock appreciation rights, phantom stock, profit participation or other similar rights in or issued by any other Person.



Section 7.2 Authority; No Conflict; Required Filings and Consents.

(a) The Company has all requisite power and authority to enter into this Agreement and each of the Ancillary Agreements to which it is a party and to consummate the transactions contemplated hereby and thereby. The Company's execution and delivery of this Agreement and each Ancillary Agreement to which it is a party and the consummation by the Company of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company. This Agreement has been, and each Ancillary Agreement will be at or prior to Closing, duly executed and delivered by the Company party thereto and, assuming the due authorization, execution and delivery by the other parties hereto and thereto, this Agreement constitutes, and each Ancillary Agreement when so executed and delivered will constitute, the valid and binding obligation of the Company, enforceable against the Company in accordance with their respective terms, subject, as to enforcement, to (i) applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereinafter in effect affecting creditors' rights generally and (ii) general principles of equity.

(b) The execution and delivery by the Company of this Agreement and each Ancillary Agreement to which it is a party, the consummation by the Company of the transactions contemplated hereby and thereby, and the compliance of the Company with any provisions hereof or thereof, does not or will not, (i) conflict with, or result in any violation or breach of, any provision of the organization documents of the Company, (ii) result in any violation or breach of, or constitute (with or without notice or lapse of time, or both) a default (or give rise to a right of termination, cancellation or acceleration of any obligation or loss of any material benefit) under, or require a consent or waiver under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, lease, Contract or obligation to which the Company is a party or by which the Company or the Purchased Assets may be bound, (iii) result in the creation of any Lien or Encumbrance (other than Permitted Liens and Permitted Encumbrances) on any of the Purchased Assets pursuant to, any note, bond, mortgage, indenture, agreement, lease, license, permit, franchise, instrument, obligation or other Contract to which the Company is a party or by which the Company or the Purchased Assets may be bound or affected, or (iv) subject to the governmental filings and other matters referred to in Section 7.2(c) hereof, conflict with or violate any permit, concession, franchise, license, judgment, or Law applicable to the Company or the Purchased Assets, except, in the case of clauses (ii), (iii) and (iv), for any such breaches, conflicts, violations, defaults, terminations, cancellations, accelerations, losses

or failures to obtain any such consent or waiver which would not, individually or in the aggregate, be reasonably likely to (x) have a Company Material Adverse Effect or (y) materially impair or materially delay the Closing.

(c) No consent, approval, finding of suitability, license, permit, waiver, order or authorization of, or registration, declaration or filing with, any Governmental Entity is required by or with respect to the Company in connection with the execution and delivery of this Agreement or the Ancillary Agreements by the Company or the consummation by the Company of the transactions to which it is a party that are contemplated hereby, except for (i) the filing of the notification under, and compliance with any other applicable requirements of, the HSR Act, (ii) any approvals and filing of notices required under the Gaming Laws, (iii) such consents, approvals, orders, authorizations, permits, filings, declarations or registrations related to, or arising out of, compliance with statutes, rules or regulations regulating the consumption, sale or serving of alcoholic beverages or tobacco or the renaming or rebranding of the operations at the Real Property, (iv) such other filings, consents, approvals, findings of suitability, licenses, waivers, orders, authorizations, permits, registrations and declarations as may be required under



the Laws of any jurisdiction in which the Company conducts any business or owns any Purchased Assets, the failure of which to make or obtain would not, individually or in the aggregate, be reasonably likely to (x) have a Company Material Adverse Effect or (y) materially impair or materially delay the Closing, and (v) any consents, approvals, orders, authorizations, registrations, permits, declaration or filings required by Buyer or any of its Subsidiaries, Affiliates or key employees (including under the Gaming Laws).

Section 7.3 Financial Statements.

(a) Section 7.3 of the Company Disclosure Letter contains a true and complete copy of the audited financial statements of the Company for the twelve (12) months ended December 31, 2011 and December 31, 2010 (the "Financial Information"). Except as noted therein, the Financial Information was prepared in accordance with GAAP in effect at the time of such preparation applied on a consistent basis throughout the periods involved and fairly presents in all material respects the financial position and results of operations of the Business as of such date and the results of the Business for such period. No representation or warranty is made that Buyer will be able to operate the Business for the costs reflected in the Financial Information.

(b) The Company has devised and maintained systems of internal accounting controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorization, (ii) transactions are recorded as necessary to permit the preparation of the Financial Information in conformity with GAAP, to the extent applicable, or the Company's internal accounting principles and to maintain proper accountability for items, (iii) access to its property and assets is permitted only in accordance with management's general or specific authorization and (iv) the recorded accountability for items is compared with the actual levels at reasonable intervals and appropriate action is taken with respect to any differences.

(c) The Financial Information was prepared from the books and records of the Company, which (i) have been maintained in material compliance with applicable legal and accounting requirements and reasonable business practices, (ii) are in all material respects complete and correct and fairly reflect, in all material respects, all dealings and transactions in respect of the Business and the assets and liabilities thereof, and (iii) represent the financial information which is included in the consolidated audited financial statements of Parent.

Section 7.4 No Undisclosed Liabilities. Except (i) as set forth in the Financial Information, (ii) for Excluded Liabilities and (iii) for Liabilities incurred since December 31, 2011 in the Ordinary Course of Business, the Company has no Liabilities which would, individually or in the aggregate, reasonably be expected to cause a Company Material Adverse Effect.

Section 7.5 Taxes.

(a) Except as would not, individually or in the aggregate, reasonably be expected to cause a Company Material Adverse Effect, the Company has timely filed with the appropriate Governmental Entities all Tax Returns required to be filed by the Company and all such Tax Returns are true, complete and accurate. The Company has timely paid all Taxes due from the Company whether or not shown on such Tax Returns or the Company has established an adequate reserve therefor in the Financial Information in accordance with GAAP, except as



would not, individually or in the aggregate, reasonably be expected to cause a Company Material Adverse Effect.

(b) Other than as set forth on Section 7.5(b)(i) of the Company Disclosure Letter , there are no claims, actions, audits or other proceedings with any Governmental Entities are presently ongoing or pending or threatened in writing in respect of any material Taxes of the Company. There are no outstanding waivers extending the statutory period of limitation relating to Taxes of the Company. Schedule 7.5(b)(ii) of the Company Disclosure Letter lists each agreement with any Governmental Entity with respect to any material Tax holiday or other material Tax incentive currently in effect with respect to the Company or the Purchased Assets, and Sellers have delivered or made available to Buyer a copy of any such agreement with the relevant Governmental Entity.

(c) There are no Liens for Taxes (other than Permitted Liens) on the Company or any Purchased Assets, except as which would not, individually or in the aggregate, reasonably be expected to cause a Company Material Adverse Effect. None of the Purchased Assets are required to be treated for Tax purposes as owned by a Person other than the Company. Except as would not, individually or in the aggregate, reasonably be expected to cause a Company Material Adverse Effect, (i) the Company has complied in all respects with all Laws relating to the payment and withholding of Taxes, including with respect to payments made to employees, independent contractors, shareholders or other Persons, and (ii) all Persons classified by the Company as independent contractors are correctly classified for Tax purposes.

(d) The Company is not a party to or bound by any Tax sharing, Tax indemnity, or Tax allocation agreement other than any such agreements that are customary ordinary course commercial contracts not primarily related to Taxes. No "closing agreements" described in Section 7121 of the Code (or any comparable provision of state, local or foreign Law) have been entered into by or with respect to the Company and no Tax ruling has been requested or received by or with respect to the Company, in each case, that (x) would bind Buyer or any of its Affiliates (including the Company) after the

Closing and (y) would have, or reasonably be expected to have, a material effect on the Purchased Assets, the Business, Buyer, any Affiliate of Buyer or the Company after the Closing.

(e) The Company has not entered into any "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4(b)(2). Neither Buyer nor the Company will be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any Post-Closing Period as a result of any (i) adjustment required by reason of a change in method of accounting for a Pre-Closing Period under Section 481(c) of the Code (or any corresponding or similar provision of state, local or foreign Law), or (ii) installment sale or intercompany transaction made prior to the Closing.

(f) The Company has not distributed the capital stock of any corporation in a transaction intended to qualify under Section 355 of the Code within the past two years prior to the date of this Agreement, nor has the Company been distributed in a transaction intended to qualify under Section 355 of the Code within the past two years prior to the date of this Agreement. The Company is and since 2002 has been classified as a partnership for federal income tax purposes, and during this period neither the Company nor any of its Affiliates has received any written notice from any Governmental Entity challenging such classification and no



Affiliate has taken a position inconsistent with such classification. Since 2002 and, to the knowledge of the Company, from the formation of the Company to 2002, the Company has never been a member of any consolidated, combined, unitary or affiliated Tax Return group. The Company does not own stock or other equity interests, for tax purposes or otherwise, in any corporation, partnership or other entity.

Section 7.6 Real Property.

(a) All Real Property owned by the Company is described on Section 7.6(a) of the Company Disclosure Letter (the "Owned Real Property"). The Company has valid and insurable (at ordinary rates) fee simple title to the Owned Real Property subject, in each case, to all Permitted Liens and Permitted Encumbrances.

(b) The Company does not lease any Real Property.

(c) There are no actions, proceedings, governmental investigations, arbitrations, unsatisfied orders or judgments, actions, litigation, suits, or other proceedings, pending (or, to the Company's knowledge, overtly contemplated or threatened) against the Company or otherwise relating to the Real Property or the interests of the Company therein, which would be reasonably likely to interfere with the use, ownership, improvement, development and/or operation of the Real Property; in each case except for such actions, proceedings or litigation, which, individually or in the aggregate, would not be reasonably likely to (x) have a Company Material Adverse Effect or (y) materially impair or materially delay the Closing.

(d) There are no pending condemnation, eminent domain, or similar proceedings or actions pending or, to the Company's knowledge, threatened with regard to the Real Property.

(e) There are no violations or alleged violations of any Laws with respect to the Real Property, including but not limited to zoning and the Americans with Disabilities Act matters which would, individually or in the aggregate, be reasonably likely to (x) have a Company Material Adverse Effect or (y) materially impair or materially delay the Closing. To the Company's knowledge, there are no material inquiries, complaints, proceedings or investigations (excluding routine, periodic inspections) pending regarding compliance of the Real Property with any such Laws.

(f) To the Company's knowledge, all material Improvements located on, under, over or within the Real Property (including chillers and elevators), and all other aspects of each parcel of Real Property, are in good operating condition and repair and are structurally sound and free of any material defects.

(g) The Company has not filed notices of protest or appeal against, or commenced proceedings to recover, real property tax assessments against any of the Real Property.



Section 7.7 Intellectual Property.

(a) Section 7.7(a)(1) of the Company Disclosure Letter lists all of the trademark and service mark registrations and applications owned by the Company and Caesars License Company, LLC, an indirect wholly-owned subsidiary of Parent ("CLC") as of the date hereof and used exclusively in connection with the operation of the Business, and all of the Internet domain names registered by or for the benefit of the Company or CLC and used exclusively in the Business (collectively, the "Transferred Marks and Domain Names"), which Transferred Marks and Domain Names will be owned by the Company at the Closing. Section 7.7(a)(2) of the Company Disclosure Letter lists all issued patents or patent applications or any registered copyrights that are owned by the Company and used exclusively in the Business ("Other Transferred Registered IP"). To the Company's knowledge, no Transferred Marks and Domain Names or Other Transferred Registered IP are now involved in any opposition or cancellation proceeding and, to the Company's knowledge, no such proceeding is or has been threatened in writing with respect thereto. To the Company's knowledge, all Transferred Marks and Domain Names and Other Transferred Registered IP are subsisting, valid and enforceable, and no abandonment, cancellation, or forfeiture of any of the Transferred Marks and Domain Names or Other Transferred Registered IP is pending or threatened in writing. To the Company's knowledge, neither the Company nor any of its Affiliates have received any written notice or claim challenging the validity or enforceability of any Transferred Marks and Domain Names or Other Transferred Registered IP that remains pending or unresolved as of the date hereof.

(b) Except as set forth on Section 7.7(b) of the Company Disclosure Letter, the Company and CLC own exclusively, free and clear of all Liens (except for any Permitted Liens), all Transferred Intellectual Property. Neither the Company nor any of its Affiliates has received any written notice or claim challenging the Company's or CLC's ownership of any Transferred Intellectual Property, in each case that remains pending or unresolved as of the date hereof. To the Company's knowledge, as of the date hereof the Company and CLC own or possess, and at the Closing the Company will own or possess, adequate and enforceable rights to use all Transferred Intellectual Property or Intellectual Property licensed to the Company or CLC, as applicable, pursuant

to an Assumed Contract that is used in connection with the Business, as currently operated, without material restrictions or material conditions on use (except as set forth in the Assumed Contracts).

(c) To the Company's knowledge, the Business, including the operation of the Casino and the use of any of the Transferred Intellectual Property in connection therewith, has not infringed upon, misappropriated or violated, and do not infringe upon, misappropriate or violate, any Intellectual Property of any third party, in each case, in any material respect. Neither the Company nor any of its Affiliates has received any written notice or claim asserting that any such infringement, misappropriation, or violation is or may be occurring or has or may have occurred that remains pending or unresolved. To the Company's knowledge, no third party is misappropriating, infringing, or violating in a material manner any Transferred Intellectual Property.

Section 7.8 Agreements, Contracts and Commitments. (i) Each Assumed Contract is valid and binding upon the Company (and, to the Company's knowledge, on all other parties thereto), in accordance with its terms and is in full force and effect, (ii) there is no breach or violation of or default by the Company or, to the Company's knowledge, by any other party under any of the Assumed Contracts, whether or not such breach, violation or default has been



waived, and (iii) no event has occurred with respect to the Company or, to the Company's knowledge, any other party, which, with notice or lapse of time or both, would constitute a breach, violation or default of, or give rise to a right of termination, modification, cancellation, foreclosure, imposition of a Lien, prepayment or acceleration under, any of the Assumed Contracts, which breach, violation, default, termination, modification, cancellation, foreclosure, imposition of a Lien, prepayment or acceleration referred to in clause (ii) or (iii) would, individually or in the aggregate, be reasonably likely to (x) have a Company Material Adverse Effect or (y) materially impair or materially delay the Closing. None of Sellers, the Company or any of their Affiliates has received any written notice (or, to the knowledge of the Company, any oral or other notice) of the intention of any Person to terminate, nor has there been any termination of, any Assumed Contract. The Company has made available to Buyer a true, correct and complete copy of all material Assumed Contracts, together with all amendments, waivers or other changes thereto.

Section 7.9 Litigation. Other than as set forth on Section 7.9 of the Company Disclosure Letter, there is no action, suit or proceeding, claim, arbitration or investigation against the Company, pending, or as to which the Company has received any written notice of assertion or, to the Company's knowledge, threatened against, the Company, the Purchased Assets, the Real Property or the Business before any Governmental Entity, that, individually or in the aggregate, would be reasonably likely to (x) have a Company Material Adverse Effect or (y) materially impair or materially delay the Closing. The Company, the Purchased Assets, the Real Property and the Business are not subject to any judgment, decree, injunction, rule or order of any Governmental Entity or any arbitrator that individually or in the aggregate materially interfere with, or would reasonably be expected to materially interfere with, the ability of the Business to be conducted as it is currently conducted or to utilize its properties, assets and rights as currently utilized.

Section 7.10 Environmental Matters. Except as have not had and would not, individually or in the aggregate, be reasonably likely to have a Company Material Adverse Effect, (a) there are no Environmental Liabilities, (b) there are no Environmental Conditions, (c) there is no pending or, to the Company's knowledge, threatened enforcement action regarding an Environmental Condition or compliance with Environmental Laws with respect to the Real Property or the Business, (d) no Hazardous Substance is located on the Real Property, except for amounts permitted by Environmental Laws as used in the Ordinary Course of Business of the Casino (e) in the past three (3) years the Company has not received a written notice from any Governmental Entity or third party alleging a violation of any Environmental Law and (f) the Company is in compliance with all applicable Environmental Laws. The Company possesses all licenses, permits, certificates, registrations, approvals, authorizations and consents from any Governmental Entity required under Environmental Laws with respect to operation of the Business. As promptly as reasonably practicable, and in any event within thirty (30) days of the Effective Date, the Company will provide Buyer with true and complete copies of (i) all licenses, permits, certificates, registrations, approvals, authorizations and consents from any Governmental Entity issued to the Company under Environmental Laws ("Environmental Authorizations") and (ii) all written notices received by the Company from any Governmental Entity or third party alleging a violation of any Environmental Law that are, in each case, in the Company's possession, custody or control.



Section 7.11 Permits; Compliance with Laws.

(a) The Company and, to the Company's knowledge, each of the Company's directors, officers, key employees and Persons performing management functions similar to officers and partners hold all permits, registrations, findings of suitability, licenses, variances, exemptions, certificates of occupancy, orders and approvals of all Governmental Entities (including all authorizations under Gaming Laws) necessary to conduct the Business (the "Company Permits"), each of which is in full force and effect, except for such Company Permits the failure of which to hold would not, individually or in the aggregate, be reasonably likely to (x) have a Company Material Adverse Effect or (y) materially impair or materially delay the Closing, and no event has occurred which permits, or upon the giving of notice or passage of time or both, would permit, revocation, non-renewal, modification, suspension, limitation or termination of any of the Company Permits that are currently in effect, the loss of which would, individually or in the aggregate, be reasonably likely to (x) have a Company Material Adverse Effect or (y) materially impair or materially delay the Closing. All Company Permits that are material to the Business, and all permits of the Company that are pending but not yet issued, are listed in Section 7.11(a) of the Company Disclosure Letter. The Company and, to the Company's knowledge, the Company's directors, officers, key employees and Persons performing management functions similar to officers and partners, are, and since January 1, 2009 have been, in compliance with the terms of the Company Permits, except for such failures to comply as would not, individually or in the aggregate, be reasonably likely to (x) have a Company Material Adverse Effect or (y) materially impair or materially delay the Closing. The Business is, and since January 1, 2009 has been, conducted in accordance with applicable Law (including the Gaming Laws), except for such noncompliance which, individually or in the aggregate, does not have and would not be reasonably likely to (x) have a Company Material Adverse Effect or (y) materially impair or materially delay the Closing. The Company has not received notice of any investigation or review by any Governmental Entity with respect to the Real Property, the Business, the other Purchased Assets or the Assumed Liabilities that is pending, and, to the Company's knowledge, no investigation or review is threatened, nor has any Governmental Entity indicated any intention to conduct the same, other than those the outcome of which would not, individually or in the aggregate, be reasonably likely to (x) have a Company Material Adverse Effect or (y) materially impair or materially delay the Closing.

(b) Neither the Company nor, to the Company's knowledge, any of the Company's directors, officers, key employees or partners or Persons performing management functions similar to officers or partners have received any written claim, demand, notice, complaint, court order or administrative order from any Governmental Entity in the past three (3) years under, or relating to any violation or possible violation of any Gaming Laws in connection with or related to the Business which resulted in or would be reasonably likely to result in any material fine or penalty. To the Company's knowledge, there are no facts, which if known to the regulators under the Gaming Laws would be reasonably likely to result in the revocation, limitation or suspension of a license, finding of suitability, registration, permit or approval of the Company or any of its officers, directors, key employees or Persons performing management functions similar to an officer or partner, or limited partner under any Gaming Laws, in each case in connection with or related to the Business.

Section 7.12 Labor Matters.

(a) Each Property Employee who is not a Reserved Employee is employed by the Company or a Subsidiary thereof, and no Reserved Employee is employed by the Company or a



Subsidiary thereof. As promptly as reasonably practicable, and in any event within thirty (30) days of the Effective Date, Sellers will provide Buyer with an accurate and complete list of each Property Employee as of the date of such list stating each such individual's (i) date of commencement of employment, (ii) current position, (iii) business location, (iv) annual/weekly/hourly rates of compensation, (v) actual and target incentive and discretionary bonus amounts for the 2011 and 2012 calendar years, (vi) status as full or part time, (vii) accrued vacation and (viii) credited service under the Company Benefit Plans (such list to be updated periodically between the date hereof and the Closing Date upon the reasonable request of Buyer to reflect new hires, transfers and terminations not inconsistent with Section 9.1(t)).

(b) The Company is not and has not been a party to or is, bound by, or otherwise obligated with respect to, any collective bargaining agreement, labor union contract, trade union agreement or foreign works council contract (any such arrangement, a "Labor Agreement"). There are no unfair labor practice charges, complaints or petitions for elections pending against the Company before the National Labor Relations Board, or any similar Governmental Entity, or of which the Company has received notice. There is no strike, slowdown, work stoppage or lockout, or, to the Company's knowledge, threat thereof, by or with respect to any Property Employees, and no such strike, slowdown, work stoppage, lockout, or, to the Company's knowledge, threat thereof, by or with respect to any Property Employees has occurred in the past five years. To the Company's knowledge, there have been no activities or proceedings of any labor union to try to organize any non-unionized Property Employees during the last five years, and there are no petitions for elections pending against the Company before the National Labor Relations Board or any similar Governmental Entity or of which the Company or its Affiliates have received notice.

Section 7.13 Employee Benefits.

(a) Section 7.13(a) of the Company Disclosure Letter sets forth an accurate and complete list of all (i) "employee welfare benefit plans," within the meaning of Section 3(1) of the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations thereunder ("ERISA"); (ii) "employee pension benefit plans," within the meaning of Section 3(2) of ERISA; and (iii) material bonus, stock option, stock purchase, restricted stock, incentive, fringe benefit, profit-sharing, pension or retirement, deferred compensation, medical, life insurance, disability, accident, salary continuation, employment, consulting, change-in-control, retention, severance, accrued leave, vacation, sick pay, sick leave, supplemental retirement, unemployment and any other compensation or benefit plans, programs, agreements, arrangements, commitments and/or practices (whether or not insured) for employees of Sellers and their Subsidiaries who are located at the Real Property or perform services exclusively related to the Business (the "Property Employees"), other than the Reserved Employees (all of the foregoing plans, programs, arrangements, commitments, practices and Contracts referred to in (i), (ii) and (iii) above are referred to as the "Company Benefit Plans"). The Company does not sponsor, maintain, or otherwise have any obligations with respect to, nor has the Company ever sponsored, maintained, or otherwise had any obligation with respect to, any employee benefit plan, program, agreement, arrangement, commitment, practice or Contract (other than any such plan, program, agreement, arrangement, commitment, practice or Contract maintained by Sellers (or any Affiliate of Sellers other than the Company) with respect to which (x) the



Company is a sponsor or contributor as a participating employer but (y) Buyer and its Affiliates (including, following the Closing, the Company) shall have no responsibility or Liability).

