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

FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITY EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): March 1, 2012

CHURCHILL DOWNS INCORPORATED

(Exact name of registrant as specified in its charter)

Kentucky	**001-33998**	**61-0156015**
(State of incorporation)	**(Commission file number)**	**(IRS Employer Identification No.)**

700 Central Avenue, Louisville, Kentucky 40208
(Address of principal executive offices)
(Zip Code)

(502) 636-4400
(Registrant's telephone number, including area code)

Check the appropriate box below if the Form 8-K is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (18 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. ENTRY INTO A MATERIAL DEFINITIVE AGREEMENT.

On March 1, 2012 Churchill Downs Incorporated (the "Company") formed a joint venture (the "Joint Venture") with Delaware North Companies Gaming & Entertainment, Inc. ("DNC"). The Joint Venture was formed by the creation of a new entity, Miami Valley Gaming & Racing LLC, a Delaware limited liability company ("Miami Valley"), which will operate the Joint Venture pursuant to a Limited Liability Company Agreement entered into by DNC, DNC Ohio Gaming, Inc. (a wholly-owned subsidiary of DNC) ("DNC Ohio"), the Company, MVGR, LLC (a wholly-owned subsidiary of the Company) ("MVGR") and Miami Valley (the "Operating Agreement").

The Joint Venture was formed for the purpose of developing a new harness racing track and gaming facility at a new location to be selected along the Interstate 75 corridor between Cincinnati and Dayton, Ohio (the "New Facility"). To facilitate the development of the New Facility, Miami Valley has entered into an acquisition agreement (the "Acquisition Agreement") pursuant to which it will acquire the existing racing operations of Lebanon Raceway, a harness racing facility located in Lebanon, Ohio, together with certain other real property and license rights from Lebanon Trotting Club, Inc. and Miami Valley Trotting, Inc. Upon consummation of the transactions contemplated by the Acquisition Agreement, Miami Valley intends to construct the New Facility and transfer racing operations of the Lebanon Raceway to the New Facility. The Joint Venture intends to include a new harness racing track and a video lottery ("VLT") gaming facility at the New Facility. Completion of the acquisition transaction and development of the New Facility are subject to regulatory approvals and other customary conditions. In the event the acquisition transaction is not completed, the Operating Agreement will be terminated and the Joint Venture will be liquidated.

MVGR and DNC Ohio each owns 50% of the equity interests in Miami Valley. MVGR and DNC Ohio will make initial capital contributions of $30 million for their equity interests. Each of MVGR and DNC Ohio are obligated to fund up to $60 million to Miami Valley in connection with completing the acquisition transaction and developing the New Facility. In addition, it is expected that Miami Valley will require additional financing of approximately $150 million to $175 million to help fund development of the New Facility. The parties intend to arrange this debt financing later in the process.

MVGR and DNC Ohio will have equal representation on the board of managers of Miami Valley. The Operating Agreement provides for supermajority voting on certain key matters, and contains certain limitations on transfers by the parties of their equity interests, as well as buy-sell arrangements and other customary exit provisions. In addition, the Operating Agreement provides that none of MVGR, DNC Ohio or their respective affiliates will compete within a 75-mile radius of Lebanon Raceway or the New Facility, subject to certain exceptions.

The foregoing summaries of the Operating Agreement and Acquisition Agreement are qualified in their entirety by the terms and conditions of the Operating Agreement filed as Exhibit 10.1and the Acquisition Agreement filed as Exhibit 10.2 to this Current Report on Form 8-K and each of those agreements is incorporated herein by reference.

A copy of the news release issued by the Company on March 1, 2012 announcing the Joint Venture is attached hereto as Exhibit 99.1 and incorporated by reference herein.

Item 9.01. FINANCIAL STATEMENTS AND EXHIBITS.

(d) Exhibits

10.1 Limited Liability Company Agreement of Miami Valley Gaming & Racing, LLC, dated as March 1, 2012, among Miami Valley Gaming & Racing LLC, Churchill Downs Incorporated, MVGR, LLC (a wholly-owned subsidiary of Churchill Downs Incorporated), Delaware North Companies Gaming & Entertainment, Inc. and DNC Ohio Gaming, Inc. (a wholly-owned subsidiary of Delaware North Companies Gaming & Entertainment, Inc.)

10.2 Asset Purchase Agreement, dated as of March 1, 2012, by and among Miami Valley Gaming & Racing, LLC; Lebanon Trotting Club, Inc.; Miami Valley Trotting, Inc.; Keith Nixon, Jr. and John Carlo

99.1 Press Release dated March 1, 2012 issued by Churchill Downs Incorporated.

Cautionary Statement Regarding Forward Looking Information.

Information set forth in this news release contains various "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. The Private Securities Litigation Reform Act of 1995 (the "Act") provides certain "safe harbor" provisions for forward-looking statements. All forward-looking statements made in this Quarterly Report on Form 10-Q are made pursuant to the Act. The reader is cautioned that such forward-looking statements are based on information available at the time and/or management's good faith belief with respect to future events, and are subject to risks and uncertainties that could cause actual performance or results to differ materially from those expressed in the statements. Forward-looking statements speak only as of the date the statement was made. We assume no obligation to update forward-looking information to reflect actual results, changes in assumptions or changes in other factors affecting forward-looking information. Forward-looking statements are typically identified by the use of terms such as "anticipate," "believe," "could," "estimate," "expect," "intend," "may," "might," "plan," "predict," "project," "hope," "should," "will," and similar words, although some forward-looking statements are expressed differently. Although we believe that the expectations reflected in such forward-looking statements are reasonable, we can give no assurance that such expectations will prove to be correct. Important factors that could cause actual results to differ materially from

expectations include: the effect of global economic conditions, including any disruptions in the credit markets; a decrease in consumers' discretionary income; the effect (including possible increases in the cost of doing business) resulting from future war and terrorist activities or political uncertainties; the overall economic environment; the impact of increasing insurance costs; the impact of interest rate fluctuations; the effect of any change in our accounting policies or practices; the financial performance of our racing operations; the impact of gaming competition (including lotteries, online gaming and riverboat, cruise ship and land-based casinos) and other sports and entertainment options in the markets in which we operate; our ability to maintain racing and gaming licenses to conduct our businesses; the impact of live racing day competition with other Florida, Illinois and Louisiana racetracks within those respective markets; the impact of higher purses and other incentives in states that compete with our racetracks; costs associated with our efforts in support of alternative gaming initiatives; costs associated with customer relationship management initiatives; a substantial change in law or regulations affecting pari-mutuel and gaming activities; a substantial change in allocation of live racing days; changes in Kentucky, Florida, Illinois or Louisiana law or regulations that impact revenues or costs of racing operations in those states; the presence of wagering and gaming operations at other states' racetracks and casinos near our operations; our continued ability to effectively compete for the country's horses and trainers necessary to achieve full field horse races; our continued ability to grow our share of the interstate simulcast market and obtain the consents of horsemen's groups to interstate simulcasting; our ability to enter into agreements with other industry constituents for the purchase and sale of racing content for wagering purposes; our ability to execute our acquisition strategy and to complete or successfully operate planned expansion projects; our ability to successfully complete any divestiture transaction; market reaction to our expansion projects; the inability of our totalisator company, United Tote, to maintain its processes accurately or keep its technology current; our accountability for environmental contamination; the ability of our online business to prevent security breaches within its online technologies; the loss of key personnel; the impact of natural and other disasters on our operations and our ability to obtain insurance recoveries in respect of such losses (including losses related to business interruption); our ability to integrate any businesses we acquire into our existing operations, including our ability to maintain revenues at historic levels and achieve anticipated cost savings; the impact of wagering laws, including changes in laws or enforcement of those laws by regulatory agencies; the outcome of pending or threatened litigation; changes in our relationships with horsemen's groups and their memberships; our ability to reach agreement with horsemen's groups on future purse and other agreements (including, without limiting, agreements on sharing of revenues from gaming and advance deposit wagering); the effect of claims of third parties to intellectual property rights; and the volatility of our stock price.

SIGNATURE

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.

CHURCHILL DOWNS INCORPORATED

March 2, 2012

/s/ William E. Mudd

William E. Mudd
Executive Vice President and Chief Financial Officer

EXHIBIT INDEX

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Exhibit 10.1

LIMITED LIABILITY COMPANY AGREEMENT

OF

MIAMI VALLEY GAMING & RACING, LLC

Dated as of March 1, 2012

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LIMITED LIABILITY COMPANY AGREEMENT

of

MIAMI VALLEY GAMING & RACING, LLC
a Delaware Limited Liability Company

THIS MIAMI VALLEY GAMING & RACING, LLC LIMITED LIABILITY COMPANY AGREEMENT (this "Agreement") is made and entered into as of March 1, 2012, by and among, Miami Valley Gaming & Racing, LLC, a Delaware limited liability company (the "Company"), MVGR, LLC, a Delaware limited liability company ("Churchill Downs"), as a Member of the Company, DNC Ohio Gaming, Inc., a Delaware corporation ("DNC"), as a Member of the Company, any other Person who shall hereafter execute this Agreement as a Member of the Company and, solely for the purposes of Section 13.10, each Ultimate Parent (as hereinafter defined).

PRELIMINARY STATEMENT

WHEREAS, on December 22, 2011, the Company was formed pursuant to the filing of the Certificate of Formation of the Company with the Secretary of State of the State of Delaware to organize the Company under and pursuant to the Act;

WHEREAS, the Company desires to acquire certain of the assets of Lebanon Trotting Club, Inc., an Ohio corporation, and Miami Valley Trotting, Inc., an Ohio corporation (collectively, the "Lebanon Entities"), pursuant to a certain Asset Purchase Agreement dated as of March , by and among the Company and the Lebanon Entities (the "Purchase Agreement");

WHEREAS, in anticipation of the Company entering into the Purchase Agreement, Churchill Downs and DNC have each entered into a Contribution Agreement with the Company, dated as of the date hereof (the "Contribution Agreement"), under which they have made contributions of cash and/or property to the Company and, in consideration thereof, Churchill Downs and DNC are receiving certain Membership Units as set forth in Schedule I hereto; and

WHEREAS, in connection with such issuance of additional Membership Units, each of the Company and the Members desire to enter into this Agreement to reflect the terms and provisions relating to their respective rights, powers and interests with respect to the Company and their respective Membership Units therein and to provide for the management of the business and operations of the Company.

NOW, THEREFORE, in consideration of the mutual promises and agreements made herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I
GENERAL DEFINITIONS

1.1. Definitions. As used in this Agreement, the following terms shall each have the meaning set forth in this ARTICLE I (unless the context otherwise requires).

"Acceptable Credit Support" means either (a) Adequate Financial Resources, (b) an Acceptable Letter of Credit or (c) an Acceptable Guaranty.

"Acceptable Guarantor" means a Person with a rating of its long-term senior unsecured debt obligations of not less than BBB- (Stable) by S&P or Baa3 (Stable) by Moody's.

"Acceptable Guaranty" means a guaranty issued by an Acceptable Guarantor in a form acceptable to the non-Transferring Member in its reasonable discretion.

"Acceptable Letter of Credit" means an irrevocable, unconditional standby letter of credit in a form and containing terms and conditions that are acceptable to the non-Transferring Member in its reasonable discretion.

"Acquisition Closing" means the consummation of the transactions contemplated by the Purchase Agreement in accordance with the terms set forth therein.

"Act" means the Delaware Limited Liability Company Act, as it may be amended from time to time, and any successor to such Act.

"Adequate Financial Resources" means a Person with adequate financial resources as determined by the non-Transferring Member in its reasonable discretion.

"Additional Funding Contribution" has the meaning specified in Section 4.3(b).

"Adjusted Capital Account" means, with respect to any Member, the balance, if any, in such Member's Capital Account as of the end of the relevant taxable year after: (a) crediting to such Capital Account any amounts that such Member is obligated to restore pursuant to Section 1.704-1(b)(2)(ii)(c) of the Treasury Regulations (or is deemed to be obligated to restore pursuant to the penultimate sentences of Sections 1.704-2(g)(1) and 1.704-2(i)(5) of the Treasury Regulations); and (b) debiting to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6) of the Treasury Regulations.

"Adjusted EBITDA" means, for the relevant period, earnings of the Company before federal and state income taxes, interest expense, financing charges and depreciation and amortization expense and excluding non-recurring gains and losses. For the avoidance of doubt, Adjusted EBITDA shall include all Gaming and Racing Costs and Expenses incurred during the relevant period.

"Adjusted Property" means any property the Carrying Value of which has been adjusted pursuant to Section 4.5(e).

"Affiliate" means, with respect to any Person, any other Person which, at the time of determination, directly or indirectly through one or more intermediaries Controls, is Controlled by or is under Common Control with such Person; provided, however, that no Member shall be deemed an Affiliate of any other Member solely by reason of membership or an investment in the Company.

"Aggregate Cost" has the meaning specified in Section 6.10(a).

"Agreed Value" means the fair market value of Contributed Property, as determined by the Board using any reasonable method of valuation; provided that the Agreed Value of Initial Capital Contributions shall be set forth on Schedule I.

"Agreement" means this Limited Liability Company Agreement, including all exhibits and schedules hereto, as it may be amended or restated from time to time.

"Annual Budget" means (i) prior to the New Lebanon Opening, the Racing and Wagering Initial Budget and the Gaming and Hospitality Initial Budget, and (ii) after the New Lebanon Opening, the annual operating plan and budget of capital expenditures for the Company.

"Applicable Tax Rate" means, for any fiscal quarter, 40%.

"Bankruptcy Code" means Title 11 of the United States Code, as now in effect or as hereafter amended.

"Board" or **"Board of Managers"** has the meaning specified in Section 8.1.

"Board Member" has the meaning specified in Section 8.1.

"Breaching Party" has the meaning specified in Section 6.6(a)(i).

"Business" means (i) the operation of Lebanon, (ii) the development, construction and operation of New Lebanon, (iii) the operation of hotels (if applicable), restaurants, parking lots and other related amenities, assets and operations at Lebanon and New Lebanon, and (iv) all other activities related to the foregoing.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are required or authorized by Law to be closed.

"Capital Account" means the capital account maintained for each Member pursuant to Section 4.5 of this Agreement.

"Capital Contribution" means, from time to time, the total amount of cash and Agreed Value of property (if any), including the Initial Capital Contributions, Mandatory Additional Capital Contributions, Additional Funding Contribution and additional Capital Contributions contributed to the Company by all the Members or any one Member, as the case may be.

"Carrying Value" means: (a) with respect to a Contributed Property, the Agreed Value of such property reduced (but not below zero) by all depreciation, cost recovery and amortization deductions charged to the Capital Accounts pursuant to Section 4.5(f) with respect to such property, as well as any other reductions as a result of sales, retirements and other dispositions of assets included in a Contributed Property, as of the time of determination; (b) with respect to an Adjusted Property, the value of such property immediately following the adjustment provided in Section 4.5(g) reduced (but not below zero) by all depreciation, cost recovery and amortization deductions charged to the Capital Accounts pursuant to Section 4.5(f) with respect to such property, as well as any other reductions as a result of sales, retirements or dispositions of assets included in an Adjusted Property, as of the time of determination; and (c) with respect to any other property, the adjusted basis of such property for federal income tax purposes as of the time of determination.

"Certificate of Formation" means the Certificate of Formation of the Company described in Section 2.1.

"Churchill Downs" has the meaning specified in the preamble to this Agreement.

"Churchill Member" means, collectively, Churchill Downs and any Permitted Transferee of its Membership Units.

"Closing" has the meaning specified in Section 6.6(c).

"Code" means the Internal Revenue Code of 1986, as now in effect or as hereafter amended.

"Company" has the meaning specified in the preamble to this Agreement.

"Company Property or Properties" means all interests, properties, whether real or personal, and rights of any type owned or held by the Company, whether owned or held by the Company at the date of its formation or thereafter acquired.

"Competing Business" has the meaning specified in Section 6.8(c).

"Contributed Property" means property or other consideration (other than cash) contributed to the Company as a Capital Contribution.

"Contribution Agreement" has the meaning specified in the recitals to this Agreement.

"Control" means, as to any Person, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. The terms "Controlled by," "under Common Control with" and "Controlling" shall have correlative meanings.

"Deadlock" has the meaning specified in Section 8.16.

"Default Event" has the meaning specified in Section 6.6(a)(i).

"Default Notice" has the meaning specified in Section 6.6(a)(i).

"Default Offer Notice" has the meaning specified in Section 6.6(a)(ii).

"Default Offer Price" has the meaning specified in Section 6.6(a)(ii).

"Default Offer Right" has the meaning specified in Section 6.6(a)(ii).

"Defaulting Member" has the meaning specified in Section 4.3(b).

"Defense and Lobbying Costs" means any and all costs and expenses incurred in connection with supporting or opposing: (a) the Executive Order or the VLT Rules; or (b) any other directive, referendum, legislative or regulatory action the outcome of which would significantly affect the likelihood of the Company obtaining the Gaming License or which would limit, in any material respect, the Company's use of the Gaming License or applicable Racing License following the Acquisition Closing, including defending or participating in any court or other proceeding involving any of the foregoing; such costs and expenses would include any costs of investigating, asserting rights, defending rights or engaging in any litigation or administrative proceedings in respect of any such matters (including any court filing fees, court costs, arbitration fees or costs, witness fees and reasonable fees and disbursements of legal counsel and costs and expenses of any lobbyists, public relations firms or other experts).

"Development Plan" has the meaning specified in Section 4.3(a).

"DNC" has the meaning specified in the preamble to this Agreement.

"DNC Member" means, collectively, DNC and any Permitted Transferee of its Membership Units.

"Drag-Along Notice" has the meaning specified in Section 6.5.

"Drop-Dead Date" has the meaning specified in Section 6.6(b).

"Electing Member" has the meaning specified in Section 6.6(b).

"Election Period" has the meaning specified in Section 6.6(a)(iii).

"Executive Order" means Executive Order 2011-23K of the Governor of the State of Ohio, dated as of October 20, 2011, for the emergency adoption of Rules 3769-20-01, 3769-20-02, 3769-20-03 and 3769-20-04 of the Ohio Administrative Code by the Ohio State Racing Commission.

"Executive Officer" means the general manager of the Company and any officer reporting directly to the general manager of the Company.

"Failed Capital Call" has the meaning specified in Section 4.3(b).

"Failed Closing Notice" has the meaning specified in Section 6.6(b).

"Failed Closing Right" has the meaning specified in Section 6.6(b).

"Failing Member" has the meaning specified in Section 6.10(e).

"First Financing Request" has the meaning specified in Section 6.10(b).

"Fiscal Year" has the meaning specified in Section 10.6.

"Free Cash" means, for the relevant period, Adjusted EBITDA minus (a) Tax Distributions; (b) funds used during such period to discharge during such period any scheduled payments of principal or interest of, and financing or other charges relating to, Indebtedness or liabilities of the Company; (c) the amount of any reserves created (or any increase to reserves) approved by the Board in respect of such period, in the Board's reasonable discretion, for the discharge of known, existing or contingent liabilities or obligations of the Company and for the Company's present or future obligations, needs or business opportunities, including anticipated capital expenditures, Gaming and Racing License Fees, Defense and Lobbying Costs and Tax Distributions and (d) any additional funds anticipated to be necessary to cover costs and expenses to be paid by the Company during the ninety (90)-day period subsequent to the date of determination of Free Cash for such relevant period.

"Gaming and Hospitality Initial Budget" means the initial operating plan and budget of capital expenditures of the Company with respect to the Company's gaming and hospitality businesses.

"Gaming and Racing Costs and Expenses" means all Defense and Lobbying Costs and state or local taxes, deductions or charges measured on the VLT Gaming Operations or the operation of any slot machines, video lottery terminals, video poker machines or table games, or horse racing, pari-mutuel wagering or other gaming activities.

"Gaming and Racing License Fees" means (i) the $10,000,000 Gaming License fee payable at the time of application for the Gaming License, (ii) the $15,000,000 Gaming License fee payable at the time of the New Lebanon Opening, (iii) the $25,000,000 Gaming License fee payable on the first anniversary of the New Lebanon Opening, (iv) such other application and license fees as may be required by the VLT Rules to conduct the VLT Gaming Operations, and (v) any application and license fees for a Racing License under the relevant Gaming or Racing Laws.

"Gaming License" means an Ohio Video Lottery Sales Agent license (including any conditional license or renewal license in respect thereof) issued by the Executive Director of the Ohio State Lottery pursuant to the VLT Rules.

"Gaming or Racing Approvals" means all licenses, permits, approvals, authorizations, registrations, findings of suitability, franchises, entitlements, waivers and exemptions issued by any Gaming or Racing Authority or issued under any Gaming or Racing Law necessary for or relating to the conduct of activities by the Company or a Member (or any Affiliate of such Member).

"Gaming or Racing Authority" means any Governmental Authority with regulatory control or jurisdiction over the conduct of horse racing, casino, gaming or gambling (including the operation of slot machines), or live or off-track wagering activities or other gaming activities, including the Ohio Regulators.

"Gaming or Racing Laws" means any federal, state, local (including county or parish) or foreign statute, ordinance, rule, regulation, permit, 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 any horse racing, casino, gaming, gambling (including the operation of slot machines), or live or off-track wagering activities or other gaming activities or the operations of the facilities of the Company or any Member or any of their respective Affiliates, as the case may be, and the rules and regulations promulgated thereunder, including the policies, interpretations and administration thereof by any relevant Gaming or Racing Authority.

"Governmental Authority" means any government or governmental or regulatory body thereof, or political subdivision thereof, whether foreign, federal, state, or local (including county or parish), or any agency, instrumentality or authority thereof, any multinational, supra-national or quasi-governmental entity, body or authority, any self-regulatory organization or any court or arbitrator (public or private), including any Gaming or Racing Authority.

"Governmental Damages" means any (i) civil or criminal penalties or fines paid or payable to a Governmental Authority, or any restitution paid to a third party, in each case, resulting from the (x) conviction (including as a result of the entry of a guilty plea, a consent judgment or a plea of nolo contendere) of a crime or (y) settlement with a Governmental Authority for the purpose of closing a Governmental Investigation, or (ii) any injunctive relief with respect to, or requirement to alter, business practices, in each case, imposed by a Governmental Authority.

"Governmental Investigation" means an investigation by a Governmental Authority for the purpose of imposing criminal sanctions or civil penalties, fines or injunctions.

"Guaranteed Obligations" has the meaning specified in Section 13.10.

"Holder Information" has the meaning specified in Section 8.15.

"Indebtedness" means, with respect to the Company: (a) all obligations for borrowed money, or with respect to deposits or advances of any kind; (b) all obligations evidenced by bonds, debentures, notes or similar instruments, including the Promissory Notes; (c) all obligations upon which interest charges are customarily paid (other than trade payables incurred in the ordinary course of business consistent with past practices); (d) all obligations issued or assumed as the deferred purchase price of property or services (excluding obligations to creditors for supplies incurred in the ordinary course of business consistent with past practices); (e) all lease obligations capitalized on the books and records of the Company; and (f) all obligations of others secured by a Lien on property or assets owned or acquired by the Company.

"Initial Capital Contribution" has the meaning specified in Section 4.1.

"Initial Lock-Up Period" has the meaning specified in Section 6.2(a).

"Laws" means all federal, state, regional, provincial, local or foreign laws, including statutes, ordinances, codes, rules, regulations, published guidelines, constitutional provisions, orders, decrees, arbitration awards and the common law, including any Gaming or Racing Law.

"Lebanon" means the harness horse racing facility in Lebanon, Ohio, which was operated by the Lebanon Entities prior to the Acquisition Closing and which will be operated by the Company on and after the Acquisition Closing.

"Lebanon Entities" has the meaning specified in the recitals to this Agreement.

"Liquidation Price" means a Selling Member's Membership Interest multiplied by (i) all cash and cash equivalents held by the Company plus (ii) any license fees, cash, deposits or other cash advances recoverable by the Company, including any held in escrow pursuant to the Purchase Agreement or in connection with a video lottery terminal license pursuant to the VLT Rules that would be refunded to or recoverable by the Company in the event the Acquisition Closing does not occur or the video lottery terminal license is not obtained by the Company pursuant to the VLT Rules.

"Liquidator" has the meaning specified in Section 12.2(a).

"Majority Member" has the meaning specified in Section 6.5.

"Majority Vote" means, (i) with respect to actions to be taken by the Members, the affirmative vote or written consent of Members holding at least a majority of the then outstanding Membership Units and (ii) with respect to actions to be taken by the Board of Managers, the affirmative vote or written consent of a majority of the Board Members.

"Mandatory Additional Capital Contributions" has the meaning specified in Section 4.3(a).

"Member Nonrecourse Debt" means any liability (or portion thereof) of the Company that constitutes debt which, by its terms, is nonrecourse to the Company and the Members for purposes of Section 1.1001-2 of the Treasury Regulations, but for which a Member bears the economic risk of loss, as determined under Section 1.704-2(b)(4) of the Treasury Regulations.

"Member Nonrecourse Debt Minimum Gain" means an amount of gain characterized as "partner nonrecourse debt minimum gain" under Section 1.704-2(i)(2) and 1.704-2(i)(3) of the Treasury Regulations. Subject to the preceding sentence, Member Nonrecourse Debt Minimum Gain shall mean an amount, with respect to each Member Nonrecourse Debt, equal to the Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Liability.

"Members" means, at any time, the Persons who then own Membership Units in the Company and have been admitted as a Member in accordance with the provisions of this Agreement.

"Membership Interest" means, with respect to any Member at any time, the limited liability company interest of such Member in the Company at such time equal in proportion to the outstanding Membership Units held by such Member compared to the aggregate outstanding Membership Units issued by the Company, each as set forth on Schedule I (as such Schedule may be amended from time to time as permitted by this Agreement).

"Membership Units" means the units of Membership Interest of the Company as set forth on Schedule I (as such Schedule may be amended from time to time), which shall be uncertificated.

"Minimum Gain" means the amount determined by computing with respect to each Nonrecourse Liability of the Company the amount of gain, if any, that would be realized by the Company if it disposed of the property securing such liability in full satisfaction thereof, and by then aggregating the amounts so computed.

"Minority Member" has the meaning specified in Section 8.2(a).

"New Lebanon" means the 120 acre parcel of land located at the intersection of State Route 63 and Union Road in the Township of Turtle Creek in Lebanon, Ohio, which the Company will acquire in connection with the Purchase Agreement and on which it will develop, construct and operate a new harness racing and gaming facility.

"New Lebanon Opening" means the opening of the racetrack and gaming facility at New Lebanon to the general public.

"Non-Breaching Party" has the meaning specified in Section 6.6(a)(i).

"Nonrecourse Liability" means a liability (or that portion of a liability) with respect to which no Member bears the economic risk of loss as determined under Section 1.704-2(b)(3) of the Treasury Regulations.

"Non-Transferring Member" has the meaning specified in Section 6.3(a).

"Notification" means all notices permitted or required to be given to any Person hereunder. Such Notifications must be given in writing and will be deemed to be duly given on the date of delivery if delivered in person or sent by facsimile transmission (to be promptly followed by registered or certified mail) or on the earlier of actual receipt or three Business Days after the date of mailing if mailed by registered or certified mail, first class postage prepaid, return receipt requested, to such Person, at the last known address of such Person as set forth on the Company records.

"Notifying Member" has the meaning specified in Section 6.6(a)(ii).

"Ohio Regulators" means, collectively, the Ohio Lottery Commission, the Ohio State Racing Commission or any other federal, state or local governmental, regulatory or administrative authority, instrumentality, agency body or commission, self-regulatory organization, court, tribunal or judicial body responsible for administering or overseeing horse racing, pari-mutuel wagering or other gaming activities in Ohio.

"Parent Equity" means any equity or other ownership interest in any Person, other than an Ultimate Parent or any Person that Controls an Ultimate Parent, that directly or indirectly owns any Membership Units.

"Permitted Pledge" means a pledge or encumbrance to a third Person lender of a Member's Membership Interest as collateral for the indebtedness of, or the borrowing of money by, a Member or its Affiliates.

"Permitted Transferee" has the meaning specified in Section 6.2(a).

"Person" means any individual, corporation, partnership, limited partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated organization or governmental body, and the heirs, executors, administrations, legal representatives, successors and assigns of such person, as the context may require.

"Prior Expenditures" means $5,145,000.

"Profits" and **"Losses"** means, for each Fiscal Year or other period, an amount equal to the Company's taxable income or loss for such period, determined in accordance with Section 703(a) of the Code (but including in taxable income or loss, for this purpose, all items of income, gain, loss, deduction or credit required to be stated separately pursuant to Section 703(a)(1) of the Code), as adjusted using the principles set forth in Section 4.5(d).

"Project Costs" has the meaning specified in Section 6.10(a).

"Project Financing" has the meaning specified in Section 6.10(a).

"Project Loss" means the aggregate amount of costs and expenses incurred directly by the Company plus the Prior Expenditures.

"Promissory Notes" has the meaning specified in the Purchase Agreement.

"Prospective Agents" has the meaning specified in Section 6.10(a).

"Purchase Agreement" has the meaning specified in the recitals to this Agreement.

"Purchase Election Notice" has the meaning specified in Section 6.10(e).

"Racing and Wagering Initial Budget" means the annual operating plan and budget of capital expenditures of the Company with respect to the Company's pari-mutuel racing and wagering businesses.

"Racing License" means a license issued by the Ohio State Racing Commission or other relevant Gaming or Racing Authority to conduct racing and wagering activities at Lebanon and/or New Lebanon.

"Receiving Member" has the meaning specified in Section 6.6(a)(ii).

"Recipient Member" has the meaning specified in Section 6.6(b).

"Restricted Buyer" means any Person engaged in the business of owning, operating, developing or managing casinos, gaming facilities, race tracks or off-track betting facilities, as well as the related hotels, restaurants, parking lots, conference centers, and other related amenities, assets and operations within a seventy-five (75) mile radius of Lebanon or New Lebanon.

"ROFO Expiration Date" has the meaning specified in Section 6.3(a).

"ROFO Offer" has the meaning specified in Section 6.3(a).

"ROFO Transferee Party" has the meaning specified in Section 6.3(c).

"Sale Proposal" has the meaning specified in Section 6.5.

"Schedule I" means the schedule attached hereto and labeled "Schedule I," as the same may be amended from time to time.

"Second Financing Request" has the meaning specified in Section 6.10(c).

"Section 705(a)(2)(B) Expenditure" means any expenditure of the Company described in Section 705(a)(2)(B) of the Code and any expenditure considered to be an expenditure described in Section 705(a)(2)(B) of the Code pursuant to Section 704(b) of the Code and the Treasury Regulations thereunder.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Shortfall" has the meaning specified in Section 4.3(a).

"Tag-Along Notice" has the meaning specified in Section 6.4(a).

"Tag-Along Offeror" has the meaning specified in Section 6.4(a).

"Tag-Along Response Notice" has the meaning specified in Section 6.4(b).