(b) True and complete copies of each of the following documents (or accurate summaries thereof) have been made available to Buyer: (i) Company Benefit Plans, including with respect to any Company Benefit Plan that is not in writing, a written description of the material terms thereof and (ii) with respect to any Company Benefit Plan, (A) any related trust agreement, or insurance contract or documents relating to other funding arrangements, (B) for the three (3) most recently ended plan years, all IRS Form 5500s (and any financial statements and other schedules attached thereto), (C) all current summary plan descriptions and subsequent summaries of material modifications to the extent required under ERISA, (D) a current IRS determination or opinion letter that is intended to be qualified under Section 401(a) of the Code if applicable; and (E) the most recent financial and actuarial valuation reports if applicable.

(c) Except as disclosed in Section 7.13(c) of the Company Disclosure Letter, (i) each Company Benefit Plan that is intended to qualify under Section 401(a) of the Code has either received a favorable determination or opinion letter from the IRS as to its qualified status or, if the remedial amendment period for such Company Benefit Plan has not yet expired, all amendments to such Company Benefit Plan that are required by the IRS through the date hereof have been adopted on a timely basis, and each trust established in connection with any Company Benefit Plan that is intended to be exempt from federal income taxation under Section 501(a) of the Code is so exempt, and no fact or event has occurred that could affect adversely the qualified status of any such Company Benefit Plan or the exempt status of any such trust; (ii) there has been no prohibited transaction (within the meaning of Section 406 of ERISA or Section 4975 of the Code, other than a transaction that is exempt under a statutory or administrative exemption) with respect to any Company Benefit Plan with respect to which the Company would be reasonably expected to have any liability; (iii) no action or other administrative proceeding has been brought, or to the Company's knowledge, is threatened, against or with respect to any such Company Benefit Plan, including but not limited by any Property Employee (other than routine benefits claims), any audit or inquiry by the IRS or United States Department of Labor ("DOL"), or any termination or similar proceeding by the DOL or the Pension Benefit Guaranty Corporation with respect to which the Company is reasonably expected to

have any liability; and (iv) no Company Benefit Plan is a multiemployer pension plan (as defined in Section 3(37) of ERISA) ("Multiemployer Plan"), multiple employer plan (within the meaning of Section 4063 or 4064 of ERISA or Section 413(c) of the Code) ("Multiple Employer Plan") or other pension plan subject to Title IV of ERISA or Section 412 of the Code. There does not now exist, nor do any circumstances exist that could result in, any Controlled Group Liability that would be a Liability of the Company following the Closing.

(d) No Company Benefit Plan that is a "welfare benefit plan" within the meaning of Section 3(1) of ERISA provides retiree or post-employment benefits to any Property Employees or to the employees of the Company's ERISA Affiliates, other than pursuant to Section 4980B of the Code or any similar state Law. The Company and its ERISA Affiliates have complied in all material respects with the provisions of Part 6 of Title I of ERISA and Sections 4980B, 9801, 9802, 9811 and 9812 of the Code with respect to the Property Employees.

(e) Each Company Benefit Plan and each employment agreement that is being assumed by Buyer pursuant to this Agreement that is a "nonqualified deferred compensation



plan" (within the meaning of Section 409A(d)(1) of the Code) is, and has in the past been maintained, in material compliance with Section 409A of the Code.

(f) Neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement will, either alone or in conjunction with any other event, (i) result in any payment or benefit becoming due or payable, or required to be provided, to any director, employee or independent contractor of the Company, (ii) increase the amount or value of any benefit or compensation otherwise payable or required to be provided to any such director, employee or independent contractor, (iii) result in the acceleration of the time of payment, vesting or funding of any such benefit or compensation, (iv) result in any "excess parachute payment" within the meaning of Section 280G(b)(1) of the Code or (v) or result in any limitation on the right of the Company to amend, merge, terminate or receive a reversion of assets from any Company Benefit Plan or related trust.

Section 7.14 Brokers. Except for the fees and commissions of Deutsche Bank Securities Inc. (which fees and commissions are the sole responsibility of Sellers), the Company has not employed and no Person has acted directly or indirectly as a broker, financial advisor or finder for the Company or incurred any Liability for any brokerage fees, commissions or finder's fees in connection with the transactions contemplated by this Agreement.

Section 7.15 Title to Purchased Assets. The Company has good and marketable title to, or a valid leasehold interest in, the tangible personal property constituting Purchased Assets, free and clear of any Encumbrances or Liens other than for Permitted Encumbrances and Permitted Liens.

Section 7.16 Affiliate Transactions. There are no transactions, Contracts or other obligations between the Company, on the one hand, and any officer, director or Affiliate of the Company, on the other, that will constitute an Assumed Liability or that will otherwise continue after Closing.

Section 7.17 Minimum Cash. As of the Closing, the Business will have an amount of House Funds at least equal to the minimum bankroll required by applicable Gaming Laws, if any.

Section 7.18 Vendors. As promptly as reasonably practicable, and in any event within thirty (30) days of the Effective Date, Sellers will provide Buyer with a list of the vendors of the Business as of the date of such list, including the product or service provided by, and the principal contact information for, each such vendor.

Section 7.19 Absence of Changes. Since December 31, 2011, the Business has been conducted in the Ordinary Course of Business, and there has not been any event, occurrence, state of circumstances or facts or change that has had or that would be reasonably expected, individually or in the aggregate (x) to have a Company Material Adverse Effect or (y) to materially impair or materially delay the Closing.

Section 7.20 Insurance Coverage. Sellers and the Company maintain adequate insurance coverage in accordance with reasonable commercial standards, including material insurance policies and fidelity bonds and self-insurance programs, in each case in respect of the



Purchased Assets, the Real Property and the business and operations of the Business and its employees (collectively, the "Insurance Policies").

## ARTICLE VIII.
## REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Sellers that the statements contained in this ARTICLE VIII are true and correct as of the this Agreement and as of the Closing (except as to such representations and warranties that address matters as of a particular date, which are given only as of such date), except as expressly set forth herein and in the corresponding section of the Disclosure Letter delivered by Buyer to Sellers herewith (the "Buyer Disclosure Letter"). The Buyer Disclosure Letter shall be arranged in paragraphs corresponding to the numbered and lettered paragraphs contained in this Agreement and the disclosure in any paragraph shall, to the extent reasonably apparent on the face of such disclosure that the matter disclosed is relevant to another paragraph in this Agreement, qualify such other paragraph..

Section 8.1 Organization. Buyer is duly organized, validly existing and in good standing under the laws of its state of organization and has all requisite corporate power and authority to carry on its business as now being conducted. Buyer is duly qualified or licensed to do business and is in good standing in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification or licensing necessary, except where the failure to be so qualified, licensed or in good standing would not, individually or in the aggregate, be reasonably likely to have a Buyer Material Adverse Effect.

Section 8.2 Authority; No Conflict; Required Filings and Consents.

(a) Buyer has all requisite corporate power and authority to enter into this Agreement and each of the Ancillary Agreements to which it is a party and to consummate the transactions contemplated hereby and thereby. Buyer's execution and delivery of this Agreement and each of the Ancillary

Agreements to which it is a party and the consummation by Buyer of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of Buyer. This Agreement has been, and each Ancillary Agreement will be at or prior to the Closing, duly executed and delivered by Buyer and, assuming the due authorization, execution and delivery of the other partiers hereto, this Agreement constitutes, and each Ancillary Agreement when so executed and delivered will constitute, the valid and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms, subject, as to enforcement, to (i) applicable bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereinafter in effect affecting creditors' rights generally and (ii) general principles of equity.

(b) The execution and delivery by Buyer of this Agreement and each Ancillary Agreement to which it is a party does not, and the consummation by Buyer of the transactions contemplated hereby and thereby and the compliance by Buyer with any provisions hereof or thereof will not, (i) conflict with, or result in any violation or breach of, any provision of the organizational documents of Buyer, (ii) result in any violation or breach of, or constitute (with or without notice or lapse of time, or both) a default (or give rise to a right of termination, cancellation or acceleration of any obligation or loss of any material benefit) under, or require a consent or waiver under, any of the terms, conditions or provisions of any note, bond, mortgage,



indenture, lease, Contract or obligation to which Buyer is a party or by which Buyer or any of its properties or assets may be bound, or (iii) subject to the governmental filings and other matters referred to in Section 8.2(c) hereof, conflict with or violate any permit, concession, franchise, license, judgment, or Law applicable to Buyer or any of its properties or the assets, except, in the case of clauses (ii) and (iii), for any such breaches, conflicts, violations, defaults, terminations, cancellations, accelerations, losses or failures to obtain any consent or waiver which would not, individually or in the aggregate, be reasonably likely to (x) have a Buyer Material Adverse Effect or (y) materially impair or materially delay the Closing.

(c) No consent, approval, finding of suitability, license, permit, waiver, order or authorization of, or registration, declaration or filing with, any Governmental Entity is required by or with respect to Buyer or its Affiliates in connection with the execution and delivery of this Agreement or the Ancillary Agreements by Buyer, the compliance by Sellers with any of the provisions hereof or thereof, or the consummation by Buyer of the transactions that are contemplated hereby, except for (i) the filing of the notification report under, and compliance with any other applicable requirements of, the HSR Act, (ii) any approvals and filing of notices required under the Gaming Laws, (iii) such consents, approvals, orders, authorizations, permits, filings, declarations or registrations related to, or arising out of, compliance with statutes, rules or regulations regulating the consumption, sale or serving of alcoholic beverages or tobacco or the renaming or rebranding of the operations at the Real Property, (iv) such other filings, consents, approvals, findings of suitability, licenses, waivers, orders, authorizations, permits, registrations and declarations as may be required under the Laws of any jurisdiction in which Buyer conducts any business or owns any assets, the failure of which to make or obtain would not, individually or in the aggregate, be reasonably likely to (x) have a Buyer Material Adverse Effect or (y) materially impair or materially delay the Closing and (v) any consents, approvals, orders, authorizations, registrations, permits, declaration or filings required by Parent, Sellers or the Company or any of their Subsidiaries, Affiliates or key employees (including under the Gaming Laws).

Section 8.3 Brokers. Neither Buyer nor any of its Representatives have employed, and no Person has acted directly or indirectly as a broker, financial advisor or finder for Buyer or incurred any Liability for any brokerage fees, commissions or finder's fees in connection with the transactions contemplated by this Agreement.

Section 8.4 Financing. Buyer will have available at the Closing sufficient funds to enable Buyer to pay (x) the sum of the Purchase Price, the Estimated Closing Payment and the Estimated Operations Payment and (y) the Final Closing Payment and the Final Operations Payment, in each case pursuant to Section 4.2 hereof.

Section 8.5 Licensability of Principals. Except as set forth in Section 8.5 of the Buyer Disclosure Letter, neither Buyer nor any of its current Representatives or Affiliates (collectively the "Buyer Related Parties") has ever withdrawn, been denied, or had revoked, a gaming license or related finding of suitability by a Governmental Entity or Gaming Authority within the last five (5) years. Buyer and each of the Buyer Related Parties are in good standing in each of the jurisdictions in which Buyer or any Buyer Related Party owns or operates gaming facilities. To Buyer's knowledge, as of the date hereof, there are no facts, which if known to the Gaming Authorities would (a) be reasonably likely to result in the denial, revocation, limitation or suspension of a gaming license currently held or other Gaming Approval, or (b) result in a



negative outcome to any finding of suitability proceedings currently pending, or under the suitability proceedings necessary for the consummation of this Agreement. Buyer is not aware of any material investigations of it or any of its subsidiaries operating in Missouri which investigations could result in revocation of or material discipline related to its Class A License.

Section 8.6 Permits; Compliance with Gaming Laws.

(a) Buyer, and to its knowledge, each of its Affiliates, directors, officers, key employees and Persons performing management functions similar to officers and partners holds all permits, registrations, findings of suitability, licenses, variances, exemptions, certificates of occupancy, orders and approvals of all Governmental Entities (including all authorizations under Gaming Laws) necessary to conduct the business and operations of Buyer (the "Buyer Permits"), each of which is in full force and effect except for such Buyer Permits, the failure of which to hold would not, individually or in the aggregate, be reasonably likely to (x) have a Buyer Material Adverse Effect or (y) materially impair or materially delay the Closing, and no event has occurred which permits, or upon the giving of notice or passage of time or both would permit, revocation, non-renewal, modification, suspension, limitation or termination of the Buyer Permits that are currently in effect, the loss of which would, individually or in the aggregate, be reasonably likely to (x) have a Buyer Material Adverse Effect or (y) materially impair or materially delay the Closing. Buyer, and to Buyer's knowledge, Buyer's directors, officers, key employees and Persons performing management functions similar to officers and partners are, and since January 1, 2009 have been, in compliance with the terms of the Buyer Permits, except for such failures to comply, as would not, individually or in the aggregate, be reasonably likely to (x) have a Buyer Material Adverse Effect (y) materially impair or materially delay the Closing. Buyer has not received notice of any investigation or review by any Governmental Entity with respect to Buyer that is pending, and, no investigation or review is threatened, nor has any Governmental Entity indicated any intention to conduct the same, other than those the outcome of which would not, individually or in the aggregate, be reasonably likely to (x) have a Buyer Material Adverse Effect or (y) materially impair or materially delay the Closing.

(b) Neither Buyer, nor any director, officer, key employee or partner of Buyer or its Affiliates has received any written claim, demand, notice, complaint, court order or administrative order from any Governmental Entity in the past three (3) years under, or relating to, any violation or possible violation of any Gaming Laws, other than as would not reasonably be expected, individually or in the aggregate, to (i) have a Buyer Material Adverse Effect or (ii) materially impair or materially delay the Closing. To the knowledge of Buyer, there are no facts, which if known to the regulators under the Gaming Laws could reasonably be expected to result in the revocation, limitation or suspension of a license, finding of suitability, registration, permit or approval of Buyer or its Affiliates, or any of their officers, directors, key employees or Persons performing management functions similar to an officer or partner, or limited partner under any Gaming Laws. Neither Buyer nor any officer, director, key employee or Person performing management function similar to an officer or partner of Buyer or their Affiliates, has suffered a suspension or revocation of any Buyer Permit held under the Gaming Laws, other than as would not reasonably be expected, individually or in the aggregate, to (i) have a Buyer Material Adverse Effect or (ii) materially impair or materially delay the Closing.

Section 8.7 Waiver of Buyer's Further Due Diligence Investigation. Subject to ARTICLE XIII hereof, Buyer acknowledges that it is familiar with the Purchased Assets and has



had the opportunity, directly or through its representatives to inspect the Purchased Assets and conduct due diligence activities. Without limitation of the foregoing, Buyer acknowledges that the Purchase Price has been negotiated based on Buyer's express agreement that there would be no contingencies to the Closing other than the conditions set forth in ARTICLE X hereof. Further, without limiting any representation, warranty, covenant, obligation or condition of Sellers or the Company expressly set forth herein, Buyer acknowledges that it has waived and hereby waives as a condition to the Closing any further due diligence reviews, inspections or examinations with respect to the Real Property, including with respect to engineering, environmental, survey, financial, operational, regulatory and legal compliance matters.

Section 8.8 Litigation. There are no actions, claims, suits or proceedings pending or, to Buyer's knowledge, threatened against Buyer before any Governmental Entity, which, if determined adversely, could prevent or materially delay Buyer from completing the transactions contemplated by this Agreement.

## ARTICLE IX.
## COVENANTS

Section 9.1 Conduct of Business Prior to the Closing. During the period from the date of this Agreement and continuing until the earlier of the termination of this Agreement or the Closing, subject to any written instructions of any Governmental Entity and to the limitations set forth below, Sellers shall cause the Company to (except to the extent as expressly provided by this Agreement or to the extent that Buyer shall otherwise grant its prior consent in writing, which consent may not be unreasonably withheld, conditioned or delayed) carry on the Business in the Ordinary Course of Business, including the payment of its debts and Taxes when due (subject to good faith disputes over such debts or Taxes, provided that, in the case of disputes over such Taxes, the Company's failure to pay such Taxes when due would not, individually or in the aggregate, have an adverse effect on Buyer or any of its Affiliates (including, following the Closing, the Company) that is material), and use commercially reasonable efforts consistent with past practices and policies to maintain the effectiveness of the Company Permits, preserve the Purchased Assets, preserve intact the present business organization, keep available the services of its present officers and key employees and preserve relationships with customers, suppliers, distributors and others having business dealings with the Company with respect to the Business, perform in all material respects all of its obligations under the Assumed Contracts, comply with all applicable Laws in all material respects and maintain the books and records of the Company in the Ordinary Course of Business. Without limiting the generality of the foregoing, except as expressly provided by this Agreement or as disclosed on Section 9.1 of the Company Disclosure Letter, during the period from the date of this Agreement and continuing until the earlier of the termination of this Agreement or the Closing, without the prior written consent of Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), the Company shall not, and Sellers, with respect to subsections (e), (f), (l), (m) and (u) below, shall not:

(a) sell, transfer, lease, dispose of, grant or otherwise authorize the sale, transfer, lease, disposition, grant of, any of the Purchased Assets (other than a Permitted Encumbrance), except for (i) sales of current assets in the Ordinary Course of Business, (ii) sales



of equipment and other non-current assets in the Ordinary Course of Business which, individually, do not exceed $25,000 or which, in the aggregate, do not exceed $500,000, or (iii) leases of the Real Property that are terminable, without the payment of any consideration for early termination, on no more than one hundred eighty (180) days' notice;

(b) incur any Liabilities that are Assumed Liabilities, except for Liabilities incurred (i) pursuant to Section 9.1(p), or (ii) in the Ordinary Course of Business not exceeding $100,000 individually or $250,000 in the aggregate;

(c) enter into, modify, amend, terminate or renew any of the Assumed Contracts or waive, release or assign any material rights or claims related to any Assumed Contracts, except (i) for modifications or amendments in the Ordinary Course of Business that would not reasonably be expected to have an adverse economic impact on the Business in excess of $100,000 individually or $250,000 in the aggregate and do not otherwise impair any material right or claim related to the Assumed Contract or impose or renew any material restriction on the Company, (ii) for renewals in the Ordinary Course of Business for a term of twelve (12) months or less or (iii) as required by applicable Law;

(d) subject any of the Purchased Assets to or suffer or permit the creation on the Purchase Assets of a Lien or Encumbrance, other than Permitted Liens or Permitted Encumbrances created in the Ordinary Course of Business;

(e) fail to maintain its existing insurance coverage of all types relating to Purchased Assets (however, in the event any such coverage shall be terminated or lapse, or any claim is made against such coverage that causes the amount of insurance coverage to cease to be adequate in accordance with reasonable commercial standards, Sellers shall notify Buyer as promptly as practicable, so that Buyer may purchase "gap" insurance at its option, and shall use their commercially reasonable efforts to procure substantially similar substitute insurance policies, which in all material respects are in at least such amounts, subject to the same deductibles, and against such risks as are currently covered by such policies);

(f) amend the Company's certificate of formation or operating agreement (or similar organizational documents), or any terms of their outstanding equity interests or other securities;

(g) enter into a plan of consolidation, merger, share exchange or reorganization with any Person, effect any recapitalization, reclassification or other change in their capitalization, or adopt a plan of complete or partial liquidation;

(h) waive, release or assign any material rights or material claims that would otherwise constitute a Purchased Asset, except as contemplated by this Agreement;

(i) enter into any material transaction or transaction outside of the Ordinary Course of Business with any Affiliate relating to the Business to the extent such transaction would be an Assumed Liability or an Assumed Contract;

(j) enter into any Contract the effect of which would be to grant to a third party any license to use any Transferred Intellectual Property;



(k) enter into any settlement, consent decree or other agreement or arrangement with a third party or Governmental Entity other than (i) as does not involve the institution of mandated new procedures or other business conduct or the imposition of equitable or similar relief on the Company and (ii) is not reasonably likely to result in the revocation, limitation or suspension of any Company Permit;

(l) expend any insurance, condemnation awards or other compensation awarded for loss or damage to any Purchased Asset;

(m) issue or sell or encumber any Equity Interests or any securities convertible into, or rights to acquire, any Equity Interests;

(n) purchase any equity interests in or securities of, or make any other investment in or loans or advances to, any Person;

(o) except in the Ordinary Course of Business, acquire any material assets that would constitute Purchased Assets;

(p) fail to make maintenance capital expenditures, in the Ordinary Course of Business, in a total amount equal to the pro rata portion of the aggregate maintenance capital expenditures for the twelve months beginning on the effective date contemplated by the capital budget set forth in Section 9.1(p) of the Company Disclosure Letter ("Required Capital Expenditures");

(q) engage in any new line of business;

(r) make any material change to its financial accounting methods, principles or practices, except as may be required by Law or by GAAP;

(s) make, change or revoke any Tax election, change any of its methods of reporting income or deductions for Tax purposes, compromise any Tax liability or settle any Tax claim, audit or dispute, or file any amended Tax Return except, in each case, for any action that would not, individually or in the aggregate, have an adverse effect on Buyer or any of its Affiliates (including, following the Closing, the Company) that is material; or

(t) except (1) as required by a Company Benefit Plan as in effect on the date hereof, (2) as required by applicable Law, (3) in the Ordinary Course of Business or (4) as a result of changes or actions by Parent that are not solely directed at the Company or the Property Employees, (i) enter into, adopt, amend or terminate any employee benefit plan, program, agreement, arrangement, commitment or practice for the benefit or welfare of any Property Employee, other than immaterial amendments that will not result in increased cost to Buyer and its Affiliates (including, following the Closing, the Company and its Subsidiaries), (ii) increase the compensation or benefits payable to any Property Employee or pay any amounts to any Property Employee not otherwise due, (iii) enter into any new, or amend any existing, Labor Agreement or similar agreement with respect to the Company, (iv) provide any funding for any rabbi trust or similar arrangement, or (v) (A) transfer any employee who is a Property Employee as of the date of this Agreement to an employing entity other than the Company or to a location other than the Real Property, or otherwise change such employee's duties or employer so that the employee would no longer constitute a Property Employee, (B) take any action that results in the



number of Property Employees on the Closing Date exceeding the number of Property Employees on the date of this Agreement or (C) transfer the employment of any Reserved Employee to the Company; or

(u) enter into a Contract to do any of the foregoing, or to authorize or announce an intention to do any of the foregoing.

It is agreed and understood that if Buyer does not grant or deny consent to a proposed action within five (5) business days of receipt of the written request by Sellers to take such action by the individuals set forth in Section 9.1 of the Buyer Disclosure Letter at the email addresses set forth therein, Buyer shall be deemed to have consented to such action notwithstanding any other provision of this Section 9.1. Except as expressly contemplated by this Agreement, nothing contained in this Agreement shall give Buyer, directly or indirectly, the right to control or direct the Company's operations prior to the Closing. Prior to the Closing, the management of the Company shall exercise, consistent with and in accordance with the terms and conditions of this Agreement, complete control and supervision over the operations of the Company.

Section 9.2 Cooperation; Notice; Cure.

(a) Subject to compliance with applicable Law (including antitrust Laws and Gaming Laws), from the date hereof until the Closing, Sellers and Buyer shall confer on a regular basis with one or more Representatives of the other party to discuss the general status of the Business. Sellers and the Company shall, to the fullest extent permitted by Law (including antitrust Laws and Gaming Laws), provide up to four (4) Representatives designated by

Buyer (the "Designated Buyer Representatives") with reasonable access to the Reserved Employees during normal business hours, and shall use their reasonable best efforts to assist the Designated Buyer Representatives in familiarizing themselves with the operation of the Business.

(b) Sellers and Buyer shall promptly notify the other in writing of, and will use all commercially reasonable efforts to cure before the Closing Date, any event, transaction or circumstance, as soon as practical after it becomes known to such party, that causes or is reasonably expected to cause any representation, covenant or agreement of Parent, Sellers, the Company or Buyer under this Agreement to be breached in any material respect or that renders or is reasonably expected to render untrue in any material respect any representation or warranty of Parent, Sellers, the Company or Buyer contained in this Agreement. Nothing contained in Section 9.1 above shall prevent Sellers or the Company from giving such notice, using such efforts or taking any action to cure any such event, transaction or circumstance. No notice given pursuant to this Section 9.2 shall have any effect on the representations, warranties, covenants or agreements contained in this Agreement for purposes of determining satisfaction of any condition contained herein.

Section 9.3 No Solicitation. Prior to the earlier of the Closing and the termination of this Agreement in accordance with Section 11.1 hereof, neither Parent, Sellers, the Company, nor any of their respective shareholders, members, directors, officers, employees, advisors, agents or other representatives (collectively, "Representatives"), directly or indirectly, through Affiliates or otherwise, shall (a) solicit, initiate, or encourage (including by way of furnishing information) or take any other action to facilitate knowingly any inquiries or proposals that constitute, or could reasonably be expected to lead to, a proposal or offer of any kind that constitute, or could



reasonably be expected to lead to, an Acquisition Proposal, (b) engage in negotiations or discussions with any person (or group of persons) other than Buyer or its Affiliates (a "Third Party") concerning, or provide any non-public information to any person or entity relating to, any Acquisition Proposal, (c) continue any prior discussions or negotiations with any Third Party concerning any Acquisition Proposal or (d) accept, or enter into any agreement concerning, any Acquisition Proposal with any Third Party or consummate any Acquisition Proposal. From and after the date hereof until the earlier of the termination of this Agreement or the Closing, Parent, Sellers and the Company will, and will cause their respective Affiliates to (i) use their reasonable best efforts to cause to be returned or destroyed promptly after the date hereof all confidential information provided or made available to any Person other than Buyer and its Affiliates and its and their Representatives in connection with a potential transaction involving the Business or the Company, (ii) terminate all access for such Persons to the electronic dataroom accessible through RR Donnelley Venue with respect to the Business and (iii) not amend, modify, waive or fail to enforce any of the terms or conditions included in any confidentiality agreements with respect to the Business or the Company.

Section 9.4 Employee Matters.

(a) Each Property Employee, other than the Reserved Employees, who is an employee of the Company as of the Closing shall hereinafter be referred to as a "Transferred Employee". Each of the Property Employees is an at-will employee, except that certain Property Employees may be eligible for severance compensation upon certain termination events under an employment agreement that covers any such Property Employee as set forth on Section 7.13(a) of the Company Disclosure Letter.

(b) Effective as of the Closing, Buyer shall assume all employment agreements set forth in Section 9.4(b) of the Company Disclosure Letter to the extent in effect as of the Closing, provided that the applicable Property Employee consents to such assignment to the extent required by the terms of the applicable employment agreement.

(c) For a period of at least one (1) year immediately following the Closing Date, (x) Buyer shall provide the Transferred Employees who remain employed by the Company with base compensation, bonus opportunity and annual and long-term incentive compensation opportunity that are in the aggregate, on an employee by employee basis, no less favorable than those which the Transferred Employees were provided by the Company or its Affiliates immediately prior to the Closing and (y) Buyer shall honor the severance policies of the Company and its Affiliates with respect to Transferred Employees.

(d) For a period of at least one (1) year immediately following the Closing Date, Buyer shall, pursuant to plans and arrangements established or maintained by Buyer (the "Buyer Benefit Plans"), provide the Transferred Employees who remain employed by the Company employee benefits (including medical benefits) which are no less favorable in the aggregate on an employee by employee basis than those which the Transferred Employees were provided under the Company Benefit Plans immediately prior to Closing. To the extent permitted under the terms of the Buyer Benefit Plans, Buyer shall cause service with the Company and its Affiliates prior to the Closing to be treated the same as service with any of Buyer and its Affiliates from and after the Closing Date for purposes of eligibility, vesting, and benefit accrual under the Buyer Benefit Plans (except (i) to the extent giving such credit would



result in duplication of benefits, (ii) for benefit accrual purposes under any defined benefit pension plan, (iii) for purposes of any retiree medical plan or (iv) for any newly established plan of Buyer for which similarly situated employees of Buyer do not receive past service credit).

(e) Effective immediately after the Closing, Buyer shall cause the Transferred Employees to be covered by one or more medical benefit plans ("Buyer's Medical Plans"), which shall provide benefits to the Transferred Employees and their dependents which in the aggregate are substantially comparable to the benefits that were provided to the Transferred Employees and their dependents by the Company Benefit Plans immediately prior to Closing. To the extent permitted under the terms of Buyer's Medical Plans, Buyer shall cause any Transferred Employees or their dependents to not be subject to any "pre-existing conditions" exclusions or limitations or "actively at work" requirements which would cause any of the Transferred Employees or their dependents otherwise to be excluded from Buyer's Medical Plans immediately after the Closing. To the extent permitted under the terms of Buyer's Medical Plans, Buyer shall give effect, in determining any deductible and maximum out-of-pocket limitations, to claims incurred and amounts paid by, and amounts reimbursed to, such employees for the calendar year in which the Closing occurs under any welfare benefit plans maintained or contributed to by the Company for its benefit immediately prior to the Closing Date.

(f) Effective as of the Closing Date, Buyer shall establish or designate a defined contribution retirement plan which is qualified or eligible for qualification under Section 401(a) of the Code (the "Buyer's 401(k) Plan"). Each Transferred Employee who participates in the Harrah's Entertainment, Inc. Savings and Retirement Plan (the "Company 401(k) Plan") who satisfies the eligibility requirements of Buyer's 401(k) Plan shall become

eligible to participate in Buyer's 401(k) Plan on the date he or she becomes an employee of Buyer and, to the extent permitted under the terms of Buyer's 401(k) Plan, Buyer shall cause such Transferred Employee to be credited with eligibility service and vesting service for all periods of service with the Company or any other Person if so credited with such service under the Company 401(k) Plan. Buyer or its applicable Subsidiary shall cause Buyer's 401(k) Plan to accept "eligible rollover distributions" (as defined in Section 402(c)(4) of the Code) from Transferred Employees with respect to such Transferred Employees' account balances (including loans) under the Company 401(k) Plan in the form of cash (and, as applicable, promissory notes with respect to loans), if elected by such Transferred Employees.

(g) The Company maintains a plan qualified under Section 125 of the Code (the "Company's 125 Plan") that includes flexible spending accounts for medical care reimbursements and dependent care reimbursements ("Reimbursement Accounts"). As soon as reasonably practicable following the Closing Date, cash equal to the aggregate value as of the Closing Date of the Reimbursement Accounts of the Transferred Employees shall be transferred from the Company to a plan established by Buyer intended to qualify under Section 125 of the Code ("Buyer's 125 Plan"). Upon receipt of such amount, Buyer and Buyer's 125 Plan shall assume all obligations with respect to the Reimbursement Accounts for the Transferred Employees as of the Closing Date. Buyer shall recognize the elections of the Transferred Employees under the Company's 125 Plan for purposes of Buyer's 125 Plan for calendar year 2012. The Company shall provide Buyer with all information reasonably requested in order for Buyer and Buyer's 125 Plan to satisfy the obligations set forth in this Section 9.4(g).



(h) No provision of this Agreement shall create any third party beneficiary rights in any Transferred Employee, or any beneficiary or dependent thereof, with respect to the compensation, terms and conditions of employment and/or benefits that may be provided to any Transferred Employee by Buyer or under any benefit plan which Buyer may maintain. In no event shall the terms of this Agreement be deemed to (i) establish, amend, or modify any Company Benefit Plan or any other benefit plan, program, agreement or arrangement maintained or sponsored by Buyer, the Company or any Subsidiary of the Company or any of their respective Affiliates; (ii) alter or limit the ability of Buyer or any of its Subsidiaries (including, after the Closing Date, the Company or any Subsidiary of the Company) to amend, modify or terminate any benefit or employment plan, program, agreement or arrangement after the Closing Date; or (iii) confer upon any Property Employee any right to employment or continued employment or continued service with Buyer or any of its Subsidiaries (including, following the Closing Date, the Company or any Subsidiary of the Company), or constitute or create an employment or other agreement with any Property Employee.

(i) On or following the Closing, Buyer shall comply with all provisions of the WARN Act with respect to all Transferred Employees. As part of its obligations under ARTICLE XII hereof, Buyer shall indemnify, defend and hold Sellers and the Company harmless from and against any Liability to any Transferred Employees or any Governmental Entity that may result to Sellers and/or the Company based on Buyer's failure to comply with any provision of the WARN Act as required by this Section 9.4(i), including, but not limited to, fines, back pay and attorneys' fees. Sellers shall notify Buyer of any terminations of the employment of any employees of the Company that occur during the ninety (90)-day period prior to the Closing.

(j) Sellers shall indemnify, defend and hold Buyer and its Affiliates harmless from and against any Controlled Group Liability.

Section 9.5 Access to Information and the Real Property; Post-Closing Cooperation.

(a) Upon reasonable notice, subject to applicable Law, including antitrust Laws and Gaming Laws, the Company shall afford Buyer's Representatives reasonable access, during normal business hours, during the period from the date hereof to the Closing, to the Real Property (including the Casino) and to all personnel, properties, books, Contracts and records of the Casino and, during such period, the Company shall furnish promptly to Buyer all material information concerning the Business (including the Real Property) as Buyer may reasonably request (collectively, the "Inspection"); *provided*, *however*, that (i) Buyer shall provide the Company with at least twenty-four (24) hours' prior written notice of any Inspection; (ii) if the Company so requests, Buyer's Representatives shall be accompanied by a Representative of the Company; (iii) Buyer shall not initiate contact with employees or other representatives of the Company other than such Representative designated by the Company without the prior written consent of Sellers or the Company, which consent shall not be unreasonably withheld or delayed; (iv) Buyer's Representatives shall not be entitled to perform any physical testing of any nature with respect to any portion of the Real Property without the Company's prior written consent if in the reasonable judgment of the Company such testing would reasonably be expected to materially interfere with the Business and/or cause damage to the Purchased Assets; (v) Buyer shall not materially interfere with the Business; (vi) Buyer shall, at its sole cost and expense, promptly repair any damage to the Purchased Assets or any other property owned by a Person



other than Buyer arising from or caused by Inspection, and shall reimburse the Company for any loss arising from or caused by any Inspection, and restore the Purchased Assets or such other third-party property to substantially the same condition as existed prior to such Inspection, and shall indemnify, defend and hold harmless Sellers, the Company and its Affiliates from and against any personal injury or property damage claims, liabilities, judgments or expenses (including reasonable attorneys' fees) incurred by any of them arising or resulting therefrom; and (vii) in no event shall this Section 9.5(a) constitute a limitation of Buyer's waiver of further due diligence in Section 8.7 hereof, nor shall the results of any such Inspection be a condition to Buyer's obligations under this Agreement or limit the provisions of Section 13.5 hereof. Prior to entering the Real Property to perform any tests and assessments or for any other reason permitted hereunder and, thereafter, Buyer shall maintain a policy of comprehensive public liability insurance in an amount not less than $10,000,000 naming the Company as additional primary insured, insuring against any and all Liabilities for damages to property or injury or death to persons arising out of the entry onto the Real Property of all persons and property on Buyer's behalf. Such insurance policy shall be with a nationally recognized insurance company reasonably acceptable to the Company and shall provide that it may not be terminated without providing the Company at least thirty (30) days written notice. Prior to Buyer's entry onto the Real Property, Buyer shall deliver to the Company a certificate of insurance evidencing the insurance policy required by this Section 9.5(a).

(b) Following the Closing Date, each party hereto will hold, and will use its best efforts to cause its Affiliates and its and their respective Representatives to hold, in strict confidence from any Person (other than any such Affiliate or Representative) all documents and information concerning the other party or any of its Affiliates (and, for the avoidance of doubt, treating information concerning the Business and the Purchased Assets as information concerning Buyer) unless (i) compelled to disclose by judicial or administrative process (including in connection with obtaining the necessary approvals of this Agreement and the transactions contemplated hereby of any Governmental Entity) or by other requirements of Law or (ii) disclosed in an action or proceeding brought by another party hereto in pursuit of its rights or in the exercise of its remedies hereunder, or unless such documents or information can be shown to have been (1) previously known by the party receiving such documents or information (other than pursuant to breach of an

agreement to keep such information confidential), (2) in the public domain (either prior to or after the furnishing of such documents or information hereunder) through no fault of such receiving party or (3) later acquired by the receiving party from another source if the receiving party is not aware that such source is under an obligation to another party hereto to keep such documents and information confidential. Buyer and the Company agree that in the event any proprietary information or knowledge relating to an Excluded Asset is obtained, revealed or otherwise made known to Buyer in effecting (x) the transition from Excluded Software to replacement software pursuant to Section 1.4(c) hereof, specifically, or (y) the removal of the Excluded Assets, generally, Buyer shall not reveal, disclose, employ or otherwise use any such proprietary information and will hold such information in confidence in accordance with the terms of the Confidentiality Agreement. No information or knowledge obtained in any investigation pursuant to this Section 9.5 shall affect or be deemed to modify the obligations of the parties to consummate the transactions contemplated herein.

(c) Following the Closing, and for so long as Sellers on the one hand or Buyer on the other hand, or their respective Affiliates are prosecuting, participating in, contesting or



defending any action, claim, investigation, suit or proceeding, whenever filed or made, in connection with or involving in any way (i) this Agreement or the transactions contemplated hereby or (ii) the conduct or operation of the Business prior to or after the Closing, including any action, claim, investigation, suit or proceeding related to the Excluded Assets and/or the Excluded Liabilities, the other party shall (and shall cause its Affiliates, and its and their respective Representatives, to) (A) cooperate with such party and its Affiliates and their Representatives with the prosecution, participation, contest or defense, (B) provide such party and its Affiliates and their Representatives with reasonable access and duplicating rights to all properties, books, contracts, commitments and records (whether in paper or electronic form) related to the Real Property and (C) make available to such party and its Affiliates and their Representatives its personnel (including, by Buyer, the Transferred Employees), including for purposes of fact finding, consultation, testimony, interviews, depositions and witnesses, in each case as shall be reasonably necessary in connection with the prosecution, participation, contest or defense of the applicable action, claim, investigation, suit or proceeding by such party and its Affiliates and Representatives.

(d) Upon reasonable notice, subject to applicable Law, including antitrust Laws and Gaming Laws, Parent shall afford Buyer's Representatives reasonable access, during normal business hours, for up to ninety (90) days following the Closing, to each Reserved Employee for so long as he or she is an employee of Parent or its Subsidiaries; *provided*, *however*, that Buyer shall not initiate contact with the Reserved Employees without the prior written consent of Parent, which consent shall not be unreasonably withheld or delayed.

Section 9.6 Governmental Approvals.

(a) The parties hereto shall cooperate with each other and use their reasonable best efforts to (i) as promptly as practicable, take, or cause to be taken, all appropriate action, and do or cause to be done, all things necessary, proper or advisable under applicable Law or otherwise to consummate and make effective the transactions contemplated by this Agreement as promptly as practicable; (ii) obtain from any Governmental Entities any consents, approvals, findings of suitability, expiration or terminations of waiting periods, licenses, permits, waivers, approvals, orders or authorizations required (A) to be obtained or made by Sellers, the Company or Buyer or any of their respective Affiliates or any of their respective Representatives and (B) to avoid any action or proceeding by any Governmental Entity (including those in connection with the HSR Act), in connection with the authorization, execution and delivery of this Agreement and the consummation of the transactions governed herein; and (iii) make all necessary registrations, declarations and filings, and thereafter make any other submissions with respect to this Agreement, as required under (A) any applicable federal or state securities Laws, (B) the HSR Act, (C) the Gaming Laws, including, providing information with respect to, executing, filing and participating in meetings with the Missouri Gaming Commission with respect to, the Petition for Change in Control and (D) any other applicable Law (collectively, the "Governmental Approvals"), and to comply with the terms and conditions of all such Governmental Approvals. The parties hereto and their respective Representatives and Affiliates shall file as promptly as practicable, but in no event later than fifteen (15) days after the date hereof, all required initial applications and documents in connection with obtaining the Governmental Approvals (including under applicable Gaming Laws and the HSR Act) and shall act diligently and promptly to pursue the Governmental Approvals and shall cooperate with each other in connection with the making of all filings referenced in the preceding sentence, *provided*



that, Buyer shall bear the ultimate responsibility of obtaining all Gaming Approvals on or before the Outside Date. Subject to applicable Laws relating to the exchange of information, prior to making any application or material written communication to or filing with any Governmental Entity with respect to Governmental Approvals, each party shall provide the other parties with drafts thereof and afford the other parties a reasonable opportunity to comment on such drafts. Buyer, Sellers and the Company shall use reasonable best efforts to schedule and attend any hearings or meetings with Governmental Entities to obtain the Governmental Approvals as promptly as possible, and, to the extent permitted by the Governmental Entity, each party shall offer the other parties the opportunity to participate in all telephonic conferences and all meetings with any Governmental Entity to the extent relating to Governmental Approvals. Buyer, Sellers and the Company shall, to the extent practicable, consult with the other parties on, in each case, subject to applicable Laws relating to the exchange of information (including antitrust Laws and Gaming Laws), all the information relating to Buyer, Sellers or the Company, as the case may be, and any of their respective Affiliates or Representatives which appear in any filing made with, or written materials submitted to, any third party or any Governmental Entity to the extent made or submitted in connection with the transactions contemplated by this Agreement, other than personal information on individuals who are filing applications. Without limiting the foregoing, Buyer, Sellers and the Company will notify the other parties promptly of the receipt of comments or requests or other communications (whether oral or written) from Governmental Entities to the extent relating to Governmental Approvals and, promptly supply the other parties with copies of all written correspondence between the notifying parties or any of their Representatives and Governmental Entities with respect to Governmental Approvals. Buyer, Sellers and the Company shall share responsibility for devising and implementing the strategy for obtaining any clearances required under the HSR Act in connection with the transactions contemplated by this Agreement, *provided*, *however*, that (i) in the event of disagreement between Buyer on the one hand and Sellers and the Company on the other hand, Buyer's view shall prevail, and (ii) Buyer shall take the lead in all meetings and communications with any Governmental Entity in connection with obtaining such clearances.

(b) Without limiting Section 9.6(a) hereof, Buyer, Sellers and the Company shall:

(i) each use its reasonable best efforts to avoid the entry of, or to have vacated or terminated, any decree, order, or judgment that would restrain, prevent or delay the Closing, on or before the Outside Date, including defending through litigation on the merits any claim asserted in any court by any Person; and

(ii) each use its reasonable best efforts to avoid or eliminate each and every impediment under any antitrust, competition or trade regulation Law that may be asserted by any Governmental Entity or any other Person with respect to the Closing so as to enable the Closing to occur as soon as reasonably possible (and in any event no later than the Outside Date), including implementing, contesting, or resisting any litigation before any court or administrative tribunal seeking to restrain or enjoin the Closing; *provided*, *however*, that Buyer and its Affiliates shall be required to (and nothing in this Agreement shall require Sellers, the Company or any of its Affiliates to) commit to any divestitures, licenses or hold separate or similar arrangements with respect to its or their respective assets or conduct of business arrangements, to the extent necessary to obtain any approval from a Government Entity required to consummate the transactions contemplated hereby.



(c) Buyer, Sellers and the Company shall promptly advise each other upon receiving any communication from any Governmental Entity whose consent or approval is required for consummation of the transactions contemplated by this Agreement to the extent that such communication is related to the Governmental Approvals. Buyer, Sellers and the Company shall each use its reasonable best efforts to take, or cause to be taken, all actions reasonably necessary to defend any lawsuits or other legal proceedings challenging this Agreement or the consummation of the transactions contemplated hereby and shall seek to prevent the entry by any Governmental Entity of any decree, injunction or other order challenging this Agreement or the consummation of the transactions contemplated hereby. The parties agree to appeal, as promptly as possible, any decree, injunction or other order challenging this Agreement or the consummation of the transaction contemplated hereby and use reasonable best efforts to have any such decree, injunction or other order vacated or reversed.

(d) From the date of this Agreement until the Closing, each party shall promptly notify all other parties hereto in writing of any pending or, to the knowledge of Buyer, Sellers or the Company, as appropriate, threatened action, suit, arbitration or other proceeding or investigation by any Governmental Entity or any other Person (i) challenging or seeking damages in connection with the Closing or any other transaction contemplated by this Agreement or (ii) seeking to restrain or prohibit the consummation of the Closing.