"Tax Allowance Amount" means, for a fiscal quarter (A) taxable income of the Company for federal income tax purposes for such fiscal quarter, multiplied by (B) the Applicable Tax Rate, as reasonably determined by the Tax Matters Member. In calculating taxable income, (x) allocations attributable to adjustments pursuant to Code Section 734 or Section 743 shall not be taken into account, and (y) any remedial items under Treas. Reg. 1.704-3 attributable to Code Section 704(c) (or the principles of Code Section 704(c)) shall not be taken into account. The Tax Matters Member's calculations may be made on any reasonable basis, and may take into account any anticipated taxable income of the Company for such fiscal quarter and any taxable income of the Company for previous fiscal quarters in respect of which Tax Allowance Amounts have not been previously distributed. In addition, such calculations may take into account such other factors pertaining to the Company as the Tax Matters Member deems appropriate, including any losses of the Company for prior fiscal quarters and prior Tax Allowance Amounts distributed.

"Tax Distribution" has the meaning specified in Section 5.14(a)(i).

"Tax Matters Member" has the meaning specified in Section 10.8.

"Third Party Offer Period" has the meaning specified in Section 6.3(c).

"Transaction Documents" means the Purchase Agreement and all agreements, documents, instruments and certificates executed in connection therewith and the acquisition of Lebanon and New Lebanon.

"Transfer" means, with respect to any Membership Units or Parent Equity, as applicable: (a) when used as a verb, to sell (including by merger or recapitalization), assign, dispose of, exchange, pledge, encumber, hypothecate or otherwise transfer such Membership Units or Parent Equity, as applicable, or any participation or interest therein, whether directly or indirectly, or agree or commit to do any of the foregoing; and (b) when used as a noun, a direct or indirect sale (including by merger or recapitalization), assignment, disposition, exchange, pledge, encumbrance, hypothecation or other transfer of such Membership Units or Parent Equity, as applicable, or any participation or interest therein or any agreement or commitment to do any of the foregoing.

"Transferee Party" has the meaning specified in Section 6.5.

"Transferring Member" has the meaning specified in Section 6.3(a).

"Treasury Regulations" means the regulations promulgated by the U.S. Treasury Department pursuant to the Code.

"Ultimate Parent" means, with respect to the Churchill Member, Churchill Downs Incorporated, a Kentucky corporation, and with respect to the DNC Member, Delaware North Companies Gaming & Entertainment, Inc., a Delaware corporation.

"Unrealized Gain" means the excess (attributable to a Company Property), if any, of the fair market value of such property as of the date of determination (as reasonably determined by the Board) over the Carrying Value of such property as of the date of determination (prior to any adjustment to be made pursuant to Section 4.5(e) as of such date).

"Unrealized Loss" means the excess (attributable to a Company Property), if any, of the Carrying Value of such property as of the date of determination (prior to any adjustment to be made pursuant to Section 4.5(e) as of such date) over its fair market value as of such date of determination (as reasonably determined by the Board).

"Unsuitable" means, with respect to any Person, a determination by an Ohio Regulator or any other Ohio Gaming or Racing Authority that such Person is unsuitable to conduct racing or gaming activities or to be affiliated with any other Person conducting racing or gaming activities. For the avoidance of doubt, a Person shall be deemed "Unsuitable" if an Ohio Regulator or any other Ohio Gaming or Racing Authority declines to issue or rescinds (or threatens to rescind) any permit to conduct racing or gaming activities at Lebanon or New Lebanon based on such Person's existence as, or affiliation with, the Company or a Member.

"VLT Gaming Operations" means the operation of video lottery terminals.

"VLT Rules" means Ohio Administrative Code Sections 3770:2-1-10 et seq., promulgated under the Ohio Lottery Act, which authorize the holder of a Gaming License to engage in video lottery gaming and video lottery gaming related activities to the extent authorized by the Executive Director of the Ohio State Lottery, and Rules 3769-20-01-04 et seq. of the Ohio Administrative Code adopted by the Ohio State Racing Commission pursuant to the Executive Order.

1.2. Interpretation. Each definition in this Agreement includes, where the context so requires, the singular and the plural, and reference to the neuter gender includes the masculine and feminine where appropriate. A reference to any statute or Treasury Regulations means such statute or regulations as amended at the time and includes any successor legislation or regulations. The headings to the Articles and Sections are for convenience of reference and

shall not affect the meaning or interpretation of this Agreement. Except as otherwise stated, reference to Articles, Sections and Schedules mean the Articles, Sections and Schedules of this Agreement. The Schedules are hereby incorporated by reference into and shall be deemed a part of this Agreement. For purposes of this Agreement: (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation;" (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby" and "hereunder" refer to this Agreement as a whole.

ARTICLE II
ORGANIZATION

2.1. Formation. The Company has been organized as a Delaware limited liability company under and pursuant to the Act by the filing of a Certificate of Formation with the Office of the Secretary of State of Delaware as required by the Act. The parties hereto agree that the rights, duties and liabilities of the Members and any additional or substitute Member admitted in accordance with the terms hereof will be as provided in the Act, except as otherwise provided herein. In the event of a conflict between the terms of this Agreement and the Certificate of Formation, the terms of the Certificate of Formation shall prevail.

2.2. Name. The name of the Company is Miami Valley Gaming & Racing, LLC. To the extent permitted by the Act, the Company may conduct its business under one or more assumed names deemed advisable by the Board.

2.3. Purposes. The purposes of the Company are to engage in any activity and/or business for which limited liability companies may be formed under the Act, including conducting the Business. The Company shall have all the powers necessary or convenient to effect any purpose for which it is formed, including all powers granted by the Act.

2.4. Duration. The Company shall continue in existence until the Company is dissolved and its affairs wound up in accordance with the Act or this Agreement.

2.5. Registered Office and Registered Agent; Principal Office.

(a) The registered office of the Company required by the Act to be maintained in the State of Delaware shall be the initial registered office named in the Certificate of Formation or such other office (which need not be a place of business of the Company) as the Board may designate from time to time in the manner provided by the Act.

(b) The registered agent of the Company in the State of Delaware shall be the initial registered agent named in the Certificate of Formation or such other Person or Persons as the Board may designate in the manner provided by the Act.

(c) The principal office of the Company shall be at 665 N. Broadway Street, Lebanon, Ohio 45036, or at such place as the Board may designate from time to time, which need not be in the State of Delaware, and the Company shall maintain records there for inspection as required by the Act. The Company may have such other offices as the Board may designate from time to time.

2.6. Qualification in Other Jurisdictions. The Board shall have authority to cause the Company to do business in jurisdictions other than the States of Delaware and Ohio only if the Board shall have approved the qualification of the Company under such statute to do business as a foreign limited liability company in such jurisdiction.

2.7. No State-Law Partnership. No provisions of this Agreement (including the provisions of ARTICLE VIII) shall be deemed or construed to constitute the Company a partnership (including a limited partnership) or joint venture, or any Member a partner or joint venturer of or with any other Member, for any purposes other than federal and state tax purposes.

2.8. No Implied Duty. The Board Members and any Member may vote, or refrain from voting, for or against any matter pursuant to the terms of this Agreement, the Act or otherwise, in their sole and absolute discretion, considering such factors as they desire, including their own interests, and will have no duty or obligation to give any consideration to any interest of or factors affecting the Company or any particular Member or its Affiliates.

ARTICLE III
MEMBERS

3.1. Members. The Members of the Company are Churchill Downs and DNC and the addresses of such Members are as set forth on Schedule I of this Agreement. As of the date hereof, there are no other Members of the Company and no other Person has any right to take part in the ownership of the Company.

3.2. Investment Representations. Each Member hereby represents and warrants as follows:

(a) Such Member is acquiring its Membership Units for investment solely for such Member's own account and not for distribution, transfer or sale to others in connection with any distribution or public offering.

(b) Such Member is financially able to bear the economic risk of an investment in the Company and has no need for liquidity in this investment. Furthermore, the financial capacity of such Member is of such a proportion that the total cost of such Member's investment in the Company is not material when compared with such Member's total financial capacity.

(c) Such Member has such knowledge, experience and skill in financial and business matters in general and with respect to investments of a nature similar to an investment in the Company so as to be capable of evaluating the merits and risks of, and making an informed business decision with regard to, this investment. Such Member acknowledges and understands that the purchase of its Membership Units involves an investment in a new business that has no previous operating experience, and, therefore, this is a speculative investment with no assurance of success.

(d) Such Member: (i) has received all information that such Member deems necessary to make an informed investment decision with respect to an investment in the Company; (ii) has had the unrestricted opportunity to make such investigation as such Member desires pertaining to the Company and an investment therein and to verify any information furnished to such Member; and (iii) has had the opportunity to ask questions of representatives of the Company concerning the Company and such Member's investment.

(e) Such Member understands that such Member must bear the economic risk of an investment in the Company for an indefinite period of time because: (i) the Membership Units have not been registered under the Securities Act and applicable state securities Laws; and (ii) the Membership Units may not be sold, Transferred, pledged or otherwise disposed of except in accordance with this Agreement and in compliance with applicable state and federal securities Laws.

(f) Such Member understands that the Company is not obligated to register the Membership Units for resale under the Securities Act or any applicable state securities Laws and that the Company is not obligated to supply such Member with information or assistance in complying with any exemption under the Securities Act or any applicable state securities Laws. Upon the request of the Company, such Member will provide the Company with an opinion of counsel satisfactory to the Company that a proposed resale of the Membership Units complies with the Securities Act or any applicable state securities Laws.

ARTICLE IV
CAPITAL CONTRIBUTIONS

4.1. Initial Capital Contributions. Each Member has made or agreed to make the initial Capital Contribution to the capital of the Company in the amount set forth as such Member's Capital Contributions on Schedule I in accordance with the Contribution Agreement (the "Initial Capital Contributions"). The Agreed Value of each Member's Initial Capital Contribution is set forth on Schedule I. If a Member fails to fund its portion of the Initial Capital Contributions in accordance with the Contribution Agreement, such Member shall be deemed and treated as a "Defaulting Member" as defined and set forth below.

4.2. Initial Membership Units. Upon execution of the Contribution Agreement and in consideration for agreeing to make the Initial Capital Contributions pursuant to and in accordance with the timing set forth in the Contribution Agreement, each such Person listed on Schedule I shall be admitted as a Member, and each Member shall be issued the Membership Units set forth opposite such Member's name on Schedule I.

4.3. Mandatory Additional Capital Contributions.

(a) The Members shall be required to make mandatory additional capital contributions ("Mandatory Additional Capital Contributions") of (i) up to $60,000,000 in the

aggregate, as set forth on Schedule II attached hereto, for the licensing, development, construction and opening of the New Lebanon facility at the times and in accordance with the development plan set forth therein (the "Development Plan"), and (ii) in the event that the Capital Contributions contemplated in Section 4.3(a)(i) are insufficient to allow completion of the Development Plan (a "Shortfall"), then the Members agree to fund such Shortfall up to an aggregate maximum amount of $20,000,000. The respective portion of any Mandatory Additional Capital Contributions to be contributed by each Member shall be determined on a pro rata basis in accordance with each Member's Membership Interest in the Company at the time of such contribution. Notwithstanding anything contained herein to the contrary, in no event shall the Members, collectively, be obligated to contribute to the Company more than $80,000,000 in aggregate Mandatory Additional Capital Contributions.

(b) If a Member fails to fund its pro rata portion of the Mandatory Additional Capital Contribution (a "Failed Capital Call") on the specified date when due (a "Defaulting Member"), the Company will give such Defaulting Member Notification thereof and, if such Defaulting Member fails to fund such pro rata portion of the Mandatory Amount within five (5) Business Days after such Notification has been given, (i) the other Member in such case may, but will not be obligated to, elect to fund the Defaulting Member's unfunded portion of the Mandatory Additional Capital Contribution (an "Additional Funding Contribution") and (ii) the Defaulting Member's aggregate Membership Interest in the Company shall be diluted based on the amount of the Failed Capital Call and, if applicable, the amount of the Additional Funding Contribution. If dilution of a Member's aggregate Membership Interest shall be based on the amount of a Failed Capital Call and, if applicable, the amount of the Additional Funding Contribution, (A) each Member's Membership Interest shall be adjusted to equal a fraction, expressed as a percentage, (i) the numerator of which shall be equal to all Capital Contributions made by the Member (net of any liabilities of the Member assumed by the Company or which are secured by any property contributed by the Member to the Company), and (ii) the denominator of which shall be equal to all Capital Contributions made by all Members (net of any liabilities of all Members assumed by the Company or which are secured by any property contributed by any Member to the Company) and (B) the Defaulting Member's Capital Account and Membership Units with respect to the applicable amount of dilution pursuant to this Section 4.3(b) will be redistributed among the other Members on a pro rata basis to reflect the Defaulting Member's adjustment to its Membership Interest.

(c) Immediately after Mandatory Additional Capital Contributions have been made pursuant to this Section 4.3, Schedule I will be restated to reflect the effects of this Section 4.3 and Section 4.5(e).

4.4. Additional Capital Contributions. In the event that (i) each of the Members has contributed to the Company its full share of the Mandatory Additional Capital Contributions described in Section 4.3 and (ii) the Board Members by Majority Vote determine that the Company requires additional funds for proper Company purposes, the Board Members may make one or more written requests for the Members to make additional Capital Contributions on a pro rata basis in accordance with each Member's Membership Interest in the Company at the time of such request, and upon such request having been properly given to the

Members, each of the Members shall be required to make such additional Capital Contribution (and, if any Member fails to do so, such Member shall be treated as a "Defaulting Member" as defined and set forth in Section 4.3). Such request shall specify the date on or before which the contributions must be delivered to the Company, which date shall not be earlier than 10 days after mailing of Notification of such request to all Members.

4.5. Capital Accounts.

(a) A Capital Account shall be established and maintained for each Member. Each Member's Capital Account: (i) shall be increased by (A) the amount of money contributed by that Member to the Company, (B) the Agreed Value of Contributed Property contributed by that Member to the Company (net of liabilities secured by the Contributed Property that the Company is considered to assume or take pursuant to Section 752 of the Code), and (C) allocations to that Member of Company Profits, including income and gain exempt from tax and income and gain described in Section 1.704-1(b)(2)(iv)(g) of the Treasury Regulations, but excluding income and gain described in Section 1.704-1(b)(4)(i) of the Treasury Regulations; and (ii) shall be decreased by (A) the amount of money distributed to that Member by the Company, (B) the fair market value of property distributed to that Member by the Company (net of liabilities secured by the distributed property that the Member is considered to assume or take pursuant to Section 752 of the Code), (C) allocations to that Member of Section 705(a)(2)(B) Expenditures, and (D) allocations of Company Losses, including loss and deduction described in Section 1.704-1(b)(2)(iv)(g) of the Treasury Regulations, but excluding items described in clause (a)(i)(C) of this paragraph and loss or deduction described in Section 1.704-1(b)(4)(i) or Section 1.704-1(b)(4)(iii) of the Treasury Regulations. The initial Capital Account of each Member is set forth in Schedule I.

(b) Except as otherwise provided herein, whenever it is necessary to determine the Capital Account of any Member for purposes of this Agreement, the Capital Account of the Member shall be determined after giving effect to: (i) all Capital Contributions made to the Company on or after the date of this Agreement and prior to the date such determination is required to be made under this Agreement; (ii) all allocations of income, gain, deduction and loss pursuant to ARTICLE V for operations and transactions effected on or after the date of this Agreement and prior to the date such determination is required to be made under this Agreement; and (iii) all distributions made on or after the date of this Agreement and prior to the date such determination is required to be made under this Agreement.

(c) Upon the Transfer of Membership Units in the Company after the date of this Agreement and in accordance with the terms of this Agreement, if such Transfer does not cause a termination of the Company within the meaning of Section 708(b)(1)(B) of the Code, the Capital Account of the transferor Member that is attributable to the Transferred Membership Units will be carried over to the transferee Member but, if the Company has an election in effect under Section 754 of the Code, the Capital Account will be adjusted to reflect any adjustment required as a result thereof by the Treasury Regulations promulgated pursuant to Section 704(b) of the Code.

(d) The realization, recognition and classification of any item of income, gain, loss or deduction for Capital Account purposes, including for purposes of determining Profits and Losses, shall be the same as its realization, recognition and classification for federal income tax purposes; provided, however, that:

(i) Any deductions for depreciation, cost recovery or amortization attributable to a Contributed Property shall be determined as if the adjusted tax basis of such property on the date it was acquired by the Company was equal to the Agreed Value of such property. Upon adjustment pursuant to Section 4.5(e) of the Carrying Value of the Company Property subject to depreciation, cost recovery or amortization, any further deductions for such depreciation, cost recovery or amortization shall be determined as if the adjusted tax basis of such property was equal to its Carrying Value immediately following such adjustment. Any deductions for depreciation, cost recovery or amortization under this Section 4.5(d) shall be computed in accordance with Section 1.704-1(b)(2)(iv)(g)(3) of the Treasury Regulations.

(ii) Any income, gain or loss attributable to the taxable disposition of any property shall be determined by the Company as if the adjusted tax basis of such property as of such date of disposition was equal in amount to the Carrying Value of such property as of such date.

(iii) All items incurred by the Company that can neither be deducted nor amortized under Section 709 of the Code shall, for purposes of Capital Accounts, be treated as an item of deduction and shall be allocated among the Members pursuant to ARTICLE V.

(e) (i) Upon the contribution to the Company by a new or existing Member of cash or Contributed Property, the Capital Accounts of all Members and the Carrying Values of all Company Properties immediately prior to such contribution shall be adjusted (consistent with the provisions hereof and with the Treasury Regulations under Section 704 of the Code) upward or downward to reflect any Unrealized Gain or Unrealized Loss attributable to each Company Property, as if such Unrealized Gain or Unrealized Loss had been recognized upon an actual sale of each such Company Property immediately prior to such issuance and had been allocated to the Members in accordance with ARTICLE V of this Agreement.

(ii) Immediately prior to the distribution of any Company Property (other than cash), the distribution of cash to a retiring or continuing Member as consideration for an interest in the Company, or a liquidation of the Company pursuant to Section 12.4(b), the Capital Accounts of all Members and the Carrying Value of all Company Property shall be adjusted (consistent with the provisions hereof and Treasury Regulations under Section 704 of the Code) upward or downward to reflect any Unrealized Gain or Unrealized Loss attributable to each Company Property, as if such Unrealized Gain or Unrealized Loss had been recognized upon an actual sale of each such Company Property immediately prior to such distribution and had been allocated to the Members at such time in accordance with ARTICLE V of this Agreement. The parties agree that any adjustments to Capital Accounts under this Section 4.5(e)(ii) arising out of a liquidation under Section 12.4(b) should reflect an Unrealized Loss at the time of such liquidation with respect to the DNC Member's in-kind Capital Contribution in

respect of the Prior Expenditures (as set forth on Schedule I) equal in amount to the Prior Expenditures (less any prior amortization deductions with respect thereto) and, to the extent reflected as an asset rather than expensed for Capital Account purposes, with respect to the remainder of the Project Losses (the intent being that for Capital Account purposes the Prior Expenditures and other Project Losses be allocated 50% to each Member).

(f) In addition to the adjustments required by the foregoing provisions of this Section 4.5, the Capital Accounts of the Members shall be adjusted in accordance with the capital account maintenance rules of Section 1.704-1(b)(2)(iv) of the Treasury Regulations.

(g) The foregoing provisions of this Section 4.5 are intended to comply with Section 1.704-1(b)(2)(iv) of the Treasury Regulations and shall be interpreted and applied in a manner consistent with such Treasury Regulations. If the Board shall determine that it is prudent to modify the manner in which the Capital Accounts are computed in order to comply with Section 1.704-1(b)(2)(iv) of the Treasury Regulations, the Board may make such modification; provided, however, that such modification is not likely to have a material effect on the amounts distributable to any Member pursuant to ARTICLE V.

(h) The Capital Account balance of any Member who receives a "guaranteed payment" (as determined under Section 707(c) of the Code) from the Company shall be adjusted only to the extent of such Member's allocable share of any Company deduction or loss resulting from such guaranteed payment.

4.6. Return of Capital Contributions. Except as otherwise provided herein, no Member shall have the right to withdraw, or receive any return of, all or any portion of such Member's Capital Contribution.

4.7. Interest. No interest shall be paid by the Company on Capital Contributions or on balances in Members' Capital Accounts.

4.8. Loans from Members. Any loan by a Member to the Company shall be subject to the Majority Vote of the Board Members pursuant to Section 8.4. Loans by a Member to the Company shall not be considered Capital Contributions and any Capital Contributions made by a Member pursuant to Sections 4.1, 4.3 or 4.4 will be treated as a contribution to capital and not as a loan. If any Member shall advance funds to the Company in excess of the amounts required hereunder to be contributed by such Member to the capital of the Company, the making of such advances shall not result in any increase in the amount of the Capital Account of such Member. The amounts of any such advances shall be a debt of the Company to such Member and shall be payable or collectible only out of the Company assets in accordance with the terms and conditions upon which such advances are made. The repayment of loans from a Member to the Company upon liquidation shall be subject to the order of priority set forth in Section 12.4.

ARTICLE V
ALLOCATIONS AND DISTRIBUTIONS

5.1. **Allocations of Profits and Losses from Operations**. Except as otherwise provided in this ARTICLE V, Profits and Losses for each Fiscal Year or other period shall be allocated to the Members in accordance with their respective ownership of Membership Units.

5.2. Allocations on Dissolution and Winding Up. Except as otherwise provided in this ARTICLE V, Profits and Losses resulting from a sale of the Company's assets under Section 12.2 or otherwise upon the dissolution and termination of the Company shall be allocated to the Members as set forth in Section 5.1.

5.3. Book/Tax Disparities; Section 754 Elections; Etc.

(a) In the case of Contributed Property, items of income, gain, loss, deduction and credit, as determined for federal income tax purposes, shall be allocated first in a manner consistent with the requirements of Section 704(c) of the Code to take into account the difference between the Agreed Value of such property and its adjusted tax basis at the time of contribution. The Company shall elect to apply the remedial allocation method pursuant to Treasury Regulations under Code Section 704(c), unless the Members agree to use a different method. The Members agree that the remedial method will be used with respect to DNC's in-kind initial contribution to the extent remedial allocations are permitted.

(b) In the case of Adjusted Property, such items shall be allocated in a manner consistent with the principles of Section 704(c) of the Code to take into account the difference between the Carrying Value of such property and its adjusted tax basis. The method under Section 704(c) of the Code and the Treasury Regulations thereunder shall be determined by the Members. In the event that the Adjusted Property was originally a Contributed Property, the allocation required by this Section 5.3(b) also shall take into account the requirements of Section 5.3(a).

(c) For the avoidance of doubt, the Members agree and acknowledge that, in the event of a liquidation of the Company pursuant to Section 12.4(b), except to the extent otherwise allocated to Churchill Downs, ordinary remedial deductions or other ordinary deductions shall be allocated to Churchill Downs in connection with such a liquidation equal to 50% of the Prior Expenditures and other Project Losses (the intent being that, and the Members agree that this agreement shall be applied so that, ordinary tax deductions shall be allocated to Churchill Downs for tax purposes equal to 50% of the economic losses borne by Churchill Downs under Section 12.4(b) or otherwise attributable to Prior Expenditures and other Project Losses).

(d) All items of income, gain, loss, deduction and credit recognized by the Company for federal income tax purposes and allocated to the Members in accordance with the provisions hereof shall be determined without regard to any election under Section 754 of the Code which may be made by the Company; provided, however, that such allocations, once made, shall be adjusted as necessary or appropriate to take into account those adjustments permitted by Sections 734 and 743 of the Code.

(e) Whenever the income, gain and loss of the Company allocable hereunder consists of items of different character for tax purposes (e.g., ordinary income, long-term capital gain, interest expense, etc.), the income, gain and loss for tax purposes allocable to each Member shall be deemed to include its pro rata share of each such item. Notwithstanding the foregoing, if the Company realizes depreciation recapture income pursuant to Section 1245 or Section 1250 (or other comparable provision) of the Code as the result of the sale or other disposition of any asset, the allocations to each Member hereunder shall be deemed to include the same proportion of such depreciation recapture as the total amount of deductions for tax depreciation of such asset previously allocated to such Member bears to the total amount of deductions for tax depreciation of such asset previously allocated to all Members. This Section 5.3(e) shall be construed to affect only the character, rather than the amount, of any items of income, gain and loss.

(f) To the extent not otherwise addressed in this Section 5.3, the income, gains, losses, deductions and credits of the Company for federal, state and local income tax purposes shall be allocated in the same manner as the corresponding items entering into the computation of Profits and Losses were allocated pursuant to Sections 5.1.

5.4. Allocation of Nonrecourse Deductions. Items of loss, deduction and Section 705(a)(2)(B) Expenditures attributable, under Section 1.704-2(c) of the Treasury Regulations, to increases in the Company's Minimum Gain shall be allocated, as provided in Section 1.704-2(e) of the Treasury Regulations, to the Members in accordance with their respective ownership of Membership Units.

5.5. Allocation of Member Nonrecourse Deductions. Notwithstanding the provisions of Sections 5.1 and 5.2, items of loss, deduction and Section 705(a)(2)(B) Expenditures attributable, under Section 1.704-2(i) of the Treasury Regulations, to Member Nonrecourse Debt shall (prior to any allocation pursuant to Section 5.1 or 5.2) be allocated, as provided in Section 1.704-2(i) of the Treasury Regulations, to the Members in accordance with the ratios in which they bear the economic risk of loss for such debt for purposes of Section 1.752-2 of the Treasury Regulations.

5.6. Minimum Gain Chargeback. In the event that there is a net decrease in the Company's Minimum Gain during a taxable year of the Company, the minimum gain chargeback described in Sections 1.704-2(f) and (g) of the Treasury Regulations shall apply.

5.7. Member Minimum Gain Chargeback. If during a taxable year of the Company there is a net decrease in Member Nonrecourse Debt Minimum Gain, any Member with a share of that Member Nonrecourse Debt Minimum Gain (determined under Section 1.704-2(i)(5) of the Treasury Regulations) as of the beginning of the year must be allocated items of income and gain for the year (and, if necessary, for succeeding years) equal to that Member's share of such net decrease in accordance with Section 1.704-2(i) of the Treasury Regulations.

5.8. Qualified Income Offset. Pursuant to Section 1.704-1(b)(2)(ii)(d) of the Treasury Regulations, income of the Company shall be allocated, after the allocations required by Sections 5.6 and 5.7 but before any other allocation required by this ARTICLE V, to the Members with deficit balances in their Adjusted Capital Accounts in an amount and manner sufficient to eliminate such deficit balances as quickly as possible. This Section 5.8 is intended to satisfy the provisions of Section 1.704-1(b)(2)(ii)(d) of the Treasury Regulations and shall be interpreted consistently therewith.

5.9. Limitations on Loss Allocation. Notwithstanding any other provision of this Agreement to the contrary, no item of loss or deduction of the Company shall be allocated to a Member if such allocation would result in a negative balance in such Member's Adjusted Capital Account. Such loss or deduction shall be allocated first among the Members with positive balances in their Capital Accounts in proportion to (and to the extent of) such positive balances and thereafter in accordance with their interests in the Company as determined under Section 1.704-1(b)(3) of the Treasury Regulations.

5.10. Curative Allocations. If any items of income and gain (including gross income) or loss, deduction and Section 705(a)(2)(B) Expenditures are allocated to a Member pursuant to Section 5.4, 5.5, 5.6, 5.7, 5.8 or 5.9, then, prior to any allocation pursuant to Section 5.1 or 5.2 and subject to Sections 5.4, 5.5, 5.6, 5.7, 5.8 and 5.9, items of income and gain (including gross income) and items of loss, deduction and Section 705(a)(2)(B) Expenditures for subsequent periods shall be allocated to the Members in a manner designed to result in each Member's Capital Account having a balance equal to what it would have been had such allocation of items of income and gain (including gross income) or loss, deduction and Section 705(a)(2)(B) Expenditures not occurred under Section 5.4, 5.5, 5.6, 5.7, 5.8 or 5.9. In exercising their discretion under this Section 5.10, the Members shall take into account future allocations under Sections 5.6 and 5.7 that, although not yet made, are likely to offset other allocations previously made under Sections 5.4 and 5.5.

5.11. Interest in Company Profits. Pursuant to Section 1.752-3(a)(3) of the Treasury Regulations, the Members' interests in Company profits for purposes of determining the Members' proportionate shares of the excess nonrecourse liabilities (as defined in Section 1.752-3(a)(3) of the Treasury Regulations) of the Company shall be determined in accordance with their respective ownership of Membership Units.

5.12. Distributions in Kind. If any assets of the Company are distributed in kind pursuant to Section 12.4, such assets shall be distributed to the Members entitled thereto in the same proportions as if the distribution were in cash. Such assets shall be valued at their then fair market value as reasonably determined by the Board. The amount of Unrealized Gain or Unrealized Loss attributable to any asset to be distributed in kind to the Members shall, to the extent not otherwise recognized by the Company or taken into account under Section 5.3(d), be taken into account in computing gain or loss of the Company for purposes of allocation of gain or loss under Sections 5.1 and 5.2, and distributions of proceeds to the Members under Sections 5.14 and 12.4. If the assets of the Company are sold in a transaction in which, by reason of the provisions of Section 453 of the Code or any successor thereto, gain is realized but not

recognized, such gain shall be taken into account in computing gain or loss of the Company for purposes of allocations and distributions to the Members pursuant to this ARTICLE V, notwithstanding that the Members may elect to continue the Company pending collection of deferred purchase money obligations received in connection with such sale.

5.13. Allocations and Distributions to Transferred Interests.

(a) If any interest in the Company is Transferred, increased or decreased during the year, all items of income, gain, loss, deduction and credit recognized by the Company for such year shall be allocated among the Members to take into account their varying interests during the year in any manner the Board shall approve, in its sole discretion, as then permitted by the Code.

(b) Distributions under Sections 5.14 and 12.4 shall be made only to Members and assignees who, according to the books and records of the Company, are Members or assignees on the actual date of distribution. Neither the Company nor the Board shall incur any liability for making distributions in accordance with this Section 5.13(b).

5.14. Distributions.

(a) Except as provided in Section 12.4 hereof relating to distributions upon the dissolution and liquidation of the Company, and so long as distributions are permitted by all lending agreements to which the Company is then a party, distributions of funds shall be made according to the following listed provisions to be applied in the order in which they are listed in this Section 5.14(a):

First:

(i) The Tax Matters Member shall determine the Tax Allowance Amount in respect of a fiscal quarter as soon as reasonably practicable after the end of such fiscal quarter, which Tax Allowance Amount shall be distributed to each Member as soon as reasonably practicable after the Tax Matters Member's determination thereof (the "Tax Distributions"). Any Tax Allowance Amounts distributed in respect of any fiscal quarter shall be distributed to the Members in accordance with their respective Membership Interest;

Then, Second:

(ii) Upon approval by the Board by Majority Vote, Free Cash shall be distributed to the Members in accordance with their respective ownership of Membership Units as soon as reasonably practicable after the end of each fiscal quarter if (and only if) the Company is (after giving effect to any such distribution of Free Cash) in compliance with all debt covenants (including the Promissory Notes and any Indebtedness of the Company to third parties, as applicable).