Section 9.7 Publicity. Parent and Sellers on the one hand and Buyer on the other hand shall agree on the form and content of the initial press release regarding the transactions contemplated hereby and thereafter shall consult with each other before issuing, provide each other the opportunity to review and comment upon, and use commercially reasonable efforts to agree upon, any press release or other public statement with respect to any of the transactions contemplated hereby and shall not issue any such press release or make any such public statement prior to such consultation and prior to considering in good faith any such comments, except as may be required by applicable Law or any listing agreement with any nationally recognized stock exchange. Notwithstanding anything to the contrary herein, Buyer and Parent may make any public statement in response to questions by the press, analysts, investors or those attending industry conferences or financial analysts conference calls, so long as any such statements are not inconsistent with previous press releases, public disclosures or public statements made jointly by Buyer and Parent or made by one party and reviewed by the other and do not reveal non-public information regarding the transactions contemplated by this Agreement.

Section 9.8 Further Assurances and Actions.

(a) Subject to the terms and conditions herein, each of the parties hereto agrees to use its reasonable best efforts to take, or cause to be taken, all appropriate action, and to do, or cause to be done, all things reasonably necessary, proper or advisable under applicable Laws to consummate and make effective the transactions contemplated by this Agreement, including, (i) obtaining all licenses, permits, consents, approvals, authorizations, qualifications and orders of Governmental Entities and parties to Contracts as are necessary or advisable for consummation of the transactions contemplated by this Agreement and (ii) to fulfill all conditions precedent applicable to the Closing.



(b) In case at any time after the Closing any further action is necessary to carry out the purposes of this Agreement, to vest Buyer with full title to the Equity Interests, the Purchased Assets and the assumption of the Assumed Liabilities, or to vest Sellers with full title to the Excluded Assets and the assumption of the Excluded Liabilities, Buyer, Sellers and the Company shall take all commercially reasonable action necessary (including executing and delivering further notices, assumptions, releases and acquisitions); *provided*, that if such action is necessary due to events or circumstances particular to Buyer, Buyer shall bear the cost of such action, and otherwise Sellers shall bear the cost of such action. All costs and expenses related to recording the Trademark Assignment Agreement shall be borne by Buyer.

Section 9.9 Transfer Taxes; HSR Filing Fee.

(a) All transfer, recording, documentary, sales, use, stamp, registration and other such Taxes (including real estate transfer or similar Tax that arise from any indirect transfer of property as a result of the transfer of the Equity Interests) and related fees (including any penalties, interest and additions to Tax) incurred with respect to the purchase and sale of the Equity Interests pursuant to this Agreement ("Transfer Taxes") shall be paid by Buyer. Buyer shall indemnify, defend and hold Sellers harmless from and against any and all amounts for which Buyer is liable pursuant to this Section 9.9(a) . The party responsible under applicable Law for filing the Tax Returns pertaining to and paying such Transfer Taxes shall (i) timely file such Tax Returns and remit to the applicable Governmental Authority payment of the Transfer Taxes required to be remitted therewith and (ii) promptly provide a copy of such Tax Return to the other party. If Sellers have paid such Transfer Taxes they shall be reimbursed for such Taxes promptly by Buyer. Buyer and Sellers shall cooperate as requested in preparing, executing and filing all such Tax Returns and related documentation on a timely basis as may be required to comply with the provisions of any applicable Law.

(b) The filing fee required to be paid in connection with the pre-merger notification filing under the HSR Act shall be paid by Buyer.

Section 9.10 No Control. Except as permitted by the terms of this Agreement, prior to the Closing, Buyer shall not directly or indirectly control, supervise, direct or interfere with, or attempt to control, supervise, direct or interfere with, the Company, including the Casino, the Real Property and the other Purchased Assets. Until the Closing, the operations and affairs of the Company, including the Casino, the Real Property and the other Purchased Assets, are the sole responsibility of and under the Company's complete and exclusive control, except as expressly provided for in this Agreement.

Section 9.11 Reservations; Guests; Valet Parking; Other Transition Matters.

(a) Reservations. Buyer will honor the terms and rates of all reservations (in accordance with their terms) at the Casino made prior to the Closing by guests or customers, including advance reservation cash deposits, for rooms or services confirmed by the Company for dates after the Closing Date, *provided* that such agreements were made in the Ordinary Course of Business. From and after the date hereof, the Company may continue to accept reservations for periods after the Closing in the Ordinary Course of Business. Buyer recognizes that such reservations may include discounts or other benefits, including benefits under frequent player or casino awards programs, group discounts, other discounts or requirements that food,



beverage or other benefits be delivered by Buyer to the guest(s) holding such reservations following the Closing. Buyer will honor all room allocation agreements and banquet facility and service agreements which have been granted to groups, persons or other customers for periods after the Closing Date at the rates and terms provided in such agreements; *provided* that such agreements were made in the Ordinary Course of Business. Buyer agrees that Sellers can make, or have made, any representation or warranty that any party holding a reservation or agreement for rooms, facilities or services will utilize such reservation or honor such agreement and Buyer, by the execution hereof, assumes the risk of non-utilization of reservations and non-performance of such agreements from and after the Closing.

(b) Guests' Safe Deposit Boxes. Not later than thirty (30) days prior to the Closing, the Company shall use commercially reasonable efforts to send a notice by certified mail to the last known address of each Person who has stored personal property in safe deposit boxes located at the Casino, advising them that they must make arrangements with Buyer to continue use of their safe deposit box and that if they should fail to do so within fifteen (15) days after the date of such notice is sent, the box will be opened in the presence of a Representative of the Company, a Representative of Buyer, and a Notary Public; and the contents of such box will be sealed in a package by the Notary Public, who shall write on the outside the name of the Person who rented the safe deposit box and the date of the opening of the box in the presence of the Representatives of the Company and Buyer, respectively. The Notary Public and the Representatives of the Company and Buyer shall then execute a certificate reciting the name of the Person who rented the safe deposit box, the date of the opening of the box and a list of its contents. The certificate shall be placed in the package and a copy of it sent by certified mail to the last known address of the person who rented the safe deposit box. The package will then be placed in a vault arranged by Buyer. Pursuant to ARTICLE XII hereof, Parent and Sellers shall be responsible for and indemnify Buyer against claims of alleged missing items not contained on the certificate, and Buyer shall be responsible for and indemnify Sellers against claims of alleged missing items listed on the certificate.

(c) Guests' Baggage. Prior to the Closing, the Company and Buyer shall take inventory of: (i) all baggage, suitcases, luggage, valises and trunks of hotel guests checked or left in the care of the Casino; (ii) all luggage or other property of guests retained by the Casino as security for unpaid accounts receivable; and (iii) the contents of the baggage storage room; *provided, however,* that no such baggage, suitcases, luggage, valises or trunks shall be opened. Except for the property referred to in (ii) above, which shall be removed from the Casino by the Company within ten (10) days after the Closing, all such baggage and other items shall be sealed in a manner to be agreed upon by the parties and listed in an inventory prepared and signed jointly by Representatives of the Company and Buyer as of the Closing. Said baggage and other items shall continue to be stored by the Company and Buyer shall be responsible for claims with respect thereto.

(d) Front Money.

(i) Pursuant to the Gaming Laws of the State of Missouri, the Company shall, at least thirty (30) days prior to the Closing, to the extent legally required, submit for approval to all applicable Gaming Authorities a plan containing customary terms for the inventory of the Front Money at the Casino. Buyer and the Company agree to cooperate



fully with each other in effectuating the plan that is approved by the applicable Gaming Authorities.

(ii) Effective as of the Closing, Representatives of Buyer and the Company shall take inventory of all Front Money and identify what Persons are entitled to what portions of such Front Money. All such Front Money shall be retained in the Casino cage and listed in an inventory prepared and signed jointly by Representatives of Buyer and the Company no later than the Closing. Buyer shall be responsible from and after the Closing for all Front Money and shall distribute Front Money only to the Persons and only in the amounts as determined pursuant to this Section 9.11(d).

(e) Vehicles with Valet Parking. On the Closing Date, the Company shall transfer control of all motor vehicles that were checked and placed in the care of the Business (the "Inventoried Vehicles") to Buyer. Thereafter, Buyer shall be responsible for the Inventoried Vehicles, *provided* that Sellers shall be liable to the owners of such Inventoried Vehicles with respect to any damages occurring prior to the Closing Date as a result of actions taken by the Business and its employees or contractors (including damages (as a result of actions taken by the Business and its employees or contractors) set forth in the damage report) or items missing from or damaged in such Inventoried Vehicles and such liability shall be an Excluded Liability for the purposes of this Agreement.

(f) Rebranding. Prior to and following the Closing Date, as the case may be, the Company, Sellers and Buyer shall timely complete all steps required under the Rebranding Plan attached hereto as Schedule A.

(g) Transition Planning. In order to facilitate an effective transition of all of the services, systems and functions necessary to operate the Business (the "Transitioned Functions") from Sellers to Buyer and its Affiliates at Closing, during the thirty (30) day period after the Effective Date (the "Transition Planning Date"), the Parties shall work together in good faith in the development of a reasonably detailed written plan (the "Transition Plan") setting out the steps that the parties will take to transition the Transitioned Functions from Parent and Sellers to Buyer and its Affiliates, including among other things the transition of any leased slot machines located at the Casino, and to send communications to customers regarding the transactions contemplated hereby. Each party shall use its reasonable best efforts to perform its responsibilities under the Transition Plan in order to effect transition of all Transitioned Functions to Buyer and its Affiliates at or prior to Closing. If Sellers do not identify to Buyers a Transitioned Function, in connection with the creation of the Transition Plan, on or prior to the Transition Planning Date, and such omission would materially impair Buyer's ability to operate the Casino after the Closing Date, then, at Buyer's request, Parent shall agree to perform such Transitioned Function on behalf of the Company, at cost, for a number of days from and after the Closing Date equal to the number of days that passed after the Transition Planning Date before Sellers first identify such Transitioned Function to Buyer; provided, that Parent shall not be required to perform any Transitioned Functions on behalf of the Company pursuant to this Section 9.11(g) after a date that is ninety (90) days after the Closing Date.

Section 9.12 Transfer of Utilities. Prior to the Closing, the Company shall notify all utility companies servicing the Real Property of the anticipated change in ownership of the Real Property and request that all billings after the Closing be made to Buyer at the applicable Real



Property. Buyer shall be responsible for paying all deposits required by utility companies in order to continue service at the Real Property for periods after the Closing and shall take any other action and make any other payments required to assure uninterrupted availability of utilities at the Real Property for all periods after the Closing. Following the Closing, all utility deposits made by the Company relating to the pre-Closing period will be refunded directly to Sellers by the utility company holding same; *provided* that if any such utility deposit is returned to the Company following the Closing, Buyer shall promptly remit such deposit to Sellers.

Section 9.13 Certain Transactions. From the date hereof until the Closing Date, neither Buyer, Sellers nor the Company shall, and shall not permit any of their respective Affiliates to, acquire or agree to acquire by merging or by consolidating with, or by purchasing assets of or a substantial portion of equity in, or any other manner, any business or any corporation, partnership, association or other business organization or division thereof engaged in the gaming business in the State of Missouri and/or the greater St. Louis area if such acquisition or agreement to acquire could reasonably be expected to adversely affect Buyer's ability to obtain the Gaming Approvals or to consummate the transactions contemplated by this Agreement, as applicable.

Section 9.14 FCC Approvals.

(a) The Company and Buyer will, as applicable, within ten (10) days of the Effective Date, execute and file filing copies of FCC applications to either (i) seek the consent of the FCC to the assignment of the FCC Licenses to Buyer, or (ii) have the FCC Licenses reissued by the FCC in the name of Buyer, as appropriate (collectively, the "FCC Approvals"). The Company and Buyer agree to use their respective reasonable best efforts to cooperate with any requests for information, filing of forms, communications with the FCC or other actions which are reasonably necessary in order to obtain the FCC Approvals.

(b) If the FCC Approvals have not been obtained on or before the Closing Date and no special temporary authority has been granted by the FCC that allows Buyer to operate under the FCC Licenses, then (i) the Closing shall nevertheless occur as scheduled, and (ii) the parties will comply with any applicable requirements of the FCC or applicable Law (including the Company tendering for cancellation the FCC Licenses). Buyer agrees that it will not use or operate the equipment which is the subject of the FCC Licenses or the FCC Approvals after the Closing in violation of any requirements of the FCC or any applicable Law.

Section 9.15 Insurance and Casualty. If, before the Closing, the Casino is damaged by fire or other casualty, then, subject to the satisfaction or waiver by the applicable party of the conditions set forth in ARTICLE X hereof, the Closing shall proceed as scheduled, and Sellers shall, after the Closing Date, (i) promptly pay to Buyer all insurance proceeds received by Sellers or their Affiliates with respect to such damage, destruction or other loss, less any proceeds applied to the physical restoration of the Casino, to the extent such restoration expenditures were approved by Buyer in writing, (ii) take such actions as may reasonably be requested by Buyer in connection with the tendering of such claims to the applicable insurers with respect to such damage, destruction or other loss and (iii) assign to Buyer all rights of Sellers and their Affiliates against third parties (other than against its insurance carriers) with respect to any causes of action, whether or not litigation has commenced as of the Closing Date, in connection with such damage, destruction or other loss*; provided*, that the proceeds of such insurance shall be subject



to (and recovery thereon shall be reduced by the amount of) any applicable deductibles and co-payment provisions or any payment or reimbursement and shall constitute full compensation for the damage to the Casino, and Sellers and their Affiliates shall have no responsibility for restoration or repair of the Casino or any resultant loss, directly, by subrogation, or otherwise; and *provided*, *further*, that if one or more prior claims has been made after the Effective Date against the insurance with respect to the Purchased Assets that causes the amount of insurance coverage to be insufficient to cover such damage, destruction or other loss and the Company has failed to notify Buyer of such claim(s) pursuant to Section 9.1(e), then Sellers shall pay or cause to be paid the insurance proceeds with respect to such other claim(s) to Buyer so that it receives the full amount of insurance proceeds that it would have received but for such prior claim(s).

Section 9.16 Certain Notifications. From the date of this Agreement until the Closing, Parent, Sellers, the Company and Buyer shall promptly notify the other parties in writing, as soon as practical after it becomes known to such party, of:

(a) any breach by such party of any of its representations, warranties, covenants or obligations contained in this Agreement; and

(b) any fact, circumstance, event or action which will result in, or would reasonably be expected to result in, the failure of Parent, Sellers, the Company or Buyer to timely satisfy any of the closing conditions specified in ARTICLE X hereof.

Nothing contained in Section 9.16 shall prevent Parent, Sellers, the Company or Buyer from giving such notice, using such efforts or taking any action to cure any of the foregoing. No notice given pursuant to this Section 9.16 shall have any effect on the representations, warranties, covenants or agreements contained in this Agreement for purposes of determining satisfaction of any condition contained herein or the parties' rights to indemnification hereunder.

Section 9.17 Non-Solicitation. Each party agrees that it shall not, and shall cause their respective Affiliates not to, prior to the one (1)-year anniversary of the Closing Date, solicit employment of employees of the other party or the other party's Affiliates that such soliciting party had substantial contact with as a result of the transactions contemplated by this Agreement; *provided*, *however*, that the restrictions contained in this Section 9.17 shall not apply to (a) general solicitations not specifically directed to any employee of a party or such party's Affiliates, and (b) any solicitation or hiring of an individual who is not employed by the other party or such party's Affiliates at the time of such solicitation or hiring of that individual and so long as such party did not cause, induce or attempt to cause or induce such employee to no longer be employed by such other party.

Section 9.18 Transfer of Assets. To the extent that Parent, Sellers or any of their Affiliates (other than the Company) holds at or prior to the Closing any asset, property or right that is exclusively used or held for use in connection with the Business, Sellers shall cause such Person to promptly, and in any event prior to the Closing, transfer such asset, property or right to the Company.



Section 9.19 Customer List.

(a) Consent. Parent or Sellers shall solicit customers' consents, on an "opt-out" basis, for transfer of the information on the Customer List and the Rewards Information not less than forty five (45) days prior to the anticipated Closing Date.

(b) No Direct Marketing. From and after the Closing until the four (4) year anniversary of the Closing Date, Parent and Sellers shall not, and shall cause their Affiliates not to (i) make any direct marketing to the customers on the Customer List for any casino property within a ninety (90)-mile radius of the Casino or (ii) sell, license or otherwise permit any Person to use the Customer Database or any portion thereof to make any direct marketing to the customers on the Customer List for any property within a ninety (90)-mile radius of the Casino; *provided*, that this Section 9.19(b) shall not restrict Parent and Sellers from marketing to customers on the Customer List in connection with online gaming, online play-for-fun games, or other online interactive games conducted by Parent.

Section 9.20 Lien Release. Parent and Sellers shall use their reasonable best efforts to facilitate and encourage the making of any filings, releases, discharges, deeds and other documents necessary to evidence the release by all financial institutions and other Persons to which any indebtedness (including guarantee obligations in respect thereof) of the Company is outstanding (the "Lenders") of all Liens and Encumbrances in connection therewith relating to the Purchased Assets, the Equity Interests, the Business or the Company ("Lender Liens"), and all obligations (including guarantee obligations) of the Company in respect of such indebtedness ("Loan Obligations"), substantially simultaneously with the Closing Date. Promptly after the Effective Date, Parent and Sellers shall request that the Lenders deliver letters or similar written confirmation (each, a "Release Confirmation"), substantially simultaneously with the Closing Date, confirming that (a) all Lender Liens shall be, upon the Closing Date, released by all lenders thereunder and (b) all Loan Obligations shall be, upon the Closing Date, released. Parent and Sellers shall keep Buyer reasonably informed (orally and in writing) on a current basis regarding any material developments relating to their request for Release Confirmations, including by reporting any conversations with a Lender or its Representatives relating to the Release Confirmations, any rejection of a Release Confirmation by a Lender or any failure of a Lender to respond to a request for a Release Confirmation, and by furnishing copies of any relevant written correspondence or draft documentation.

Section 9.21 Financing. Prior to the Closing, Buyer will use its reasonable best efforts to obtain any financing necessary to pay the Purchase Price, the Estimated Closing Payment, the Estimated Operations Payment and all fees and expenses necessary or related to the consummation of the transactions contemplated by this Agreement. Parent, Sellers and the Company shall provide all cooperation reasonably requested by Buyer in connection with obtaining any such financing, including furnishing financial and other pertinent information necessary to show the pro forma impact of the transactions contemplated by this Agreement on Buyer and its Subsidiaries; *provided* that Buyer shall be reimbursed for any reasonable out-of-pocket costs incurred by the Company in connection with such cooperation.

## ARTICLE X.
## CONDITIONS TO CLOSING

Section 10.1 Conditions to Each Party's Obligation to Effect the Closing. The respective obligations of each party to this Agreement to effect the Closing shall be subject to the



satisfaction of each of the following conditions on or prior to the Closing, any of which may be waived in whole or in part in a writing executed by all of the parties hereto:

(a) No Injunctions. No Governmental Entity of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any order, executive order, stay, decree, judgment or injunction or statute, rule or regulation which is in effect (whether temporary, preliminary or permanent) and which prevents or prohibits the consummation of, or that makes it illegal for either party hereto to consummate, the transactions contemplated by this Agreement.

(b) HSR Act. Any applicable waiting periods, together with any extensions thereof, under the HSR Act shall have expired or been terminated.

Section 10.2 Additional Conditions to Obligations of Buyer. The obligation of Buyer to effect the Closing is subject to the satisfaction of each of the following conditions prior to the Closing, any of which may be waived in whole or in part in writing exclusively by Buyer; *provided*, *however*, that Buyer may not waive the condition set forth in Section 10.2(d) below until the date this is eleven (11) months from the Effective Date and in the event such condition is waived, Buyer agrees not to operate the Casino until such time as all Required Governmental Consents are obtained by Buyer:

(a) Representations and Warranties. (i) The representations and warranties of Parent, Sellers and the Company contained in Sections 6.1 (Organization of Parent and Sellers), 6.2 (Authority; No Conflict; Required Filings and Consents), 6.3 (Title to Equity Interests), 7.1 (Organization of the Company; Capitalization) and 7.2 (Authority; No Conflict; Required Filings and Consents) shall be true and correct in all material respects at and as of the Closing as if made at and as of such time and (ii) all of the other representations and warranties of Parent, Sellers and the Company contained in this Agreement shall be true and correct (without giving effect to any limitation as to "materiality" or "Company Material Adverse Effect" set forth therein) at and as of the Closing as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such earlier date), except where the failure of such representations and warranties to be true and correct would not, individually or in the aggregate, reasonably be expected to result in a Company Material Adverse Effect. Buyer shall have received a certificate signed on behalf of the Company by an officer of Sellers to such effect.

(b) Performance of Obligations of Parent, Sellers and the Company. Parent, Sellers and the Company shall have performed in all material respects all covenants, agreements and obligations required to be performed by Parent, Sellers and the Company under this Agreement at or prior to

the Closing, including delivery of items listed in Section 5.2 hereof and curing Monetary Defects in accordance with Article XIII hereof. Buyer shall have received a certificate signed on behalf of Sellers by an officer of Sellers and the Company to such effect.

(c) Deliverables. Sellers and the Company shall have delivered executed copies of the Ancillary Agreements and other closing deliverables described in ARTICLE V to be delivered by them.

(d) Governmental Consents. All consents, approvals, findings of suitability, licenses, permits, waivers, orders or authorizations of and registrations, declarations or filings with any Governmental Entity of competent jurisdiction in respect of the Gaming Laws required or necessary in connection with the transactions contemplated by this Agreement and necessary



for ownership and operation of the Real Property and the Business (including approval of the Petition for Change in Control and the approval, licensing or registration of Buyer and such of its (i) officers, executive directors, key employees or Persons performing management functions similar to officers, (ii) shareholders and (iii) key business affiliates as may be required by applicable Gaming Authorities) (the "Required Governmental Consents") have been obtained by Buyer and shall be in full force and effect by Buyer.

Section 10.3 Additional Conditions to Obligations of Sellers. The obligations of Sellers to effect the Closing are subject to the satisfaction of each of the following conditions prior to the Closing, any of which may be waived in whole or in part in writing exclusively by Sellers:

(a) Representations and Warranties. (i) The representations and warranties of Buyer contained in Sections 8.1 (Organization) and 8.2 (Authority; No Conflict; Required Filings and Consents) shall be true and correct in all material respects at and as of the Closing as if made at and as of such time and (iii) all of the other representations and warranties of Buyer contained in this Agreement shall be true and correct (without giving effect to any limitation as to "materiality" or "Buyer Material Adverse Effect" set forth therein) at and as of the Closing as if made at and as of such time, except where the failure of such representations and warranties to be true and correct would not, individually or in the aggregate, reasonably be expected to result in a Buyer Material Adverse Effect. Sellers shall have received a certificate signed on behalf of Buyer by an executive officer of Buyer to such effect.

(b) Performance of Obligations of Buyer. Buyer shall have performed in all material respects all covenants, agreements and obligations required to be performed by it under this Agreement at or prior to the Closing, including delivery of items listed in Section 5.2. Sellers shall have received a certificate signed on behalf of Buyer by an executive officer of Buyer to such effect.

(c) Deliverables. Buyer shall have delivered executed copies of the Ancillary Agreements and other closing deliverables described in ARTICLE V to be delivered by it.

## ARTICLE XI.
## TERMINATION AND AMENDMENT

Section 11.1 Termination. This Agreement may be terminated at any time prior to the Closing (with respect to Sections 11.1(b) through (g) hereof, by written notice by the terminating party to the other parties):

(a) by mutual written agreement of Sellers and Buyer;

(b) by Sellers or Buyer, if the transactions contemplated hereby shall not have been consummated on or prior to the Outside Date; *provided*, *however*, that the right to terminate this Agreement under this Section 11.1(b) shall not be available to Sellers or Buyer, respectively, if Sellers' (or Parent's or the Company's) or Buyer's failure, respectively, to fulfill any obligation of Sellers (or Parent or the Company) or Buyer, respectively, under this Agreement has been the primary cause of the failure of the Closing to occur on or before the Outside Date;

(c) by Sellers or Buyer, if any Gaming Authority made a final, non-appealable determination that such Gaming Authority will not issue to Buyer all Gaming Approvals;



(d) by Sellers or Buyer, if a court of competent jurisdiction or other Governmental Entity shall have issued a non-appealable final order, decree or ruling or taken any other non-appealable final action, in each case, having the effect of permanently restraining, enjoining or otherwise prohibiting the Closing and the transactions contemplated hereby; *provided*, *however*, that the right to terminate this Agreement under this Section 11.1(d) shall not be available to Sellers or Buyer, respectively, if Sellers' (or Parent's or the Company's) or Buyer's failure, respectively, to fulfill any obligation of Sellers (or Parent or the Company) or Buyer, respectively, under this Agreement has been the primary cause of, or materially contributed to, such action;

(e) by Buyer, if the Company, Sellers or Parent have breached any representation, warranty, covenant or agreement on the part of the Company, Sellers or Parent set forth in this Agreement which (i) would result in a failure of a condition set forth in Sections 10.1(a) or (b) or Sections 10.2(a), (b), (c) or (d) hereof and (ii) is not cured within thirty (30) calendar days after written notice thereof; *provided*, *however*, that if such breach cannot reasonably be cured within such thirty (30) day period but can be reasonably cured prior to the Outside Date, and the Company, Sellers and Parent are diligently proceeding to cure such breach, this Agreement may not be terminated pursuant to this Section 11.1(e); *provided*, *further*, that Buyer's right to terminate this Agreement under this Section 11.1(e) shall not be available if, at the time of such intended termination, Sellers have the right to terminate this Agreement under Section 11.1(b), (c), (d) or (f) hereof;

(f) by Sellers, if Buyer has breached any representation, warranty, covenant or agreement on the part of Buyer set forth in this Agreement which (i) would result in a failure of a condition set forth in Sections 10.1(a) or (b) or Section 10.3(a), (b) or (c) hereof and (ii) is not cured within thirty (30) calendar days after written notice thereof; *provided*, *however*, that if such breach cannot reasonably be cured within such thirty (30) day period but can be reasonably cured prior to the Outside Date, and Buyer is diligently proceeding to cure such breach, this Agreement may not be terminated pursuant to this Section 11.1(f); *provided*, *further*, that Buyer shall have no right to cure its failure to timely make any Extension Deposit and such failure shall result in

an immediate right of Sellers to terminate hereunder; *provided, further*, that Sellers' right to terminate this Agreement under this Section 11.1(f) shall not be available if, at the time of such intended termination, Buyer has the right to terminate this Agreement under Section 11.1(b), (c), (d) or (e) hereof; or

(g) by Buyer, pursuant to Section 13.2(b) or 13.3.

Section 11.2 Effect of Termination.

(a) Liability. In the event of termination of this Agreement as provided in Section 11.1 hereof, this Agreement shall immediately become void and there shall be no Liability on the part of Buyer or Sellers, or their respective Affiliates or Representatives, other than Sections 1.5, 9.5(b) and 11.2 and ARTICLE XIII hereof; *provided*, *however*, that nothing contained in this Section 11.2 shall relieve or limit the Liability of either party to this Agreement for any fraudulent or willful breach of this Agreement.

(b) Fees and Expenses. Except as otherwise expressly provided in this Agreement, all fees and expenses incurred in connection with this Agreement and the



transactions contemplated hereby shall be paid by the party incurring such expenses, whether or not the Closing is consummated. Any cancellation charges of the Escrow Agent or Title Insurer shall be paid by the party who breached this Agreement, and, if no party breached this Agreement, then each of Sellers and Buyer shall pay one-half of such cancellation charges.

(c) Application of the Deposit and any Extension Deposit.

(i) Upon the termination of this Agreement pursuant to Section 11.1(e) and (g) hereof, the Deposit and any Extension Deposit, together with interest earned thereon, shall be paid to Buyer.

(ii) Upon the termination of this Agreement for any reason other than pursuant to Section 11.1(e) and (g) hereof, the Deposit and any Extension Deposit, together with any interest earned thereon, shall be paid to Sellers (or their designee).

(d) Certain Terminations. In the event that (w) this Agreement is terminated pursuant to Section 11.1(b) or (c), (x) one or more Required Governmental Consents has not been obtained at or prior to the time of such termination, (y) all of the condition to Buyer's obligation to effect the Closing set forth in Sections 10.1(a) or (b) and Sections 10.2(a), (b), (c) and (d) have been satisfied, or waived by Buyer, other than those conditions that are not satisfied because of the failure to obtain such Required Governmental Consent(s) and (z) any action announced, entered into or commenced by Buyer after the Effective Date (a "Buyer Corporate Transaction") was a material cause of the failure to obtain such Required Governmental Consent(s) prior to the termination date, then, within three (3) business days of the consummation by Sellers of any Company Sale pursuant to a binding arms length agreement with a non-affiliated third party purchaser (the "Third Party Purchaser") entered into within twelve (12) months of such termination date (a "New Sale Agreement"), Buyer shall pay to Sellers the amount, if any, by which (i) the Purchase Price less the amount of the Deposit and any Extension Deposit previously released to Sellers pursuant to Section 11.2(c) exceeds (ii) the New Sale Price (the "Make-Whole Amount"); *provided*, that, if Sellers and/or the Company enter into a New Sale Agreement, they shall use all reasonable best efforts to maximize the New Sale Price and shall permit Buyer to participate on the same process as all other bidders in the sales process seeking a Third Party Purchaser; *provided*, *however*, that prior to entry into a New Sale Agreement, Sellers and the Company may use its good faith judgment to determine the most favorable Company Sale proposal, considering all legal, regulatory and financial aspects (including certainty of closing). In the event of a termination of this Agreement of the type described in the first sentence of this Section 11.2(d), there shall be no Liability on the part of Buyer or its Affiliates or Representatives other than payment of the Make-Whole Amount (if any) pursuant to this Section 11.2(d), and as set forth in Section 11.2(c); *provided*, *however*, that nothing contained in this Section 11.2(d) shall relieve or limit the Liability of Buyer for any fraudulent or willful breach of this Agreement. For the avoidance of doubt, the parties acknowledge and agree that this Section 11.2(d) does not limit Buyer's obligations pursuant to Section 9.13 hereof and does not restrict Buyer's ability to engage in a Buyer Corporate Transaction.



## ARTICLE XII.
## SURVIVAL; INDEMNIFICATION

Section 12.1 Survival of Representations, Warranties, Covenants and Agreements.

(a) Except as set forth in ARTICLE XI and Section 12.1(b) hereof, the representations, warranties, covenants and agreements of each party hereto shall remain operative and in full force and effect regardless of any investigation made by or on behalf of any other party hereto, any Person controlling any such party or any of their Representatives whether prior to or after the execution of this Agreement.

(b) The representations and warranties made by Parent, Sellers, the Company and Buyer in this Agreement shall survive the Closing until (and claims based upon or arising out of such representations and warranties may be asserted at any time before) six (6) months after the Closing Date, *provided*, *however*, that the representations made in Sections 6.1 (Organization of Sellers), 6.2 (Authority; No Conflict; Required Filings and Consents), 6.3 (Title to Equity Interests), 7.1 (Organization of the Company), 7.2 (Authority; No Conflict; Required Filings and Consents), 7.14 (Brokers), 7.17 (Minimum Cash), 8.1 (Organization), 8.2 (Authority; No Conflict; Required Filings and Consents), 8.3 (Brokers) (collectively, the "Fundamental Representations") shall survive indefinitely, and the representations and warranties in Section 7.5 (Tax) shall survive until sixty (60) days following the expiration of the statute of limitations (taking into account any extensions or waivers thereof) applicable to the collection of the applicable Tax that is the subject of such representations. The period of time a representation or warranty survives the Closing pursuant to the preceding sentence shall be the "Survival Period" with respect to such representation or warranty. The parties intend for the preceding two sentences to shorten the otherwise applicable statute of limitations and agree that, subject to the last sentence of this Section 12.1(b), no claim may be brought based upon, directly or indirectly, any of the representations and warranties contained in this Agreement after the Survival Period with respect to such representation or warranty. The covenants and agreements of the parties hereto in this Agreement shall survive the Closing without any contractual limitation on the period of survival (other than those covenants and agreements that are expressly required to remain in full force and effect for a specified period of time). The termination of the representations and warranties provided herein shall

not affect a party (i) in respect of any claim made by such party in reasonable detail in writing received by an Indemnifying Party prior to the expiration of the applicable Survival Period provided herein, or (ii) in respect of any claim grounded in fraud or willful misconduct of the Indemnifying Party.

Section 12.2 Indemnification.

(a) Except with respect to Taxes that are governed by Section 12.2(d), from and after the Closing, Parent and Sellers shall indemnify, save and hold harmless Buyer and its Affiliates and its and their respective Representatives, successors and assigns (each, a "Buyer Indemnified Party" and collectively, the "Buyer Indemnified Parties") from and against any and all costs, losses, Taxes, Liabilities, obligations, damages, claims, demands and expenses (whether or not arising out of third-party claims), including interest, penalties, reasonable attorneys' fees and all amounts paid in investigation, defense or settlement of any of the foregoing (herein, "Damages"), incurred in connection with, arising out of, or resulting from:



(i) any breach of any representation or warranty other than a Fundamental Representation made by Parent, Sellers or the Company in this Agreement;

(ii) any breach of Fundamental Representation made by Parent, Sellers or the Company in this Agreement;

(iii) any breach of any covenant (excluding any Damages incurred in connection with, arising out of, or resulting from a breach of Section 9.1(p) that have been reflected in Net Working Capital) or agreement made, or to be performed, by Parent, Sellers or the Company in this Agreement;

(iv) the Excluded Liabilities;

(v) the Excluded Assets; or

(vi) the ownership, use, registration, maintenance, licensing or previous transfer of the Purchased Assets prior to the Closing or the conduct of the Business prior to the Closing.

(b) Except with respect to Taxes that are governed by Section 12.2(d), from and after the Closing, Buyer shall indemnify, save and hold harmless Sellers, the Company and their respective Affiliates and its and their Representatives, successors and (each, a "Seller Indemnified Party" and collectively, the "Seller Indemnified Parties") from and against any and all Damages incurred in connection with, arising out of, or resulting from:

(i) any breach of any representation or warranty other than a Fundamental Representation made by Buyer in this Agreement;

(ii) any breach of Fundamental Representation made by Buyer in this Agreement;

(iii) any breach of any covenant or agreement made, or to be performed, by Buyer in this Agreement;

(iv) the Assumed Liabilities;

(v) the Purchased Assets; or

(vi) the ownership, use, registration, maintenance, licensing or further transfer of the Purchased Assets after the Closing or the conduct of the Business after the Closing.

(c) Interpretation. Notwithstanding anything in this Agreement to the contrary, the term Damages shall not include any consequential, special or incidental damages, claims for lost profits, or punitive or similar damages, except in cases where such damages are recovered from an Indemnified Party by a third party.



(d) Tax Indemnification.

(i) From and after the Closing, Sellers shall indemnify, save and hold harmless the Buyer Indemnified Parties from and against any and all Damages incurred in connection with, arising out of, or resulting from: (A) any breach of any representation or warranty contained in Section 7.5 (Taxes); (B) any breach of any covenant or agreement made, or to be performed by Parent, Sellers or the Company on or prior to the Closing Date, pursuant to Section 3.3, Section 9.1(s), Section 9.9(a) and Section 12.9; and (C) any Excluded Taxes.

(ii) From and after the Closing, Buyer shall indemnify, save and hold harmless the Seller Indemnified Parties from and against any and all Damages incurred in connection with, arising out of, or resulting from: (A) any breach of any covenant or agreement made, or to be performed by Buyer, pursuant to Section 3.3, Section 9.9(a) and Section 12.9; and (B) any Taxes of the Company or relating to the Purchased Assets for any Post-Closing Period; in each case, other than Taxes for which Sellers are responsible pursuant to Section 12.2(d)(i).

Section 12.3 Procedure for Claims between Parties. Except with respect to Taxes that are governed by Section 12.2(d), if a claim for Damages is to be made by a Buyer Indemnified Party or Seller Indemnified Party (each, an "Indemnified Party" and collectively, the "Indemnified Parties") entitled to indemnification hereunder, such party shall give written notice briefly describing the claim and, to the extent then ascertainable, the monetary damages sought (each, a "Notice") to the indemnifying party hereunder (the "Indemnifying Party" and collectively, the "Indemnifying Parties") as soon as reasonably practicable after such Indemnified Party becomes aware of any fact, condition or event which may give rise to Damages for which indemnification may be sought under this ARTICLE XII. Any failure to submit any such notice of claim to the Indemnifying Party shall not relieve any Indemnifying Party of any Liability hereunder, except to the extent that the Indemnifying Party was actually prejudiced by such failure.

Section 12.4 Defense of Third Party Claims.

(a) Except with respect to Taxes that are governed by Section 12.2(d), if any lawsuit, action, proceeding, investigation, claim or enforcement action is initiated against an Indemnified Party by any third party (each, a "Third Party Claim") for which indemnification under this ARTICLE XII may be sought, Notice thereof, together with copies of all notices and communication relating to such Third Party Claim, shall be given to the Indemnifying Party as promptly as reasonably practicable. The failure of any Indemnified Party to give timely Notice hereunder shall not affect rights to indemnification hereunder, except to the extent that the Indemnifying Party was actually prejudiced by such failure.

(b) If it so elects at its own cost, risk and expense, the Indemnifying Party shall be entitled to:

(i) take control of the defense and investigation of such Third Party Claim at its sole cost and expense if the Indemnifying Party notifies the Indemnified Party in writing that the Indemnifying Party will indemnify the Indemnified Party for any Damages related to the Third Party Claim;



(ii) employ and engage attorneys of its own choice (provided that such attorneys are reasonably acceptable to the Indemnified Party) to handle and defend the same, unless the named parties to such action or proceeding include both one or more Indemnifying Parties and an Indemnified Party, and the Indemnified Party has reasonably concluded that there may be one or more legal defenses or defense strategies available to such Indemnified Party that are different from or additional to those available to an applicable Indemnifying Party or that there exists or is reasonably likely to exist a conflict of interest, in which event such Indemnified Party shall be entitled, at the Indemnifying Parties' reasonable cost, risk and expense, to separate counsel (*provided* that such counsel is reasonably acceptable to the Indemnifying Party); and

(iii) compromise or settle such Third Party Claim, which compromise or settlement shall be made (x) only with the written consent of the Indemnified Party, such consent not to be unreasonably withheld, or (y) if such compromise or settlement contains an unconditional release of the Indemnified Party in respect of such claim, without any cost, liability or admission of wrongdoing of any nature whatsoever to or by such Indemnified Party, and provides only for monetary damages that will be paid in full by the Indemnifying Party.

(c) If the Indemnifying Party elects to assume the defense of a Third Party Claim, the Indemnified Party shall cooperate in all reasonable respects with the Indemnifying Party and its attorneys in the investigation, trial and defense of such Third Party Claim and any appeal arising therefrom*; provided*, *however,* that the Indemnified Party may, at its own cost, participate in the investigation, trial and defense of such lawsuit or action and any appeal arising therefrom. The parties shall cooperate with each other in any notifications to insurers.

(d) If the Indemnifying Party fails to assume the defense of such Third Party Claim within fifteen (15) calendar days after receipt of the Notice, the Indemnified Party against which such Third Party Claim has been asserted will have the right to undertake, at the Indemnifying Parties' reasonable cost, risk and expense, the defense, compromise or settlement of such Third Party Claim on behalf of and for the account and risk of the Indemnifying Parties*; provided*, *however,* that such Third Party Claim shall not be compromised or settled without the written consent of the Indemnifying Party, which consent shall not be unreasonably withheld.

(e) If the Indemnified Party assumes the defense of the Third Party Claim, the Indemnified Party will keep the Indemnifying Party reasonably informed of the progress of any such defense, compromise or settlement.

(f) If the Indemnifying Party notifies the Indemnified Party that it does not dispute its liability to the Indemnified Party with respect to the Third Party Claim or fails to notify the Indemnified Party whether the Indemnifying Party disputes its liability to the Indemnified Party with respect to such Third Party Claim within sixty (60) days of the Notice of such Third Party Claim having been provided to the Indemnifying Party, the Damages arising from such Third Party Claim will be conclusively deemed a liability of the Indemnifying Party and the Indemnifying Party shall pay the amount of such Damages to the Indemnified Party on demand following the final determination thereof. If the Indemnifying Party disputes its liability with respect to such claim within such 60-day period, then such dispute shall be resolved in accordance with the terms and conditions of Section 12.5.



(g) This Section 12.4 shall not apply to any claim with respect to Taxes that are governed by Section 12.2(d), which shall be governed exclusively by Section 12.9(c).

Section 12.5 Resolution of Conflicts and Claims.

(a) If the Indemnifying Party objects in writing to any claim for indemnification made by an Indemnified Party in any written Notice of a claim (an "Objection Notice"), Sellers, on the one hand, and Buyer, on the other hand, shall attempt in good faith to agree upon the rights of the respective parties with respect to each of such claims, and such Sellers and Buyer shall provide information to the other party (as reasonably requested) related to the issues set forth in the Objection Notice. If Sellers and Buyer should so agree, a memorandum setting forth such agreement shall be prepared and signed by both parties.

(b) If no such agreement is reached after good faith negotiation, either Buyer or Sellers may demand mediation of the dispute, unless the amount of the damage or loss is at issue in a pending action or proceeding involving a Third Party Claim, in which event mediation shall not be commenced until such amount is ascertained or both parties agree to mediation. In any such mediation, Buyer and Sellers agree to employ a mediator from the American Arbitration Association (the "AAA") to assist them in reaching resolution of such dispute according to the Commercial Mediation Rules of the AAA. The mediator shall be a corporate attorney with at least fifteen (15) years experience in acquisitions. The fees and expenses of the mediator shall be shared equally by Buyer and Sellers. If, after mediation efforts, Buyer and Sellers should agree as to all or a portion of a claim, a memorandum setting forth such agreement shall be prepared and signed by both parties. If after reasonable efforts, and over a period of sixty (60) calendar days, the parties are unable to reach agreement on such dispute utilizing the mediator, the parties shall be permitted to proceed with any legal remedy available to such party.

(c) The provisions of this Section 12.5 shall apply to disputes between the parties as to Tax matters subject to Section 12.9, with the term "Third Party Claim" replaced with "Tax Claim".

Section 12.6 Limitations on Indemnity.

(a) No Buyer Indemnified Party shall seek, or be entitled to, indemnification from any of the Indemnifying Parties pursuant to Section 12.2(a)(i) hereof to the extent the aggregate claims for Damages of the Buyer Indemnified Parties for which indemnification is sought pursuant to Section 12.2(a)(i) hereof are less than six million one-hundred thousand dollars ($6,100,000) (the "Deductible") or exceed an amount equal to thirty million five-hundred thousand dollars ($30,500,000) (the "Cap"); *provided*, that, if the aggregate of all claims for Damages for which indemnification is sought pursuant to Section 12.2(a)(i) hereof equals or exceeds the Deductible, then the Buyer Indemnified Parties shall be entitled to recover for such Damages, subject to the limitations in this Section 12.6(a), only to the extent such Damages exceed the Deductible, but in any event not to exceed the Cap.

(b) In addition to the limitations set forth in Section 12.6(a), no Buyer Indemnified Party shall seek, or be entitled to, indemnification from any of the Indemnifying Parties pursuant to Section 12.2(a)(i) hereof to the extent any individual claim or series of related individual claims for Damages of the Buyer Indemnified Parties for which indemnification is sought pursuant to Section 12.2(a)(i) hereof is less than $100,000, at which time, subject to the



limitation set forth herein, the Buyer Indemnified Party shall be entitled to indemnification for the full amount of all such Damages from and including the first dollar of such Damages and all such Damages shall count towards the satisfaction of the Deductible.

(c) In calculating the amount of any Damages payable to a Buyer Indemnified Party or a Seller Indemnified Party hereunder, the amount of the Damages (i) shall not be duplicative of any other Damage for which an indemnification claim has been made and (ii) shall be computed net of any amounts actually recovered by such Indemnified Party under any insurance policy with respect to such Damages (net of any costs and expenses incurred in obtaining such insurance proceeds). If an Indemnifying Party pays an Indemnified Party for a claim and subsequently insurance proceeds in respect of such claim is collected by the Indemnified Parties, then the Indemnified Party promptly shall remit the insurance proceeds (net of any costs and expenses incurred in obtaining such insurance proceeds) up to the amount paid by Indemnifying Party to Indemnifying Party. The Indemnified Parties shall use commercially reasonable efforts to obtain from any applicable insurance company any insurance proceeds in respect of any claim for which the Indemnified Parties seek indemnification under this ARTICLE XII.