(b) The Company shall not make any distribution to the Members if, immediately after giving effect to the distribution, all liabilities of the Company, other than liabilities to Members with respect to their Membership Units and liabilities for which the recourse of creditors is limited to specified property of the Company, exceed the fair value of Company Property, except that the fair value of Company Property that is subject to a liability for which recourse of creditors is limited shall be included in the Company assets only to the extent that the fair value of that Company Property exceeds that liability.

5.15. **Order of Application**. For purposes of this ARTICLE V, after any and all distributions pursuant to Section 5.14, the listed provisions shall be applied in the order in which they are listed below:

(a) Section 5.7;

(b) Section 5.6;

(c) Section 5.8;

(d) Section 5.9;

(e) Section 5.3;

(f) Section 5.5;

(g) Section 5.4;

(h) Section 5.10;

(i) Section 5.1; and

(j) Section 5.2.

The above ordering is intended to comply with the ordering rules provided in Section 1.704-2(j) of the U.S. Treasury Regulations and should be interpreted and applied in a manner consistent with those Treasury Regulations.

ARTICLE VI
RIGHTS, POWERS AND OBLIGATIONS OF MEMBERS

6.1. Authority; Liability to Third Parties. No Member, in its capacity as such, has the authority or power to act for or on behalf of the Company, to do any act that would be binding on the Company, or to incur any expenditure on behalf of the Company. No Member shall be liable for the debts, obligations or liabilities of the Company, including under a judgment decree or order of a court.

6.2. Transfer of Membership Units.

(a) Except as set forth in Section 6.6(b), no Membership Units or Parent Equity may be Transferred prior to the Acquisition Closing. Except as set forth in Sections 6.5

and 6.6, at any time after the Acquisition Closing and prior to the fifth (5th) anniversary of the date of this Agreement (the "Initial Lock-Up Period"), no Membership Units or Parent Equity may be Transferred, except (i) to an Affiliate, provided that either (A) such Member shall not be relieved of its obligations hereunder or (B) such Affiliate has Acceptable Credit Support, (ii) any Permitted Pledge, or (iii) any Transfer to a third Person or the Company approved by a Majority Vote of the Board Members (each, a "Permitted Transferee"). Except as set forth in Sections 6.5 and 6.6, at any time after the Initial Lock-Up Period, no Membership Units or Parent Equity may be Transferred except (i) to a Permitted Transferee or (ii) all (but not less than all) of a Member's Membership Units in accordance with the terms of Sections 6.3 and 6.4. Notwithstanding the foregoing, no Membership Units or Parent Equity may be Transferred to a Restricted Buyer without the prior written consent of the non-Transferring Members.

(b) In the event a Member desires to Transfer all or part of such Member's Membership Units or any interest therein, such Member will be responsible for compliance with all conditions of Transfer imposed by this Agreement and under applicable Law and for any expenses incurred by the Company for legal and/or accounting services in connection with reviewing any proposed Transfer or, if requested by the Board, issuing opinions in connection therewith. Until a transferee is admitted as a Member pursuant to Section 6.7, the transferor Member shall continue to be a Member and to be entitled to exercise any rights or powers of a Member with respect to the Membership Units Transferred.

(c) Notwithstanding anything contained herein to the contrary: (i) no Member may Transfer any Membership Unit in violation of any provision of this Agreement or in violation of any Law, including the Securities Act and any applicable state securities Laws, (ii) no Transfer of any Membership Units or issuance of additional Membership Units or other equity interests may be effected if such Transfer or issuance would cause a dissolution of the Company under the Act and (iii) no Transfer of any Membership Units may be effected to a transferee (i) that is or could reasonably be expected to be Unsuitable or (ii) if such Transfer could reasonably be expected to adversely affect any Gaming or Racing Approval or Gaming or Racing Licenses of the Company or the other Member (or any Affiliate of such Member) in any material respect. Any purported Transfer of any Membership Unit or issuance of additional Membership Units or other equity interests in violation of the provisions of this Agreement shall be wholly void and shall not effectuate the Transfer contemplated thereby.

6.3. Right of First Offer.

(a) If at any time any Member (such Member, the "Transferring Member") wishes to Transfer all (but not less than all) of its Membership Units, such Member shall submit a Notification of offer (the "ROFO Offer") to Transfer such Membership Interest to each other Member (such other Members, the "Non-Transferring Members"), which Notification shall include the cash purchase price for such Membership Units or the formula by which such price is to be determined, any other material terms and conditions, the identity of any prospective third party purchaser, and the proposed date of Transfer. The Non-Transferring Members shall act upon the ROFO Offer as soon as practicable after receipt thereof, and in any event within thirty (30) Business Days after receipt thereof (the "ROFO Expiration Date"). Notwithstanding the

foregoing, a Transfer by a Member having Membership Interests equal to or greater than 75% of the total Membership Interests shall not be required to comply with this Section 6.3(a) in connection with a proposed Transfer of its Membership Units.

(b) The Non-Transferring Members shall have the right to accept the ROFO Offer as to the Membership Units offered thereby. If more than one Non-Transferring Member elects to purchase such Membership Units, then such Membership Units shall be allocated among the Non-Transferring Members pro rata according to the Membership Interests of the Non-Transferring Members. In the event the Non-Transferring Members shall elect to purchase such Membership Units, the Non-Transferring Members shall provide Notification to the Transferring Member of such election to purchase on or before the ROFO Expiration Date, and, subject to this Section 6.3, such election shall constitute a legally binding and enforceable agreement for the sale and purchase of such Membership Units; provided, however, that prior to such election, the ROFO Offer may be revoked at any time (and, upon such revocation, such Membership Units shall again become subject to the requirements of a prior offer pursuant to this Section 6.3).

(c) In the event the Non-Transferring Members do not accept the ROFO Offer in accordance with Section 6.3(b) or the Non-Transferring Member is not able to obtain all requisite governmental and third-party filings, consents and approvals required to effect the purchase of the applicable Membership Units pursuant to this Section 6.3 without conditions resulting in any adverse effect on the Company or its Business described in Section 6.3(d) below, then the Transferring Member shall be free to enter into an agreement with a proposed third party purchaser (the "ROFO Transferee Party") during the ninety (90) day period beginning on the day after the ROFO Expiration Date (the "Third Party Offer Period"), at not less than the price and upon other terms and conditions, if any, not more favorable to the ROFO Transferee Party than those specified in the ROFO Offer. If an agreement to sell such Membership Units is not reached within the Third Party Offer Period, such Membership Interest shall again become subject to the requirements of a prior offer pursuant to this Section 6.3. In the event that an agreement to sell such Membership Units is reached pursuant to this Section 6.3 with a ROFO Transferee Party, such Membership Units shall continue to be subject to the terms of this Agreement, and the ROFO Transferee Party shall be deemed to be a "Member" for all purposes of this Agreement to the same extent to which the Transferring Member would be subject if not for such sale. To evidence more fully that such Membership Units remain subject to this Agreement, any such ROFO Transferee Party shall acknowledge its agreement to be bound by the terms of this Agreement to the same extent as the Transferring Member is bound by executing a copy of this Agreement in a form reasonably satisfactory to the Non-Transferring Members. Until such conditions have been satisfied, the Company shall have no authority or obligation to register any such transferred Membership Units in the name of the ROFO Transferee Party or to recognize the ROFO Transferee Party as having any rights to such Membership Interest. Upon satisfaction of such conditions and all other conditions to such Transfer as set forth in this Agreement, the ROFO Transferee Party shall succeed to all of the rights, subject to all of the obligations, of the Transferring Member under this Agreement.

(d) The Transferring Member shall use its commercially reasonable efforts to satisfy all applicable legal requirements to Transfer the Membership Units to the Non-Transferring Member or the ROFO Transferee Party, as applicable, including the making or obtaining of all requisite approvals of any Governmental Authority, including any Gaming or Racing Authority, or other third-party filings, consents and approvals, required to effect the purchase of the applicable Membership Units pursuant to this Section 6.3 without conditions resulting in any adverse effect on the Company or its Business. Unless the Transferring Member has failed to satisfy any such legal requirement or failed to receive any of such required approvals or consents free of such conditions, the purchase of the applicable Membership Units shall be closed and consummated in the principal office of the Company (i) with respect to a Transfer to the Non-Transferring Member, on or before the 180-day anniversary following the ROFO Expiration Date or (ii) with respect to a Transfer to a ROFO Transferee Party, on or before the 90-day anniversary following the expiration of the Third Party Offer Period; provided, however, that with respect to clause (ii), if by such time all such approvals or consents required to consummate such transaction have not been obtained free of such conditions or if such transaction is not consummated for any other reason, such transaction shall be abandoned and the applicable Membership Units shall again be subject to the provisions of this Agreement as though the ROFO Offer as to such Membership Interest had not been previously given.

6.4. Tag-Along Rights.

(a) If at any time a Transferring Member holding 50% or more of the total outstanding Membership Units desires to Transfer all (but not less than all) its Membership Units to a third party (other than a Transfer to a Permitted Transferee) after compliance in all respects with Section 6.3, then such Transferring Member shall furnish a Notification (the "Tag Along Notice") to the other Member (the "Tag Along Offeror") including the terms and conditions of the proposed Transfer and offer the Tag Along Offerors the right to participate in such Transfer. The Tag Along Notice shall identify:

(i) the Membership Units proposed to be Transferred;

(ii) the price for which the Transfer is proposed to be made;

(iii) the material terms and conditions of the proposed Transfer, including the name and address of the prospective buyer; and

(iv) an invitation to the Tag Along Offeror to make an offer to include in the Transfer to the prospective buyer all of the Membership Units owned by such Tag Along Offeror, on the same terms and conditions with respect to the Membership Units sold as the Transferring Member shall sell its Membership Units.

(b) From the date of its receipt of the Tag-Along Notice, the Tag Along Offeror shall have the right, but not the obligation, exercisable by Notification ("Tag Along Response Notice") given to the Transferring Member within thirty (30) Business Days after the receipt of the Tag Along Response Notice to request that the Transferring Member include all of the Membership Units owned by the Tag Along Offeror as part of the Transfer. In the event the

Tag Along Offeror does not return the Tag Along Response Notice within such thirty (30) Business Day period, it shall be deemed to have waived all of its rights with respect to such Transfer. The Transferring Member shall use commercially reasonable efforts to obtain the inclusion in the Transfer of all of the Membership Units owned by the Tag Along Offeror (as evidenced by the Tag Along Response Notice). In the event the Transferring Member shall be unable to obtain the inclusion of such entire number of Membership Units in the Transfer, then such Transfer by the Transferring Member shall be abandoned and the applicable Membership Units shall again be subject to the provisions of this Agreement as though the Tag-Along Notice as to such Membership Units had not been previously given. The offer of the Tag Along Offeror contained in the Tag Along Offeror's Tag Along Response Notice shall be irrevocable, and, to the extent such offer is accepted, the Tag Along Offeror shall be bound and obligated to sell in the Transfer on the same terms and conditions all of its Membership Units, which shall include (i) making such representations, warranties and covenants relating to title, authorization of transactions and others, and enter into such definitive agreements, as are customary for transactions of such nature, (ii) benefiting from and being subject to all the same provisions of the definitive agreements as are applicable to the Transferring Member, (iii) being required to bear its proportionate share of any escrows, holdbacks or adjustments in respect of the purchase price or indemnified obligations relating to representations, warranties and covenants made by the Transferring Member in accordance with clause (i) above (provided, that the Tag Along Offeror shall not be required to incur any liability in excess of its pro rata share of such liability), and (iv) cooperating in obtaining all governmental and third party consents and approvals reasonably necessary to consummate such transaction.

6.5. Drag-Along Rights. In the event that a Member that holds Membership Interests equal to or greater than seventy-five percent (75%) of the total Membership Interests (a "Majority Member") and such Majority Member desires to Transfer all of its Membership Units to a third Person (other than a Transfer to a Permitted Transferee) (a "Transferee Party") in a bona fide arm's-length transaction or the Board shall approve a bona fide arm's-length proposal from a Transferee Party with respect to a sale, directly or indirectly, of the Company (including without limitation a sale, license or encumbrance of all or substantially all of any portion of the Company's assets or business, a sale or transfer of more than 50% of the Company's Membership Units, a tender or exchange offer involving the Company's Membership Units, or a merger, reorganization or consolidation with or into another entity) (each, a "Sale Proposal"), then the Majority Member or the Company, as applicable, shall have the right, but not the obligation, to deliver to the Members a Notification (a "Drag-Along Notice") with respect to such Sale Proposal. The Drag-Along Notice shall identify the proposed Transfer, the cash price and other consideration for which the Transfer is proposed to be made, and all other material terms and conditions of the Transfer, including the form of the proposed agreement with the Transferee Party. Each such other Member, upon receipt of a Drag-Along Notice, shall be obligated, which obligation shall be enforceable by the Company and the initiating Member, to take all necessary action to cause the Company and such Members to consummate such transaction, including, without limitation, (a) voting its equity in favor of, consenting to and raising no objections against such Sale Proposal (and directing its members of the Board designated pursuant to Section 8.2 of this Agreement to approve any such Sale Proposal and take all required actions in furtherance thereof), (b) executing such agreements and related

documentation as is necessary to effect the Sale Proposal, (c) waiving any applicable dissenters' rights, appraisal rights or similar rights in connection with such Sale Proposal and (d) if such Sale Proposal is structured as a sale of Membership Units, each Member shall sell that number of such Member's Membership Units as is requested by the Board or the Majority Member, as applicable, on such terms and conditions as have been specified in the Drag-Along Notice. Any such Drag-Along Notice may be rescinded for any reason by the Company or initiating Member, as applicable, by delivering Notification thereof to all Members. The other Members shall (w) make such representations, warranties and covenants relating to their title, authorization of transactions and others, and enter into such definitive agreements, as are customary for transactions of the nature of the Sale Proposal, (x) benefit from and be subject to all the same provisions of the definitive agreements as are applicable to the Majority Member, (y) be required to bear its proportionate share of any escrows, holdbacks or adjustments in respect of the purchase price or indemnified obligations relating to representations, warranties and covenants made by the Majority Member in accordance with clause (w) above (provided, that such Member shall not be required to incur any liability in excess of its pro rata share of such liability), and (z) cooperate in obtaining all governmental and third party consents and approvals reasonably necessary to consummate such transaction

6.6. Other Transfer Provisions.

(a) Default Offer Right.

(i) If, at any time, a Member or any of its Affiliates (such Member, on behalf of itself or such Affiliate, a "Breaching Party") (i) is determined to be Unsuitable, or (ii) breaches or violates any provision of this Agreement in any material respect (other than Section 4.3, where any violation shall be governed by the terms of such Section), (each of (i) and (ii), a "Default Event"), then the Breaching Party shall be required to promptly provide a Notification to the other Member (the "Non-Breaching Party") of such Default Event; provided that, if the Breaching Party has not previously provided a Notification of the Default Event which is known to the Non-Breaching Party, the Non-Breaching Party will provide a Notification of a Default Event to the Breaching Party (the Notification provided by a Breaching Party or a Non-Breaching Party, as applicable, is hereinafter referred to as a "Default Notice").

(ii) In the event (A) the Breaching Party does not cure the Default Event in all material respects to the reasonable satisfaction of the Non-Breaching Party within thirty (30) Business Days after the receipt of a Default Notice by the applicable Member or (B) of a Deadlock pursuant to Section 8.16, then, in the case of clause (ii)(A), the Non-Breaching Party and, in the case of clause (ii)(B), either Member (in either case, as applicable, the "Notifying Member") shall have the right, but not the obligation, to provide Notification (the "Default Offer Notice") to (i) offer to purchase from the other Member (the "Receiving Member") at the Default Offer Price (as defined below) all of the Membership Units held by the Receiving Member, or (ii) offer to the Receiving Member the right to purchase at the Default Offer Price all of the Membership Units owned by the Notifying Member (the "Default Offer Right"). The Default Offer Notice shall identify the Notifying Member's proposed valuation of the price per Membership Unit (the "Default Offer Price").

(iii) Within thirty (30) Business Days of the Receiving Member's receipt of a Default Offer Notice (the "Election Period"), the Receiving Member shall be required to either (i) purchase from the Notifying Member at the Default Offer Price all of the Membership Units held by the Notifying Member, or (ii) require the Notifying Member to purchase at the Default Offer Price all of the Membership Units owned by the Receiving Member; provided, however, that if the Receiving Member fails to make such election within thirty (30) Business Days of the Receiving Member's receipt of a Default Offer Notice, the Notifying Member's election in the Default Offer Notice shall be final and binding for all purposes of this Agreement. The closing of any such Default Offer Right shall be in accordance with Section 6.6(c).

(b) Failed Acquisition Closing. If the Acquisition Closing does not occur on or prior to the three-year anniversary of the date of the Purchase Agreement (the "Drop-Dead Date"), then either Member (an "Electing Member") shall have the right, but not the obligation, to require the other Member (the "Recipient Member") to purchase at the Liquidation Price all of the Membership Units owned by the Electing Member (the "Failed Closing Right"). The Failed Closing Right may be exercised by the Electing Member at any time on or after the Drop-Dead Date and prior to the Acquisition Closing, by giving Notification to the Recipient Member of such exercise (the "Failed Closing Notice"). In the event that the Recipient Member receives a Failed Closing Notice, then at any time within thirty (30) Business Days following the receipt of such Failed Closing Notice, such Recipient Member shall be required to either (i) purchase the Electing Member's Membership Units pursuant to the Failed Closing Right pursuant to Section 6.6(c) or (ii) elect to terminate the Failed Closing Right and require the Members to negotiate in good faith for a period of thirty (30) Business Days in an attempt to reach a resolution that is satisfactory to the Members; provided, however, that in the case of this clause (ii), if a resolution satisfactory to the Members is not reached during such thirty (30) Business Day negotiation period, then the Company shall be dissolved in accordance with ARTICLE XII.

(c) Closing of a Default Offer Right or Failed Closing Right. At or prior to the closing of a Default Offer Right or a Failed Closing Right (the "Closing"), all applicable legal requirements to Transfer the Membership Units shall have been met, including the obtaining of all requisite approvals of any Governmental Authority, including any Gaming or Racing Authority, or other third-party filings, consents and approvals, which the Members shall use commercially reasonable efforts to obtain. Unless otherwise agreed to by the Members, the Closing shall occur not later than the 180th day following the Failed Closing Notice or the Election Period, as applicable (which 180-day period shall be extended (for a period not to exceed an additional ninety (90) days if any of the transactions contemplated by the Default Offer Right or the Failed Closing Right are subject to any such approval or consent) until the earlier of the expiration of such period or until all such approvals or consents have been received); provided, however, that if by such time all such approvals or consents required to consummate such transaction have not been obtained free of such conditions or if such transaction is not consummated for any other reason, such transaction shall be abandoned and the applicable Membership Units shall again be subject to the provisions of this Agreement as though the Default Offer Right or the Failed Closing Right had not been previously exercised. At the Closing, the Member selling all of its Membership Units shall deliver to the other Member

an assignment of the Membership Units purchased pursuant to the Default Offer Right or a Failed Closing Right, as applicable, which assignment shall be reasonably acceptable to the other Member.

6.7. Admission of Transferee as Member. A transferee of Membership Units desiring to be admitted as a Member must execute a counterpart of, or an agreement adopting, this Agreement. Upon admission of the transferee as a Member, the transferee shall have, to the extent of the Membership Units Transferred, the rights and powers and shall be subject to the restrictions and liabilities of a Member under this Agreement, the Certificate of Formation and the Act. The transferee shall also be liable, to the extent of the Membership Units Transferred, for the unfulfilled obligations, if any, of the transferor Member. Whether or not the transferee of Membership Units becomes a Member, the transferor Member is not released from any liability to the Company under this Agreement, the Certificate of Formation or the Act.

6.8. Confidentiality; Non-Solicitation and Non-Competition.

(a) Each Member agrees not to divulge, communicate (other than to its counsel, auditors, agents, Affiliates and representatives so long as such Persons are made aware of the confidential nature of the confidential information and agree to keep it confidential), use to the detriment of the Company or for the benefit of any other Person, or misuse in any way, any confidential information or trade secrets of the Company or any subsidiary of the Company, including personnel information, secret processes, know-how, customer lists, formulas or other technical data, except as may be required by Law; provided, however, that this prohibition shall not apply: (i) to any information which, through no improper action of such Member, is publicly available or generally known in the industry or was available to such Member on a non-confidential basis prior to its disclosure to such Member; (ii) to the extent required by applicable Law or stock exchange rules or in connection with any Gaming or Racing Approval (including complying with any oral or written questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process to which a such Member is subject); (iii) if the prior written consent of the Board shall have been obtained; and (iv) upon prior Notification to the Board, to any Permitted Transferee (if such Permitted Transferee has agreed in writing prior to its receipt of such confidential information to be bound by the provisions of this Section 6.8 and has delivered to the Company a confidentiality agreement reasonably acceptable to the Board). Each Member acknowledges and agrees that any information or data such Member has acquired on any of these matters or items were received in confidence and furnished to him or her in connection with such Member's investment in the Company. The obligations with respect to confidential information in this Section 6.8 shall terminate two years after a Person ceases to be a Member; provided, however, that the obligation to maintain the confidentiality of "trade secrets" shall not terminate.

(b) For so long as it is a Member and for a period of one (1) year thereafter, no Member nor any of its Affiliates shall, directly or indirectly, solicit to hire any Executive Officer; provided, however, that no Member nor any Affiliate of a Member shall be precluded from hiring any such individual who was previously employed by such Member or one of its Affiliates immediately prior to such individual's employment as an Executive Officer or

otherwise initiates contact with such Member or such Affiliate and/or responds to a general advertisement or notice in any form (paper, electronic or otherwise), including any general job posting or listing on the internet or elsewhere, not specifically directed at any or all of the Executive Officers of the Company (it being understood in each case that any such general advertisement or notice, including any general job posting or listing on the internet or elsewhere, shall not constitute direct or indirect solicitation).

(c) In order to more effectively protect the value and goodwill of the Company, each Member covenants and agrees that for so long as it is a Member and for a period of one (1) year thereafter, such Member (nor any of its Affiliates) will not directly or indirectly own, manage, operate, control or participate in a casino, gaming facility, race track or off-track betting facility within a seventy-five (75) mile radius of Lebanon or New Lebanon (a "Competing Business"); provided, however, that for the avoidance of doubt, in no event shall a Competing Business include any simulcast operation or the operation of any internet website, including the placement of wagers through the internet (and any related customer wagering support); provided, further, that nothing set forth in this Section 6.8(c) shall prohibit a Member or any of its Affiliates from owning not in excess of five percent (5%) in the aggregate of any class of capital stock of any corporation if such stock is publicly traded and listed on any national or regional stock exchange.

(d) It is agreed that the Company and the Members would be irreparably damaged by reason of any violation of the provisions of this Section 6.8, and that any remedy at law for a breach of such provisions would be inadequate. Therefore, the Company or the other Member shall be entitled to seek and obtain injunctive or other equitable relief (including a temporary restraining order, a temporary injunction or a permanent injunction) against any Member, such Member's Affiliates, agents, assigns or successors for a breach or threatened breach of such provisions and without the necessity of proving actual monetary loss. It is expressly understood among the parties that this injunctive or other equitable relief shall not be the Company's or the Members' exclusive remedy for any breach of this Section 6.8 and the Company or the other Member shall be entitled to seek any other relief or remedy that either may have by contract, statute, law or otherwise for any breach hereof, and it is agreed that the Company or the other Member shall also be entitled to recover its reasonable and actual attorneys' fees and expenses in any successful action or suit against any Member relating to any such breach.

(e) Notwithstanding the foregoing, the participation or involvement of any Member in the Company shall not confer upon the Company or otherwise entitle the Company or any Member thereof to use or otherwise disclose in connection with the Company and its business and affairs the name of such Member without such Member's prior consent.

6.9. Publicly Traded Partnership. No Member shall take any action that would cause the Company to be treated as a "publicly traded partnership" within the meaning of Section 7704(b) of the Code.

6.10. Project Financing.

(a) Unless otherwise agreed to by the Members, the Company shall use commercially reasonable efforts to obtain a non-recourse project financing in an amount not to exceed $175,000,000 (the "Project Financing") by retaining one or more commercial banks unanimously selected by the Members (the "Prospective Agents") to serve as book runners or agents in connection with the sale of the Company's notes to investors, with the proceeds of such Project Financing combined with the Members' Capital Contributions to be used to finance 100% of the costs of the development, construction and opening of the New Lebanon facility, including without limitation, all costs reflected in the Racing and Wagering Initial Budget and the Gaming and Hospitality Initial Budget (collectively, the "Project Costs") so long as the aggregate, expected, all-in cost of all interest, fees (rating agency, underwriting and/or placement fees), and other finance charges (including any original issue discount) to be paid by the Company in connection with the Project Financing, calculated as a percentage rate per annum and amortizing all up-front fees, costs and original issue discount over the expected term of the Project Financing (the "Aggregate Costs"), do not exceed eight percent (8%) per annum. For the avoidance of doubt, neither Member nor any of such Member's Affiliates will be requested or required to provide a guarantee or other credit support with respect to the Project Financing other than a guarantee of completion.

(b) When directed by the Board, the Company's officers will solicit indicative financing terms from Prospective Agents relating to the Project Financing (the "First Financing Request"). Any proposal received from the Prospective Agents in response to the First Financing Request will be distributed to the Board and the Members for consideration. If a Prospective Agent provides indicative financing terms for the Project Financing having Aggregate Costs which do not exceed eight percent (8%) per annum, the Board shall authorize the Company's officers to negotiate and execute all documents and to perform all tasks reasonably required to obtain the Project Financing through that Prospective Agent. If more than one Prospective Agent provides indicative financing terms for the Project Financing having Aggregate Costs which do not exceed eight percent (8%) per annum, the Board shall select the Prospective Agent with whom the Company will pursue financing for the Project Costs and shall authorize the Company's officers to negotiate and execute all documents and to perform all tasks reasonably required to obtain the Project Financing through that Prospective Agent.

(c) If as a result of the First Financing Request no Prospective Agent provides indicative financing terms for the Project Financing having Aggregate Costs which do not exceed eight percent (8%) per annum, the officers of the Company will wait thirty (30) days from the date that the first Project Financing proposal was received from a Prospective Agent and will then approach the Prospective Agents a second time regarding the terms under which the Project Financing might be made available to the Company (the "Second Financing Request"). Again, any proposal received from the Prospective Agents in response to the Second Financing Request will be distributed to the Board and the Members for consideration. If as a result of the Second Financing Request any Prospective Agent provides indicative financing terms for the Project Financing having Aggregate Costs which do not exceed eight percent (8%) per annum, the Board shall authorize the Company's officers to proceed with the Project Financing in the manner generally provided in Section 6.10(b) above.

(d) If as a result of the First Financing Request and the Second Financing Request the Project Financing is not available to the Company for Aggregate Costs which do not exceed eight percent (8%) per annum, each Member shall, or shall cause one or more of its respective Affiliates to, make a loan (under its existing revolving credit facility or otherwise) to the Company, with the aggregate amount of such loans from the Members or their Affiliates, when combined with the Members' Capital Contributions, to be sufficient to finance 100% of the Project Costs. Each loan by a Member or its Affiliate will be in an amount equal to such Member's pro rata share of the Project Costs, determined in accordance with such Member's Membership Interests in the Company at the time of such loan. The Company's obligations with respect to any loans made by the Members or their Affiliates pursuant to this Section 6.10(d) will be reflected in such loan agreements, leasehold mortgage agreements, security agreements, intercreditor agreements and promissory notes as the Board may approve, and in the absence of any agreement between the Members to the contrary, the outstanding principal amount of such loans will bear interest at the "prime rate" from time to time published in the Wall Street Journal, plus four hundred (400) basis points. In any event, each Member shall charge the same interest rate for its loans to the Company. In addition, such loans by the Members or their Affiliates will collectively constitute the "Senior Obligation" as defined in that certain Security Agreement dated as of _____, 20__ among the Company, Lebanon Trotting Club, Inc., an Ohio corporation, and Miami Valley Trotting, Inc., an Ohio corporation, as amended, restated, supplemented or otherwise modified from time to time.

(e) If a Member (a "Failing Member") fails to loan (or caused to be loaned) its pro rata portion of the Project Costs to the Company in accordance with Section 6.10(d), the Company will give such Failing Member Notification thereof, with a copy to the other Member. If such Failing Member fails to loan (or caused to be loaned) its pro rata portion of the Project Financing within fifteen (15) Business Days after such Notification has been given, the other Member (or one or more of its Affiliates) in such case may, but will not be obligated to, elect by a second Notification sent to the Failing Member (the "Purchase Election Notice") to purchase all but not less than all of the outstanding Membership Units of the Failing Member for an aggregate purchase price equal to the cash portion of the Failing Member's Capital Contributions. Unless otherwise agreed to by the Members, the Closing shall occur not later than the thirtieth (30th) day following the date of the Purchase Election Notice. At the Closing, the Failing Member will deliver to the other Member an assignment of the Membership Units purchased pursuant to the Purchase Election Notice, with such assignment to be reasonably acceptable to the other Member. Each Member shall use commercially reasonable efforts to obtain all requisite approvals of any Governmental Authority, including any Gaming or Racing Authority, or other third-party filings, consents and approvals in connection with the purchase of such Membership Units.

(f) Notwithstanding anything to the contrary appearing in this Agreement, a loan by a Member or any of its Affiliates to the Company pursuant Section 6.10(d) shall not require a Majority Vote of the Board Members pursuant to Section 8.4.

6.11. Cooperation. Each Member and the Company shall, and shall cause their respective Affiliates to, cooperate with one another and use their respective commercially reasonable efforts to (i) take, or cause to be taken, all appropriate action, and do, or cause to be done, all things reasonably necessary under applicable Law to consummate and make effective the transactions contemplated by this Agreement and the Transaction Documents as promptly as reasonably practicable, (ii) obtain from any Person any consents, licenses, permits, waivers, approvals, authorizations or orders required to be obtained by each Member and the Company, or any of their respective Affiliates, as applicable, in connection with the authorization, execution and delivery of this Agreement and the Transaction Documents and the consummation of the transactions contemplated hereby and thereby, and (iii) make all necessary filings, as applicable, and thereafter make any other required submissions with respect to this Agreement and the Transaction Documents, as required in order to obtain all approvals of Governmental Authorities required under (A) any Law governing or relating to any casino, gaming, gambling (including the operation of slot machines), or live or off-track horse racing wagering activities, or the operations of Lebanon, New Lebanon, the Company, the Members or any of their respective Affiliates, as the case may be, and the rules and regulations promulgated thereunder, and (B) any other applicable Law, including any applicable building, construction or liquor licensing Laws.

ARTICLE VII
MEETINGS OF MEMBERS

7.1. Place of Meetings. All meetings of Members shall be held at the principal office of the Company as provided in Section 2.5, or at such other place in the United States as may be designated by the Board. Any Member shall be permitted to attend any meeting in person or by conference call pursuant to Section 13.1.

7.2. Meetings. Meetings of Members for any proper purpose or purposes may be called at any time by the Board.

7.3. Notice. A Notification of all meetings, stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than three (3) Business Days nor more than sixty (60) days before the meeting to each Member entitled to vote.

7.4. Waiver of Notice. Attendance of a Member at a meeting shall constitute a waiver of Notification of the meeting, except where such Member attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. Notification of a meeting may also be waived in writing. Attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be included in the Notification of the meeting but not so included, if the objection is expressly made at the meeting.

7.5. Quorum. The presence, either in person or by proxy, of Members holding at least a majority of the Membership Units then outstanding is required to constitute a quorum at any meeting of the Members.

7.6. Voting.

(a) All Members shall be entitled to vote on any matter submitted to a vote of the Members. Members may vote either in person or by proxy at any meeting. Each Member shall be entitled to one vote for each Membership Unit held by such Member. Fractional votes shall be permitted.

(b) With respect to any matter other than a matter for which the affirmative vote of Members owning a specified percentage of the Membership Units is required by the Act, the Certificate of Formation or this Agreement, a Majority Vote of the Members shall be the act of the Members.

(c) No provision of this Agreement requiring that any action be taken only upon approval of the Members holding a specified percentage of the Membership Units then outstanding may be modified, amended or repealed unless such modification, amendment or repeal is approved by Members holding at least such percentage of the Membership Units.

7.7. Conduct of Meetings. The Members shall have full power and authority concerning the manner of conducting any meeting of the Members, including the determination of Persons entitled to vote, the existence of a quorum, the satisfaction of the requirements of this ARTICLE VII, the conduct of voting, the validity and effectiveness of any proxies and the determination of any controversies, votes or challenges arising in connection with or during the meeting or voting. The Members by Majority Vote shall designate a Person to serve as chairperson of any meeting and shall further designate a Person to take minutes of any meeting. The chairperson of the meeting shall have the power to adjourn the meeting from time to time, without notice, other than announcement of the time and place of the adjourned meeting. Upon the resumption of such adjourned meeting, any business may be transacted that might have been transacted at the meeting as originally called.

7.8. Action by Written Consent. Any action that may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action to be taken, shall be signed and dated by Members holding the highest percentage of Membership Units required to approve such action under the Act, the Certificate of Formation or this Agreement. Such consent shall have the same force and effect as a vote of the signing Members at a meeting duly called and held pursuant to this ARTICLE VII. No prior notice from the signing Members to the Company or other Members shall be required in connection with the use of a written consent pursuant to this Section 7.8. Notification of any action taken by means of a written consent of Members shall, however, be sent within a reasonable time after the date of the consent by the Company to all Members who did not sign the written consent.

7.9. Proxies. A Member may vote either in person or by proxy executed in writing by the Member. A facsimile, telegram, telex, cablegram or similar transmission by the Member or a photographic, photostatic, facsimile or similar reproduction of a writing executed by the Member shall be treated as an execution in writing for purposes of this Section 7.9. Proxies for use at any meeting of Members or in connection with the taking of any action by written consent shall be filed with the Company before or at the time of the meeting or execution

of the written consent, as the case may be. All proxies shall be received and taken charge of and all ballots shall be received and canvassed by an officer designated by the Board who shall decide all questions touching upon the qualification of voters, the validity of the proxies and the acceptance or rejection of votes, unless an inspector or inspectors shall have been appointed by the chairperson of the meeting, in which event such inspector or inspectors shall decide all such questions. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. A proxy shall be revocable unless the proxy form conspicuously states that the proxy is irrevocable and the proxy is coupled with an interest. Should a proxy designate two (2) or more Persons to act as proxies, unless such instrument shall provide to the contrary, a majority of such Persons present at any meeting at which their powers thereunder are to be exercised shall have and may exercise all the powers of voting or giving consents thereby conferred, or if only one be present, then such powers may be exercised by that one; or, if an even number attend and a majority do not agree on any particular issue, the Company shall not be required to recognize such proxy with respect to such issue if such proxy does not specify how the Membership Units that are the subject of such proxy are to be voted with respect to such issue.

ARTICLE VIII
MANAGEMENT OF THE COMPANY

8.1. Management of Business. Except as otherwise expressly provided in this Agreement, the powers of the Company shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed under the direction of, a board of managers (each, a "Board Member" and, collectively, the "Board" or the "Board of Managers") as described herein.

8.2. Board of Managers; Number and Election of Board Members; Committees.

(a) The Board of Managers shall consist of six (6) Board Members, consisting of the following:

(i) Three (3) Board Members, who shall be employees of Churchill Downs or an Affiliate of Churchill Downs and who shall not be employees of the Company or any Subsidiary of the Company, appointed from time to time by Churchill Downs by Notification to the Company and DNC.

(ii) Three (3) Board Members, who shall be employees of DNC or an Affiliate of DNC and who shall not be employees of the Company or any Subsidiary of the Company, appointed from time to time by the DNC Member by Notification to the Company and the Churchill Downs Member.

provided, however, that notwithstanding the foregoing, if at any time a Member and its Affiliates collectively hold a Membership Interest equal to or less than twenty-five percent (25%) (a "Minority Member"), then such Minority Member shall (i) cause one (1) of its designated Board Members to resign immediately and the Board of Managers shall thereafter consist of five (5) Board Members and (ii) only be entitled to appoint two (2) Board Members thereafter. The initial Board Members are set forth on Schedule III attached hereto.

(b) If at any time there occurs a vacancy on the Board, the Member who is entitled to designate the applicable Board Member shall be entitled to fill such vacancy.

(c) The Board shall establish such committees, if any, as shall be deemed necessary or advisable by the Board. If any committees of the Board are formed by the Board, the Members shall be entitled to the same representation on any each such committee as such Members receive on the Board.

8.3. General Powers of the Board. Except as may otherwise be expressly provided in this Agreement, the Board, acting in the manner set forth in Section 8.8 and Section 8.11, shall have discretion in the management and control of the business and affairs of the Company, including the right to make and control all decisions concerning the business and affairs of the Company. The Board, acting in the manner set forth in Section 8.8 and Section 8.11, shall possess all power, on behalf of the Company, to do or authorize the Company or to direct the officers and agents of the Company, on behalf of the Company, to do all things necessary or convenient to carry out the business and affairs of the Company.

8.4. Limitations on the Powers of the Board. The enumeration of powers in this Agreement shall not limit the general or implied powers of the Board Members or any additional powers provided by law. Notwithstanding the foregoing and any other provision contained in this Agreement to the contrary no act shall be taken, sum expended, decision made, obligation incurred or power exercised by the Company, or the officers or the Board Members on behalf of the Company, in each case without the Majority Vote of the Board Members with respect to any of the following:

(a) approving an Annual Budget;

(b) the making of any expenditure or commitment in respect of an Annual Budget that would result in expenditures in excess of the total amount budgeted in such Annual Budget for the applicable fiscal year;

(c) the appointment, compensation or termination of the general manager of the Company;

(d) the appointment, compensation or termination of any Executive Officer;

(e) the entry into or approval, amendment, modification or termination of any site plans, construction plans, architectural or other designs of the Company, including those with respect to New Lebanon;

(f) the entry into, amendment, modification or termination of (A) any contract for the purchase or sale of real property; (B) any contract related to lobbying a Governmental Authority; (C) any collective bargaining agreement or similar contract with any labor union or

similar organization; (D) any employee benefit plan, including any incentive compensation, retirement, profit-sharing or deferred compensation plan; (E) any employment agreement, including any relating to severance, change in control, retention, bonus or other incentives; (F) any contract for the sale or purchase of services, materials, supplies or equipment that is reasonably expected to involve the payment of more than $250,000 per annum or more than $500,000 in the aggregate, or that has a term of greater than two (2) years and is not terminable prior thereto by the Company without payment by or penalty to the Company in excess of $250,000 (provided, that the dollar and term thresholds set forth in this clause (F) may be modified from time to time by the Board); or (G) any agreement which limits or restricts where the Company or any of its Affiliates may conduct business or the type or line of business in which such Persons may engage;

(g) any merger or consolidation involving the Company (other than a merger of any subsidiary of the Company into the Company or any other subsidiary of the Company);

(h) any split, combination or reclassification of any Membership Units;

(i) except as set forth in Section 6.10, (A) the incurrence by the Company of any obligation for borrowed money or any obligation evidenced by bonds, debentures, notes or similar instruments, (B) the incurrence by the Company of any other Indebtedness or the guarantee by the Company of any third-party indebtedness for borrowed money in excess of $200,000 per annum in the aggregate or more than $400,000 in the aggregate or (C) the prepayment by the Company of any Indebtedness;

(j) the initiation, compromise or settlement of any action, suit, proceeding or arbitration, whether civil, criminal, administrative or investigative;

(k) except as set forth in Section 6.10, the entry into, termination of, or amendment, modification or waiver of any provision of, any contract or agreement between or among the Company and a Member or any Affiliate of a Member (including any loans from a Member);

(l) any voluntary liquidation, dissolution or termination of the Company or the commencement of any proceeding under Title 11 of the United States Code, as it may be amended from time to time;

(m) the issuance or sale by the Company of any additional Membership Interests or other equity interests (including any interests convertible into equity interests) of the Company);

(n) the declaration, setting aside or the payment of any distributions (whether in cash or property) by the Company;

(o) the sale, lease, transfer or other disposition or acquisition by the Company of any portion of its assets or business in excess of $250,000 per annum in the aggregate;

(p) any acquisition of, or investment in, another Person, including the formation of any corporation, limited liability company, joint venture or other entity;

(q) the entry into, or amendment, modification or waiver of any provision of, the Transaction Documents;

(r) selection of external auditors for the Company;

(s) entering into any area of business outside of the Business;

(t) resolution of any conflicts of interest involving any Executive Officer;

(u) conducting a reduction-in-force, excluding ordinary course terminations of employees who are not officers of the Company;

(v) the making of any material change in the Company's or its subsidiaries' accounting methods, principles or practices, other than as required by GAAP; and

(w) the granting of any liens on any material asset of the Company or its subsidiaries.

8.5. Place of Meetings. Meetings of the Board may be held either within or without the State of Delaware at whatever place is specified in the call of the meeting. In the absence of specific designation, the meetings shall be held at the principal office of the Company as provided in Section 2.5(c). The Board Members serving on the Board may appoint from among themselves a chairperson to preside at such meetings. Any Board Member shall be permitted to attend any meeting of the Board in person or by conference call pursuant to Section 13.1.

8.6. Regular Meetings. The Board shall meet at least quarterly. No notice need be given to Board Members of regular meetings for which the Board Members have previously designated a time and place for the meeting.

8.7. Special Meetings. Special meetings of the Board may be held at any time upon the request of at least three (3) of the Board Members. A Notification of any special meeting shall be sent to the last known address of each Board Member at least five (5) days before the meeting. Notification of the time, place and purpose of such meeting may be waived in writing before or after such meeting, and shall be equivalent to the giving of a Notification. Attendance of a Board Member at such meeting shall also constitute a waiver of Notification thereof, except where such Board Member attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting.

8.8. Quorum of and Action by Board of Managers. The presence, in person or by proxy, of at least a majority of the Board Members shall constitute a quorum for the

transaction of business at any meeting of the Board. Except as otherwise expressly set forth in this Agreement, any action to be taken or approved by the Board hereunder must be taken or approved by a majority of the Board Members and any action so taken or approved shall constitute the act of the Board.

8.9. Compensation. The Board Members shall serve without compensation for their service on the Board. Board Members shall be entitled to reimbursement for their reasonable and documented out-of-pocket expenses incurred in attending any meeting.

8.10. Resignation and Removal. Any Board Member may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time is specified, at the time of its receipt by the Company. Any Board Member may be removed, either for or without cause, only upon the affirmative vote, written consent or Notification to the Company of the Member who designated such Board Member pursuant to Section 8.2.

8.11. Action by Written Consent. Any action that may be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action to be taken, shall be signed by the Board Members whose consent is necessary with respect to such action, and such consent shall have the same force and effect as a vote of the Board at a meeting duly called and held. No notice shall be required in connection with the use of a written consent pursuant to this Section 8.11.

8.12. Standard of Care; Liability.

(a) Each Board Member shall be deemed to be acting at all times solely as the representative of the Member designating such Board Member in accordance with Section 8.2, and, to the fullest extent permitted by Law, no Board Member shall be deemed to have any fiduciary duties to the Company, its subsidiaries or to any Member other than the Member designating such Board Member. No Member shall, or shall cause or permit the Company, its subsidiaries or any other Person to, assert any claim against or commence any action, suit or proceeding naming as a defendant or respondent any Board Member designated by any another Member. All disagreements or controversies among the Members or between the Company or its subsidiaries and any Member shall be resolved exclusively between such Persons and no such Person shall initiate any litigation, arbitration or similar proceeding against any director, officer, employee or other representative of any such Person, including any Board Member designated by any such Person.

(b) The general manager and each officer of the Company shall have the same duty of loyalty as such Person would have if such Person were an officer of a Delaware corporation.

(c) The Board Members shall not be liable to the Company or to any Member for any loss (including any loss for monetary damages for breach of fiduciary duty) suffered by the Company or for monetary damages for breach of fiduciary duty to the fullest extent permitted by the Act, except for liability to the Company (to the extent that such liability has been

determined ultimately by a court of competent jurisdiction): (i) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of Law; or (ii) for the unlawful payment of a dividend or distribution or an unlawful equity purchase or redemption.

(d) The Members do not and shall not be deemed to have fiduciary duties to the Company, its subsidiaries or any other Member.

8.13. Officers.

(a) Except as provided in Section 8.13(b), the Board shall have the right to appoint officers of the Company, including a general manager, to assist with the day-to-day management of the business affairs of the Company. The initial officers of the Company will be appointed at the first meeting of the Board of Managers. Each officer shall hold office until his or her successor is elected and qualifies or until his or her death, or his or her resignation or removal in the manner hereinafter provided. Any two or more offices may be held by the same person. Election of an officer or agent shall not in and of itself create contract rights between the Company and such officer or agent. The officers of the Company need not be Members of the Company.

(b) The officers shall not have greater power and authority than the Board and shall not, on behalf of the Company, authorize, engage in or enter into any of the transactions or actions specified in Section 8.3 without the requisite prior consent of the Board in respect thereof. Subject to the provisions of Section 8.3, the Board shall have the right to remove any officer of the Company, for or without cause, at any time; provided, however, that nothing contained herein shall limit any rights of such officer under any employment agreement which such officer may have entered into with the Company. The appointment of substitute officers shall be made by the Board in accordance with the provisions of this ARTICLE VIII.

8.14. Matters Relating to New Lebanon Opening.

(a) During the period prior to the New Lebanon Opening:

(i) Within thirty (30) days after the Acquisition Closing, Churchill Downs shall prepare and submit to the Board for approval the Racing and Wagering Initial Budget; and

(ii) Within thirty (30) days after the Acquisition Closing, DNC shall prepare and submit to the Board for approval the Gaming and Hospitality Initial Budget.

(b) The Company may execute a Services Agreement with each of Churchill Downs and DNC pursuant to which, among other things, (i) Churchill Downs or DNC may provide certain administrative services to the Company and (ii) the Company will reimburse each of Churchill Downs and DNC for 110% of their reasonable out-of-pocket expenses incurred in providing such services.

(c) For the avoidance of doubt, following the New Lebanon Opening, the general manager of the Company shall prepare the Annual Budgets for each of the Company's operating years subsequent to the first year of operations (with such first year of operations to be addressed in the Racing and Wagering Initial Budget and the Gaming and Hospitality Initial Budget), subject to the approval of the Board by Majority Vote set forth in Section 8.4(a). Each such Annual Budget shall be prepared and submitted to the Board prior to November 15th of each calendar year.

(d) Prior to the Acquisition Closing, all conditions precedent to such Acquisition Closing as set forth in Article VII of the Purchase Agreement must be met to the satisfaction of each of the Churchill Member and the DNC Member, in their sole and absolute discretion.

8.15. Other Business. Subject to the provisions of Section 6.8 of this Agreement, the Board Members and Members may engage in or posses an interest in other business ventures (unconnected with the Company) of every kind and description, independently or with others, whether or not of a kind the same or similar to the Business or future business activities of the Company. Neither the Company, the Board Members nor the Members shall have any rights in or to such independent ventures of the Board Members or Members or the income or profits therefrom by virtue of this Agreement. Each of the Company and the Members acknowledges that each and their respective Affiliates, and the Board Members designated by such Members, will likely have, from time to time, information that may be of interest to the Company ("Holder Information") regarding a wide variety of matters, including: (a) such Member's (and its Affiliate's) technologies, plans and services, and plans and strategies relating thereto; (b) current and future investments the Member and its Affiliates have made, may make, may consider or may become aware of with respect to other Persons and other businesses, technologies, products and services, including businesses, technologies, products and services that may be competitive with the Company; and (c) developments with respect to the businesses, technologies, products and services, and plans and strategies relating thereto, of other Persons, including Persons that may be competitive with the Company. The Company and each Member recognizes that such Holder Information may be of interest to the Company. The Company and each Member, as a material part of the consideration for this Agreement, agrees that no Member nor any of their respective Affiliates or the Board Members designated by such Members shall have any duty to disclose any Holder Information to the Company or permit the Company to participate in any projects or investments based on any Holder Information, or to otherwise take advantage of any opportunity that may be of interest to the Company if it were aware of such Holder Information, and hereby waives, to the extent permitted by law, any claim based on the corporate opportunity doctrine or otherwise that could limit the ability of any Member (and their respective Affiliates) to pursue opportunities based on such Holder Information or that would require any Member (or their respective Affiliates) to disclose any such Holder Information to the Company or offer any opportunity relating thereto to the Company. Each Member (and their respective Affiliates and the Board Members designated by such Member) may have other business interests and may engage in any other business or trade, profession or employment whatsoever, on its own account, or in partnership with, or as an employee, officer, director or stockholder of any other Person, and no Member nor any of their

respective Affiliates or the Board Members designated by such Member shall be required to devote its or his or her entire time to the business of the Company. Without limiting the generality of the foregoing, any Member (and any of their respective Affiliates and the Board Members designated by such Members): (i) may engage in the same or similar activities or lines of business as the Company or develop or market any products or services that compete, directly or indirectly, with those of the Company; (ii) may invest or own any interest publicly or privately in, or develop a business relationship with, any Person engaged in the same or similar activities or lines of business as, or otherwise in competition with, the Company; and (iii) do business with any client or customer of the Company or any other Member (and their respective Affiliates). Neither the Company nor any other Member nor any Affiliate thereof by virtue of this Agreement shall have any rights in and to any such independent venture or the income or profits derived therefrom, regardless of whether or not such venture was presented to a Member (or any of its respective Affiliates or the Board Members designated by such Member) as a direct or indirect result of its or his or her connection with the Company.

8.16. Deadlocks. If the Board is unable to reach a determination on any matter for which the Board of Managers has authority under this Agreement or for which Board approval is specifically required in this Agreement, or the Members are unable to reach a determination on any matter for which approval of the Members is required pursuant to this Agreement (each, a "Deadlock"), then such inability to reach such a determination (i) shall result in the authority of the Board or the Members, as the case may be, not being exercised hereunder with respect to the applicable proposal before the Board or Members, as the case may be, (ii) such proposal shall be deemed not to pass and (iii) the status quo shall be maintained with respect to any matter that was the subject of such proposal, unless and until the Board or Members so act(s) in accordance with the provisions of this Agreement. Notwithstanding the foregoing, if such inability to reach such a determination relates to any of the matters set forth in Section 8.4, the Members shall negotiate in good faith for a period of ninety (90) days in an attempt to reach a resolution that is satisfactory to the Members. If a resolution satisfactory to the Members is not reached during such ninety (90) day negotiation period, then such matter will be deemed a "Deadlock" for all purposes of this Agreement and either Member shall be entitled exercise the Default Offer Right set forth in Section 6.6.

ARTICLE IX
OWNERSHIP OF COMPANY PROPERTY

Company Property shall be deemed to be owned by the Company as an entity, and no Member, individually or collectively, shall have any ownership interest in such Company Property or any portion thereof. Title to any or all Company Property may be held in the name of the Company or one or more nominees, as the Board may determine. All Company Property shall be recorded as the property of the Company on its books and records, irrespective of the name in which legal title to such Company Property is held. No Member, nor any successor-in-interest to any Member, shall have the right, while this Agreement remains in effect, to have the property of the Company partitioned, or to file a complaint or institute any proceeding at law or in equity to have the property of the Company partitioned, and each of the Members, on behalf of itself and its successors, representatives and assigns, hereby irrevocably waives any such right.

ARTICLE X
FISCAL MATTERS; BOOKS AND RECORDS

10.1. Bank Accounts; Investments. Capital Contributions, revenues and any other Company funds shall be deposited by the Company in a bank account established in the name of the Company, or shall be invested by the Company in furtherance of the purposes of the Company. No other funds shall be deposited into Company bank accounts or commingled with Company investments. Funds deposited in the Company's bank accounts may be withdrawn only to be invested in furtherance of the Company's purposes, to pay Company debts or obligations or to be distributed to the Members pursuant to this Agreement.

10.2. Records Required by Act; Right of Inspection.

(a) During the term of the Company's existence and for a period of four years thereafter, there shall be maintained in the Company's principal office specified pursuant to Section 2.5, all records required to be kept pursuant to the Act, including a current list of the names, addresses and Membership Units held by each of the Members (including the dates on which each of the Members became a Member), copies of federal, state and local information or income tax returns for each of the Company's tax years, copies of this Agreement and the Certificate of Formation, including all amendments or restatements, and correct and complete books and records of account of the Company.

(b) On written request stating the purpose, a Member may examine and copy in person, at any reasonable time, for any proper purpose reasonably related to such Member's interest as a Member of the Company, and at the Member's expense, records required to be maintained under the Act and such other information regarding the business, affairs and financial condition of the Company as is just and reasonable for the Member to examine and copy. Upon written request by any Member made to the Company at the address of the Company's principal office specified in Section 2.5, the Company shall provide to the Member without charge true copies of: (i) this Agreement and the Certificate of Formation and all amendments or restatements; and (ii) any of the tax returns of the Company described in Section 10.4.

10.3. Books and Records of Account. The Company shall maintain adequate books and records of account that shall be maintained on the accrual method of accounting and on a basis consistent with appropriate provisions of the Code, containing, among other entries, a Capital Account for each class of Membership Units held by each Member.

10.4. Tax Returns and Information. The Members intend for the Company to be treated as a partnership for federal, state and local income tax purposes and shall make any elections necessary to obtain such treatment. The Company shall prepare or cause there to be prepared all federal, state and local income and other tax returns that the Company is required to file. Within seventy-five (75) days after the end of each calendar year, the Company shall send or deliver to each Person who was a Member at any time during such year such tax information as shall be reasonably necessary for the preparation by such Person of such Person's federal income tax return and state income and other tax returns.

10.5. Delivery of Financial Statements to Members. As to each calendar month (other than the last calendar month of a Fiscal Year), each of the first three fiscal quarters of the Company and each Fiscal Year of the Company, the Company shall send to each Member a copy of: (a) the balance sheet of the Company as of the end of the calendar month, fiscal quarter or year; (b) an income statement of the Company for such calendar month, quarter or year; and (c) a statement showing the Free Cash and Tax Distributions distributed by the Company to Members in respect of such quarter or year. Such financial statements shall be delivered no later than twenty (20) days following the end of the calendar month to which the statements apply and twenty (20) days following the end of the fiscal quarter to which the statements apply. The Company shall deliver preliminary unaudited financial statements to the Members no later than thirty (30) days following the end of the Fiscal Year to which the statements apply and shall deliver final audited financial statements to the Members no later than February 28 of each Fiscal Year. If Churchill Downs Incorporated is considered to be a "large accelerated filer" under the Securities Act after the date of this Agreement, the Company shall deliver preliminary unaudited financial statements to the Members no later than twenty (20) days following the end of the Fiscal Year to which the statements apply and shall deliver final audited financial statements to the Members no later than February 15 of each Fiscal Year. Each Member shall also have the right to receive copies of the Annual Budget for any Fiscal Year upon request.

10.6. Fiscal Year. The Company's fiscal year shall end on December 31 of each calendar year (the "Fiscal Year"). Each Fiscal Year shall consist of four quarters ending on March 31, June 30, September 30 and December 31 of each Fiscal Year. Each such quarter shall be referred to as a "fiscal quarter".

10.7. Tax Elections. The Company shall make the following elections on the appropriate tax returns:

(a) to adopt the calendar year as the Company's Fiscal Year, if permitted by the Code;

(b) to adopt the accrual method of accounting, if permitted by the Code, and to keep the Company's books and records;

(c) if a distribution of Company property as described in Section 734 of the Code occurs or if a Transfer of any Membership Units as described in Section 743 of the Code occurs, on written request of any Member, to elect, pursuant to Section 754 of the Code, to adjust the basis of Company properties;

(d) to elect to amortize the organizational expenses of the Company ratably over a period of 180 months as permitted by Section 709(b) of the Code; and

(e) any other election the Members may deem appropriate and in the best interests of the Members.

Neither the Company nor any Member may make an election for the Company to be excluded from the application of the provisions of subchapter K of chapter 1 of subtitle A of the Code or any similar provisions of applicable state Law.

10.8. Tax Matters Member. The Board shall designate one Member to be the "tax matters partner" (the "Tax Matters Member") of the Company pursuant to Section 6231(a)(7) of the Code. Such Member shall take such action as may be necessary to cause each other Member to become a "notice partner" within the meaning of Section 6223 of the Code. The initial Tax Matters Member shall be the Churchill Member.

ARTICLE XI
INDEMNIFICATION AND INSURANCE

11.1. Indemnification and Advancement of Expenses.

(a) The Company shall indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Company), by reason of the fact that he, she or it is or was a Board Member, officer, employee, member, representative or agent of the Company, or is or was serving at the request of the Company as a director, officer, manager, employee, representative or agent of another corporation, limited liability company, general partnership, limited partnership, joint venture, trust, business trust or other enterprise or entity, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him, her or it in connection with such action, suit or proceeding if he, she or it acted in good faith and in a manner he, she or it reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his, her or its conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that such Person did not act in good faith and in a manner which he, she or it reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his, her or its conduct was unlawful.

(b) The Company shall indemnify any Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Company to procure a judgment in its favor by reason of the fact that he, she or it is or was a Board Member, officer, employee, member, representative or agent of the Company, or is or was serving at the request of the Company as a director, officer, manager, employee, representative or agent of another corporation, limited liability company, general partnership, limited partnership, joint venture, trust, business trust or other enterprise or entity, against expenses (including attorneys' fees) actually and reasonably incurred by him, her or it in connection with the defense or settlement of such action or suit if he, she or it acted in good faith and in a manner he, she or it reasonably believed to be in or not opposed to the best interests of the Company, except that no indemnification shall be made in respect of any claim, issue or matter as to which such Person shall have been adjudged to be liable to the Company unless and

only to the extent that a Delaware state court or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(c) To the extent that a Board Member, officer, employee, member, representative or agent of the Company has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in paragraphs (a) and (b) of this Section 11.1, or in defense of any claim, issue or matter therein, he, she or it shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him, her or it in connection therewith.

(d) Any indemnification under paragraphs (a) and (b) of this Section 11.1 (unless ordered by a court of competent jurisdiction) shall be made by the Company only as authorized in the specific case upon a determination that indemnification of a Board Member, officer, employee, member, representative or agent is proper in the circumstances because he, she or it has met the applicable standard of conduct set forth in paragraphs (a) and (b) of this Section 11.1. Such determination shall be made: (i) by the Members who were not parties to such action, suit or proceeding (even if such Members constitute less than a quorum of Members); or (ii) if the Board so directs, by independent legal counsel in a written opinion.

(e) Expenses (including attorneys' fees) incurred by a Board Member or an officer in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Company in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Board Member or such officer to repay such amount if it shall ultimately be determined that he, she or it is not entitled to be indemnified by the Company pursuant to this Section 11.1.

(f) The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 11.1 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any by-law, agreement, vote of Members or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office.

(g) For purposes of this Section 11.1, any reference to the "Company" shall include, in addition to the resulting or surviving corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, managers, members, employees, representatives or agents, so that any Person who is or was a director, officer, manager, member, employee, representative or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, manager, employee, representative or agent of another corporation, limited liability company, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Section 11.1 with respect to the resulting or surviving corporation as he or she would have with respect to such constituent corporation if its separate existence had continued.

(h) The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 11.1 shall continue as to a Person who has ceased to be a Board Member, officer, employee, member, representative or agent and shall inure to the benefit of the heirs, executors and administrators of such Person.

(i) Notwithstanding anything in this ARTICLE XI to the contrary, the Company will not have the obligation of indemnifying any Person with respect to proceedings, claims or actions initiated or brought voluntarily by such Person and not by way of defense.

11.2. Insurance. The Company may purchase and maintain insurance or another arrangement on behalf of any Person who is or was a Board Member, officer, employee, agent or other Person identified in Section 11.1 against any liability asserted against such Person or incurred by such Person in such a capacity or arising out of the status of such a Person, whether or not the Company would have the power to indemnify such Person against that liability under Section 11.1 or otherwise.

11.3. Limit on Liability of Members. The indemnification set forth in this ARTICLE XI shall in no event cause the Members to incur any personal liability beyond their total Capital Contributions, nor shall it result in any liability of the Members to any third party.

ARTICLE XII
DISSOLUTION AND WINDING UP

12.1. Events Causing Dissolution. The Company shall be dissolved upon the first of the following events to occur:

(a) The written consent of Churchill Downs and DNC at any time to dissolve and wind up the affairs of the Company;

(b) The entry of a decree of judicial dissolution under § 18-802 of the Act; and

(c) The termination of the Purchase Agreement prior to the Acquisition Closing pursuant to the terms of the Purchase Agreement.

12.2. Winding Up. If the Company is dissolved pursuant to Section 12.1, the Company's affairs shall be wound up as soon as reasonably practicable in the manner set forth below.

(a) The winding up of the Company's affairs shall be supervised by a liquidator (the "Liquidator"). The Liquidator shall be a liquidator or liquidating committee selected by the Board.

(b) In winding up the affairs of the Company, the Liquidator shall have full right and unlimited discretion, in the name of and for and on behalf of the Company to:

(i) Prosecute and defend civil, criminal or administrative suits;

(ii) Collect Company assets, including obligations owed to the Company;

(iii) Settle and close the Company's business;

(iv) Dispose of and convey all Company Property for cash, and in connection therewith to determine the time, manner and terms of any sale or sales of Company Property, having due regard for the activity and condition of the relevant market and general financial and economic conditions;

(v) Pay all reasonable selling costs and other expenses incurred in connection with the winding up out of the proceeds of the disposition of Company Property;

(vi) Discharge the Company's known liabilities and, if necessary, to set up, for a period not to exceed five years after the date of dissolution, such cash reserves as the Liquidator may deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company;

(vii) Distribute any remaining proceeds from the sale of Company Property to the Members;

(viii) Prepare, execute, acknowledge and file articles of dissolution under the Act and any other certificates, tax returns or instruments necessary or advisable under any applicable Law to effect the winding up and termination of the Company; and

(ix) Exercise, without further authorization or consent of any of the parties hereto or their legal representatives or successors in interest, all of the powers conferred upon the Board under the terms of this Agreement to the extent necessary or desirable in the good faith judgment of the Liquidator to perform its duties and functions. The Liquidator shall, while acting in such capacity on behalf of the Company, be entitled to the indemnification rights set forth in the Certificate of Formation and in ARTICLE XI.