Section 12.7 Payment of Damages. Except as otherwise permitted in Section 12.9(a), an Indemnified Party shall be paid in cash by an Indemnifying Party the amount to which such Indemnified Party may become entitled by reason of the provisions of this ARTICLE XII, within ten (10) business days after such amount is determined either by mutual agreement of the parties or on the date on which both such amount and an Indemnified Party's obligation to pay such amount have been determined by a final judgment of a court or administrative body having jurisdiction over such proceeding.

Section 12.8 Exclusive Remedy.

(a) After the Closing, the indemnities provided in this ARTICLE XII shall constitute the sole and exclusive remedy of any Indemnified Party for Damages arising out of, resulting from or incurred in connection with any claims regarding matters arising under or otherwise relating to this Agreement; *provided, however*; that this exclusive remedy for Damages does not preclude a party from bringing an action for specific performance or other equitable remedy to require a party to perform its obligations under this Agreement. Without limiting the foregoing, Buyer, Parent and Sellers each hereby waive (and, by their acceptance of the benefits under this Agreement, each Buyer Indemnified Party and Seller Indemnified Party hereby waives), from and after the Closing, any and all rights, claims and causes of action (other than claims of, or causes of action arising from, fraud or willful misconduct) such party may have against the other party arising under or based upon this Agreement or any schedule, exhibit, disclosure letter, document or certificate delivered in connection herewith, and no legal action sounding in tort, statute or strict liability may be maintained by any party (other than a legal action brought solely to enforce or pursuant to the provisions of this ARTICLE XII). Notwithstanding anything to the contrary in this Section 12.8, in the event of willful misconduct, or a fraudulent breach of the representations, warranties, covenants or agreements contained herein, by Buyer, Parent or Sellers, any Indemnified Party shall have all remedies available at law or in equity (including for tort) with respect thereto.



(b) Without limiting the foregoing, the Buyer Indemnified Parties and the Seller Indemnified Parties hereby waive and agree not to seek (whether under any Environmental Law or otherwise) any statutory or common law remedy (whether for contribution, equitable indemnity or otherwise) against any Indemnifying Party with regard to any Environmental Condition or Environmental Liability, except solely in accordance with the exclusive remedy provided in this ARTICLE XII.

Section 12.9 Tax Matters.

(a) Treatment of Indemnification Payments. All indemnification payments made pursuant to this ARTICLE XII shall be treated by the parties for income Tax purposes as adjustments to the purchase price, unless (i) otherwise required pursuant to a "determination" (as defined in Section 1313(a) of the Code or any similar provision of state, local or foreign Law) or (ii) Buyer provides Sellers with its written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) Tax Returns.

(i) Sellers shall prepare or cause to be prepared all Tax Returns required to be filed by, with respect to or that include the Company with respect to taxable periods of the Company ending on or before the Closing Date (the "Pre-Closing Separate Tax Returns"), and such Pre-Closing Separate Tax Returns, to the extent they relate to the Company, shall be prepared consistent with past practices and this Agreement, except as otherwise required by applicable Law. Sellers shall file or cause to be filed all Pre-Closing Separate Tax Returns that are required to be filed on or before the Closing Date and Sellers shall pay, or cause to be paid, all such Taxes shown as due on such Tax Returns. Buyer shall file or cause to be filed all Pre-Closing Separate Tax Returns for the Company that are prepared by Sellers pursuant to the first sentence of this Section 12.9(b)(i) that are due after the Closing Date

and, subject to the other provisions in this Agreement, shall pay or cause to be paid all Taxes shown as due on such Pre-Closing Separate Tax Returns, *provided that* neither Buyer nor the Company shall be required to sign or file any Tax Return (i) not prepared in accordance with this Agreement or (ii) if it reasonably determines that there is not substantial authority supporting each material position reflected on such Tax Return (or such higher standard as may be required under applicable state, local or foreign Law to avoid the imposition of penalties) and, *provided, further*, that signing and filing a Tax Return in accordance with the foregoing provision shall not be considered an acknowledgement that such Tax Return complies with the requirements of this Agreement. Sellers shall pay to Buyer no later than three (3) business days prior to the due date for filing any Pre-Closing Separate Tax Return referenced in the preceding sentence, the amount of Taxes shown as due on such Pre-Closing Separate Tax Returns. Sellers shall provide Buyer a copy of each such Pre-Closing Separate Tax Return for its review and comment a reasonable number of days prior to the due date (including any applicable extension) of such Tax Return, and Sellers shall reasonably consider any written comments of Buyer received prior to filing such Pre-Closing Separate Tax Return. If the Company is permitted under any applicable income Tax Law to treat the Closing Date as the last day of the taxable period in which the Closing occurs, Buyer and Sellers shall treat (and shall cause their respective Affiliates to treat) the Closing Date as the last day of such taxable period.



(ii) Buyer shall prepare or cause to be prepared all Tax Returns of the Company for taxable periods starting on or before the Closing Date and ending after the Closing Date (each, a "Straddle Period"), and shall cause such Tax Returns to be prepared consistent with past practices, except as otherwise required by applicable Law. The Company shall file or cause to be filed all such Tax Returns for any Straddle Period and, subject to the other provisions in this Agreement, shall pay or cause to be paid all Taxes shown as due on such Tax Returns. Sellers shall pay to Buyer no later than three (3) business days prior to the due date for filing any Tax Return for any Straddle Period the amount of Taxes owing with respect to the Straddle Period for which Sellers are responsible pursuant to Section 12.2(d)(i). Buyer shall provide Sellers a copy of each such Tax Return for their review and comment a reasonable number of days prior to the due date (including any applicable extension) of such Tax Return, and Buyer shall reasonably consider any written comments of Sellers received by Buyer prior to filing such Tax Return.

(iii) For purposes of the indemnity provisions of this Agreement, in the case of any Taxes that are imposed on a periodic basis and are payable for a Straddle Period, the portion of such Tax related to the portion of such Straddle Period ending on and including the Closing Date shall (A) in the case of any Taxes other than gross receipts, employment, sales or use Taxes, Taxes based upon or related to income and other similar Taxes, be deemed to be the amount of such Tax for the entire Straddle Period multiplied by a fraction the numerator of which is the number of days in the Straddle Period ending on and including the Closing Date and the denominator of which is the number of days in the entire Straddle Period, and (B) in the case of any Tax based upon or related to income and any gross receipts, employment, sales or use Tax and other similar Taxes, be deemed equal to the amount which would be payable if the relevant Tax period ended on and included the Closing Date.

(c) Tax Contest. Buyer or Sellers, as applicable, shall promptly notify Sellers or Buyer, as applicable, in writing upon receipt by Buyer (or, following the Closing, the Company) or Sellers, as applicable, of a written notice of any audit or administrative or judicial proceeding with respect to Taxes of the Company which Sellers or Buyer, as applicable, may be responsible for pursuant to Section 12.2(d) (a "Tax Claim"); *provided, however*, no failure or delay by Buyer or Sellers, as applicable, to provide notice of a Tax Claim shall reduce or otherwise affect the obligation of Sellers or Buyer, as applicable, hereunder except to the extent Sellers or Buyer, as applicable, is actually prejudiced thereby. Buyer and Sellers shall cooperate with each other in the conduct of any Tax Claim. Sellers shall have the right to control the conduct of any Tax Claim for a period that ends on or prior to the Closing Date if Sellers provide Buyer with notice of its election to control such claim within twenty (20) days of Buyer notifying Sellers of such Tax Claim. If Sellers do not elect to control any such Tax Claim within the time period set forth above, then Buyer shall be entitled to control all aspects of such claim. Buyer shall control any Tax Claim for a period that begins before and ends after the Closing Date. If the resolution of any Tax Claim for any Pre-Closing Period or Straddle Period could reasonably be expected to have an adverse effect on the party that is not in control of such claim, (A) the party in control of such claim shall keep the other party reasonably informed regarding the progress and substantive aspects of such Tax Claim, (B) the other party shall be entitled to participate in any proceedings with respect to such Tax Claim and (C) the party in control of such claim shall not compromise or settle any such Tax Claim without obtaining the other party's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary in this Agreement, Buyer shall have the right



to exclusively control the conduct of any audit or administrative or judicial proceeding with respect to the Company for any taxable period other than a Straddle Period beginning after the Closing Date.

(d) Cooperation. Buyer and Sellers shall reasonably cooperate, as and to the extent reasonably requested by the other party, in connection with the filing of Tax Returns and any audit, litigation or other proceeding with respect to Taxes of the Company. Such cooperation shall include the retention and (upon the other party's request, provided that the other party provides reimbursement for all reasonable out of pocket expenses) the provision of records and information reasonably relevant to any such audit, litigation or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Each of Buyer and Sellers shall (i) retain all books and records in its (or its Affiliate's) possession after the Closing with respect to Tax matters pertinent to the Company relating to any taxable period beginning before the Closing Date until expiration of the statute of limitations (taking into account any extensions thereof) of the respective taxable periods and (ii) give the other party reasonable written notice prior to transferring, destroying or discarding any such books and records and, if the other party so requests, shall allow the requesting party to take possession of such books and records.

(e) Certain Actions After Closing. Neither Buyer nor any of its Affiliates (including, after the Closing, the Company) shall, without the prior written consent of Sellers (such consent not to be unreasonably withheld, conditioned or delayed), (i) make or change any (A) Tax election of the Company for a taxable period (or portion thereof) ending on or before the Closing Date or (B) property Tax election of the Company affecting the Tax Claim described in Section 7.5(b)(i) of the Company Disclosure Letter in respect of certain property Taxes of the Company for the 2011 taxable period, (ii) amend, refile or otherwise modify (or grant an extension of any applicable statute of limitations with respect to) any Tax Return of the Company for a taxable period (or portion thereof) ending on or before the Closing Date, or (iii) cause the Company to engage in any transaction on the Closing Date after the Closing that is outside of the ordinary course of business, except for the transactions contemplated by this Agreement; in each case, except for any action that would not, individually or in the aggregate, have an adverse effect on Sellers or any of their Affiliates (including, with respect to a taxable period (or portion thereof) ending on or before the Closing Date, the Company) that is material.

(f) Tax Sharing Agreements. Any and all existing Tax sharing or similar agreements between Sellers or any of their Affiliates, on the one hand, and the Company, on the other hand, shall be terminated and all payables and receivables arising thereunder shall be settled, in each case prior to the Closing Date. After the Closing, neither Buyer nor the Company shall have any further rights or liabilities thereunder.

(g) Tax Refunds. Sellers shall be entitled to any refund (whether by way of payment or reduction in Taxes otherwise payable in cash) received by Buyer or the Company of Taxes constituting an Excluded Liability; *provided*, *however*, that Sellers shall not be entitled to any refund of Taxes to the extent that such refund is attributable to the carryback of a loss or other Tax attribute arising in a Post-Closing Period. Except as provided in the foregoing sentence, Buyer shall be entitled to any other refund of or with respect to the Company or with respect to Transfer Taxes paid by Buyer pursuant to Section 9.9(a). If any party receives a refund to which another party is entitled pursuant to this Section 12.9(g), such party shall pay



over such refund (net of costs or Taxes to the party receiving such refund) to the party entitled to such refund no later than ten (10) business days following receipt of such refund.

## ARTICLE XIII.
## TITLE TO REAL PROPERTY

Section 13.1 Title Policy and UCC Search. Buyer has obtained the Title Commitment and agrees to accept the Title Policy delivered by the Company on or immediately prior to the date hereof and the Uniform Commercial Code search of Sellers dated as of April 25, 2012 (the "UCC Search"). Buyer hereby acknowledges receipt of the Title Commitment, Title Policy and the UCC Search as evidence of the status of the Company's title to the Purchased Assets and acceptance of the matters thereon as Permitted Liens. Buyer agrees to accept valid and insurable (at ordinary rates) fee simple title to the Real Property subject to the Permitted Liens and Permitted Encumbrances. Buyer shall have the option upon the Closing Date to purchase a date-down endorsement to the Title Policy (or, at Buyer's option, a new title insurance policy) together with a non-imputation endorsement (if available) (the "Endorsement"), insuring that the Company is the owner of the Real Property described in the Title Policy, subject to the exceptions set forth in the Endorsement. Buyer shall pay the premium for the Endorsement.

Section 13.2 Defects Arising After the Effective Date.

(a) The UCC Search shall be updated by the Company not earlier than thirty (30) days and not later than ten (10) days prior to the Closing Date. The Endorsement, if Buyer elects to obtain such Endorsement, shall be updated by Buyer not earlier than thirty (30) days and not later than ten (10) days prior to the Closing Date. If the updated UCC Search and/or Endorsement, if applicable, discloses defects in title not shown by (i) the applicable Title Policy, (ii) UCC Search, (iii) the Company Disclosure Letter, (iv) the Title Commitment or (v) this Agreement which, in any case, render fee simple title to the Real Property uninsurable (at ordinary rates) ("Non-Monetary Defects"), or, if the Real Property should become subject to a Monetary Defect (together with any Non-Monetary Defects, "Additional Exceptions"), Buyer may object to such Additional Exceptions by delivering to the Company an itemized written notice of Buyer's objection to such Additional Exceptions ("Defect Notice") within fifteen (15) days after the date of receipt by Buyer of the updated Endorsement, if applicable, or UCC Search or, if earlier, the Closing Date (the "Notice Period"). Additional Exceptions will not be deemed to include any Permitted Liens or Permitted Encumbrances. Buyer's failure to deliver a Defect Notice during the Notice Period shall be deemed a waiver of Buyer's right to object to such Defect(s), and Buyer shall then accept such title as is described in the Endorsement and UCC Search, as updated, without reserving any claim against the Company for such Defect(s); *provided* that such a failure shall not limit any claim that Buyer may have with respect to a breach of the Company's obligations pursuant to Section 9.1(d) hereof).

(b) If Buyer provides a Defect Notice to the Company during the Notice Period, the Company shall have five (5) days after receipt of the Defect Notice within which to give written notice to Buyer as to whether the Company will elect to cure any Additional Exceptions. The Company shall be under no obligation to remove any Additional Exceptions that are not Monetary Defects (and that are not created as a consequence of a breach of the Company's obligations pursuant to Section 9.1(d) hereof), and any refusal of the Company to do so shall not be a default of the Company under this Agreement. Failure to notify Buyer in



writing within such period of the Company's election shall be deemed the Company's election not to cure any such Additional Exceptions. If the Company elects, in its sole discretion, to cure any Additional Exceptions, the Company shall have thirty (30) days after receipt of the Defect Notice to cure such Additional Exceptions which Company has elected to cure, and the Closing shall, if necessary, be extended accordingly. Buyer shall have five (5) business days following either receipt of the Company's notice electing not to cure any Additional Exceptions or the date on which the Company is deemed to have elected not to cure any Additional Exceptions in which to elect (in each case, without limitation to any claim that Buyer may have with respect to a breach of the Company's obligations pursuant to Section 9.1(d) hereof) either to (i) waive its objection to the Additional Exceptions that the Company does not or is deemed not to elect to cure and to proceed with Closing; or (ii) terminate this Agreement upon written notice to the Company and Escrow Agent. The Company shall be obligated to cure Monetary Defects in accordance with Section 13.2(c).

(c) The Company shall be obligated to cure monetary Liens encumbering the Real Property (other than any non-delinquent Taxes and assessments and any monetary Liens created or suffered by Buyer or consented to by Buyer), including financing liens or encumbrances created by, under or through or the Company or that are held by the Company or any of its Affiliates ("Monetary Defects") in the manner provided below. In order to cure a Monetary Defect, or any Additional Exception that the Company elects to cure in accordance with this Article XIII, the Company shall have the option to extend the Closing Date for a period of thirty (30) days, by giving written notice of such extension election to Buyer and Escrow Agent on or prior to the Closing Date. The Company may cure Monetary Defects, and any Additional Exceptions that the Company elects to cure, by any of the following methods to the extent applicable: (i) removing the Monetary Defect or applicable Additional Exceptions of record; (ii) posting a bond which causes a Monetary Defect to cease to be a Lien on the Real Property; or (iii) providing indemnification to the Title Insurer against adverse final adjudication of any Monetary Defect or such Additional Exception and having the Title Insurer provide an endorsement, if applicable, which deletes such Monetary Defect or such Additional Exception as an exception to coverage.

Section 13.3 Failure to Cure Title Defects. If the Company fails to cure a Monetary Defect that it is obligated to cure in accordance with Section 13.2 hereof, or an Additional Exception that the Company had elected to cure in accordance with Section 13.2 hereof, such failure shall be a default

by the Company and this Agreement shall, at the option of Buyer (to be exercised by written notice to the Company given no later than the earlier of: (a) the Closing Date or (b) five (5) business days after such the Company's notice to Buyer of such the Company's election not to cure or attempt to cure such title defects), be terminated, the Escrow Agent shall return the Deposit to Buyer and Buyer and the Company shall be released and discharged from any further obligation to each other hereunder; provided, that if Buyer so elects, Buyer may accept such title as is tendered by the Company without a reduction in the Purchase Price or reservation of claim against the Company (but without limitation to any claim that Buyer may have with respect to a breach of the Company's obligations pursuant to Section 9.1(d) hereof). Buyer's right to terminate this Agreement pursuant to this Section 13.3 shall apply to the entire Agreement and notwithstanding anything contained to the contrary herein, if Buyer elects to terminate this Agreement pursuant to this Section 13.3, Buyer shall not, in any event, have a right to terminate less than all of this Agreement.



Section 13.4 Survey. Buyer agrees to accept the Real Property subject to all matters shown by the surveys described on Section 13.4 of the Company Disclosure Letter (collectively, the "Survey"). The Company shall, at Buyer's sole cost and expense, cause the Survey to be updated and recertified to Buyer not earlier than one hundred twenty (120) days and not later than fifteen (15) days prior to the Closing. If a recertified updated and recertified Survey reveals: (a) any material encroachments of the Real Property onto property of others; (b) any material encroachments of property of others onto the Real Property; or (c) the location of any title matter on the Real Property in a manner that would materially and adversely affect the ability to use the Real Property as presently constructed and located on the Real Property; or any other matter which would render title to the Real Property uninsurable and unmarketable, and if such matters were not revealed by the Survey, then such disclosure shall be an Additional Exception as to which the provisions of Sections 13.2 and 13.3 hereof shall govern Buyer's and the Company's rights and obligations.

Section 13.5 AS IS. SUBJECT ONLY TO THE COMPANY'S REPRESENTATIONS AND WARRANTIES AND COVENANTS EXPRESSLY SET FORTH HEREIN OR ANY CERTIFICATE OR AGREEMENT DELIVERED PURSUANT HERETO AND SUBJECT TO THE CONDITIONS, RIGHTS AND OBLIGATIONS SET FORTH HEREIN AND THEREIN, BUYER EXPRESSLY ACKNOWLEDGES AND AGREES, AND REPRESENTS AND WARRANTS TO SELLER AND THE COMPANY, THAT BUYER HAS OR WILL HAVE THE OPPORTUNITY TO FULLY EXAMINE AND INSPECT THE PURCHASED ASSETS PRIOR TO THE EXECUTION OF THIS AGREEMENT AND THAT BUYER IS FULLY CAPABLE OF EVALUATING AND HAS EVALUATED THE PURCHASED ASSETS' SUITABILITY FOR BUYER'S INTENDED USE THEREOF, AND BUYER IS PURCHASING THE PURCHASED ASSETS WITH ALL DEFECTS IN THEIR "AS IS", "WHERE IS" CONDITION AND WITH ALL FAULTS, WHETHER KNOWN, UNKNOWN, APPARENT, OR LATENT. BUYER'S DECISION TO PURCHASE THE PURCHASED ASSETS IS NOT BASED ON ANY COVENANT, WARRANTY, PROMISE, AGREEMENT, GUARANTY, OR REPRESENTATION BY THE COMPANY, SELLER OR ANY OF THEIR AFFILIATES OR REPRESENTATIVES AS TO CONDITION, PHYSICAL OR OTHERWISE, TITLE, LEASES, RENTS, REVENUES, INCOME, EXPENSES, OPERATION, ZONING OR OTHER REGULATION, COMPLIANCE WITH LAW, SUITABILITY FOR PARTICULAR PURPOSES OR ANY OTHER MATTER WHATSOEVER EXCEPT TO THE EXTENT EXPRESSLY SET FORTH IN THIS AGREEMENT. SUBJECT ONLY TO THE COMPANY'S REPRESENTATIONS, WARRANTIES AND COVENANTS EXPRESSLY CONTAINED HEREIN, THE CONDITIONS SET FORTH IN ARTICLE X AND THE REPRESENTATIONS, WARRANTIES, AND CONDITIONS SET FORTH IN ALL CERTIFICATES AND AGREEMENTS DELIVERED BY THE COMPANY PURSUANT TO THIS AGREEMENT, BUYER ACKNOWLEDGES AND AGREES THAT NEITHER THE COMPANY, SELLER, NOR ANY OF THEIR AFFILIATES NOR ANY OF THEIR RESPECTIVE REPRESENTATIVES HAS MADE, AND BUYER SPECIFICALLY WAIVES AND RELINQUISHES ALL RIGHTS, PRIVILEGES AND CLAIMS ARISING OUT OF, ANY ALLEGED REPRESENTATIONS, WARRANTIES (INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE, AND WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE), PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, WHICH MAY HAVE BEEN MADE OR GIVEN, OR WHICH MAY



BE DEEMED TO HAVE BEEN MADE OR GIVEN, BY THE COMPANY, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES, AS TO, CONCERNING OR WITH RESPECT TO:

(A) THE VALUE OF THE PURCHASED ASSETS (REGARDLESS OF, WITHOUT LIMITATION, ANY STATEMENTS MADE BY THE COMPANY OR ANY ENTRY MADE IN THE COMPANY'S FINANCIAL STATEMENTS);

(B) THE INCOME DERIVED OR TO BE DERIVED FROM THE PURCHASED ASSETS;

(C) THE SUITABILITY OF THE REAL PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON, INCLUDING, THE POSSIBILITIES FOR FUTURE DEVELOPMENT OF THE REAL PROPERTY;

(D) THE FITNESS OF THE PURCHASED ASSETS FOR ANY PARTICULAR PURPOSE;

(E) THE MANNER OR QUALITY OF REPAIR, STATE OF REPAIR OR LACK OF REPAIR OF THE PURCHASED ASSETS;

(F) THE NATURE, QUALITY OR CONDITION OF THE PURCHASED ASSETS, INCLUDING SOILS CONDITION, ANY GRADING OR OTHER WORK PERFORMED ON OR WITH RESPECT TO THE REAL PROPERTY, AND THE GEOLOGICAL CONDITION OF THE REAL PROPERTY;

(G) THE COMPLIANCE OF OR BY THE REAL PROPERTY OR ITS OPERATION WITH ANY APPLICABLE LAWS;

(H) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE REAL PROPERTY;

(I) COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING TITLE III OF THE AMERICANS WITH DISABILITIES ACT OF 1990 OR ANY ENVIRONMENTAL LAWS, AS ANY OF THE FOREGOING MAY BE AMENDED FROM TIME TO TIME AND REGULATIONS PROMULGATED UNDER ANY OF THE FOREGOING FROM TIME TO TIME;

(J) THE PRESENCE, SUSPECTED PRESENCE OR ABSENCE OF HAZARDOUS SUBSTANCES AT, ON, UNDER, OR ADJACENT TO THE REAL PROPERTY;

(K) THE CONTENT, COMPLETENESS OR ACCURACY OF THE STUDY MATERIALS OR ANY PLANS, DRAWINGS, DESCRIPTIONS OR THE LIKE WITH RESPECT TO THE REAL PROPERTY;

(L) THE CONFORMITY OF THE REAL PROPERTY TO PAST, CURRENT OR FUTURE APPLICABLE ZONING OR BUILDING REQUIREMENTS;



(M) DEFICIENCY OF ANY DRAINAGE;

(N) THE FACT THAT THE REAL PROPERTY MAY BE LOCATED ON OR NEAR EARTHQUAKE FAULTS OR IN SEISMIC HAZARD ZONES;

(O) THE EXISTENCE OR NON-EXISTENCE OF VESTED LAND USE, ZONING OR BUILDING ENTITLEMENTS AFFECTING THE REAL PROPERTY; OR

(P) ANY OTHER MATTER CONCERNING THE NATURE OR CONDITION OF THE REAL PROPERTY, PHYSICAL OR OTHERWISE.