12.3. Compensation of Liquidator. The Liquidator appointed as provided herein shall be entitled to receive such reasonable compensation for its services as shall be agreed upon by the Liquidator and the Board.

12.4. Distribution of Company Property and Proceeds of Sale Thereof.

(a) Upon completion of all desired sales of Company Property, and after payment of all selling costs and expenses, the Liquidator shall distribute the proceeds of such

sales, any cash or cash equivalents and Company Property that is to be distributed in kind, to the following groups in the following order of priority:

(i) to satisfy Company liabilities to creditors, including Members who are creditors, to the extent otherwise permitted by Law (other than for past due Company distributions), whether by payment or establishment of reserves;

(ii) to satisfy Company obligations to Members and former Members to pay past due Company distributions; and

(iii) to the Members, in accordance with their respective Capital Accounts.

(b) Notwithstanding anything contained herein to the contrary, if the Company is dissolved prior to the New Lebanon Opening, upon completion of all desired sales of Company Property (other than assets contributed in-kind by the DNC Member pursuant to the Contribution Agreement), and after payment of all selling costs and expenses, the Liquidator shall distribute the proceeds of such sales, any cash and cash equivalents and Company Property that is to be distributed in kind, to the following groups in the following order of priority:

(i) to satisfy Company liabilities to creditors, including Members who are creditors, to the extent otherwise permitted by Law (other than for past due Company distributions);

(ii) to satisfy Company obligations to the Members to pay past due Company distributions;

(iii) to the DNC Member, the assets contributed in-kind by the DNC Member pursuant to the Contribution Agreement;

(iv) to the Churchill Member, a cash distribution equal to the Churchill Member's Capital Contributions made in cash, less fifty percent (50%) of the Project Loss and, to the DNC Member, a cash distribution equal to the Prior Expenditures plus the DNC Member's Capital Contributions made in cash (and not in-kind contributions made pursuant to the Contribution Agreement), less fifty percent (50%) of the Project Loss; and

(v) to the Members, in accordance with their respective Capital Accounts.

(c) The claims of each priority group specified above shall be satisfied in full before satisfying any claims of a lower priority group. If the assets available for disposition are insufficient to dispose of all of the claims of a priority group, the available assets shall be distributed in proportion to the amounts owed to each creditor or the respective Membership Interests of each Member in such group.

(d) All distributions and payments required under this Section 12.4 shall be made to the Members by the end of the taxable year in which the liquidation occurs or, if later, within ninety (90) days after the date of such liquidation.

12.5. Final Audit. Within a reasonable time following the completion of the liquidation, the Liquidator shall supply to each of the Members a statement that shall set forth the assets and the liabilities of the Company as of the date of complete liquidation and each Member's pro rata portion of distributions pursuant to Section 12.4.

12.6. Deficit Capital Accounts. Notwithstanding anything to the contrary contained in this Agreement, and notwithstanding any custom or rule of law to the contrary, to the extent that the deficit, if any, in the Capital Account of any Member results from or is attributable to deductions and losses of the Company (including non-cash items such as depreciation), or distributions of money pursuant to this Agreement to all Members in proportion to their respective Membership Interests, upon dissolution of the Company such deficit shall not be an asset of the Company and such Members shall not be obligated to contribute such amount to the Company to bring the balance of such Member's Capital Account to zero.

ARTICLE XIII
MISCELLANEOUS PROVISIONS

13.1. Conference Telephone Meetings. Meetings of the Members or the Board may be held by means of conference telephone or similar communications equipment so long as all Persons participating in the meeting can hear each other. Participation in a meeting by means of conference telephone shall constitute presence in person at such meeting, except where a Person participates in the meeting for the express purpose of objecting to the transaction of any business thereat on the ground that the meeting is not lawfully called or convened.

13.2. Counterparts. This Agreement may be executed in several counterparts, each of which will be deemed an original but all of which will constitute one and the same.

13.3. Entire Agreement. This Agreement constitutes the entire agreement among the parties hereto and contains all of the agreements among such parties with respect to the subject matter hereof. This Agreement supersedes any and all other agreements, either oral or written, between such parties with respect to the subject matter hereof.

13.4. Partial Invalidity. Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable Law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision shall be ineffective to the extent, but only to the extent, of such invalidity, illegality or unenforceability without invalidating the remainder of such invalid, illegal or unenforceable provision or provisions or any other provisions hereof, unless such a construction would be unreasonable.

13.5. Amendment. Except as expressly provided herein, this Agreement may be amended only by a written agreement executed by Churchill Downs and DNC.

13.6. Binding Effect. Subject to the provisions of this Agreement relating to transferability, this Agreement will be binding upon and shall inure to the benefit of the parties, and their respective distributees, heirs, successors and assigns.

13.7. Governing Law. This Agreement shall be governed by and construed in accordance with the local, internal Laws of the State of Delaware. In particular, this Agreement is intended to comply with the requirements of the Act and the Certificate of Formation. In the event of a direct conflict between the provisions of this Agreement and the mandatory provisions of the Act or any provision of the Certificate of Formation, the Act and the Certificate of Formation, in that order of priority, will control.

13.8. Offset. Whenever the Company is to pay any sum to any Member, any amounts that Member owes the Company may be deducted from that sum before payment.

13.9. Effect of Waiver or Consent. A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations with respect to the Company is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person with respect to the Company. Failure on the part of a Person to complain of any act of any Person or to declare any Person in default with respect to the Company, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default until the applicable statute-of-limitations period has run.

13.10. Ultimate Parent Guarantee. Each Ultimate Parent hereby unconditionally and irrevocably guarantees and promises to the Company, in order to induce the parties hereto to enter into this Agreement, the payment by such Member that is Affiliated with such Ultimate Parent of the Mandatory Additional Capital Contributions when and to the extent the same shall become due and payable (the "Guaranteed Obligations"). If either Ultimate Parent shall fail to pay any amounts due under this Agreement when and to the extent the same shall become due and payable, such Ultimate Parent will upon written demand from the other Ultimate Parent promptly pay or cause to be paid such amount. The Guaranteed Obligations under this guaranty shall constitute an absolute and unconditional present and continuing guarantee of payment and performance to the extent provided herein and not of collectability, and shall not be contingent upon any attempt by the Company or the other Ultimate Parent to enforce payment or performance. The Guaranteed Obligations under this guaranty are not subject to any counterclaim, setoff, deduction, abatement or defense based upon any claim that the other Ultimate Parent or the Company may have against such Ultimate Parent, and shall remain in full force and effect without regard to any exercise, non-exercise or waiver by the Company or an Ultimate Parent of any right, power, privilege or remedy under or in respect of this Agreement or any insolvency, bankruptcy, dissolution, liquidation, reorganization or the like of such Ultimate Parent or its Affiliates at any time.

13.11. Further Assurances. In connection with this Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be reasonably necessary or appropriate to effectuate and perform the provisions of this Agreement and such transactions.

13.12. Public Announcements. No party to this Agreement or any Affiliate or representative of such party shall issue or cause the publication of any press release or public announcement or otherwise communicate with any news media in respect of this Agreement, the identity of the Members or the terms of this Agreement without the prior written consent of the other parties (which consent shall not be unreasonably withheld or delayed), except as may be required by Law or stock exchange rules or in connection with any Gaming or Racing Approval, in which case the party required to issue or publish such press release or public announcement shall allow the other parties a reasonable opportunity to comment on such press release or public announcement in advance of such issuance or publication, to the extent practicable.

* * * * * * *

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement on the dates set below their names, to be effective on the date first above written.

Miami Valley Gaming & Racing, LLC

By: /s/ William J. Bissett
Name: William J. Bissett
Title: President

MEMBERS:

MVGR, LLC

By: /s/ William C. Carstanjen
Name: William C. Carstanjen
Title: President

MEMBERS (continued):

DNC Ohio Gaming, Inc.

By: /s/ William J. Bissett
Name: William J. Bissett
Title: President

ULTIMATE PARENTS:

Churchill Downs Incorporated (solely with respect to Section 13.10)

By: /s/ William E. Mudd
Name: William E. Mudd
Title: Executive Vice President
and Chief Financial Officer

ULTIMATE PARENTS (continued):

Delaware North Companies Gaming & Entertainment, Inc.
(solely with respect to Section 13.10)

By: /s/ William J. Bissett
Name: William J. Bissett
Title: President

Schedule I

MEMBERS AND CAPITAL CONTRIBUTIONS

Name	Address	Initial Capital Contribution	Agreed Value	Membership Units	Member-ship Interest
MVGR, LLC	700 Central Avenue Louisville, Kentucky 40208 Attn: William C. Carstanjen	$15,000,000	$15,000,000	500	50%
DNC Ohio Gaming, Inc.	40 Fountain Plaza Buffalo, New York 14202 Attn: William J. Bissett	$15,000,000	$15,000,000	500	50%

The Initial Capital Contribution of DNC Ohio Gaming, Inc. will be comprised of $5,000,000 of cash contributions and $10,000,000 of in-kind contributions. The in-kind contributions are goodwill related to development costs paid by DNC Ohio Gaming, Inc. to promote the legalization of gaming at racetracks in the State of Ohio, and creation of the opportunity to acquire the assets and business of Lebanon Raceway.

The Initial Capital Contributions shall be made pursuant to and in accordance with the timing set forth in the Contribution Agreements.

Schedule II

MANDATORY ADDITIONAL CAPITAL CONTRIBUTIONS

The Members shall make pro rata Mandatory Additional Capital Contributions pursuant to Section 4.3 of this Agreement in the amounts set forth in a Notification from the treasurer of the Company to the Members upon the occurrence of any of the following events or in the event that such Mandatory Additional Capital Contributions are required or advisable in connection with any of the following events:

(a) the Acquisition Closing;

(b) entry into any agreement relating to site plans, construction plans, architectural or other designs with respect to New Lebanon;

(c) incurrence by the Company of any Indebtedness in connection with the licensing, development, construction or opening of the New Lebanon facility; and

(d) any other action or event approved by the Board of Managers.

Schedule III

INITIAL BOARD MEMBERS

Churchill Downs Board Members:
Shawn A. Bailey
William C. Carstanjen
William E. Mudd

DNC Board Members:
William J. Bissett
Michael D. Corbin
Ronald A. Sultemeier

Exhibit 10.2

ASSET PURCHASE AGREEMENT

by and among

Miami Valley Gaming & Racing, LLC
as "Buyer"

and

Lebanon Trotting Club, Inc. and Miami Valley Trotting, Inc.,
as "Sellers"

and

Keith A. Nixon, Jr. and John Carlo,
as "Sellers' Representatives"

Dated: March 1, 2012

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LIST OF EXHIBITS

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement ("Agreement") is dated March 1, 2012, by and among Miami Valley Gaming & Racing, LLC, a Delaware limited liability company ("Buyer"); Lebanon Trotting Club, Inc., an Ohio corporation ("Lebanon Trotting"), and Miami Valley Trotting, Inc., an Ohio corporation ("Miami Valley Trotting") (each of Lebanon Trotting and Miami Valley Trotting a "Seller" and, together, the "Sellers"); and C. Keith Nixon, Jr., a resident of the State of Ohio ("Nixon"), and John Carlo, a resident of the State of Ohio ("Carlo") (each of Nixon and Carlo a "Sellers' Representative" and, together, the "Sellers' Representatives").

RECITALS

Sellers desire to sell, and Buyer desires to purchase, the Acquired Assets of Sellers for the consideration and on the terms set forth in this Agreement.

The Parties, intending to be legally bound, agree as follows:

1. DEFINITIONS AND USAGE.

1.1 Definitions. For purposes of this Agreement, the following terms and variations thereof have the meanings specified or referred to in this Section 1.1:

"Adjustment Amount"—as defined in Section 2.8(d).

"Affiliate"—with respect to any Person, any other Person that directly or indirectly controls, is directly or indirectly controlled by or is directly or indirectly under common control with such specified Person.

"Aggregate Working Capital"—as defined in Section 2.3(b).

"Acquired Assets"—as defined in Section 2.1.

"Acquired Contracts"—as defined in Section 2.1(j).

"Assignment and Assumption Agreement"—as defined in Section 2.7(a)(ii).

"Assumed Liabilities"—as defined in Section 2.4(a).

"Balance Sheets"—as defined in Section 3.4.

"Benefit Plans"—as defined in Section 3.14.

"Bill of Sale"—as defined in Section 2.7(a)(i).

"Business"— means (i) the operation of the harness horse racing facility in Lebanon, Ohio, (ii) the ownership, development, construction and operation of the New Facility, (iii) the operation of a pari-mutuel racing or video lottery gaming business, and (iv) all other activities related to the foregoing, including the operation of hotels (if applicable), restaurants, parking lots and other related amenities, assets and operations.

"Business Day"—any day other than Saturday, Sunday and any other day on which banks in Ohio are permitted or required to be closed.

"Buyer"—as defined in the first paragraph of this Agreement.

"Buyer Indemnified Persons"—as defined in Section 11.1(a).

"Buyer Promissory Note"—as defined in Section 2.7(b)(iii).

"***Cannon*** Case"—as defined in Section 2.4(b)(xii).

"Claim Notice"—as defined in Section 11.3(a).

"Closing"—as defined in Section 2.6.

"Closing Date"—the date on which the Closing actually takes place.

"Closing Balance Sheet"—as defined in Section 2.8(a).

"Code"—the Internal Revenue Code of 1986.

"Commencement Date"—the date on which a permanent video lottery gaming facility located on the New Property is opened to the general public.

"Competing Business" —as defined in Section 3.24.

"Consent"—any approval, consent, ratification, waiver or other authorization.

"Consulting Agreement"—the consulting agreement executed on the date hereof by Buyer and each of Ohio Racing and Gaming Solutions, LLC, Nixon and Carlo.

"Contemplated Transactions"—all of the transactions contemplated by this Agreement.

"Contingent Payment"—as defined in Section 2.3(d).

"Contract"—any agreement, contract, lease, consensual obligation, promise or undertaking (whether written or oral and whether express or implied), whether or not legally binding.

"***Crowe*** Case"—as defined in Section 2.4(b)(xii).

"Damages"—collectively or separately, any loss, Liability, claim, damage, expense (including costs of investigation and defense and reasonable attorneys' fees and expenses) or diminution of value, whether or not involving a Third-Party Claim.

"Disclosure Letter"—the disclosure letter delivered by Sellers to Buyer concurrently with the execution and delivery of this Agreement pursuant to Section 13.8.

"DNC Gaming"—Delaware North Companies Gaming & Entertainment, Inc.

"Drop Dead Date" as defined in Section 9.1(f).

"Encumbrance"—any charge, claim, community or other marital property interest, condition, equitable interest, lien, option, pledge, security interest, mortgage, right of way, easement, encroachment, servitude, right of first option, right of first refusal or similar restriction, including any restriction on use, voting (in the case of any security or equity interest), transfer, receipt of income or exercise of any other attribute of ownership, other than easements, conditions, rights of way, or restrictions of record that, individually or in the aggregate, do not prevent or interfere with the use of the Owned Real Property as now being used by Sellers.

"Environment"—soil, land surface or subsurface strata, surface waters (including navigable waters and ocean waters), groundwaters, drinking water supply (if supplied by Sellers), stream sediments, ambient air (including indoor air), plant and animal life and any other environmental medium or natural resource.

"Environmental, Health and Safety Liabilities"—any cost, damages, expense, liability, obligation or other responsibility arising from or under any Environmental Law or Occupational Safety and Health Law, including those consisting of or relating to: (a) any environmental, health or safety matter or condition (including on-site or off-site contamination, occupational safety and health and regulation of any chemical substance or product); (b) any fine, penalty, judgment, award, settlement, legal or administrative proceeding, damages, loss, claim, demand or response, remedial or inspection cost or expense arising under any Environmental Law or Occupational Safety and Health Law; (c) financial responsibility under any Environmental Law or Occupational Safety and Health Law for cleanup costs or corrective action, including any cleanup, removal, containment or other remediation or response actions ("Cleanup") required by any Environmental Law or Occupational Safety and Health Law (whether or not such Cleanup has been required or requested by any Governmental Body or any other Person but provided such Cleanup is required for compliance with Environmental Law or Occupational Safety and Health Law) and for any natural resource damages; or (d) any other compliance, corrective or remedial measure required under any Environmental Law or Occupational Safety and Health Law. The terms "removal," "remedial" and "response action" include the types of activities covered by the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

"Environmental Law"—any Legal Requirement that requires or relates to: (a) advising appropriate authorities, employees or the public of intended or actual Releases of pollutants or hazardous substances or materials, violations of discharge limits or other prohibitions and the commencement of activities, such as resource extraction or construction, that could have significant impact on the Environment; (b) preventing or reducing to acceptable levels the Release of pollutants or hazardous substances or materials into the Environment; (c) reducing the quantities, preventing the Release or minimizing the hazardous characteristics of wastes that are generated; (d) protecting resources, species or ecological amenities; (e) reducing to acceptable levels the risks inherent in the transportation of hazardous substances, pollutants, oil or other potentially harmful substances; (f) cleaning up pollutants that have been Released, preventing the Threat of Release or paying the costs of such clean up or prevention; (g) regulation of animal feeding operations or concentrated animal feeding operations; or (h) making responsible parties pay private parties, or groups of them, for damages done to their health or the Environment or permitting self-appointed representatives of the public interest to recover for injuries done to public assets.

"ERISA"—the Employee Retirement Income Security Act of 1974.

"Escrow Agent"—as defined in Section 2.3(a).

"Escrow Agreement"—as defined in Section 2.3(a).

"Excluded Assets"—as defined in Section 2.2.

"Facilities"—any real property, leasehold or other interest in real property currently owned or operated by any Seller, including the Tangible Personal Property used or operated by any Seller at the respective locations of the Real Property specified in Sections 3.7 and 3.8. Notwithstanding the foregoing, for purposes of the definitions of "Hazardous Activity" and

"Remedial Action" and Section 3.20, "Facilities" or "Facility" shall mean any real property, leasehold or other interest in real property currently or formerly owned or operated by any Seller, including the Tangible Personal Property used or operated by any Seller at the respective locations of the Real Property specified in Sections 3.7 and 3.8.

"GAAP"—generally accepted accounting principles for financial reporting in the United States, applied on a basis consistent with the basis on which the Balance Sheets and the other financial statements referred to in Section 3.4 were prepared.

"Gaming License"—an Ohio Video Lottery Sales Agent License (including any conditional license or renewal license in respect thereof) issued by the Executive Director of the Ohio State Lottery pursuant to the VLT Rules.

"Gaming or Racing Approvals"—all licenses, permits, approvals, authorizations, registrations, findings of suitability, franchises, entitlements, waivers and exemptions issued by any Gaming or Racing Authority or issued under any Gaming or Racing Law necessary for or relating to the conduct of activities by Buyer, any Parent Company of Buyer or any of their respective Affiliates.

"Gaming or Racing Authority"—any Governmental Body with regulatory control or jurisdiction over the conduct of lawful gaming or gambling (including the operation of slot machines), or live or off-track wagering on horse racing, including the Ohio Regulator.

"Gaming or Racing Laws"—any federal, state, local (including county or parish) or foreign statute, ordinance, rule, regulation, permit, 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 any casino, gaming, gambling (including the operation of slot machines), or live or off-track wagering activities, or the operations of the facilities of Buyer, any Parent Company of Buyer or any of their respective Affiliates and the rules and regulations promulgated thereunder, including the policies, interpretations and administration thereof by any relevant Gaming or Racing Authority.

"Governing Documents"—with respect to any particular entity, (a) if a corporation, the articles or certificate of incorporation and the corporate regulations or bylaws; (b) if a limited liability company, the articles of organization and operating agreement; (c) if another type of Person, any other charter or similar document adopted or filed in connection with the creation, formation or organization of the Person; (d) all equityholders' agreements, voting agreements, voting trust agreements, joint venture agreements, registration rights agreements or other agreements or documents relating to the organization, management or operation of any Person or relating to the rights, duties and obligations of the equityholders of any Person; and (e) any amendment or supplement to any of the foregoing.

"Governmental Authorization"—any Consent, license, registration, franchise, authorization or permit issued, granted, given or otherwise made available by or under the authority of any Governmental Body or pursuant to any Legal Requirement, including the Gaming License, Racing License and Gaming or Racing Approvals.

"Governmental Body"—any: (a) nation, state, county, city, town, borough, village, district or other jurisdiction; (b) federal, state, local, municipal, foreign or other government; (c) governmental or quasi-governmental authority of any nature (including any agency, branch, department, board, commission, court, tribunal or other entity exercising governmental or

quasi-governmental powers); (d) multinational organization or body; (e) body exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; or (f) official of any of the foregoing.

"Governmental Damages" means any (a) civil or criminal penalties or fines paid or payable to a Governmental Body, or any restitution paid to a third party, in each case, resulting from the (i) conviction (including as a result of the entry of a guilty plea, a consent judgment or a plea of nolo contendere) of a crime or (ii) settlement with a Governmental Body for the purpose of closing a Governmental Investigation, or (b) any injunctive relief with respect to, or requirement to alter, business practices, in each case, imposed by a Governmental Body.

"Governmental Investigation"—an investigation by a Governmental Body for the purpose of imposing criminal sanctions or civil penalties, fines or injunctions.

"Gross Gaming Revenue"—all sums wagered on video lottery gaming by patrons of the New Facility (exclusive of all complimentary or promotional "free play" as that term is generally known in the gaming industry), less all winnings paid to patrons.

"Ground Lease" –as defined in Section 2.7 (a)(vii).

"Hazardous Activity"—the distribution, generation, handling, importing, management, manufacturing, processing, production, refinement, Release, storage, transfer, transportation, treatment or use (including any withdrawal or other use of groundwater) of Hazardous Material in, on, under, about or from any of the Facilities or any part thereof into the Environment and any other act, business, operation or thing that increases the danger, or risk of danger, or poses an unreasonable risk of harm, to persons or property on or off the Facilities.

"Hazardous Material"—any substance, material or waste which is regulated by any Governmental Body, including any material, substance or waste which is defined as a "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "contaminant," "toxic waste" or "toxic substance" under any provision of Environmental Law, and including petroleum, petroleum products, asbestos, presumed asbestos-containing material or asbestos-containing material, urea formaldehyde and polychlorinated biphenyls.

"HSR Act"—the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"Improvements"—all buildings, structures, fixtures and improvements located on the Real Property, including those under construction.

"Indemnified Person"—as defined in Section 11.3(a).

"Indemnifying Person"—as defined in Section 11.3(a).

"Independent Accountants"—as defined in Section 2.8(c).

"Intellectual Property"—all patents, copyrights, software, service marks, trademarks, domain names, trade dress, trade secrets and other proprietary information.

"Intellectual Property Assignments"—as defined in Section 2.7(a)(iv).

"Interim Balance Sheet"—as defined in Section 3.4.

"IRS"—the United States Internal Revenue Service and, to the extent relevant, the United States Department of the Treasury.

"Knowledge"—a Person will be deemed to have Knowledge of a particular fact or other matter (a) if such person is actually aware of such fact or matter or (b) if information came to the attention of such Person that reasonably warranted inquiry and such person would have been aware of such matter after having conducted reasonable inquiry. Without limiting the generality of the foregoing, Sellers shall be charged with the Knowledge of any of Louis Carlo, John Carlo, Keith A. Nixon, Sr., Keith A. Nixon, Jr. or Karen Heaberlin.

"Lease Agreement"—as defined in Section 2.7(a)(vi).

"Lebanon Trotting"—as defined in the first paragraph of this Agreement.

"Legal Requirement"—any federal, state, local or municipal constitution, law, ordinance, principle of common law, code, regulation or statute.

"Liability"—with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

"Material Consents"—as defined in Section 7.3.

"***McGrady*** Case"—as defined in Section 2.4(b)(xii).

"Miami Valley Trotting"—as defined in the first paragraph of this Agreement.

"New Facility"—the harness racing and video lottery gaming facility to be constructed and operated by Buyer on the New Property.

"New Property"— the 120 acre parcel of land located at the intersection of State Route 63 and Union Road in the Township of Turtle Creek, in the State of Ohio, or such other comparable parcel(s) of land located within twenty (20) miles of the Raceway Facilities as may be designated by Buyer in Buyer's sole discretion.

"New Property Entity" –means Warren General Property Co., LLC, an Ohio limited liability company owned by Keith A. Nixon, Jr. and John Carlo or by Sellers.

"Noncompetition Agreements"—as defined in Section 2.7(a)(x).

"Occupational Safety and Health Law"—any Legal Requirement designed to provide safe and healthful working conditions and to reduce occupational safety and health hazards, including the Occupational Safety and Health Act.

"Ohio Regulator"—collectively, the Ohio Lottery Commission, the Ohio State Racing Commission or any other federal, state or local governmental, regulatory or administrative authority, instrumentality, agency body or commission, self-regulatory organization, court, tribunal or judicial body responsible for administering or overseeing horse racing or other gaming activities in Ohio.

"Operating Advances"—as defined in Section 2.3(b).

"Operating Bankroll"—as defined in Section 2.1(a).

"Order"—any order, injunction, judgment, decree, ruling, assessment or arbitration award of any Governmental Body or arbitrator.

"Owned Real Property"—as defined in Section 3.7.

"Parent Company of Buyer" means each Person that directly or indirectly controls or owns 10% or more of the membership interests or other equity interests of Buyer as of the Closing Date.

"Part"—a part or section of the Disclosure Letter.

"Parties" –the Persons named in the first paragraph of this Agreement.

"Payment Termination Date"—as defined in Section 6.3.

"Pending Litigation"—as defined in Section 2.4(b)(xii).

"Permitted Encumbrances"—as defined in Section 3.9(c).

"Permitted Non-Real Property Encumbrances"—as defined in Section 3.9(c).

"Permitted Real Property Encumbrances"—as defined in Section 3.9(b).

"Person"—an individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture or other entity or a Governmental Body.

"Premises Purchase Promissory Note" as defined in Section 2.7(a)(xiii).

"Proceeding"—any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, whether public or private) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Body or arbitrator.

"Property Acquisition Funds"—as defined in Section 2.7(b)(xiii).

"Purchase Price"—as defined in Section 2.3.

"Raceway Facilities"—the Facilities located at 665 North Broadway Street, Lebanon, Ohio, upon which the operations of the Lebanon Raceway harness racetrack are conducted as of the date hereof.

"Racing License"—a license issued by the relevant Gaming or Racing Authority to conduct racing and wagering activities at the Raceway Facilities.

"Real Property"—all parcels and tracts of land in which any Seller has an ownership interest, contingent ownership interest or a leasehold interest, including the Owned Real Property, the Raceway Facilities, the New Property and all Improvements, privileges, rights, easements and appurtenances belonging thereto.

"Related Person"—With respect to a particular individual: (a) each member of such individual's Family; (b) any Person that is directly or indirectly controlled by any one or more members of such individual's Family; and (c) any Person with respect to which one or more members of such individual's Family serves as a director, officer, partner, executor or trustee (or in a similar capacity). With respect to a specified Person other than an individual, "Related Person" means any Affiliate, employee, shareholder, partner, member, officer, manager or director or any member of the Family of any such employee, shareholder, partner, member,

officer, manager or director. The "Family" of an individual includes (i) the individual, (ii) the individual's spouse, (iii) any other natural person who is related to the individual or the individual's spouse within the second degree and (iv) any other natural person who resides with such individual.

"Release"—any release, spill, emission, leaking, pumping, pouring, dumping, emptying, injection, deposit, disposal, discharge, dispersal, leaching or migration on or into the Environment or into or out of any property.

"Remedial Action"—all actions, including any capital expenditures, required or voluntarily undertaken (a) to clean up, remove, treat or in any other way address any Hazardous Material or other substance; (b) to prevent the Release or Threat of Release or to minimize the further Release of any Hazardous Material or other substance so it does not migrate or endanger or threaten to endanger public health or welfare or the Environment; (c) to perform pre-remedial studies and investigations or post-remedial monitoring and care; or (d) to bring all Facilities and the operations conducted thereon into compliance with Environmental Laws and environmental Governmental Authorizations.

"Representative"—with respect to a particular Person, any director, officer, manager, employee, agent, accountant, legal counsel or other representative of that Person.

"Restated Joint Venture Plan"—the Restated Joint Venture Plan and Agreement dated as of December 9, 2009 among Lebanon Trotting, Miami Valley Trotting and DNC Gaming.

"Retained Liabilities"—as defined in Section 2.4(b).

"SEC"—the United States Securities and Exchange Commission.

"Securities Act"—as defined in Section 3.3.

"Security Agreement"—as defined in Section 2.7(a)(xii).

"Seller" or "Sellers"—as defined in the first paragraph of this Agreement.

"Seller Contract"—any Contract (a) under which any Seller has or may acquire any rights or benefits; (b) under which any Seller has or may become subject to any obligation or liability; or (c) by which any Seller or any of the assets owned or used by such Seller is or may become bound.

"Sellers' Representatives"—as defined in the first paragraph of this Agreement and includes any successor(s) as provided in Section 13.14.

"Setoff Notice"—as defined in Section 11.1(b).

"Setoff Adjustment"—as defined in Section 11.1(b).

"Shareholder"—any stockholder, member or other owner of any equity securities of any Seller.

"Tangible Personal Property"—all machinery, equipment, tools, furniture, furnishings, fixtures, office equipment, computer hardware, supplies, materials, vehicles and other items of tangible personal property of every kind owned or leased by any Seller (wherever located and whether or not carried on such Seller's books), together with any express or implied warranty by the manufacturers or sellers or lessors of any item or component part thereof and all maintenance records and other documents relating thereto.

"Tax"—any income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, property, environmental, windfall profit, customs, vehicle, airplane, boat, vessel or other title or registration, capital stock, franchise, employees' income withholding, foreign or domestic withholding, social security, unemployment, disability, real property, personal property, sales, use, transfer, value added, alternative, add-on minimum and other tax, fee, assessment, levy, tariff, charge or duty of any kind whatsoever and any interest, penalty, addition or additional amount thereon imposed, assessed or collected by or under the authority of any Governmental Body or payable under any tax-sharing agreement or any other Contract.

"Tax Return"—any return (including any information return), report, statement, schedule, notice, form, declaration, claim for refund or other document or information filed with or submitted to, or required to be filed with or submitted to, any Governmental Body in connection with the determination, assessment, collection or payment of any Tax or in connection with the administration, implementation or enforcement of or compliance with any Legal Requirement relating to any Tax.

"Termination and Mutual Release Agreement" – the termination and mutual release agreement executed on the date hereof by Buyer, Sellers and DNC Gaming.

"Third-Party Claim"—any claim against any Indemnified Person by a Person that is not a party to this Agreement, whether or not involving a Proceeding.

"Threat of Release"—a reasonable likelihood of a Release that may require action in order to prevent or mitigate damage to the Environment that may result from such Release.

"Threshold Amount"—as defined in Section 11.1(d).

"VLT Rules"—Ohio Administrative Code Sections 3770:2-1-10 et seq., promulgated under the Ohio Lottery Act, which authorize the holder of a Gaming License to engage in video lottery gaming and video lottery gaming related activities to the extent authorized by the Executive Director of the Ohio State Lottery, and Rules 3769-20-01-04 et seq. of the Ohio Administrative Code adopted by the Ohio State Racing Commission pursuant to the Executive Order.