SUBJECT ONLY TO THE COMPANY'S REPRESENTATIONS, WARRANTIES AND COVENANTS EXPRESSLY CONTAINED HEREIN, THE CONDITIONS SET FORTH IN ARTICLE X, THE RIGHTS AND OBLIGATIONS SET FORTH IN ARTICLE X, AND ANY CERTIFICATES DELIVERED BY THE COMPANY PURSUANT TO THIS AGREEMENT, BUYER FURTHER ACKNOWLEDGES AND AGREES THAT THE PURCHASE PRICE REFLECTS THE PARTIES' AGREEMENT TO CONVEY THE EQUITY INTERESTS, INCLUDING THE REAL PROPERTY ON AN "AS IS, WHERE IS" BASIS AND BUYER HAS SPECIFICALLY AGREED TO DO SO IN ORDER TO INDUCE SELLER AND THE COMPANY TO ENTER INTO THIS AGREEMENT. BUYER FURTHER ACKNOWLEDGES THAT NEITHER SELLER NOR THE COMPANY IS LIABLE FOR AND SHALL NOT BE BOUND IN ANY MANNER BY ANY ORAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE COMPANY, INCLUDING THE PURCHASED ASSETS, OR THE OPERATION THEREOF, FURNISHED BY ANY REPRESENTATIVE OF THE COMPANY, EXCEPT TO THE EXTENT CONTAINED IN THE REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE COMPANY EXPRESSLY SET FORTH HEREIN AND IN ANY CERTIFICATES DELIVERED BY THE COMPANY PURSUANT TO THE TERMS OF THIS AGREEMENT. SUBJECT ONLY TO THE COMPANY'S REPRESENTATIONS, WARRANTIES AND COVENANTS EXPRESSLY CONTAINED HEREIN, THE CONDITIONS SET FORTH IN ARTICLE X AND ANY CERTIFICATES AND AGREEMENTS DELIVERED BY THE COMPANY PURSUANT TO THIS AGREEMENT, BUYER FURTHER ACKNOWLEDGES AND AGREES THAT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE EQUITY INTERESTS, INCLUDING THE TRANSFER OF THE REAL PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS", "WHERE IS" CONDITION AND BASIS WITH ALL FAULTS, AND SUBJECT TO ALL APPLICABLE LAWS GOVERNING OR LIMITING THE DEVELOPMENT, USE OR OPERATION OF THE PURCHASED ASSETS OR THE CASINO (SUBJECT ONLY TO THE COMPANY'S REPRESENTATIONS, WARRANTIES AND COVENANTS EXPRESSLY SET FORTH HEREIN AND IN ANY CERTIFICATES DELIVERED BY THE COMPANY PURSUANT TO TERMS OF THIS AGREEMENT), AND THAT THE COMPANY HAS NO OBLIGATIONS TO MAKE REPAIRS, REPLACEMENTS OR IMPROVEMENTS OF ANY KIND TO THE PURCHASED ASSETS.



Section 13.6 No Conflict. Nothing in this Article XIII shall limit or modify the Company's obligations pursuant to Section 9.1(d) hereof or any remedies that may be available to Buyer in connection with any breach of such obligations pursuant to this Agreement.

## ARTICLE XIV.
## MISCELLANEOUS

Section 14.1 Definitions.

(a) For purposes of this Agreement, the term:

"Accounts Receivable" means all accounts receivable (including receivables and revenues for food, beverages, telephone and casino credit), notes receivable or overdue accounts receivable, in each case, due and owing by any third party, but not including the Tray Ledger and the Markers owed to the Company or its Affiliates

"Acquired Personal Property" means the Personal Property, excluding the Excluded Personal Property.

"Acquisition Proposal" means any proposal or offer from any Person relating to any direct or indirect acquisition or purchase of the Real Property or the other Purchased Assets, other than the transactions with Buyer contemplated by this Agreement.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first-mentioned Person.

"Ancillary Agreements" means the Bill of Sale and Assignment, the Assignment and Assumption Agreement, the Trademark Assignment Agreement, the Assignment of Equity Interests, and the Deposit Escrow Agreement.

"Assumed Contracts" means all service contracts, equipment leases and other leases with respect to Personal Property, Intellectual Property license agreements, sign leases and other Contracts exclusively related to the Casino, other than the Excluded Contracts and Contracts that relate to the Excluded Assets.

"Business" means the business conducted by the Company at or with respect to the Casino.

"Buyer Material Adverse Effect" means changes, events, circumstances or effects that have had, will have or would reasonably be expected to have a material adverse effect on Buyer's ability to perform its obligations hereunder, obtain any Gaming Approval or to consummate the transactions contemplated hereby.

"Casino" means that certain hotel and casino located on the Real Property and commonly known as Harrah's St. Louis.



"Class A License" means a license granted by the Missouri Gaming Commission under the Gaming Laws to allow the parent organization(s) or controlling entity, as determined by the executive director, to develop and operate Class B licensee(s).

"Class B License" means a license granted by the Missouri Gaming Commission under the Gaming Laws to maintain, conduct gambling games on, and operate an excursion gambling boat and gaming facility at a specific location.

"Code" means the Internal Revenue Code of 1986, as amended.

"Company Material Adverse Effect" means changes, events, circumstances or effects that have had, will have or could reasonably be expected to be material and adverse to the business, financial condition or results of operations of the Purchased Assets or the Business, taken as a whole; *provided*, that none of the following, individually and in the aggregate, shall constitute or be taken into account in determining whether a Company Material Adverse Effect has occurred: (i) general conditions (or changes therein) in the (A) travel, hospitality or gaming industries, or in the jurisdiction where the Company operates or (B) the financial, banking, currency or capital markets, (ii) any change in GAAP or applicable Law (other than a change in Gaming Law prohibiting or substantially restricting gaming activities which are currently permitted at Closing), (iii) any change, event or effect resulting from the entering into or public announcement of the transactions contemplated by this Agreement, (iv) any change, event or effect resulting from any act of terrorism, commencement or escalation of armed hostilities in the U.S. or internationally, and (v) the failure of the Casino to meet any financial or other projections (provided that the underlying cause of any such failure to meet financial or other projections may be considered in determining whether a Company Material Adverse Effect has occurred); *provided*, *however*, that the matters described in clauses (i), (ii) and (iv) above shall be considered in determining whether a Company Material Adverse Effect has occurred to the extent of any disproportionate impact on the Purchased Assets or the Business, taken as a whole, relative to other participants operating in the same industries and geographic markets as the Business.

"Company Sale" means a *bona fide* sale of the Business for cash, by means of a sale of all of the Equity Interests or all or substantially all of the assets of the Company to a non-affiliated third party.

"Confidentiality Agreement" means that certain agreement entered into as of January 10, 2012 between CEOC and Buyer.

"Contract" means any agreement, contract, lease, power of attorney, note, loan, evidence of indebtedness, purchase order, letter of credit, settlement agreement, franchise agreement, undertaking, covenant not to compete, employment agreement, license, instrument, obligation, commitment, understanding, policy, purchase and sales order, quotation and other executory commitment to which any Person is a party or to which any of the assets of such Person are subject, whether oral or written, express or implied.

"Controlled Group Liability" means any and all liabilities (i) under Title IV of ERISA, (ii) under Section 302 of ERISA, (iii) under Sections 412 and 4971 of the Code, (iv) as a result of a failure to comply with the continuation coverage requirements of Section 601 et seq. of



ERISA and Section 4980B of the Code, and (v) under corresponding or similar provisions of foreign laws or regulations,

"Customer Database" means all customer databases, customer lists historical records of customers and any other information collected with respect to customers of the Casino, including any information used in connection with marketing and promoting the Casino.

"Customer List" means a list of the names and key tendencies of customers listed on the Customer Database who have visited the Casino during the twenty-four (24) month period prior to the Closing, which Customer List shall be in format and contain the information set forth on Exhibit E to the extent available in the Customer Database, and subject to receipt of consent from each customer to the transfer of such information to the extent required by the Total Rewards Program or applicable Law.

"Encumbrances" means claims, pledges, agreements, limitations on voting rights, charges or other encumbrances or restrictions on transfer of any nature.

"Environment" means ambient air, vapors, surface water, groundwater, wetlands, drinking water supply, land surface, or subsurface strata and biota.

"Environmental Condition" means, as relating exclusively to the Purchased Assets, the release into the Environment and/or presence in the Environment of any Hazardous Substance as a result of which the Company (i) has or may become liable to any Person for an Environmental Liability, (ii) is or was in violation of any Environmental Law, (iii) has or may be required to incur response costs for compliance, investigation or remediation, or (iv) by reason of which the Real Property or other assets of the Company, may be subject to any Lien under Environmental Laws; *provided*, *however*, that none of the foregoing shall be an Environmental Condition if such matter was fully remediated or otherwise fully corrected prior to the date hereof in accordance with Environmental Law and to the satisfaction of the applicable Governmental Entity.

"Environmental Laws" means all applicable and legally enforceable federal, state and local statutes or laws, common law, judgments, orders, regulations, licenses, permits, enforceable guidance and policies, rules and ordinances relating to Hazardous Substances, pollution, restoration or protection of health, safety or the environment, including, but not limited to the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.), Safe Drinking Water Act (42 U.S.C. §3000(f) et seq.), Toxic Substances Control Act (15 U.S.C. §2601 et seq.), Clean Air Act (42 U.S.C. §7401 et seq.), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.) and other similar state and local statutes, in effect as of the date hereof, including any judicial or administrative interpretation thereof.

"Environmental Liabilities" means all Liabilities (including all reasonable fees, disbursements and expenses of counsel, expert and consulting fees and costs of investigations and feasibility studies and responding to government requests for information or documents), fines, penalties, restitution and monetary sanctions, interest, direct or indirect, known or unknown, absolute or contingent, past, present or future, resulting from any claim or demand, by any Person or entity, under Environmental Law and relating exclusively to the Company's Purchased Assets or the generation and disposal of wastes or other materials relating to the Business.



"ERISA Affiliate" means any trade or business, whether or not incorporated, that together with the Company would be deemed a "single employer" within the meaning of Section 4001(b) of ERISA or Section 414 of the Code.

"Estimated Closing Net Working Capital" means the Company's good faith estimate of the Net Working Capital of the Business as of the Closing.

"Estimated Closing Net Working Capital Overage" means the amount, if any, by which the Estimated Closing Net Working Capital is greater than the Target Net Working Capital.

"Estimated Closing Net Working Capital Shortage" means the amount, if any, by which the Estimated Closing Net Working Capital is less than the Target Net Working Capital.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Excluded Contracts" means all Contracts listed in Section 14.1(a) of the Company Disclosure Letter.

"Excluded Personal Property" means the following:

(i) any Personal Property covered by the equipment leases from Affiliates of the Company or other agreements by which property owned by Affiliates of the Company is located at the Real Property and used in connection with the Business, all of which equipment leases and other agreements are set forth on Section 14.1(b) of the Company Disclosure Letter;

(ii) all point of sale credit card verification terminals or imprint plates owned by third parties;

(iii) any and all signs, menus, stationery, gift shop inventory or other items indicating that the Real Property is owned and/or operated by or on behalf of the Company or its Affiliates or bearing the System Mark of the Company or its Affiliates;

(iv) any gaming licenses, liquor licenses or other licenses or permits pertaining to the Real Property not indirectly transferable to Buyer, in the sale of the Equity Interests, by Law; and

(v) any personal property held as prizes.

"Excluded Software" means all computer software owned by or licensed for use by the Company or its Affiliates, including all source codes, object codes and data bases, whether on tape, disc or other computerized format, and all related user manuals, computer records, service codes, programs and stored materials (including all access codes and instructions needed to obtain access to and to utilize the information contained on such computer records), together with any and all updates and modifications of all of the foregoing and all copyrights related to the foregoing, including the Customer Database and any customer tracking system.

"Excluded Taxes" means, without duplication, all (i) Taxes (for the avoidance of doubt, other than Transfer Taxes that are governed by Section 9.9(a)) imposed on or payable by or with



respect to the Company, or for which it is liable, for any Pre-Closing Period; (ii) Taxes relating to the Excluded Assets or the Excluded Liabilities (including, for the avoidance of doubt, any Taxes resulting from or arising out of any actions or transactions pursuant to Section 1.4(a) (but not to the extent such Taxes have reduced the amounts payable to Sellers pursuant to Section 1.4(a)) or (b) or Section 1.5 relating to any Excluded Assets or Excluded Liabilities); (iii) Liabilities of the Company pursuant to any Tax sharing, allocation or indemnification agreement entered into before the Closing to indemnify any other Person in respect of or relating to Taxes of such other Person to the extent such Liabilities (A) relate to a Pre-Closing Period or (B) otherwise accrue, arise out of, or relate to events, occurrences, pending or threatened litigation, acts, omissions and claims happening or existing prior to the Closing; (iv) Taxes relating to a Pre-Closing Period for which the Company is liable (or that may be collected from the Company by way of offset against a refund of Tax otherwise due to the Company) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign Law) or as a successor or transferee; and (v) Taxes of Sellers and their Affiliates (other than the Company) for any period (for the avoidance of doubt, other than Transfer Taxes that are governed by Section 9.9(a)).

"FCC" means the Federal Communications Commission.

"FCC Licenses" means the licenses to operate a base station or two way security radios at the Casino as described in Section 14.1(c) of the Company Disclosure Letter.

"Final Closing Net Working Capital" means the Net Working Capital of the Business as of the Closing as set forth in the Final Closing Statement.

"Final Closing Net Working Capital Overage" means the amount, if any, by which the Final Closing Net Working Capital is greater than the Target Net Working Capital.

"Final Closing Net Working Capital Shortage" means the amount, if any, by which the Final Closing Net Working Capital is less than the Target Net Working Capital.

"Fixtures" means all fixtures owned or leased by the Company and placed on, attached to, or located at the Real Property.

"Front Money" means all money stored on deposit in the Casino cage belonging to, and stored in an account for, any Person who is not the Company or an Affiliate of the Company.

"GAAP" means generally accepted accounting principles in the United States.

"Gaming Approvals" means all licenses, permits, approvals, authorizations, registrations, findings of suitability, franchises, entitlements, waivers and exemptions issued by any Gaming Authority or required by any Gaming Law necessary for or relating to the conduct of activities by any party hereto or any of its Affiliates and the transactions contemplated hereby, including the ownership, operation, management and development of the Business, the Purchased Assets and Assumed Liabilities; specifically including a resolution by the Missouri Gaming Commission granting the Petition for Change in Control of the Company from Sellers to Buyer as contemplated by and upon the terms set forth in this Agreement.



"Gaming Authorities" means any Governmental Entity with regulatory control or jurisdiction over the conduct of lawful gaming or gambling in any jurisdiction and within the State of Missouri, specifically the Missouri Gaming Commission.

"Gaming Laws" means any federal, state, local or foreign statute, ordinance (including zoning), rule, regulation, permit (including land use), consent, registration, finding of suitability, approval, license, judgment, order, decree, injunction or other authorization, including any condition or limitation placed thereon, governing or relating to the current or contemplated casino and gaming activities and operations and manufacturing and distributing operations of the Purchased Assets, the Business or the Company.

"Gift Certificate" means any certificate, coupon, voucher or other writing which entitles the holder or bearer to a credit (whether in a specified dollar amount or for a specified item, such as a room night or meal) to be applied against the usual charge for rooms, meals and/or other goods or services at the Casino; but shall not include complimentary rooms (or room rates below average rack rates) granted to convention and other meeting groups in the Ordinary Course of Business.

"Harrah's Branded Paraphernalia" means all personal property of the Company including chips, tokens, cards, dice, promotional coupons and tickets, marketing items, and office supplies, which include the trade names, trade dress, logos and general marketing style associated with Parent, Sellers or their respective Affiliates, and their controlled casino operations, including Harrah's, Caesars Entertainment, Harrah's St. Louis and Harrah's Maryland Heights.

"Hazardous Substance" means any pollutant, chemical, substance and any toxic, infectious, carcinogenic, reactive, corrosive, ignitable or flammable chemical, or chemical compound, or hazardous substance, material or waste, whether solid, liquid or gas, that is subject to regulation, control or remediation under applicable Environmental Laws, or that otherwise results in any Environmental Liability, including any quantity of friable asbestos, urea formaldehyde foam insulation, PCBs, crude oil or any fraction thereof, all forms of natural gas, petroleum products or by-products or derivatives.

"House Funds" means all cash and cash equivalents located at the Casino, including cash, negotiable instruments, and other cash equivalents located in cages, drop boxes, slot machines and other gaming devices, cash on hand for the Casino manager's petty cash fund and cashiers' banks, coins and slot hoppers, carousels, slot vault and poker bank and cash in the registration, retail, restaurant and other non-gaming areas of the Real Property (including in vending machines, postage meters, pay phones, laundry machines and other cash-operated equipment), and all checks, travelers' checks, and bank drafts paid by guests of the Casino, but shall not include Front Money, which shall be treated in accordance with Section 9.11(d) hereof or the Tray Ledger, which shall be treated in accordance with Section 4.2(a) hereof.

"Intellectual Property" means all intellectual property or other proprietary rights of every kind, foreign or domestic, including all patents, patent applications, inventions (whether or not patentable), processes, technologies, discoveries, apparatus, know-how, trade secrets, trademarks, trademark registrations and applications, domain names, trade dress, service marks, service mark registrations and applications, trade names, and all goodwill associated with the foregoing, copyright registrations, copyrightable and copyrighted works, databases, software,



rights of publicity, rights of privacy, moral rights, customer lists and confidential marketing and customer information.

"IRS" means the Internal Revenue Service, a division of the United States Treasury Department, or any successor thereto.

"knowledge" means (i) when used in the phrase "Company's knowledge" or "Sellers' knowledge" and words of similar import, the actual knowledge of: Tim Lambert, Ryan Hammer, Matt Heiskell and Matt Anfinson and (ii) when used in the phrase "knowledge of Buyer" or "Buyer's knowledge" and words of similar import, the actual knowledge of: Carl Sottosanti, Frank Donaghue and Walter Bogumil.

"Law" means any foreign or domestic law, statute, code, ordinance, rule, regulation, order, judgment, writ, stipulation, award, injunction, decree or arbitration award, policies, guidance, court decision, rule of common law or finding.

"Liabilities" means any direct or indirect liability, indebtedness, obligation, commitment, expense, claim, deficiency, guaranty or endorsement of or by any Person of any type, whether accrued, absolute, contingent, matured, unmatured, liquidated, unliquidated, known or unknown.

"Liens" means any mortgage, deed of trust, pledge, option, right of first refusal or first offer, conditional sale, lien, security interest, conditional or installment sale agreement, charge or other claims or rights of third parties of any kind.

"Markers" means any amounts owed by any Person that is not an Affiliate of the Company to the Company related to the Casino for gaming chips, tokens or similar cash equivalents used at the Real Property delivered to such Person on credit or otherwise.

"Net Working Capital" means the difference between (a) the current assets of the Business, including cash and cash equivalents (including House Funds), the value of inventory, Accounts Receivable, Gift Certificates, and current prepaid expenses, to the extent benefiting the Business post-Closing and (b) the current liabilities of the Business, including accounts payable, all accrued expenses, all accrued Liabilities with respect to the Transferred Employees, all Customer Deposits and all Progressive Liabilities, with each amount determined in accordance with GAAP applied on a basis consistent with the past practices of the Company and its Affiliates; *provided*, that (x) if the Company has not made any Required Capital Expenditure required prior to the Closing Date pursuant to Section 9.1(p), then the Net Working Capital as of the Closing Date shall be deemed to be decreased by the amount of each such shortfall, and (y) if the Company has made any Required Capital Expenditure prior to the Closing Date that is not required to be made pursuant to Section 9.1(p) until after the Closing Date, then the Net Working Capital as of the Closing Date shall be deemed to be increased by the amount of each such early payment. For purposes of this Agreement, Net Working Capital shall exclude (i) the items set forth in Sections 4.2 and 4.6 hereof and (ii) any Tax assets or Liabilities.

"New Sale Price" shall mean the aggregate consideration payable in connection with the Company Sale that is the subject of the New Sale Agreement, taking into account any applicable purchase price adjustments.



"Ordinary Course of Business" shall describe any action taken by a Person if such action is consistent with such Person's past practices and is taken in the ordinary course of such Person's normal day to day operations.

"Permitted Encumbrances" means any lien to secure payment of real estate Taxes, including special assessments, which is a lien not yet due or payable, all matters disclosed by the Survey, zoning and subdivision ordinances (provided such ordinances are not currently violated or in anticipation of being violated), terms and conditions of licenses, permits and approvals for the Real Property (which are disclosed on Section 7.11(a) of the Company Disclosure Letter) and Laws of any Governmental Entity having jurisdiction over the Real Property.