1.2 Interpretation. In this Agreement, unless a clear contrary intention appears: (a) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are not prohibited by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually; (b) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof; (c) reference to any Legal Requirement means such Legal Requirement as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder, and reference to any section or other provision of any Legal Requirement means that provision of such Legal Requirement from time to time in effect and constituting the substantive amendment, modification, codification, replacement or reenactment of such section or other provision; (d) "hereunder," "hereof," "hereto," and words of similar import shall be deemed references to this Agreement as a whole including the Disclosure Letter and Exhibits and not to any particular Article, Section or other provision hereof; (e) the word "or" shall not be exclusive; (f) "including" (and with correlative meaning

"include") means including without limiting the generality of any description preceding such term; the use of the masculine, feminine or neutral gender includes each other gender, and the singular number includes the plural number and vice versa. This Agreement was negotiated by the parties with the benefit of legal representation, and any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any party shall not apply to any construction or interpretation hereof.

2. SALE AND TRANSFER OF ASSETS; CLOSING.

2.1 Acquired Assets To Be Sold. Upon the terms and subject to the conditions set forth in this Agreement, at the Closing each Seller shall sell, convey, assign, transfer and deliver to Buyer, and Buyer shall purchase and acquire from such Seller, free and clear of any Encumbrances other than Permitted Encumbrances, all of such Seller's right, title and interest in and to all of such Seller's property and assets, real, personal or mixed, tangible and intangible, of every kind and description, wherever located, referred to collectively as the "Acquired Assets," including the following (but excluding the Excluded Assets):

(a) the operating bankroll of the Sellers for use in operating the pari-mutuel business at the Raceway Facilities in the amount of Twenty-five Thousand Dollars ($25,000.00) (the "Operating Bankroll");

(b) all inventories and accounts receivable of such Seller;

(c) all rights of such Seller relating to deposits and prepaid expenses, claims for refunds and rights to offset in respect thereof;

(d) all Tangible Personal Property of such Seller, including those items described in Part 2.1(d);

(e) all of the leasehold interest of such Seller in the Raceway Facilities;

(f) all Governmental Authorizations of such Seller and all pending applications therefor or renewals thereof, in each case to the extent transferable to Buyer, including the Gaming or Racing Approvals, the Gaming License and the Racing License, and other items listed in Part 3.15(b);

(g) all data and records related to the business and operations of such Seller, including client, customer and supplier lists and records, sales and credit records, referral sources, service and warranty records, equipment logs, operating guides and manuals, financial and accounting records, creative materials, advertising and sales materials, promotional materials, studies, reports, correspondence, compensation history of any employees of such Seller whom Buyer may desire to employ, and other similar documents and records; except for such compensation history, no personnel books and records of any employee of such Seller shall be included as part of the Acquired Assets without the consent of the employee to whom such documents and records relate;

(h) all of the intangible rights and property of such Seller, including Intellectual Property, going concern value, goodwill associated with the business of such Seller, telephone, telecopy and e-mail addresses and listings and those items listed in Part 3.23;

(i) all insurance benefits, including rights and proceeds, arising from or relating to the Acquired Assets or the Assumed Liabilities prior to the Closing, unless expended in accordance with this Agreement

(j) the Seller Contracts listed in Part 2.1(j) (the "Acquired Contracts"); and

(k) all claims of such Seller against third parties relating to the Acquired Assets, whether choate or inchoate, known or unknown, contingent or non-contingent, including all such claims listed in Part 2.1(k).

Notwithstanding the foregoing, the transfer of the Acquired Assets pursuant to this Agreement shall not include the assumption of any Liability related to the Acquired Assets unless Buyer expressly assumes that Liability pursuant to Section 2.4(a).

2.2 Excluded Assets. Notwithstanding anything to the contrary contained in Section 2.1 or elsewhere in this Agreement, the following assets of each Seller (collectively, the "Excluded Assets") are not part of the sale and purchase contemplated hereunder, are excluded from the Acquired Assets and shall remain the property of such Seller after the Closing:

(a) all cash, cash equivalents and short-term investments of such Seller other than the Operating Bankroll;

(b) the approximately seven (7) acres of Real Property owned by Lebanon Trotting which is located in the immediate vicinity of the Raceway Facilities as described more fully in Part 2.2(b), except for the interests in Real Property identified in Section 2.1(e);

(c) all minute books, stock records and corporate seals;

(d) the shares of capital stock of such Seller held in treasury;

(e) all Seller Contracts not listed in Part 2.1(j);

(f) all personnel books and records except to the extent Buyer has specifically requested pursuant to Section 2.1(h) that specified personnel books and records be included as part of the Acquired Assets;

(g) all rights in connection with and assets of the Benefit Plans; and

(h) the property and assets expressly designated in Part 2.2(h).

2.3 Consideration. The consideration payable by Buyer for the Acquired Assets will be the assumption of the Assumed Liabilities pursuant to Section 2.4(a); Sixty Million Dollars ($60,000,000); and the Contingent Payment, if any (collectively, the "Purchase Price"), payable as follows:

(a) Upon execution and delivery of this Agreement, Buyer will deposit Five Million Dollars ($5,000,000) (the "Deposit") with Central City Title Agency, Ltd. (the "Escrow Agent") pursuant to the terms of the Escrow Agreement in the form of Exhibit 2.7(a)(viii) executed by Buyer, each Seller, each Sellers' Representative and the Escrow Agent (the "Escrow Agreement"). The Deposit will be held by the Escrow Agent in an interest bearing account. Buyer and Sellers' Representatives shall cause the Deposit and any interest with respect thereto to be released to Sellers' Representatives: (i) on the Closing Date, in the event that the Closing occurs or (ii) on the date of termination of this Agreement, in the event that this Agreement is terminated pursuant to Section 9.1(b) (in which event the Deposit shall be treated as liquidated damages). Buyer and Sellers' Representatives shall cause the Deposit and any interest with respect thereto to be returned to Buyer on the date of the termination of this Agreement, in the event that this Agreement is terminated pursuant to Section 9.1(a), (c), (d), (e), (f) or (g).

(b) On the Closing Date, Buyer will, in addition to releasing the Deposit to Sellers' Representatives in accordance with Section 2.3(a) above, pay to Sellers' Representatives an amount equal to Five Million Dollars ($5,000,000), plus or minus the following amounts: (i) to the extent that the Aggregate Working Capital of Sellers as of the Closing Date is: (x) less than zero, minus the amount of the shortfall or (y) more than zero, plus the amount of the excess; and (ii) minus the sum of all advances of operating funds ("Operating Advances") paid to any Seller by Buyer or DNC Gaming on or after January 1, 2012, whether such advances shall be paid pursuant to this Agreement, pursuant to Section 1.2 of the Restated Joint Venture Plan or otherwise. The "Aggregate Working Capital" of Sellers shall be determined as of the relevant date by subtracting the aggregate Liabilities referred to in Section 2.4(a) as of such date from the aggregate property and assets referred to in Sections 2.1(b) and (c) as of such date. Solely for the purpose of determining the amount of the payment due at the Closing under this Section 2.3(b), the Parties shall assume that the Aggregate Working Capital of Sellers as of the Closing Date shall be equal to an amount set forth in an estimate prepared in good faith, after consultation with Buyer, based on all reasonably available information and delivered to Buyer by Sellers' Representatives at least three (3) Business Days prior to the Closing Date, but Buyer shall have the right to dispute and seek an adjustment of such amount following the Closing Date pursuant to Section 2.8.

(c) Delivery at the Closing to Sellers of (i) the Buyer Promissory Note in the original aggregate principal amount of Fifty Million Dollars ($50,000,000), and bearing interest at the annual rate of five percent (5.00%), payable commencing on (and only in the event of the occurrence of) the Commencement Date, in the form of Exhibit 2.7(b)(iii), and (ii) the Security Agreement executed by Buyer to evidence security for the obligations of Buyer under the Buyer Promissory Note.

(d) In addition, in the event that either (i) Buyer's video lottery gaming business realizes Gross Gaming Revenue of at least Two Hundred and Forty Million Dollars ($240,000,000) per year in any three (3) of the first full seven (7) calendar years of operation after the Commencement Date or (ii) the Commencement Date occurs and no casino or video lottery gaming facility, other than Horseshoe Casino Cincinnati at Broadway Commons, Cincinnati and River Downs Racetrack at 6301 Kellogg Avenue, Cincinnati, Ohio, has engaged in casino or video lottery gaming in Ohio within a 50-mile radius of the New Property at any time during the five (5) year period following the Closing Date, Buyer will pay to Sellers' Representatives, in

addition to the amounts described in paragraphs (a), (b) and (c) above, Ten Million Dollars ($10,000,000)(the "Contingent Payment") within thirty (30) days after the satisfaction of the foregoing contingency.

The amounts payable by Buyer pursuant to Sections 2.3(b) and (d) shall be paid by wire transfer by Buyer to an account or accounts designated by Sellers' Representatives and then shall be disbursed from such account(s) by Sellers' Representatives to Sellers, or their respective Shareholders, in the following proportions: (i) Lebanon Trotting will receive fifty percent (50%) of such amounts and (ii) Miami Valley Trotting will receive fifty percent (50%) of such amounts. All amounts payable in respect of Buyer's obligations under the Buyer Promissory Note shall be paid in accordance with the terms thereof.

2.4 Liabilities.

(a) Assumed Liabilities. As of the Closing, Buyer shall assume and agree to discharge only the following Liabilities of Seller (the "Assumed Liabilities"): (i) any Liabilities reflected as "Accounts Payable" or "Accrued Expenses" on the Closing Balance Sheet, as finally determined under Section 2.8 of this Agreement; and (ii) any Liability of Sellers to be paid or performed after the Closing under Acquired Contracts (other than any Liability arising under Acquired Contracts described on Exhibit 2.4(a) or to the extent such Liabilities, but for a breach or default by a Seller, would have been paid, performed or otherwise discharged on or prior to the Closing or to the extent the same arise out of any such breach or default).

(b) Retained Liabilities. Buyer shall not assume or be obligated to pay, perform or otherwise discharge any liability or obligation of Sellers, direct or indirect, known or unknown, absolute or contingent, not expressly assumed by Buyer pursuant to the Assignment and Assumption Agreement (all such liabilities and obligations not being assumed being herein called the "Retained Liabilities") and, notwithstanding anything to the contrary in Section 2.4(a), none of the following shall be Assumed Liabilities for purposes of this Agreement:

(i) any Liability that arises out of or relates to any breach of any Acquired Contract that occurred prior to the Closing;

(ii) any Liability for Taxes, including (A) any Taxes arising as a result of Seller's operation of its business or ownership or use of any Acquired Assets prior to the Closing, (B) any Taxes that will arise as a result of the sale of the Acquired Assets pursuant to this Agreement and (C) any deferred Taxes of any nature;

(iii) any Liability under any Contract that is not any Acquired Contract, including any Liability arising out of or relating to any Seller's credit facilities or any security interest related thereto;

(iv) any Environmental, Health and Safety Liabilities arising out of or relating to the operation of any Seller's business or any Seller's leasing, ownership or operation of real property;

(v) any Liabilities related to, or arising from (A) the occupancy, operation, use or control of any of the Facilities prior to Closing or (B) the operation of the

Acquired Assets prior to the Closing, in each case incurred or imposed by any Environmental Law, including liabilities and obligations related to, or arising from, any Release of any Hazardous Material on, at or from (1) the Facilities, including all facilities, improvements, structures and equipment thereon, surface water thereon or adjacent thereto and soil or groundwater thereunder, or any conditions whatsoever on, under or in the vicinity of such real property or (2) any real property or facility owned by a third Person to which Hazardous Materials generated by the Acquired Assets were sent prior to the Closing.

(vi) any Liability under the Benefit Plans or relating to payroll, vacation, sick leave, workers' compensation, unemployment benefits, pension benefits, employee stock option or profit-sharing plans, health care plans or benefits or any other employee plans or benefits of any kind for any Seller's officers, directors, consultants, employees or former employees (or both) or otherwise maintained or contributed to (or formerly maintained or contributed to) by any Seller or any current or former Affiliate of any Seller;

(vii) any Liability under any employment, compensation, severance, retention or termination agreement with any employee of any Seller or any of its current or former Related Persons;

(viii) any Liability of any Seller arising out of or relating to any employee grievance whether or not the affected employees are hired by Buyer;

(ix) any Liability of any Seller to any Shareholder or any Related Person of any Seller or any Shareholder;

(x) any Liability to indemnify, reimburse or advance amounts to any officer, director, employee or agent of any Seller;

(xi) any Liability to distribute to any Shareholders of any Seller or otherwise apply all or any part of the consideration received hereunder;

(xii) any Liability arising out of any Proceeding pending as of the Closing, including, without limitations: (A) the case styled as ***Stanley D. Crowe, et al vs. Lebanon Raceway Entertainment LLC***, Case # 11CV81050 (Court of Common Pleas of Warren County, Ohio) (the "***Crowe*** Case"); (2) the case styled as ***Susan Walter Cannon v. Warren County Board of Commissioners, et al***, Case # 12CV81453 (Court of Common Pleas of Warren County, Ohio) (the "***Cannon*** Case"); and (3) ***Marvin L. McGrady v. Lebanon Trotting Club, Inc. et al.***, Case # 11CV79544 (Court of Common Pleas of Warren County, Ohio) (the "***McGrady*** Case") (the ***Crowe*** Case, the ***Cannon*** Case and the ***McGrady*** Case are referred to herein collectively as the "Pending Litigation"), or any matter directly or indirectly related to the Pending Litigation.

(xiii) any Liability arising out of any Proceeding commenced after the Closing and arising out of or relating to any occurrence or event happening prior to the Closing, including, without limitations, the Pending Litigation;

(xiv) any Liability arising out of or resulting from any Seller's compliance or noncompliance with any Legal Requirement or Order of any Governmental Body;

(xv) any Liability of any Seller under this Agreement or any other document executed in connection with the Contemplated Transactions; and

(xvi) any Liability of any Seller based upon such Seller's acts or omissions occurring after the Closing.

For the avoidance of doubt, none of the Liabilities reflected as "Accounts Payable" or "Accrued Expenses" on the Closing Balance Sheet, as finally determined under Section 2.8 of this Agreement, shall be Retained Liabilities.

2.5 Allocation. The Purchase Price shall be allocated in accordance with Exhibit 2.5. After the Closing, the parties shall make consistent use of the allocation, fair market value and useful lives specified in Exhibit 2.5 for all Tax purposes and in all filings, declarations and reports with the IRS in respect thereof, including the reports required to be filed under Section 1060 of the Code. Buyer shall prepare and deliver IRS Form 8594 to Seller within forty-five (45) days after the Closing Date to be filed with the IRS. In any Proceeding related to the determination of any Tax, neither Buyer nor any Seller or Sellers' Representative shall contend or represent that such allocation is not a correct allocation.

2.6 Closing. The purchase and sale provided for in this Agreement (the "Closing") will take place at the offices of Buyer's counsel at 52 E. Gay Street, Columbus, Ohio 43215, commencing at 10:00 a.m. (local time) on a date to be mutually agreed upon by Buyer and Sellers' Representatives, which date shall be no later than the fifth (5th) Business Day after the conditions set forth in Article 7 and Article 8 shall have been satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of such conditions), or such other time as Buyer and Sellers' Representatives shall mutually agree.

2.7 Closing Obligations. In addition to any other documents to be delivered under other provisions of this Agreement, at the Closing:

(a) Sellers shall deliver to Buyer, together with funds sufficient to pay all Taxes necessary for the transfer, filing or recording thereof:

(i) a bill of sale for all of the Acquired Assets that are Tangible Personal Property in the form of Exhibit 2.7(a)(i) (the "Bill of Sale") executed by Sellers;

(ii) an assignment of all of the Acquired Assets that are intangible personal property in the form of Exhibit 2.7(a)(ii), which assignment shall also contain Buyer's undertaking and assumption of the Assumed Liabilities (the "Assignment and Assumption Agreement") executed by Sellers;

(iii) [Intentionally left blank.]

(iv) assignments of all Intellectual Property and separate assignments of all registered trademarks, patents and copyrights in the form of Exhibit 2.7(a)(iv) (the "Intellectual Property Assignments") executed by Sellers;

(v) such other deeds, bills of sale, assignments, certificates of title, documents and other instruments of transfer and conveyance as may reasonably be requested by Buyer, each in form and substance satisfactory to Buyer and its legal counsel and executed by Sellers;

(vi) lease agreement in the form of Exhibit 2.7(a)(vi) with respect to the Owned Real Property (the "Lease Agreement");

(vii) a ground lease for the New Property in the form of Exhibit 2.7(a)(vii) (the "Ground Lease") and all documents required therein;

(viii) written instructions to the Escrow Agent to release the Deposit in accordance with Section 2.3(a);

(ix) [Intentionally left blank];

(x) noncompetition agreements in the form of Exhibit 2.7(a)(x) (the "Noncompetition Agreement"), executed by each of Keith A. Nixon, Sr., Louis Carlo, and Karen Heaberlin;

(xi) [Intentionally left blank];

(xii) a security agreement securing the Buyer Promissory Note and providing for the security interests of Sellers (which shall be subordinate only to (1) the security interest of Buyer's project finance lender(s) for financing provided by such lender(s) in a principal amount not to exceed $175,000,000, and (2) the security interest of any substitute lender(s) who provide(s) from time to time any refinancing or replacement financing therefor up to the same principal amount) in the assets of Buyer to be located at the New Facility, in the form of Exhibit 2.7(a)(xii) (the "Security Agreement"), executed by each Seller;

(xiii) a promissory note executed by New Property Entity in an aggregate principal amount equal to the amount of the Property Acquisition Funds in the form of Exhibit 2.7(a)(xiii), which shall provide for interest and amortization as set forth therein and shall be non-recourse (the "Premises Purchase Promissory Note");

(xiv) a certificate executed by each Seller and each Sellers' Representative as to the accuracy of their representations and warranties as of the date of this Agreement and as of the Closing in accordance with Section 7.1 and as to their compliance with and performance of their covenants and obligations to be performed or complied with at or before the Closing in accordance with Section 7.2;

(xv) a certificate of the Secretary of each Seller certifying, as complete and accurate as of the Closing, attached copies of the Governing Documents of such Seller, certifying and attaching all requisite resolutions or actions of such Seller's board of directors and Shareholders approving the execution and delivery of this Agreement and the consummation of the Contemplated Transactions and certifying to the incumbency and signatures of the officers of such Seller executing this Agreement and any other document relating to the Contemplated Transactions and accompanied by the requisite documents for amending the relevant Governing Documents of such Seller required to effect such change of name in form sufficient for filing with the appropriate Governmental Body; and

(xvi) tax certificates requested by Buyer in Section 7.5(c), including as required pursuant to Sections 5739.14, 5747.07 and 5751.10 of the Ohio Revised Code.

(b) Buyer shall deliver to Sellers and Sellers' Representatives, as the case may be:

(i) written instructions to the Escrow Agent to release the Deposit in accordance with Section 2.3(a);

(ii) the amount determined pursuant to Section 2.3(b) by wire transfer to an account or accounts specified by Sellers' Representatives in a writing delivered to Buyer at least three (3) Business Days prior to the Closing Date;

(iii) a promissory note executed by Buyer in the aggregate principal amount of Fifty Million Dollars ($50,000,000 in the form of Exhibit 2.7(b)(iii) (the "Buyer Promissory Note");

(iv) the No Liability Acknowledgement in the form of Exhibit 2.7(b)(iv) executed by DNC Gaming;

(v) the Assignment and Assumption Agreement executed by Buyer;

(vi) [intentionally left blank];

(vii) the Ground Lease and all documents required thereunder, executed by Buyer;

(viii) the Lease Agreement executed by Buyer;

(ix) [intentionally Left Blank];

(x) [intentionally Left Blank];

(xi) a certificate executed by Buyer as to the accuracy of its representations and warranties as of the date of this Agreement and as of the Closing in accordance with Section 8.1 and as to its compliance with and performance of its covenants and obligations to be performed or complied with at or before the Closing in accordance with Section 8.2;

(xii) a certificate of the Secretary of Buyer certifying, as complete and accurate as of the Closing, attached copies of the Governing Documents of Buyer and certifying and attaching all requisite resolutions or actions of Buyer's board of directors approving the execution and delivery of this Agreement and the consummation of the Contemplated Transactions and certifying to the incumbency and signatures of the officers of Buyer executing this Agreement and any other document relating to the Contemplated Transactions;

(xiii) an amount sufficient to pay the sum of (x) the $4.5 million purchase price for the New Property to be acquired by Sellers or their Affiliate(s), (y) $270,000.00 broker's commission or fee required to be paid in connection with such acquisition, and (z) all other closing costs of Sellers or their Affiliate(s) related to such acquisition, by wire transfer to an account or accounts specified by Sellers' Representatives in a writing delivered to Buyer at least three (3) Business Days prior to the Closing Date, which amount shall be used by Sellers and/or their Affiliate(s) solely for the purpose of acquiring the New Property and other costs related to such acquisition (the "Property Acquisition Funds"); and

(xiv) the Security Agreement executed by Buyer.

2.8 Adjustment Procedure, Adjustment Amount and Payment.

(a) Buyer shall have the right to dispute and seek an adjustment of the amount paid pursuant to Section 2.3(b) in accordance with this Section 2.8. In order to exercise such right, Buyer shall, within seventy five (75) days following the Closing Date: (i) prepare a combined balance sheet of Sellers as of the Closing Date ("Closing Balance Sheet") applying the same GAAP accounting principles, policies and practices that were applied in the preparation of the Balance Sheets, (ii) calculate the Aggregate Working Capital of Sellers as of the Closing Date based upon the Closing Balance Sheet and (iii) deliver to Sellers' Representatives the Closing Balance Sheet and Buyer's calculation of the Aggregate Working Capital as of the Closing Date. In the event that any account receivables that were included in the Acquired Assets shall not be collected in full by Buyer prior to Buyer's delivery to Sellers' Representatives of the Closing Balance Sheet, Buyer shall have the right to reassign such uncollected account receivables to Sellers and, if it makes any such reassignment, Buyer shall reduce the Aggregate Working Capital of Sellers as of the Closing Date by the amount of the uncollected account receivables so reassigned and shall prepare the Closing Balance Sheet as if the uncollected account receivables so reassigned had never been assigned to Buyer.

(b) If, within thirty (30) days following Buyer's delivery to Sellers' Representatives of the Closing Balance Sheet and Buyer's calculation of the Aggregate Working Capital as of the Closing Date, Sellers' Representatives shall have not given Buyer written notice of their objection as to the Closing Balance Sheet and Buyer's calculation of the Aggregate Working Capital as of the Closing Date (which notice shall state the basis of their objection), then Buyer's calculation of the Aggregate Working Capital as of the Closing Date shall be binding and conclusive on the Parties and shall be used in computing the Adjustment Amount.

(c) If Sellers' Representatives duly and timely give Buyer such notice of their objection, and if Sellers' Representatives and Buyer fail, within thirty (30) days of Buyer's receipt of such objection notice, to resolve the issues outstanding with respect to the Closing Balance Sheet and Buyer's calculation of the Aggregate Working Capital as of the Closing Date, Sellers' Representatives and Buyer shall submit the issues remaining in dispute to Deloitte LLP, independent public accountants (the "Independent Accountants"), for resolution by applying the GAAP principles, policies and practices referred to in Section 2.8. If the disputed issues are so submitted to the Independent Accountants for resolution: (i) Sellers' Representatives and Buyer shall furnish or cause to be furnished to the Independent Accountants such work papers and other documents and information relating to the disputed issues as the Independent Accountants may

request and shall be afforded the opportunity to present to the Independent Accountants any material relating to the disputed issues and to discuss the issues with the Independent Accountants; (ii) the determination by the Independent Accountants of the issues remaining in dispute and of the calculation of the Aggregate Working Capital as of the Closing Date shall be final, binding and conclusive on the Parties and shall be used in computing the Adjustment Amount; and (iii) Sellers' Representatives and Buyer will each bear fifty percent (50%) of the fees and costs of the Independent Accountants for such determination. Such determination of the Independent Accountants shall be set forth in a notice delivered to Sellers' Representatives and Buyer within sixty (60) days of the submission of the disputed issues to the Independent Accountants.

(d) When the calculation of the Aggregate Working Capital as of the Closing Date becomes binding and conclusive on the Parties, the amount of the payment pursuant to Section 2.3(b) shall be recalculated. The difference, if any, between the amount of the payment pursuant to the original calculation and the amount of the payment pursuant to the recalculation shall be referred to herein as the "Adjustment Amount." If the Adjustment Amount is in favor of Buyer, the Adjustment Amount shall be paid by Sellers by wire transfer to Sellers' Representatives who shall pay such amount to an account specified by Buyer. If the Adjustment Amount is in favor of Sellers, the Adjustment Amount shall be paid by wire transfer by Buyer to an account specified by Sellers' Representatives. Within three (3) Business Days after the calculation of the Aggregate Working Capital as of the Closing Date becomes binding and conclusive on the Parties, Sellers' Representatives or Buyer, as the case may be, shall make the wire transfer payment provided for in this Section 2.8.

(e) Notwithstanding anything else contained herein, the amount of any and all Taxes arising out of or related to Seller's operation of the Business or ownership or use of any of the Acquired Assets prior to the Closing which are imposed on or paid or discharged by Buyer during the 75-day period referred to in Section 2.8(a) shall be included in calculating the Adjustment Amount pursuant to Section 2.8(d).

3. REPRESENTATIONS AND WARRANTIES OF SELLERS

Each Seller represents and warrants, jointly and severally, to Buyer, on the date hereof and as of the Closing, as follows:

3.1 Organization And Good Standing.

(a) Each Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Ohio, with full corporate power and authority to conduct its business as it is now being conducted, to own or use the properties and assets that it purports to own or use, and to perform all its obligations under Seller Contracts to which it is a party. Each Seller is duly qualified to do business as a foreign corporation and is in good standing under the laws of each state or other jurisdiction in which either the ownership or use of the properties owned or used by it, or the nature of the activities conducted by it, requires such qualification. Part 3.1(a) contains a complete and accurate list for each Seller of any jurisdictions in which such Seller is qualified to do business as a foreign corporation.

(b) Complete and accurate copies of the Governing Documents of each Seller, as currently in effect, are attached to Part 3.1(b).

(c) No Seller own any shares of capital stock of, ownership interests in, or other securities of any other Person.

3.2 Enforceability; Authority; No Conflict.

(a) This Agreement constitutes the legal, valid and binding obligation of each Seller and each Sellers' Representative, enforceable against each of them in accordance with its terms. Upon the execution and delivery by each Seller and each Sellers' Representatives, as applicable, of the Escrow Agreement, the Consulting Agreement, the Assignment and Assumption Agreement, the Bill of Sale, the Lease Agreement, the Security Agreement and each other agreement to be executed or delivered by any or all of such Sellers and Sellers' Representatives at the Closing (collectively, the "Sellers' Closing Documents"), each of Sellers' Closing Documents will constitute the legal, valid and binding obligation of each Seller and each Sellers' Representative, as applicable, enforceable against each of them in accordance with its terms. Each Seller has the absolute and unrestricted right, power and authority to execute and deliver this Agreement and Sellers' Closing Documents to which it is a party and to perform its obligations under this Agreement and Sellers' Closing Documents, and such action has been duly authorized by all necessary action by Seller's Shareholders and board of directors. Each Sellers' Representative has all necessary legal capacity to enter into this Agreement and Sellers' Closing Documents to which such Sellers' Representative is a party and to perform his obligations hereunder and thereunder.

(b) Except as set forth in Part 3.2(b), neither the execution and delivery of this Agreement nor the consummation or performance of any of the Contemplated Transactions will, directly or indirectly (with or without notice or lapse of time): (i) breach or result in a violation of (A) any provision of any of the Governing Documents of any Seller or (B) any resolution adopted by the board of directors or the Shareholders of any Seller; (ii) breach, result in a violation of or give any Governmental Body or other Person the right to challenge any of the Contemplated Transactions or to exercise any remedy or obtain any relief under any Legal Requirement or any Order to which any Seller, or any of the Acquired Assets, may be subject; (iii) contravene, conflict with or result in a violation or breach of any of the terms or requirements of, or give any Governmental Body the right to revoke, withdraw, suspend, cancel, terminate or modify, any Governmental Authorization that is held by any Seller or that otherwise relates to the Acquired Assets or to the business of any Seller; (iv) cause Buyer to become subject to, or to become liable for the payment of, any Tax; (v) breach any provision of, or give any Person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or payment under, or to cancel, terminate or modify, any Seller Contract; or (vi) result in the imposition or creation of any Encumbrance upon or with respect to any of the Acquired Assets.

(c) Except as set forth in Part 3.2(c), no Seller is required to give any notice to or obtain any Consent from any Person in connection with the execution and delivery of this Agreement or the consummation or performance of any of the Contemplated Transactions.

3.3 Capitalization. The number of authorized, issued and outstanding equity securities of each Seller is set forth in Part 3.3. A list of the Shareholders of each Seller and the number of shares of such Seller owned by each Shareholder, which list is current, accurate and complete, also are set forth in Part 3.3. Shareholders are and will be on the Closing Date the record and beneficial owners and holders of the shares of each Seller owned by each of them, free and clear of all Encumbrances. There are no Contracts relating to the issuance, sale or transfer of any equity securities or other securities of either Seller. To each Seller's Knowledge, none of the outstanding equity securities of such Seller was issued in violation of the Securities Act of 1933 (the "Securities Act") or any other Legal Requirement.

3.4 Financial Statements. Sellers have delivered to Buyer an audited balance sheet of each such Seller as at December 31, 2010 (including the notes thereto, the "Balance Sheets"), and the related audited statements of income, changes in shareholders' equity and cash flows for the fiscal year then ended, including in each case the notes thereto, together with the report thereon of Horvath & Horvath, P.C., independent certified public accountants. All such financial statements of Sellers fairly and with material accuracy present the financial condition and the results of operations, changes in shareholders' equity and cash flows of Sellers as at the respective dates of and for the periods referred to in such financial statements and have been prepared in accordance with GAAP.

3.5 [Intentionally left blank.]

3.6 Sufficiency Of Acquired Assets. The Acquired Assets (a) constitute all of the assets, tangible and intangible, of any nature whatsoever, necessary to operate each Seller's business in the manner presently operated by such Seller and (b) include all of the operating assets of such Seller.

3.7 Description Of Owned Real Property. The only Real Property in which any Seller has any ownership interest is the approximately seven (7) acres of real property owned by Lebanon Trotting which is located in the immediate vicinity of the Raceway Facilities (the "Owned Real Property"). Sellers will use their best efforts to enter into a contract promptly after the date hereof, on terms satisfactory to Buyer, for New Property Entity to acquire the New Property. Part 3.7 contains a correct legal description, street address and tax parcel identification number of the Owned Real Property and the New Property.

3.8 Description Of Leased Real Property. The only Real Property in which any Seller has any leasehold interest is the Raceway Facilities. Part 3.8 contains a correct legal description, street address and tax parcel identification number of all tracts, parcels and subdivided lots comprising the Raceway Facilities.

3.9 Title To Acquired Assets; Encumbrances.

(a) Each Seller owns good and marketable title to its respective estates in the Owned Real Property, free and clear of any Encumbrances, other than: (i) liens for Taxes for the current tax year which are not yet due and payable; and (ii) those described in Part 3.9(a).

(b) True and complete copies of (A) all deeds, existing title insurance policies and surveys of or pertaining to the Real Property and (B) all instruments, agreements and other

documents evidencing, creating or constituting any Encumbrances on the Real Property have been delivered to Buyer. Each Seller warrants to Buyer that, at the time of Closing, the Real Property shall be free and clear of all Encumbrances other than those identified on Part 3.9(b) as acceptable to Buyer ("Permitted Real Property Encumbrances").

(c) Each Seller owns good and transferable title to all of the other Acquired Assets free and clear of any Encumbrances other than those described in Part 3.9(c). Each Seller warrants to Buyer that, at the time of Closing, all other Acquired Assets shall be free and clear of all Encumbrances other than those identified on Part 3.9(c) as acceptable to Buyer ("Permitted Non-Real Property Encumbrances" and, together with the Permitted Real Property Encumbrances, "Permitted Encumbrances").

3.10 Condition Of Facilities.

(a) Use of the Real Property for the various purposes for which it is presently being used is permitted as of right under all applicable zoning legal requirements and is not subject to "permitted nonconforming" use or structure classifications. All Improvements are in compliance with all applicable Legal Requirements, including those pertaining to zoning, building and accessibility, are in good repair and in good condition, ordinary wear and tear excepted, and are free from latent and patent defects. No part of any Improvement encroaches on any real property not included in the Real Property, and there are no buildings, structures, fixtures or other Improvements primarily situated on adjoining property which encroach on any part of the Real Property. The Real Property for the Raceway Facility abuts on and has direct vehicular access to a public road or has access to a public road via a permanent, irrevocable, appurtenant easement benefiting the Raceway Facility, is supplied with public or quasi-public utilities and other services appropriate for the operation of the Raceway Facility and is not located within any flood plain or area subject to wetlands regulation or any similar restriction. To the Knowledge of Sellers, there is no existing or proposed plan to modify or realign any street or highway or any existing or proposed eminent domain proceeding that would result in the taking of all or any part of the Raceway Facility or that would prevent or hinder the continued use of the Raceway Facility as heretofore used in the conduct of the business of any Seller.

(b) Each item of Tangible Personal Property is in good repair and good operating condition, ordinary wear and tear excepted, is suitable for immediate use in the ordinary course of business and is free from latent and patent defects. No item of Tangible Personal Property is in need of repair or replacement other than as part of routine maintenance in the ordinary course of business. All Tangible Personal Property used in any Seller's business is in the possession of such Seller.

3.11 No Undisclosed Liabilities. No Seller has any Liability except for Liabilities reflected or reserved against in the Balance Sheets or the Interim Balance Sheet of such Seller and current liabilities of the same nature as those set forth in the Interim Balance Sheet and incurred in the ordinary course of business of such Seller since the date of the Interim Balance Sheet.

3.12 Taxes.

(a) Tax Returns Filed and Taxes Paid. Each Seller has filed or caused to be filed on a timely basis all Tax Returns and all reports with respect to Taxes that are or were required to be filed pursuant to applicable Legal Requirements. All Tax Returns and reports filed by each Seller are true, correct and complete. Each Seller has paid, or made provision for the payment of, all Taxes that have or may have become due for all periods covered by the Tax Returns or otherwise, or pursuant to any assessment received by such Seller. Except as provided in Part 3.12(a), each Seller currently is not the beneficiary of any extension of time within which to file any Tax Return. No claim has ever been made or is expected to be made by any Governmental Body in a jurisdiction where any Seller does not file Tax Returns that it is or may be subject to taxation by that jurisdiction. There are no Encumbrances on any of the Acquired Assets that arose in connection with any failure (or alleged failure) to pay any Tax, and no Seller has Knowledge of any basis for assertion of any claims attributable to Taxes which, if adversely determined, would result in any such Encumbrance.

(b) Delivery of Tax Returns and Information Regarding Audits and Potential Audits. Each Seller has delivered or made available to Buyer copies of, and Part 3.12(b) contains a complete and accurate list of, all Tax Returns of such Seller filed since December 31, 2008. The federal and state income or franchise Tax Returns of each Seller have been audited by the IRS or relevant state tax authorities or are closed by the applicable statute of limitations for all taxable years through December 31, 2008. Part 3.12(b) contains a complete and accurate list of all Tax Returns of each Seller that have been audited or are currently under audit and accurately describe any deficiencies or other amounts that were paid or are currently being contested. To the Knowledge of each Seller, no undisclosed deficiencies are expected to be asserted with respect to any such audit. All deficiencies proposed as a result of such audits have been paid, reserved against, settled or are being contested in good faith by appropriate proceedings as described in Part 3.12(b). Each Seller has delivered, or made available to Buyer, copies of any examination reports, statements or deficiencies or similar items with respect to such audits. Except as provided in Part 3.12(b), no Seller has Knowledge that any Governmental Body is likely to assess any additional taxes for any period for which Tax Returns have been filed. There is no dispute or claim concerning any Taxes of any Seller either (i) claimed or raised by any Governmental Body in writing or (ii) as to which any Seller has Knowledge. Part 3.12(b) contains a list of all Tax Returns for which the applicable statute of limitations has not run. Except as described in Part 3.12(b), no Seller has given or been requested to give waivers or extensions (or is or would be subject to a waiver or extension given by any other Person) of any statute of limitations relating to the payment of Taxes of such Seller or for which such Seller may be liable.

(c) Proper Accrual. The charges, accruals and reserves with respect to Taxes on the records of each Seller are adequate (determined in accordance with GAAP) and are at least equal to such Seller's liability for Taxes. There exists no proposed tax assessment or deficiency against any Seller except as disclosed in the Interim Balance Sheet.

(d) Withholding. All Taxes that each Seller is or was required by Legal Requirements to withhold, deduct or collect have been duly withheld, deducted and collected and, to the extent required, have been paid to the proper Governmental Body or other Person.

(e) Tax Sharing or Similar Agreements. There is no tax sharing agreement, tax allocation agreement, tax indemnity obligation or similar written or unwritten agreement, arrangement, understanding or practice with respect to Taxes (including any advance pricing agreement, closing agreement or other arrangement relating to Taxes) that will require any payment by any Seller.

(f) Consolidated Group. No Seller, as a transferee or successor by contract or otherwise (A) has been a member of an affiliated group within the meaning of Code Section 1504(a) (or any similar group defined under a similar provision of state, local or foreign law) and (B) has any liability for Taxes of any other Person under Treas. Reg. sect. 1.1502-6 (or any similar provision of state, local or foreign law).

(g) S Corporation Status. Each Seller is an S corporation as defined in Code Section 1361 and neither Seller is or has ever been subject to the passive income tax under Code Section 1375. Part 3.12(g) lists all the states and localities with respect to which a Seller is required to file any corporate, income or franchise tax returns and sets forth whether such Seller is treated as the equivalent of an S corporation by or with respect to each such state or locality. Each Seller has properly filed Tax Returns with and paid and discharged any liabilities for taxes in any states or localities in which it is subject to Tax.

(h) Substantial Understatement Penalty. Each Seller has disclosed on its federal income Tax Returns all positions taken therein that could give rise to a substantial understatement of federal income Tax within the meaning of Code Section 6662.

3.13 No Material Adverse Change. Since the date of the Balance Sheets, there has not been any material adverse change in the business, operations, prospects, assets, results of operations or condition (financial or other) of any Seller, and no event has occurred or circumstance exists that may result in such a material adverse change.

3.14 Employee Benefits. Part 3.14 contains a true and complete list of each employee benefit plan, program, arrangement and contract (including, without limitation, any "employee benefit plan", as defined in Section 3(3) of ERISA) maintained or contributed to by a Seller or with respect to which a Seller has any liability (the "Benefit Plans"). There are no organizations which, together with any Seller, have within the past six (6) years been treated as a single employer pursuant to Section 414 of the Code. Sellers have no liability of any kind whatsoever under Title IV of ERISA. Each Benefit Plan has been administered in accordance with the terms of such Benefit Plan and in substantial compliance with ERISA, the Code and any other applicable Legal Requirement.

3.15 Legal Requirements; Governmental Authorizations.

(a) Each Seller is, and at all times since December 31, 2005, has been, in full compliance with each Legal Requirement that is or was applicable to it or to the conduct or operation of its business or the ownership or use of any of its assets; (ii) no event has occurred or circumstance exists that (with or without notice or lapse of time) (A) may constitute or result in a violation by any Seller of, or a failure on the part of any Seller to comply with, any Legal Requirement or (B) may give rise to any obligation on the part of such Seller to undertake, or to

bear all or any portion of the cost of, any remedial action of any nature; and (iii) no Seller has received, at any time since December 31, 2005, any notice or other communication (whether oral or written) from any Governmental Body or any other Person regarding (A) any actual, alleged, possible or potential violation of, or failure to comply with, any Legal Requirement or (B) any actual, alleged, possible or potential obligation on the part of such Seller to undertake, or to bear all or any portion of the cost of, any remedial action of any nature.

(b) Part 3.15(b) contains a complete and accurate list of each Governmental Authorization that is held by any Seller or that otherwise relates to any Seller's business or the Acquired Assets. Each Governmental Authorization listed or required to be listed in Part 3.15(b) is valid and in full force and effect. Except as set forth in Part 3.15(b): (i) each Seller is, and at all times since December 31, 2005, has been, in full compliance with all of the terms and requirements of each Governmental Authorization identified or required to be identified in Part 3.15(b); (ii) no event has occurred or circumstance exists that may (with or without notice or lapse of time) (A) constitute or result directly or indirectly in a violation of or a failure to comply with any term or requirement of any Governmental Authorization listed or required to be listed in Part 3.15(b) or (B) result directly or indirectly in the revocation, withdrawal, suspension, cancellation or termination of, or any modification to, any Governmental Authorization listed or required to be listed in Part 3.15(b); (iii) no Seller has received, at any time since December 31, 2005, any notice or other communication (whether oral or written) from any Governmental Body or any other Person regarding (A) any actual, alleged, possible or potential violation of or failure to comply with any term or requirement of any Governmental Authorization or (B) any actual, proposed, possible or potential revocation, withdrawal, suspension, cancellation, termination of or modification to any Governmental Authorization; and (iv) all applications required to have been filed for the renewal of the Governmental Authorizations listed or required to be listed in Part 3.15(b) have been duly filed on a timely basis with the appropriate Governmental Bodies, and all other filings required to have been made with respect to such Governmental Authorizations have been duly made on a timely basis with the appropriate Governmental Bodies. The Governmental Authorizations listed in Part 3.15(b) collectively constitute all of the Governmental Authorizations necessary to permit Sellers to lawfully conduct and operate their businesses in the manner in which they currently conduct and operate such businesses and to permit Sellers to own and use their respective assets in the manner in which they currently own and use such assets.

3.16 Legal Proceedings; Orders.

(a) Except as set forth in Part 3.16(a), there is no pending or, to the Knowledge of each Seller, threatened Proceeding: (i) by or against any Seller or that otherwise relates to or may affect the business of, or any of the assets owned or used by, such Seller; or (ii) that challenges, or that may have the effect of preventing, delaying, making illegal or otherwise interfering with, any of the Contemplated Transactions. To the Knowledge of each Seller, no event has occurred or circumstance exists that is reasonably likely to give rise to or serve as a basis for the commencement of any such Proceeding. Sellers have delivered to Buyer copies of all pleadings, correspondence and other documents relating to each Proceeding listed in Part 3.16(a). There are no Proceedings listed or required to be listed in Part 3.16(a) that could have a material adverse effect on the business, operations, assets, condition or prospects of any Seller or upon the Acquired Assets.

(b) There is no Order to which any Seller, its business or any of the Acquired Assets is subject; and (ii) to the Knowledge of each Seller, no officer, director, agent or employee of any Seller is subject to any Order that prohibits such officer, director, agent or employee from engaging in or continuing any conduct, activity or practice relating to the business of such Seller.

(c) (i) Each Seller is, and at all times since December 31, 2005, has been, in compliance with all terms and requirements of each Order to which it or any of the Acquired Assets is or has been subject; (ii) no event has occurred or circumstance exists that is reasonably likely to constitute or result in (with or without notice or lapse of time) a violation of or failure to comply with any term or requirement of any Order to which any Seller or any of the Acquired Assets is subject; and (iii) no Seller has received, at any time since December 31, 2005, any notice or other communication (whether oral or written) from any Governmental Body or any other Person regarding any actual, alleged, possible or potential violation of, or failure to comply with, any term or requirement of any Order to which such Seller or any of the Acquired Assets is or has been subject.

3.17 Absence Of Certain Changes And Events. Since the date of the Balance Sheets, each Seller has conducted its business only in the ordinary course of business.

3.18 Contracts; No Defaults.

(a) Sellers have delivered to Buyer accurate and complete copies of each Acquired Contract.

(b) No Shareholder has or may acquire any rights under, and no Shareholder has or may become subject to any obligation or liability under, any Contract that relates to the business of any Seller or any of the Acquired Assets.

(c) (i) Each Acquired Contract is in full force and effect and is valid and enforceable in accordance with its terms; (ii) each Acquired Contract is assignable by Sellers to Buyer without the consent of any other Person; and (iii) to the Knowledge of each Seller, no Acquired Contract will upon completion or performance thereof have a material adverse affect on the business, assets or condition of any Seller or the business to be conducted by Buyer with the Acquired Assets.

(d) Except as set forth in Part 3.18(d): (i) each Seller is, and at all times since December 31, 2005, has been, in compliance with all applicable terms and requirements of each Acquired Contract; (ii) to the Knowledge of each Seller, each other Person that has or had any obligation or liability under any Acquired Contract is, and at all times since December 31, 2005, has been, in full compliance with all applicable terms and requirements of such Contract; (iii) to the Knowledge of each Seller, no event has occurred or circumstance exists that (with or without notice or lapse of time) may contravene, conflict with or result in a breach of, or give any Seller or other Person the right to declare a default or exercise any remedy under, or to accelerate the maturity or performance of, or payment under, or to cancel, terminate or modify, any Acquired Contract; (iv) to the Knowledge of each Seller, no event has occurred or circumstance exists under or by virtue of any Contract that (with or without notice or lapse of time) would cause the

creation of any Encumbrance affecting any of the Acquired Assets; and (v) no Seller has given to or received from any other Person, at any time since December 31, 2005, any notice or other communication (whether oral or written) regarding any actual, alleged, possible or potential violation or breach of, or default under, any Acquired Contract.

3.19 Insurance. Sellers currently maintain the insurance policies and coverages set forth in Part 3.19. There are no outstanding claims under any insurance policy or default with respect to provisions in any such policy

3.20 Environmental Matters.

(a) Each Seller is, and at all times has been, in full compliance with, and has not been and is not in violation of or liable under, any Environmental Law. Neither any Seller nor any other Person for whose conduct any Seller is or may be held to be responsible for has received or has any basis to expect any actual or, to the Knowledge of each Seller, threatened order, notice or other communication from (i) any Governmental Body or private citizen acting in the public interest or (ii) the current or prior owner or operator of any Facilities, of any actual or potential violation or failure to comply with any Environmental Law, or of any actual or threatened obligation to undertake or bear the cost of any Environmental, Health and Safety Liabilities with respect to any Facility or other property or asset (whether real, personal or mixed) in which any Seller has or had an interest, or with respect to any property or Facility at or to which Hazardous Materials were generated, manufactured, refined, transferred, imported, used or processed by any Seller or any other Person for whose conduct it is or may be held responsible, or from which Hazardous Materials have been transported, treated, stored, handled, transferred, disposed, recycled or received.

(b) There are no pending or, to the Knowledge of each Seller, threatened claims, Encumbrances, or other restrictions of any nature resulting from any Environmental, Health and Safety Liabilities or arising under or pursuant to any Environmental Law with respect to or affecting any Facility or any other property or asset (whether real, personal or mixed) in which any Seller has or had an interest.

(c) No Seller has any Knowledge of or any basis to expect, nor has any of them, or any other Person for whose conduct they are or may be held responsible, received, any citation, directive, inquiry, notice, Order, summons, warning or other communication that relates to Hazardous Activity, Hazardous Materials, or any alleged, actual, or potential violation or failure to comply with any Environmental Law, or of any alleged, actual, or potential obligation to undertake or bear the cost of any Environmental, Health and Safety Liabilities with respect to any Facility or property or asset (whether real, personal or mixed) in which any Seller has or had an interest, or with respect to any property or facility to which Hazardous Materials generated, manufactured, refined, transferred, imported, used or processed by any Seller or any other Person for whose conduct it is or may be held responsible, have been transported, treated, stored, handled, transferred, disposed, recycled or received.

(d) No Seller nor any other Person for whose conduct it is or may be held responsible has any Environmental, Health and Safety Liabilities with respect to any Facility or, to the Knowledge of each Seller, with respect to any other property or asset (whether real, personal or mixed) in which Seller (or any predecessor) has or had an interest or at any property geologically or hydrologically adjoining any Facility or any such other property or asset.

(e) There are no Hazardous Materials present on or in the Environment at any Facility or at any geologically or hydrologically adjoining property, including any Hazardous Materials contained in barrels, aboveground or underground storage tanks, landfills, land deposits, dumps, equipment (whether movable or fixed) or other containers, either temporary or permanent, and deposited or located in land, water, sumps, or any other part of the Facility or such adjoining property, or incorporated into any structure therein or thereon. No Seller nor any Person for whose conduct it is or may be held responsible, or to the Knowledge of each Seller, any other Person, has permitted or conducted, or is aware of, any Hazardous Activity conducted with respect to any Facility or any other property or assets (whether real, personal or mixed) in which any Seller has or had an interest except in full compliance with all applicable Environmental Laws.

(f) There has been no Release or, to the Knowledge of each Seller, Threat of Release, of any Hazardous Materials at or from any Facility or at any other location where any Hazardous Materials were generated, manufactured, refined, transferred, produced, imported, used, or processed from or by any Facility, or from any other property or asset (whether real, personal or mixed) in which any Seller has or had an interest, or to the Knowledge of each Seller, any geologically or hydrologically adjoining property, whether by any Seller or any other Person.

(g) Sellers have delivered to Buyer true and complete copies and results of any reports, studies, analyses, tests, or monitoring possessed or initiated by any Seller pertaining to Hazardous Materials or Hazardous Activities in, on, or under the Facilities, or concerning compliance, by any Seller or any other Person for whose conduct it is or may be held responsible, with Environmental Laws.

(h) The Facilities do not contain any wetlands, as defined in the Clean Water Act and regulations promulgated thereunder, or similar Legal Requirements, or other especially sensitive or protected areas or species of flora or fauna.

3.21 Employees. No Seller is in breach of, or default under, any employment agreements with employees of any Seller, severance agreements, programs and policies of any Seller, plans, programs, agreements, policies and other arrangements of any Seller with or relating to its employees. To the Knowledge of each Seller, no event has occurred which with notice or lapse of time would constitute such a breach or default or permit termination, modification or acceleration under any such agreements or contracts. To the Knowledge of each Seller, no other party to any of such agreements or contracts is in breach thereof or default thereunder and no event has occurred which with notice or lapse of time would constitute such a breach or default or permit termination, modification or acceleration thereunder. Except as required by law, no Benefit Plan provides retiree medical or retiree life insurance benefits to any person.

3.22 Labor Disputes; Compliance. As of the date hereof, the Sellers are, and have at all times been, in compliance with all applicable Legal Requirements respecting employment and

employment practices, terms and conditions of employment, equal opportunity, nondiscrimination, immigration, labor, wages, affirmative action, hours of work and occupational safety and health, and have not engaged in any unfair labor practices as defined in the National Labor Relations Act or other applicable law; and there is no charge or complaint against the Sellers by the National Labor Relations Board or any comparable state agency pending or threatened in writing.

3.23 Intellectual Property. Part 3.23 sets forth a true and complete list of all Intellectual Property owned by the Sellers. No Person is engaging in any activity that infringes any Intellectual Property of the Sellers and no claim has been asserted to the Sellers that the use of any Intellectual Property of the Sellers infringes the patents, trademarks, or copyrights of any third party. The Sellers are the owners of the entire right, title and interest in and to such Intellectual Property. Part 3.23 sets forth a true and complete list of all material licenses of Intellectual Property to the Sellers from any third party. To the Knowledge of the Sellers, the use of the Intellectual Property by the Sellers in connection with the operation of their business as presently conducted does not infringe or misappropriate the Intellectual Property rights of any third party.

3.24 Relationships With Related Persons. No Seller and no Shareholder nor any Related Person of any of them has, or since December 31, 2010 has had, any interest in any property (whether real, personal or mixed and whether tangible or intangible) used in or pertaining to any Seller's business. No Seller and no Shareholder nor any Related Person of any of them owns, or since December 31, 2010 has owned, of record or as a beneficial owner, an equity interest or any other financial or profit interest in any Person that has (a) had business dealings or a material financial interest in any transaction with any Seller, each of which has been conducted in the ordinary course of business with such Seller at substantially prevailing market prices and on substantially prevailing market terms or (b) engaged in competition with any Seller with respect to any line of the products or services of any Seller (a "Competing Business"), except for ownership of less than one percent (1%) of the outstanding capital stock of any Competing Business that is publicly traded on any recognized exchange or in the over-the-counter market. No Seller and no Shareholder nor any Related Person of any of them is a party to any Contract with, or has any claim against, any Seller.

3.25 Brokers Or Finders. Except for any commission in an amount consistent with local custom that may be payable upon acquisition of the New Property and which shall not include any commission owed to any Seller or any of their Related Persons, no Seller has incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payments in connection with the sale of such Seller's business or the Acquired Assets or the Contemplated Transactions.

3.26 Securities Law Matters.

(a) Each Seller is acquiring its interest in the Buyer Promissory Note for its own account and not with a view to its distribution within the meaning of Section 2(11) of the Securities Act.

(b) Each Seller confirms that Buyer has made available to Seller and its Representatives the opportunity to ask questions of the officers and management employees of Buyer and to acquire such additional information about the business and financial condition of Buyer as such Seller has requested, and all such information has been received.

3.27 Disclosure. To the Knowledge of each Seller, there does not exist any event, condition, or other matter, or any series of events, conditions or other matters, individually or in the aggregate, adversely affecting any Seller's assets, business, prospects, financial condition or results of its operations that has not been disclosed in the Disclosure Letter.

4. REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to each Seller, as of the date hereof and as of Closing, as follows:

4.1 Organization And Good Standing. Buyer is a limited liability company duly organized, validly existing and in full force and effect under the laws of the State of Delaware, with requisite power and authority to conduct its business as it is now conducted.

4.2 Authority; No Conflict.

(a) This Agreement constitutes the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms. Upon the execution and delivery by Buyer of the Assignment and Assumption Agreement, the Escrow Agreement, the Consulting Agreement, the Buyer Promissory Note, the Security Agreement, the Lease Agreement and each other agreement to be executed or delivered by Buyer at Closing (collectively, the "Buyer's Closing Documents"), each of Buyer's Closing Documents will constitute the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its respective terms. Buyer has the absolute and unrestricted right, power and authority to execute and deliver this Agreement and Buyer's Closing Documents and to perform its obligations under this Agreement and Buyer's Closing Documents, and such action has been duly authorized by all necessary limited liability company action.

(b) Neither the execution and delivery of this Agreement by Buyer nor the consummation or performance of any of the Contemplated Transactions by Buyer will give any Person the right to prevent, delay or otherwise interfere with any of the Contemplated Transactions pursuant to: (i) any provision of Buyer's Governing Documents; (ii) any resolution adopted by the board of managers or the members of Buyer; (iii) any Legal Requirement or Order to which Buyer may be subject; or (iv) any Contract to which Buyer is a party or by which Buyer may be bound.

(c) Buyer is not and will not be required to obtain any Consent from any Person in connection with the execution and delivery of this Agreement or the consummation or performance of any of the Contemplated Transactions.

4.3 Certain Proceedings. There is no pending Proceeding that has been commenced against Buyer and that challenges, or may have the effect of preventing, delaying, making illegal or otherwise interfering with, any of the Contemplated Transactions. To Buyer's Knowledge, no such Proceeding has been threatened.

4.4 Brokers Or Finders. Neither Buyer nor any of its Representatives has incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment in connection with the Contemplated Transactions.

5. COVENANTS OF SELLERS PRIOR TO CLOSING

5.1 Access And Investigation. Between the date of this Agreement and the Closing Date, and upon reasonable advance notice received from Buyer, each Seller shall (a) afford Buyer and its Representatives and prospective lenders and their Representatives (collectively, "Buyer Group") full and free access, during regular business hours, to the Acquired Assets and such Seller's personnel, properties (including subsurface testing), Contracts, Governmental Authorizations, books and records and other documents and data, such rights of access to be exercised in a manner that does not unreasonably interfere with the operations of such Seller; (b) furnish Buyer Group with copies of all such Contracts, Governmental Authorizations, books and records and other existing documents and data as Buyer may reasonably request; (c) furnish Buyer Group with such additional financial, operating and other relevant data and information as Buyer may reasonably request; and (d) otherwise cooperate and assist, to the extent reasonably requested by Buyer, with Buyer's investigation of the Acquired Assets and financial condition related to such Seller. In addition, Buyer shall have the right to have the Real Property and Tangible Personal Property inspected by Buyer Group, at Buyer's sole cost and expense, for purposes of determining the physical condition and legal characteristics of the Real Property and Tangible Personal Property. In the event subsurface or other destructive testing is recommended by any of Buyer Group, Buyer shall be permitted to have the same performed.

5.2 Operation of the Business of Sellers. Between the date of this Agreement and the Closing, each Seller shall:

(a) conduct its business only in the ordinary course of business and, without limiting the generality of the foregoing, such Seller shall (i) maintain its current levels of expenditure with respect to marketing and promotion programs, customer service and amenities, and facility maintenance and improvement, consistent with past practice and (ii) maintain the Operating Bankroll in an amount consistent with past practice;

(b) except as otherwise directed by Buyer in writing, and without making any commitment on Buyer's behalf, use its best efforts to preserve intact its current business organization, preserve all Governmental Authorizations, keep available the services of its officers, employees and agents and maintain its relations and good will with all Gaming or Racing Authorities, suppliers, customers, landlords, creditors, employees, agents and others having business relationships with it;

(c) confer with Buyer prior to implementing operational decisions of a material nature;

(d) maintain the Acquired Assets in a state of repair and condition that complies with Legal Requirements and is consistent with the requirements and normal conduct of such Seller's business; and

(e) comply with all Legal Requirements and contractual obligations applicable to the operations of such Seller's business.

5.3 Negative Covenant. Except as otherwise expressly permitted herein, between the date of this Agreement and the Closing Date, no Seller shall, without the prior written Consent of Buyer, (a) take any affirmative action, or fail to take any reasonable action within its control, as a result of which any of the changes or events listed in Sections 3.13 or 3.17 would be likely to occur; (b) make any modification to any Acquired Contract or Governmental Authorization; (c) enter into any compromise or settlement of any litigation, proceeding or Governmental Investigation relating to the Acquired Assets or the Assumed Liabilities; (d) make any changes with respect to such Seller's accounting practices and procedures; (e) make any changes to with respect to their current officer and employee compensation arrangements; (f) make any changes with respect to its customer incentive rewards programs; (g) enter into any contract, make any commitment, or take any action that is not in the ordinary course of business or that would be reasonably likely to adversely impact the Contemplated Transactions; or (h) sell or otherwise transfer any of the Acquired Assets other than in the ordinary course of business.

5.4 Required Approvals. As promptly as practicable after the date of this Agreement, each Seller shall make all filings required by Legal Requirements to be made by it in order to consummate the Contemplated Transactions (including all filings under the HSR Act). Each Seller also shall cooperate with Buyer and its Representatives with respect to all filings that Buyer elects to make or, pursuant to Legal Requirements, shall be required to make in connection with the Contemplated Transactions. Each Seller also shall cooperate with Buyer and its Representatives in obtaining all Material Consents (including taking all actions requested by Buyer to cause early termination of any applicable waiting period under the HSR Act).

5.5 Notification. Between the date of this Agreement and the Closing, Sellers shall promptly notify Buyer in writing if any of them becomes aware of (a) any fact or condition that causes or constitutes a breach of any of Sellers' representations and warranties made as of the date of this Agreement or (b) the occurrence after the date of this Agreement of any fact or condition that would or be reasonably likely to (except as expressly contemplated by this Agreement) cause or constitute a breach of any such representation or warranty had that representation or warranty been made as of the time of the occurrence of, or any discovery by any Seller of, such fact or condition. During the same period, Sellers also shall promptly notify Buyer of the occurrence of any breach of any covenant of any Seller in this Article 5 or of the occurrence of any event that may make the satisfaction of the conditions in Article 7 impossible or unlikely. Such notifications shall not affect any rights of Buyer under Section 9.2 and Article 11.

5.6 No Negotiation. Until such time as this Agreement shall be terminated pursuant to Section 9.1, no Seller shall directly or indirectly solicit, initiate, encourage or entertain any inquiries or proposals from, discuss or negotiate with, provide any nonpublic information to or consider the merits of any inquiries or proposals from any Person (other than Buyer) relating to

any business combination transaction involving Sellers, including the sale by Shareholders of any Seller's stock, the merger or consolidation of any Seller or the sale of any Seller's business or any of the Acquired Assets (other than the sale of inventory in the ordinary course of business), including the Gaming License and the New Property. Sellers shall notify Buyer of any such inquiry or proposal within forty-eight (48) hours of receipt or awareness of the same by any Seller.

5.7 Commercially Reasonable Efforts. Sellers shall use commercially reasonable efforts to cause the conditions in Article 7 and Section 8.3 to be satisfied.

5.8 Additional Financial Statements. Until the Closing Date, Sellers shall deliver to Buyer within fifteen (15) days after the end of each month a copy of the combined balance sheet, income statement and cash flow statement of Sellers for such month prepared in a manner and containing information consistent with Sellers' current practices and certified by Sellers' chief executive officers or chief financial officers.

6. COVENANTS OF BUYER PRIOR TO CLOSING

6.1 Required Approvals. As promptly as practicable after the date of this Agreement, Buyer shall make, or cause to be made, all filings required by Legal Requirements (including all filings under the HSR Act) to be made by it to consummate the Contemplated Transactions. Buyer also shall cooperate, and cause its Related Persons to cooperate, with Sellers (a) with respect to all filings any Seller shall be required by Legal Requirements to make and (b) in obtaining all Consents identified in Part 3.2(c), *provided*, *however*, that none of Buyer, any Parent Company of Buyer or any of their respective Affiliates shall be required to dispose of or to make any change to its business, expend any material funds or incur any other burden in order to comply with this Section 6.1.

6.2 Commercially Reasonable Efforts. Buyer shall use commercially reasonable efforts to cause the conditions in Article 8 and Section 7.3 to be satisfied.