"Permitted Liens" means, with respect to the Company (i) Liens or Encumbrances for assessments and other governmental charges not delinquent or which are currently being contested in good faith by appropriate proceedings; (ii) Liens or Encumbrances for Taxes not yet due and payable or Taxes being contested in good faith by appropriate proceedings; (iii) mechanics' and materialmen's Liens or Encumbrances not filed of record and similar charges not delinquent or which are filed of record but are being contested in good faith by appropriate proceedings; (iv) Liens or Encumbrances in respect of judgments or awards with respect to which the Company shall in good faith currently be prosecuting an appeal or other proceeding for review and with respect to which the Company shall have secured a stay of execution pending such appeal or such proceeding for review; (v) easements, leases, reservations or other rights of others in, or minor defects and irregularities in title to, property or assets of the Company; *provided* that, such easements, leases, reservations, rights, defects or irregularities do not impair the use of the property or assets for the purposes for which they are held in any material manner; (vi) rights of tenants under operating leases and hotel guests whose occupancy may be terminated on short notice; (vii) with respect to the Real Property, all exceptions described in the Title Policy (other than items 39-40 on Schedule B thereto), the Title Commitment (other than items 44-49 on Schedule B thereto) and the UCC Search (other than those set forth on Section 14.1(d) of the Company Disclosure Letter); (viii) any Assumed Liability; and (ix) any Lien or Encumbrance that will be released and discharged at or prior to the Closing.

"Person" means an individual, corporation, limited liability company, partnership, association, trust, unincorporated organization, other entity or "group" (as defined in Rule 13d-5(b)(1) under the Exchange Act).

"Personal Property" means all office, hotel, casino, barge, showroom, restaurant, bar, convention, meeting and other furniture, furnishings, fittings, appliances, equipment, equipment manuals, slot machines, gaming tables and gaming paraphernalia (including parts or inventories thereof), passenger/delivery vehicles, computer hardware and IT hardware systems, reservations terminals, software, point of sale equipment, two-way security radios and base station, machinery, spare parts, apparatus, appliances, draperies, art work, carpeting, keys, building materials, telephones and other communications equipment, televisions, maintenance equipment, tools, signs and signage, office supplies, engineering, maintenance and cleaning supplies and other supplies of all kinds, stationery and printing, linens (sheets, towels, blankets, napkins), uniforms, silverware, glassware, chinaware, pots, pans and utensils, and food, beverage, alcoholic beverage inventories, all articles of personal property now located on the Real Property for resale, whether owned or leased by the Company, and other tangible personal



property that are used or held for use in the Business and located at the Casino on the Closing Date.

"Petition for Change in Control" means a document filed with the Missouri Gaming Commission in proper form to request approval of a "change in control" under 11 CSR 45-10.040(12) upon the terms and conditions set forth in this Agreement without the automatic nullification of the existing Class B License held by the Company under the Gaming Laws that would occur absent such approval.

"Post-Closing Period" means any taxable period (including the portion of a Straddle Period) beginning after the Closing Date.

"Pre-Closing Period" means any taxable period (including the portion of a Straddle Period) ending on or before the Closing Date.

"Progressive Liabilities" means the sum of (a) the face amounts of the progressive slot machine meters with an in house progressive jackpot feature (if such slot machines are not removed by the vendor at or before the Closing) and (b) the face amounts of the meters for the table games with an in house progressive jackpot feature.

"Real Property" means the real property described on Section 7.6(a) of the Company Disclosure Letter attached hereto, in each case together with the buildings located thereon and the barge located thereon, and all associated parking areas, Fixtures and all other improvements located thereon (the buildings and such other improvements are referred to herein collectively as the ("Improvements")); all references hereinafter made to the Real Property shall be deemed to include all rights, benefits, privileges, tenements, hereditaments, covenants, conditions, restrictions, easements and other appurtenances on the Real Property or otherwise appertaining to or benefitting the Real Property and/or the Improvements situated thereon, including all mineral rights, development rights, air and water rights, subsurface rights, vested rights entitling, or prospective rights which may entitle the owner of the Real Property to related easements, land use rights, air rights, viewshed rights, density credits, water, sewer, electrical or other utility service, credits and/or rebates, strips and gores and any land lying in the bed of any street, road or alley, open or proposed, adjoining the Real Property, and all easements, rights-of-way and other appurtenances used or connected with the beneficial use or enjoyment of the Real Property.

"Rebranding Plan" means the plan for removing all Harrah's Branded Paraphernalia from the operations of the Company as agreed upon between the parties and set forth on Schedule A attached hereto and incorporated herein.

"Reserved Employees" means the employees of the Casino that are listed in Section 14.1(e) of the Company Disclosure Letter.

"Rewards Information" means the portion of the Customer Database that includes the total points accrued at the Casino by customers listed on the Customer List under the Total Rewards Program to the extent that Parent can obtain such information using its commercially reasonable efforts, and subject to receipt of consent from each customer to the transfer of such information to the extent required by the Total Rewards Program or applicable Law.



"Room Revenues" means all revenues from the rental of guest rooms at the Casino, together with any sales or other taxes thereon.

"Subsidiary" means, with respect to any party, any corporation or other organization, whether incorporated or unincorporated, of which (i) such party or any other Subsidiary of such party is a general partner or managing member or (ii) at least 50% of the securities or other equity interests having by their terms voting power to elect a majority of the board of directors or others performing similar functions with respect to such corporation or other organization that is, directly or indirectly, owned or controlled by such party or by any one or more of its Subsidiaries, or by such party and one or more of its Subsidiaries.

"System Mark" means service marks, trademarks, trade names, fictitious business names, slogans, color arrangements, designs, logos, Internet domain names and other similar indicia of source or origin now or hereafter used or owned by the Company or any of its Affiliates that is not used exclusively in the Business.

"Target Net Working Capital" means $1,500,000.

"Taxes" means any and all taxes, charges, fees, levies, tariffs, duties, liabilities, impositions or other assessments in the nature of a tax (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any Governmental Entity, including income, gross receipts, profits, gaming, live entertainment, excise, real or personal property, environmental, sales, use, value-added, ad valorem, withholding, social security, retirement, employment, unemployment, workers' compensation, occupation, service, license, net worth, capital stock, payroll, franchise, gains, stamp, transfer and recording taxes.

"Tax Return" means any report, return (including any information return), claim for refund, election, estimated Tax filing or payment, request for extension, document, declaration or other information or filing supplied or required to be supplied to any Governmental Entity with respect to Taxes, including attachments thereto and amendments thereof.

"Title Commitment" means that certain title commitment number NCS-539000-3-MPLS issued by First American Title Insurance Company, with an effective date of March 14, 2012.

"Title Insurer" means the title company, if any, selected by Buyer to issue the Endorsement, if applicable.

"Title Policy" means that certain policy of title insurance issued by the Chicago Title Insurance Company, dated February 6, 2008, for the benefit of the Company with respect to the Real Property.

"Total Rewards Program" means the Total Rewards® player loyalty program of Parent and its Affiliates.

"Tray Ledger" means any accounts receivable of registered hotel guests who have not checked out and who are occupying hotel rooms at the Casino on the evening of the Closing Date, including the related Room Revenues.



"WARN Act" means the Worker Adjustment and Retraining Notification Act of 1988 and analogous state and local Law.

(b) The following are defined elsewhere in this Agreement, as indicated below:

| Terms | Cross Reference in Agreement |
|---|---|
| AAA | Section 12.5(b) |
| Additional Amount | Section 11.2(c) |
| Additional Exceptions | Section 13.2(a) |
| Adjustment Date | Section 3.1 |
| Agreement | Preamble |
| Assignment and Assumption Agreement | Section 5.2(b) |

| | |
|---|---|
| Assignment of Equity Interests | Section 5.2(g) |
| Assumed Liabilities | Section 2.1 |
| Auditor | Section 3.3 |
| Bill of Sale and Assignment | Section 5.2(a) |
| Buyer | Preamble |
| Buyer Benefit Plans | Section 9.4(d) |
| Buyer Disclosure Letter | Article VIII |
| Buyer Indemnified Parties | Section 12.2(a) |
| Buyer Indemnified Party | Section 12.2(a) |
| Buyer Permits | Section 8.6 |
| Buyer Related Parties | Section 8.5 |
| Buyers' 125 Plan | Section 9.4(g) |
| Buyer's 401(k) Plan | Section 9.4(f) |
| Buyer's Medical Plans | Section 9.4(e) |
| Cap | Section 12.6(a) |
| CEOC | Preamble |
| Chips and Tokens | Section 2.1(i) |
| CLC | Section 7.7(a) |
| Closing | Section 5.1 |
| Closing Date | Section 5.1 |
| Closing Payment | Section 3.1 |
| Commitment Letter | Section 8.4 |
| Company | Preamble |
| Company's 125 Plan | Section 9.4(g) |
| Company 401(k) Plan | Section 9.4(f) |
| Company Benefit Plans | Section 7.13(a) |
| Company Disclosure Letter | Article VII |
| Company Permits | Section 7.11(a) |
| Customer Deposits | Section 4.4(c) |
| Damages | Section 12.2(a) |
| Deductible | Section 12.6(a) |
| Defect Notice | Section 13.2(a) |
| Deposit | Section 3.2 |



| Terms | Cross Reference in Agreement |
|---|---|
| Deposit Escrow Agreement | Section 3.2 |
| Designated Buyer Representative | Section 9.2(a) |
| Determination Date | Section 4.3(c) |
| DOL | Section 7.13(c) |
| Effective Date | Preamble |
| Endorsement | Section 13.1 |
| Environmental Authorizations | Section 7.10 |
| Equity Interests | Recitals |
| ERISA | Section 7.13(a) |
| Escrow Agent | Section 3.2 |
| Estimated Closing Payment | Section 4.1 |
| Estimated Closing Statement | Section 4.1 |
| Estimated Operations Payment | Section 4.2 |
| Estimated Operations Statement | Section 4.2 |
| Excluded Assets | Section 1.2 |
| Excluded Liabilities | Section 2.2 |
| Extension Deposit | Section 3.2 |
| FCC Approvals | Section 9.14(a) |
| Final Closing Payment | Section 4.3(a) |
| Final Closing Statement | Section 4.3(a) |
| Final Operations Payment | Section 4.3(b) |
| Final Operations Statement | Section 4.3(b) |
| Final Statements | Section 4.3(c) |
| Financial Information | Section 7.3 |
| Fundamental Representations | Section 12.1(b) |
| Governmental Approvals | Section 9.6(a) |
| Governmental Entity | Section 6.2(c) |
| Group Tax Returns | Section 12.9(b)(i) |
| HMHO | Preamble |
| HSR Act | Section 6.2(c) |
| Improvements | Section 14.1(a) |
| Indemnified Parties | Section 12.3 |
| Indemnified Party | Section 12.3 |
| Indemnifying Parties | Section 12.3 |
| Indemnifying Party | Section 12.3 |
| Inspection | Section 9.5(a) |

| | |
|---|---|
| Insurance Policies | Section 7.20 |
| Inventoried Vehicles | Section 9.11(e) |
| Labor Agreement | Section 7.12(b) |
| Make-Whole Amount | Section 11.2(d) |
| Monetary Defects | Section 13.2(c) |
| Multiemployer Plan | Section 7.13(c) |
| Multiple Employer Plan | Section 7.13(c) |
| New Sale Agreement | Section 11.2(d) |
| Non-Assignable Excluded Asset | Section 1.4(c) |



| Terms | Cross Reference in Agreement |
|---|---|
| Non-Monetary Defect | Section 13.2(a) |
| Notice | Section 12.3 |
| Notice Period | Section 13.2(a) |
| Objection Notice | Section 12.5(a) |
| Ordinary Course of Business | Section 14.1 |
| Other Transferred Registered IP | Section 7.7(a) |
| Outside Date | Section 5.1 |
| Owned Real Property | Section 7.6(a) |
| Payoff Letter | Section 9.20 |
| PMHN | Preamble |
| Pre-Closing Separate Tax Returns | Section 12.9 |
| Property Employees | Section 7.13(a) |
| Purchase Price | Section 3.1 |
| Purchase Price Allocation | Section 3.3 |
| Purchased Assets | Section 1.1 |
| Reimbursement Accounts | Section 9.4(g) |
| Removal Period | Section 1.5 |
| Representatives | Section 9.3 |
| Required Capital Expenditures | Section 9.1(p) |
| Required Governmental Consents | Section 10.2(d) |
| Restricted Area | Section 9.19 |
| Seller Indemnified Parties | Section 12.2(b) |
| Seller Indemnified Party | Section 12.2(b) |
| Sellers | Preamble |
| Sellers Disclosure Letter | Article VI |
| Straddle Period | Section 12.9(b)(ii) |
| Survey | Section 13.4 |
| Survival Period | Section 12.1(b) |
| Tax Claim | Section 12.9(c)(ii) |
| Third Party | Section 9.3 |
| Third Party Claim | Section 12.4(a) |
| Third Party Purchaser | Section 11.2(d) |
| Trademark Assignment Agreement | Section 5.2(f) |
| Transfer Taxes | Section 9.9(a) |
| Transferred Employees | Section 9.4(a) |
| Transferred Intellectual Property | Section 1.1(h) |
| Transferred Marks and Domain Names | Section 7.7(a) |
| Transition Plan | Section 9.11(g) |
| Transition Functions | Section 9.11(g) |
| UCC Search | Section 13.1 |

Section 14.2 Governing Law; Consent to Jurisdiction; Waiver of Trial by Jury.

(a) This Agreement and the transactions contemplated hereby, and all disputes between the parties under or related to this Agreement or the facts and circumstances leading to



its execution, whether in contract, tort or otherwise, shall be governed by and construed in accordance with the Laws of the State of Missouri, applicable to contracts executed in and to be performed entirely within the State of Missouri, without regard to the conflicts of laws principles thereof.

(b) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the United States Eastern District Court for the District of Missouri, and any appellate court thereof, in any action or proceeding arising out of or relating to this Agreement or the agreements delivered in connection herewith or the transactions contemplated hereby or thereby or for recognition or enforcement of any judgment relating thereto, and each of the parties hereby irrevocably and unconditionally (i) agrees not to commence any such action or proceeding except in such court, (ii) agrees that any claim in respect of any such action or proceeding may be heard and determined in such court, (iii) waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any such action or proceeding in such court, (iv) waives, to the fullest extent permitted by Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in such

court, and (v) to the extent such party is not otherwise subject to service of process in the State of Missouri, appoints Corporation Service Company as such party's agent in the State of Missouri for acceptance of legal process and agrees that service made on any such agent shall have the same legal force and effect as if served upon such party personally within such state. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law. Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 14.3 hereof. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by Law.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY OF THE AGREEMENTS DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE EITHER OF SUCH WAIVERS, (ii) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVERS, (iii) IT MAKES SUCH WAIVERS VOLUNTARILY, AND (iv) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 14.2(C) .

Section 14.3 Notices. All notices, requests, claims, demands and other communications required or permitted to be given hereunder will be in writing and will be given or made by delivery in person, by courier service, by facsimile (with a copy sent by another means specified herein), or by registered or certified mail (postage prepaid, return receipt requested). Except as



provided otherwise herein, notices delivered by hand or by courier service shall be deemed given upon receipt; notices delivered by facsimile shall be deemed given twenty-four (24) hours after the sender's receipt of confirmation of successful transmission; and notices delivered by registered or certified mail shall be deemed given seven (7) days after being deposited in the mail system. All notices shall be addressed to the parties at the following addresses (or at such other address for a party as will be specified by like notice):

(a) if to Buyer, to

Penn National Gaming, Inc.
825 Berkshire Boulevard
Suite 200
Wyomissing, Pennsylvania 19610
with copies, which shall not constitute notice, to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Attn: Daniel A. Neff
Facsimile: (212) 403-2000

(b) if to Parent, Sellers, or the Company (prior to the Closing), to

Caesars Entertainment Corporation
One Caesars Palace Drive
Las Vegas, Nevada 89109
Attention: General Counsel
Facsimile: (702) 407-6418

with a copy to:

Latham & Watkins LLP
650 Town Center Drive
20th Floor
Costa Mesa, California 92626
Attention: Charles K. Ruck and Michael A. Treska
Facsimile: (714) 755-8290

Section 14.4 Interpretation. When a reference is made in this Agreement to Sections, Exhibits or Schedules, such reference shall be to a Section or Exhibit or Schedule of this Agreement unless otherwise indicated. All Exhibits and Schedules of this Agreement are incorporated herein by reference. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement they shall be deemed to be followed by the words "without limitation." The phrase "made available" in this Agreement shall mean that the information referred to has been made available if requested by the party to whom such information is to be made available. Buyer, Sellers and the Company will be referred to herein individually as a "party" and collectively as "parties" (except where the context otherwise requires).



Section 14.5 Entire Agreement. This Agreement and all documents and instruments referred to herein constitute the entire agreement and supersede all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof; *provided* that the

Confidentiality Agreement shall remain in full force and effect after the Closing. Each party hereto agrees that, except for the representations and warranties contained in this Agreement and the Company Disclosure Letter, neither Sellers, the Company, nor Buyer makes any other representations or warranties, and each hereby disclaims any other representations and warranties made by itself or any of its respective Representatives or other representatives, with respect to the execution and delivery of this Agreement or the transactions contemplated hereby, notwithstanding the delivery or disclosure to any of them or their respective representatives of any documentation or other information with respect to any one or more of the foregoing.

Section 14.6 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

Section 14.7 Assignment. Without the prior written consent of the other party, neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by operation of Law (including by merger, consolidation or a change of control) or otherwise; *provided*, *however*, Buyer may assign any of its rights in whole or in part to one or more of Buyer's direct or indirect wholly owned Subsidiaries; *provided*, *further* that no such assignment shall relieve Buyer of any of its obligations hereunder. Any assignment in violation of the preceding sentence shall be void and no assignment shall relieve the assigning party of any of its obligations hereunder.

Section 14.8 Parties of Interest. Except as set forth in ARTICLE XII hereof, this Agreement shall be binding upon and inure solely to the benefit of each party hereto and their respective successors and assigns, and nothing in this Agreement, express or implied is intended to or shall confer upon any other Person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 14.9 Counterparts. This Agreement may be executed by facsimile or electronic mail transmission and/or in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

Section 14.10 Mutual Drafting. Each party hereto has participated in the drafting of this Agreement, which each party acknowledges is the result of extensive negotiations between the parties. In the event that any ambiguity or question of intent arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise



favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

Section 14.11 Amendment. This Agreement may be amended by Buyer and Sellers. This Agreement may not be amended except by an instrument in writing signed on behalf of each of Buyer and Sellers.

Section 14.12 Extension; Waiver. At any time prior to the Closing, Buyer, Sellers and the Company by action taken or authorized by their respective boards of directors may, to the extent legally allowed (i) extend the time for or waive the performance of any of the obligations or other acts of the other parties hereto, (ii) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto and (iii) waive compliance with any of the agreements or conditions contained here. Any agreement on the part of a party hereto to any such extension or waiver shall be valid only if set forth in a written instrument signed on behalf of such party.

Section 14.13 Time of Essence. Time is of the essence with respect to this Agreement and all terms, provisions, covenants and conditions hereof.

**[SIGNATURE PAGE FOLLOWS]**



IN WITNESS WHEREOF, the undersigned have caused this Agreement to be signed by their respective duly authorized officers as of the date first written above.

**BUYER**

**Penn National Gaming, Inc.,**
a Pennsylvania corporation

By: /s/ Robert S. Ippolito
Name: Robert S. Ippolito
Its: VP/Secretary/Treasurer

**SELLERS**

**Caesars Entertainment Operating Company, Inc.,**
a Delaware corporation

By: /s/ Jonathan S. Halkyard
Name: Jonathan S. Halkyard
Its: EVP and Chief Financial Officer

**THE COMPANY**

**Harrah's Maryland Heights, LLC,**
a Delaware limited liability company

By: /s/ Jonathan S. Halkyard
Name: Jonathan S. Halkyard
Its: Authorized Representative

**Harrah's Maryland Heights Operating Co.,**
a Nevada corporation

By: /s/ Jonathan S. Halkyard
Name: Jonathan S. Halkyard
Its: SVP and Treasurer

**PARENT**

**Caesars Entertainment Corporation,**
a Delaware corporation

By: /s/ Jonathan S. Halkyard
Name: Jonathan S. Halkyard
Its: EVP and Chief Financial Officer

**Players Maryland Heights Nevada, LLC,**
a Nevada limited liability company
By: Players Holding, LLC, Member
By: Players International, LLC, Member
By: Caesars Entertainment Operating Company, Inc., Member

By: /s/ Jonathan S. Halkyard
Name: Jonathan S. Halkyard
Its: EVP and Chief Financial Officer

**Exhibit 31.1**

**CERTIFICATION PURSUANT TO RULE 13a-14(a) OR 15d-14(a) OF THE SECURITIES AND EXCHANGE ACT OF 1934**

I, Peter M. Carlino, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Penn National Gaming, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 2, 2012

/s/ Peter M. Carlino
Peter M. Carlino
Chairman and Chief Executive Officer

**Exhibit 31.2**

**CERTIFICATION PURSUANT TO RULE 13a-14(a) OR 15d-14(a) OF THE SECURITIES AND EXCHANGE ACT OF 1934**

I, William J. Clifford, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Penn National Gaming, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 2, 2012

/s/ William J. Clifford
William J. Clifford
Senior Vice President Finance and Chief Financial Officer
(Principal Financial Officer)

**Exhibit 32.1**

**CERTIFICATION PURSUANT TO**
**SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**
**18 U.S.C. SECTION 1350**

In connection with the Quarterly Report of Penn National Gaming, Inc. (the "Company") on Form 10-Q for the quarter ended June 30, 2012, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Peter M. Carlino, Chief Executive Officer of the Company, certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that, to my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Peter M. Carlino
Peter M. Carlino
Chairman and Chief Executive Officer
August 2, 2012

**Exhibit 32.2**

**CERTIFICATION PURSUANT TO**
**SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002,**
**18 U.S.C. SECTION 1350**

In connection with the Quarterly Report of Penn National Gaming, Inc. (the "Company") on Form 10-Q for the quarter ended June 30, 2012, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, William J. Clifford, Chief Financial Officer of the Company, certify, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that, to my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ William J. Clifford
William J. Clifford
Senior Vice President Finance and Chief Financial Officer
(Principal Financial Officer)
August 2, 2012