6.3 Monthly Advance of Operating Funds. Buyer will continue to make, or secure the agreement of DNC Gaming to continue to make, monthly Operating Advances to Lebanon Trotting and Miami Valley Trotting in the manner provided in Section 1.2 of the Restated Joint Venture Plan for the period from January 1, 2012 until the earlier to occur of (x) the Closing Date, or (y) June 30, 2013 (such first date to occur being the "Payment Termination Date"). Any such payments shall be an offset to the Purchase Price as provided in Section 2.3(b). After the Payment Termination Date, any obligations of Buyer to continue to make advances of operating funds to Lebanon Trotting and Miami Valley Trotting will cease.

6.4 Buyer's Pre-Closing Actions. After the execution of this Agreement by the Parties, Buyer will take all commercially reasonable action (i) to prepare and to file an application or applications for the transfer of the Racing License from Sellers to Buyer, (ii) to file an application or applications for the ultimate relocation of the operations of the Lebanon Raceway harness racetrack to the New Property, and (iii) to seek to obtain such Governmental Authorizations as are necessary or desirable to allow Buyer to operate the Acquired Assets from and after the Closing and to conduct the business of pari-mutuel racing, including, but not

limited to, all such action necessary to obtain any required Governmental Authorizations related to such relocation and all comprehensive plan amendments, zoning code revisions and variances as are necessary or desirable for the development and operation by Buyer of a new racetrack and gaming facility on the New Property. Such applications shall seek the acceptances, consents, or approvals for the transfer of the Racing License to Buyer, relocation of the operations of Lebanon Raceway to the New Property, and operation of the Acquired Assets by Buyer to be effective only upon or immediately after the Closing. In addition, Buyer will take all commercially reasonable action to prepare and to file an application or applications for a Gaming License and any other Governmental Authorizations required for Buyer to operate video lottery gaming and video lottery gaming related activities at the New Facility; *provided that*, the actual date of filing of such application or applications by Buyer will be dependent upon the status of the pending litigation styled as ***State ex. rel. Robert L. Walgate, Jr. et al*** (Case No. 11 CV-10-13126) or any other litigation challenging the validity of the VLT Rules.

7. CONDITIONS PRECEDENT TO BUYER'S OBLIGATION TO CLOSE

Buyer's obligation to purchase the Acquired Assets and to take the other actions required to be taken by Buyer at the Closing is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any of which may be waived by Buyer, in whole or in part):

7.1 Accuracy Of Representations.

(a) All of the representations and warranties in this Agreement of Sellers (considered collectively), and each of these representations and warranties (considered individually), shall have been accurate in all material respects as of the date of this Agreement, and shall be accurate in all material respects as of the time of the Closing as if then made.

(b) Each of the representations and warranties in Sections 3.2(a), 3.2(b)(i) and 3.4, and each of the representations and warranties in this Agreement that contains an express materiality qualification, shall have been accurate in all respects as of the date of this Agreement, and shall be accurate in all respects as of the time of the Closing as if then made.

7.2 Sellers' Performance. All of the covenants and obligations that Sellers are required to perform or to comply with pursuant to this Agreement at or prior to the Closing (considered collectively), and each of these covenants and obligations (considered individually), shall have been duly performed and complied with in all material respects.

7.3 Consents. Each of the Consents identified in Exhibit 7.3 (the "Material Consents") shall have been obtained and shall be in full force and effect.

7.4 Environmental Report. Buyer shall have received, pursuant to its initiative and at its cost, Phase I environmental inspection reports satisfactory to Buyer, including for the New Property and the Raceway Facilities.

7.5 Additional Documents. Sellers shall have caused the documents and instruments required by Section 2.7(a) and the following documents to be delivered (or tendered subject only to Closing) to Buyer:

(a) The certificate of incorporation or organization, as the case may be, and all amendments thereto of each Seller, duly certified as of a recent date by the Secretary of State of the State of Ohio;

(b) Releases of all Encumbrances on the Acquired Assets, other than Permitted Encumbrances;

(c) Certificates dated as of a date not earlier than the third Business Day prior to the Closing as to the good standing of each Seller and payment of all applicable state Taxes by each Seller, executed as appropriate by the Secretary of State of the State of Ohio, the Ohio Department of Taxation and each jurisdiction in which such Seller is licensed or qualified to do business as a foreign corporation or limited liability company, as the case may be, as specified in Part 3.1(a);

(d) A non-foreign affidavit of each Seller, as required under Section 1445 of the Code, sufficient to evidence such Seller's status as a U.S. person for purposes of federal income tax withholding requirements; and

(e) Such other documents as Buyer may reasonably request.

7.6 No Proceedings. Since the date of this Agreement, (a) if a filing under the HSR Act shall be required with respect to the Contemplated Transactions, the waiting period under the HSR Act shall have expired or early termination shall have been granted, without limitation, restriction or condition and (b) there is no pending or threatened Proceeding that would or is reasonably likely to (i) restrain, prevent, delay, limit, condition, interfere or prohibit the legality or validity of the Contemplated Transactions, including the conduct of pari-mutuel racing and video lottery gaming operations on the New Property by Buyer following Closing, (ii) result in Damages being imposed on Buyer, any Parent Company of Buyer or any of their respective Affiliates, (iii) impose material limitations on the ability of Buyer, any Parent Company of Buyer or any of their respective Affiliates to effectively exercise full rights of ownership of all Acquired Assets or (iv) result in a Governmental Investigation or material Governmental Damages being imposed on Buyer, any Parent Company of Buyer or any of their respective Affiliates.

7.7 No Conflict. Neither the consummation nor the performance of any of the Contemplated Transactions will, directly or indirectly (with or without notice or lapse of time), contravene or conflict with or result in a violation of or cause Buyer or any Related Person of Buyer to suffer any adverse consequence under (a) any applicable Legal Requirement or Order or (b) any Legal Requirement or Order that has been published, introduced or otherwise proposed by or before any Governmental Body.

7.8 Governmental Authorizations, etc. Buyer shall have received such Governmental Authorizations, including Gaming or Racing Approvals, the Gaming License and the Racing License, as Buyer shall determine are necessary or desirable to allow Buyer to operate the Acquired Assets from and after the Closing and to conduct the business of pari-mutuel racing and video lottery gaming. In addition, Buyer shall have received all comprehensive plan amendments, zoning code revisions and variances as Buyer shall determine are necessary or desirable for the development and operation of a new racetrack and gaming facility on the New Property.

7.9 New Property Closing and Ground Lease. Sellers or their Affiliate(s) shall have closed the purchase of the New Property and executed the Ground Lease.

7.10 No Material Adverse Change. There shall be (a) no material adverse change with respect to the Acquired Assets or the Sellers' respective businesses, (b) no adverse actions of any Governmental Body or other adverse legislative or regulatory change which reasonably could be expected to have a material adverse impact on such assets or businesses, and (c) no material damage to the Acquired Assets by fire, flood, casualty, act of God or the public enemy or other cause that is not fully recoverable from insurance coverage and any contribution by, or payment of any insurance deductible by, Sellers.

7.11 Shareholder Approval and Dissenting Shareholders. The respective shareholders of each of Sellers shall have approved this Agreement and the consummation of the Contemplated Transactions, as and to the extent required under any Legal Requirement, within fourteen (14) days after execution of this Agreement by the Parties, and the dissenter's rights of all of the shareholders of Sellers under Section 1701.76 and Section 1701.85 of the Ohio Revised Code shall have been terminated.

7.12. Raceway Facilities Lease Agreement. Buyer and either Warren County Agricultural Society of Warren County, Ohio or Warrren County, Ohio, by its County Commissioners, as the case may be, shall have entered into a written lease with respect to the Raceway Facilities containing terms which are reasonably satisfactory to Buyer.

7.13 Financing. Buyer shall have obtained on terms and conditions satisfactory to Buyer financing in the maximum principal amount of up to One hundred Seventy-Five Million Dollars ($175,000,000.00) from the Senior Lender (as that term is defined in the Security Agreement).

8. CONDITIONS PRECEDENT TO SELLERS' OBLIGATIONS TO CLOSE

The obligations of Sellers to sell the Acquired Assets and to take the other actions required to be taken by Sellers at the Closing is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any of which may be waived by Sellers' Representatives in whole or in part):

8.1 Accuracy Of Representations. All of Buyer's representations and warranties in this Agreement (considered collectively), and each of these representations and warranties (considered individually), shall have been accurate in all material respects as of the date of this Agreement and shall be accurate in all material respects as of the time of the Closing as if then made.

8.2 Buyer's Performance. All of the covenants and obligations that Buyer is required to perform or to comply with pursuant to this Agreement at or prior to the Closing (considered collectively), and each of these covenants and obligations (considered individually), shall have been performed and complied with in all material respects.

8.3 Consents. Each of the Material Consents shall have been obtained and shall be in full force and effect.

8.4 Additional Documents. Buyer shall have caused the documents and instruments required by Section 2.7(b) and the following documents to be delivered (or tendered subject only to Closing) to Sellers such other documents as Sellers' Representatives may reasonably request for the purpose of: (a) evidencing the accuracy of any representation or warranty of Buyer, (b) evidencing the performance by Buyer of, or the compliance by Buyer with, any covenant or obligation required to be performed or complied with by Buyer, or (c) evidencing the satisfaction of any condition referred to in this Article 8.

8.5 No Injunction. There shall not be in effect any Legal Requirement or any injunction or other Order that (a) prohibits the consummation of the Contemplated Transactions and (b) has been adopted or issued, or has otherwise become effective, since the date of this Agreement.

9. TERMINATION

9.1 Termination Events. By notice given prior to or at the Closing, subject to Section 9.2, this Agreement may be terminated as follows:

(a) by Buyer, if a material breach of any provision of this Agreement has been committed by any Seller and such breach has not been cured within seven (7) days after receipt of notice from Buyer or has not otherwise been waived by Buyer;

(b) by Sellers' Representatives, if a material breach of any provision of this Agreement has been committed by Buyer and such breach has not been cured within seven (7) days after receipt of notice from Sellers' Representatives or has not otherwise been waived by Sellers' Representatives;

(c) by Buyer, if any condition in Article 7 has not been satisfied as of the Drop Dead Date or if satisfaction of such a condition by such date is or becomes impossible (other than through the failure of Buyer to comply with its obligations under this Agreement), and Buyer has not waived such condition on or before such date;

(d) by Sellers' Representatives, if any condition in Article 8 has not been satisfied as of the Drop Dead Date or if satisfaction of such a condition by such date is or becomes impossible (other than through the failure of any Seller or Sellers' Representative to comply with its obligations under this Agreement), and Sellers' Representative has not waived such condition on or before such date;

(e) by mutual consent of Buyer and Sellers' Representative;

(f) by Buyer, if the Closing has not occurred on or before June 30, 2013, or such later date as the parties may agree upon (the "Drop Dead Date"), unless Buyer is in material breach of this Agreement; or

(g) by Sellers' Representatives, if the Closing has not occurred on or before the Drop Dead Date, unless any Seller is in material breach of this Agreement.

9.2 Effect Of Termination. Each Party's right of termination under Section 9.1 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of such right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Section 9.1, all obligations of the Parties under this Agreement will terminate, except that the obligations of the Parties in this Section 9.2 and Articles 12 and 13 (except for those in Section 13.5) will survive, *provided, however*, that, if this Agreement is terminated because of a breach of this Agreement by the non-terminating Party or because one or more of the conditions to the terminating Party's obligations under this Agreement is not satisfied as a result of the non-terminating Party's failure to comply with its obligations under this Agreement, the terminating Party's right to pursue all legal remedies will survive such termination unimpaired.

10. ADDITIONAL COVENANTS

10.1 Employees And Employee Benefits. At or following the Closing, Buyer will offer employment to such employees of Sellers as Buyer, in its sole discretion, may determine. Nothing herein shall constitute a guarantee of employment to any employee of Sellers, and Sellers shall pay, discharge and at all times be solely responsible for all liabilities relating to any of its employees (including amounts arising under any employee benefit plan) prior to the Closing.

10.2 Payment Of All Taxes Resulting From Sale Of Acquired Assets By Sellers. Each Seller shall pay, or cause its Shareholders to pay, in a timely manner all Taxes resulting from or payable in connection with the sale of the Acquired Assets of such Seller pursuant to this Agreement, regardless of the Person on whom such Taxes are imposed by Legal Requirements.

10.3 Payment Of Other Retained Liabilities. In addition to payment of Taxes pursuant to Section 10.2, each Seller shall pay, or make adequate provision for the payment, in full all of the Retained Liabilities and other Liabilities of such Seller under this Agreement. If any such Liabilities are not so paid or provided for, or if Buyer reasonably determines that failure to make any payments will impair Buyer's use or enjoyment of the Acquired Assets or conduct of the business previously conducted by any Seller with the Acquired Assets, Buyer may, at any time after the Closing Date, elect to make all such payments directly (but shall have no obligation to do so) and set off and deduct the full amount of all such payments from the first maturing installments of the unpaid principal balance of the Buyer Promissory Note. Buyer shall receive full credit under the Buyer Promissory Note and this Agreement for all payments so made.

10.4 Reports And Returns. Each Seller shall promptly after the Closing prepare and file all reports and returns required by Legal Requirements relating to the business of such Seller as conducted using the Acquired Assets, to and including the Closing.

10.5 Assistance In Proceedings. Each Seller will cooperate with Buyer and its counsel in the contest or defense of, and make available its personnel and provide any testimony and access to its books and records in connection with, any Proceeding involving or relating to (a) any Contemplated Transaction or (b) any action, activity, circumstance, condition, conduct, event, fact, failure to act, incident, occurrence, plan, practice, situation, status or transaction on or before the Closing Date involving such Seller or its business or its Shareholders.

10.6 Noncompetition, Nonsolicitation And Nondisparagement.

(a) Noncompetition. For a period of five (5) years after the Closing Date, none of Seller, Louis Carlo, John Carlo, Keith A. Nixon, Sr., Keith A. Nixon, Jr. nor Karen Heaberlin shall, anywhere within a one hundred (100) mile radius of Lebanon, Ohio, directly or indirectly (whether as principal, agent, independent contractor, partner, franchisee, licensor or otherwise) invest in, own, manage, operate, finance, control, advise, render services to or guarantee the obligations of any Person engaged in or planning to become engaged in the Business, or otherwise carry on a Competing Business.

(b) Nonsolicitation. For a period of five (5) years after the Closing Date, none of Seller, Louis Carlo, John Carlo, Keith A. Nixon, Sr., Keith A. Nixon, Jr. nor Karen Heaberlin shall, directly or indirectly: (i) solicit the video lottery gaming business or pari-mutuel racing business of any Person who is a customer of Buyer; (ii) cause, induce or attempt to cause or induce any customer, supplier, licensee, licensor, franchisee, employee, consultant or other business relation of Buyer to cease doing business with Buyer, to deal with any competitor of Buyer or in any way interfere with its relationship with Buyer; (iii) cause, induce or attempt to cause or induce any customer, supplier, licensee, licensor, franchisee, employee, consultant or other business relation of any Seller on the Closing Date or within the year preceding the Closing Date to cease doing business with Buyer, to deal with any competitor of Buyer or in any way interfere with its relationship with Buyer; or (iv) hire, retain or attempt to hire or retain any employee or former employee of Buyer or in any way interfere with the relationship between Buyer and any of its employees.

(c) Nondisparagement. After the Closing Date, none of Seller, Louis Carlo, John Carlo, Keith A. Nixon, Sr., Keith A. Nixon, Jr. nor Karen Heaberlin knowingly, and with publication, shall disparage Buyer or any of Buyer's members, managers, officers, employees or agents.

(d) Modification of Covenant. If a final judgment of a court or tribunal of competent jurisdiction determines that any term or provision contained in Section 10.6(a) through (c) is invalid or unenforceable, then the parties agree that the court or tribunal will have the power to reduce the scope, duration or geographic area of the term or provision, to delete specific words or phrases or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision. This Section 10.6 will be enforceable as so modified after the expiration of the time within which the judgment may be appealed. If Sellers or any of their Affiliates violate any of their obligations under this Section 10.6, Buyer may proceed against Sellers or such Affiliates, as applicable, in law or in equity for such damages or other relief as a court may deem appropriate. Sellers acknowledge that a violation of this Section 10.6 may cause Buyer irreparable harm which may not be adequately compensated for by money damages. Sellers therefore agree that in the event of any actual or threatened violation of this Section 10.6, Buyer shall be entitled, in addition to other remedies that it may have, to a temporary restraining order and to preliminary and final injunctive relief against such Seller or

Affiliate to prevent any violations of this Section 10.6, without the necessity of posting a bond. This Section 10.6 is reasonable with respect to duration, geographical area and scope and necessary to protect and preserve Buyer's legitimate business interests and the value of the Acquired Assets and to prevent any unfair advantage conferred on Sellers.

10.7 Retention Of And Access To Records.

(a) For a period of seven (7) years after the Closing Date, Sellers and their Representatives shall have reasonable access to all of the books and records of Sellers with respect to the Acquired Assets transferred to Buyer hereunder to the extent that such access may reasonably be required by Sellers in connection with matters relating to or affected by the operations of the Acquired Assets prior to the Closing Date. Such access shall be afforded by Buyer upon receipt of reasonable advance notice and during normal business hours. Sellers shall be solely responsible for any costs or expenses incurred by it pursuant to this Section 10.7. If Buyer shall desire to dispose of any of such books and records prior to the expiration of such six-year period, Buyer shall, prior to such disposition, give Sellers a reasonable opportunity, at Sellers' expense, to segregate and remove such books and records as Sellers may select. Sellers may retain copies of the following information delivered to Buyer: (i) employment records, (ii) financial statements and (iii) Tax Returns and correspondence related to Tax Returns.

(b) For a period of seven (7) years after the Closing Date, Buyer and its Representatives shall have reasonable access to all of the books and records relating to the Acquired Assets which Sellers or any of their Affiliates may retain after the Closing Date. Such access shall be afforded by Sellers and their Affiliates upon receipt of reasonable advance notice and during normal business hours. Buyer shall be solely responsible for any costs and expenses incurred by it pursuant to this Section 10.7. If Sellers or any of their Affiliates shall desire to dispose of any of such books and records prior to the expiration of such six-year period, Sellers shall, prior to such disposition, give Buyer a reasonable opportunity, at Buyer's expense, to segregate and remove such books and records as Buyer may select.

10.8 Further Assurances. Subject to the proviso in Section 6.1, the parties shall cooperate reasonably with each other and with their respective Representatives in connection with any steps required to be taken as part of their respective obligations under this Agreement, and shall (a) furnish upon request to each other such further information; (b) execute and deliver to each other such other documents; and (c) do such other acts and things, all as the other party may reasonably request for the purpose of carrying out the intent of this Agreement and the Contemplated Transactions.

10.9 Buyer's Gross Gaming Revenue. For the purpose of enabling Sellers' Representatives to monitor satisfaction of the revenue milestones for the payment of the Contingent Payment under Section 2.3(d)(ii), Buyer shall provide to Sellers' Representatives, after the end of each calendar year during the first full seven (7) calendar years of operation after the Commencement Date, a calculation of Buyer's Gross Gaming Revenue (exclusive of any promotional allowances, including free play of customers) for such calendar year, together with a summary of its annual report filed with the Ohio Regulator. Buyer shall provide such information to Sellers' Representatives promptly (but in no event less than thirty (30) days) after it files its annual report with the Ohio Regulator. Notwithstanding the foregoing, Buyer's obligation to provide such financial information and documentation to Sellers' Representatives shall terminate upon Buyer's payment of the Contingent Payment.

10.10 Change Of Name. Immediately after the Closing, each Seller shall (a) amend its Governing Documents and take all other actions necessary to change its name to one sufficiently dissimilar to such Seller's present name, in Buyer's judgment, to avoid confusion and (b) take all actions requested by Buyer to enable Buyer to change its name to the present name of any of Sellers.

10.11 Property Acquisition Funds. At or prior to Closing, Buyer will provide the Property Acquisition Funds to New Property Entity.

10.12 New Property and Ground Lease. Promptly after the date of this Agreement and prior to the Closing, Sellers and Sellers' Representative shall use, and shall cause New Property Entity to use, their best efforts to enter into an agreement with the State of Ohio (or other owner(s) of the New Property) for New Property Entity to purchase the New Property using the Property Acquisition Funds. Such agreement with the State of Ohio (or such other owner(s)) will provide for the closing of the New Property purchase transaction concurrently with the Closing of the transactions provided for in this Agreement and will be subject to the approval of Buyer. Immediately following the closing of said New Property purchase transaction, Sellers and Sellers' Representative shall cause New Property Entity to lease the New Property to Buyer pursuant to the terms of the Ground Lease. At the Closing, Sellers and Sellers' Representative shall cause New Property Entity to secure an owner's title insurance policy for the New Property issued through Escrow Agent.

10.13 Sale of New Property to Buyer.

(a) At such time as the Buyer Promissory Note has been paid in full, the Premises Purchase Promissory Note shall be cancelled and concurrently Sellers and Sellers Representatives shall cause New Property Entity to transfer and convey to Buyer good and marketable title to the New Property, free and clear of all Encumbrances, except for Permitted Encumbrances (as defined in the Ground Lease), those matters that have been approved in writing by Buyer and real estate Taxes. The terms under which the New Property will be conveyed to Buyer are more particularly set forth in the Ground Lease.

(b) The Parties intend that the purchase and resale of the New Property described in Sections 10.12 and 10.13(a) of this Agreement be interpreted as a single land purchase transaction involving the purchase of the New Property by Buyer for federal, state and local income tax purposes as provided in Section 34 of the Ground Lease, and agree to treat and report the transactions under this Agreement for federal, state and local income tax purposes as provided in and subject to Section 34 of the Ground Lease.

11. INDEMNIFICATION; REMEDIES

11.1 Indemnification by Sellers.

(a) Each Seller agrees, jointly and severally, to indemnify and hold harmless Buyer, and its Representatives, Parent Companies, members, subsidiaries and Related Persons

(collectively, the "Buyer Indemnified Persons") for any Damages incurred by a Buyer Indemnified Person in connection with or arising from: (i) any breach by a Seller of any covenant in this Agreement or in any other certificate, document, writing or instrument delivered by either Seller pursuant to this Agreement; (ii) any failure of any Seller to perform any of its obligations in this Agreement or any other certificate, document, writing or instrument delivered by either Seller pursuant to this Agreement; (iii) any breach of any warranty or the inaccuracy of any representation of Seller contained or referred to in this Agreement or any certificate delivered by either Seller hereunder; (iv) claims by any Person pursuant to Sections 1701.76 or 1701.85 of the Ohio Revised Code or any other exercise of appraisal or dissenters' rights by holders of capital stock of either Seller, or (v) the failure of either Seller to pay, perform or discharge any Retained Liability.

(b) Upon notice to Sellers' Representatives specifying in reasonable detail the basis therefor ("Set Off Notice"), Buyer may set off any amount to which it reasonably and in good faith determines it may be entitled under this Section 11.1(b) against amounts otherwise payable under the Buyer Promissory Note or the Contingent Payment; *provided*, *however*, that if (i) in good faith a Seller objects to and challenges such set off by written notice to Buyer within thirty (30) days after a Seller receives the Set Off Notice, and (ii) upon final resolution, by litigation or settlement, of such challenge the amount of such set off applied by Buyer is reduced (a "Set Off Adjustment"), then the amount of the Set Off Adjustment shall be credited to the Buyer Promissory Note or the Contingent Payment, as applicable. The exercise of such right of set off by Buyer, if reasonable and in good faith, whether or not ultimately determined to be justified, will not constitute an event of default under the Buyer Promissory Note, the Security Agreement or this Agreement. Neither the exercise of nor the failure to exercise such right of set off or to give a notice of a claim under this Agreement will constitute an election of remedies or limit Buyer in any manner in the enforcement of any other remedies that may be available to it. Any exercise of the right of set off, if made by Buyer unreasonably or not in good faith, shall constitute an event of default and/or breach under the Buyer Promissory Note, the Security Agreement and this Agreement.

(c) The indemnification provided for in this Section 11.1 shall terminate three (3) years after the Closing Date, except for: (i) the obligations and representations of Seller under the Bill of Sale and any Intellectual Property Assignment, as to which no time limitation shall apply; (ii) the representations and warranties set forth in Sections 3.1, 3.2, and 3.9, and the covenants set forth in Sections 10.2, 10.3, 10.5 and 10.8, as to all of which no time limitation shall apply; (iii) the covenants set forth in Sections 10.6, as to which the indemnification provided for in this Section 11.1 shall terminate one year after the expiration of the periods provided for therein; and (iv) any Damages of which any Buyer Indemnified Persons has notified any Seller or a Sellers' Representative in accordance with the requirements of Section 11.3 on or prior to the date such indemnification would otherwise terminate in accordance with this Section 11.1, as to which the obligation of Sellers shall continue until the liability of Sellers shall have been determined pursuant to this Article 11, and Sellers shall have reimbursed all Buyer Indemnified Persons for the full amount of such Damages in accordance with the terms hereof.

(d) Notwithstanding any provision herein to the contrary, the indemnification obligation of Sellers under Section 11.1(a)(iii) shall not accrue until and unless the aggregate Damages incurred by one or more Buyer Indemnified Persons pursuant to Section 11.1(a)(iii)

exceed Two Hundred Twenty-five Thousand Dollars ($225,000.00) (the "Threshold Amount"), *provided that*, in the event the Threshold Amount is exceeded, the Buyer Indemnified Persons shall be entitled to indemnification by Sellers for all Damages incurred by them in excess of One Hundred Thousand Dollars ($100,000); *except that*, the provisions of this Section 11.1(d) shall not apply to or otherwise limit Sellers' indemnification obligations to any Buyer Indemnified Person for Damages arising out of the Pending Litigation or any Proceeding directly or indirectly related thereto.

(e) All indemnifiable Damages incurred by a Buyer Indemnified Person under this Section 11.1, to the extent not paid directly by Sellers, shall be treated as a reduction of the Purchase Price. To the extent that indemnifiable Damages incurred by a Buyer Indemnified Person require any out-of-pocket payment by a Buyer Indemnified Person, the amount of such out-of-pocket payment shall, at the option of Buyer (i) be credited against all subsequent quarterly installment payments that otherwise would be due under the Buyer Promissory Note until the amount of all such Damages have been so credited, (ii) reduce the principal balance due on the Buyer Promissory Note on a dollar-for-dollar basis by the amount of such out-of-pocket payment (and in such event, the principal balance due on the Buyer Promissory Note shall be reduced by the amount of such Damages and the future quarterly installment payments under the Buyer Promissory Notes shall be reduced and amortized proportionately to reflect a payoff of such principal balance), or (iii) any combination of (i) and (ii); *provided*, *however*, that with respect to the aggregate amount of such indemnifiable Damages incurred by a Buyer Indemnified Person less any such out-of-pocket payment by a Buyer Indemnified Person, then the principal balance due on the Buyer Promissory Note shall be reduced by the amount of such Damages and the future quarterly installment payments under the Buyer Promissory Note shall be reduced and amortized proportionately to reflect a payoff of such principal balance.

(f) Notwithstanding any provision herein to the contrary, and absent any fraud or willful misconduct by Sellers, Sellers shall have no liability under Section 11.1(a)(iii) to any Buyer Indemnified Persons for any Damages that exceed in the aggregate Ten Million Dollars ($10,000,000), *except that*, the provisions of this Section 11.1(f) shall not apply to or otherwise limit Sellers' indemnification obligations to any Buyer Indemnified Person for Damages arising out of the Pending Litigation or any Proceeding directly or indirectly related thereto.

11.2 Indemnification by Buyer.

(a) Buyer agrees to indemnify and hold harmless each Seller from and against any and all Damages incurred by such Seller in connection with or arising from: (i) any breach by Buyer of any of its covenants or agreements in this Agreement or any other certificate, document, writing or instrument delivered by Buyer pursuant to this Agreement; (ii) any failure by Buyer to perform any of its obligations in this Agreement or any other certificate, document, writing or instrument delivered by Buyer pursuant to this Agreement; or (iii) any breach of any warranty or the inaccuracy of any representation of Buyer contained or referred to in this Agreement or in any certificate delivered by or on behalf of Buyer pursuant hereto.

(b) The indemnification provided for in this Section 11.2 shall terminate two (2) years after the Closing Date (and no claims shall be made by Sellers under this Section 11.2

thereafter), except as to any Damages of which Sellers have notified Buyer in accordance with the requirements of Section 11.3 on or prior to the date such indemnification would otherwise terminate in accordance with this Section 11.2, as to which the obligation of Buyer shall continue until the liability of Buyer shall have been determined pursuant to this Article 11, and Buyer shall have reimbursed Sellers for the full amount of such Damages.

11.3 Notice of Claims.

(a) Any Person (the "Indemnified Person") seeking indemnification hereunder shall give to the party obligated to provide indemnification to such Indemnified Person (the "Indemnifying Person") a notice (a "Claim Notice") describing in good faith and in reasonable detail the facts giving rise to any claim for indemnification hereunder, and the amount (if then known) or method of computation of the amount of such claim, and a reference to the provision of this Agreement or any other agreement, document or instrument executed hereunder or in connection herewith upon which such claim is based; provided, that a Claim Notice in respect of any action at law or suit in equity by or against a third Person as to which indemnification will be sought shall be given promptly after the action or suit is commenced; provided further that failure to give such notice shall not relieve the Indemnifying Person of its obligations hereunder except to the extent it shall have been prejudiced by such failure.

(b) After the giving of any Claim Notice pursuant hereto, the amount of indemnification to which an Indemnified Person shall be entitled under this Article 11 shall be determined: (i) by the written agreement between the Indemnified Person and the Indemnifying Person; (ii) by a final judgment or decree of any court of competent jurisdiction; or (iii) by any other means to which the Indemnified Person and the Indemnifying Person shall agree.

11.14 Third Person Claims. The Indemnified Person shall have the right to conduct and control, through counsel of its choosing, the defense, compromise or settlement of any third Person claim, action or suit against such Indemnified Person as to which indemnification will be sought by any Indemnified Person from any Indemnifying Person hereunder. In any such case the Indemnifying Person shall cooperate in connection therewith and shall furnish such records, information and testimony and attend such conferences, discovery proceedings, hearings, trials and appeals as may be reasonably requested by the Indemnified Person in connection therewith. The Indemnifying Person may participate, through counsel chosen by it and at its own expense, in the defense of any such claim, action or suit.

12. CONFIDENTIALITY

Each party agrees that it will treat in confidence all documents, materials and other information which it shall have obtained regarding the other party during the course of the negotiations leading to the consummation of the transactions contemplated hereby (whether obtained before or after the date of this Agreement), the investigation provided for herein and the preparation of this Agreement and other related documents, and, if the Contemplated Transactions are not consummated, each party will return to the other party all copies of nonpublic documents and materials which have been furnished in connection therewith. Such documents, materials and information shall not be communicated to any third Person (other than, in the case of Buyer, to its counsel, accountants, financial advisors or lenders, and in the case of

Sellers, to its counsel, accountants or financial advisors). No other party shall use any confidential information in any manner whatsoever except solely for the purpose of evaluating the Contemplated Transactions; provided, however, that after the Closing Buyer may use or disclose any confidential information with respect to, about or otherwise reasonably related to the Acquired Assets. The obligation of each party to treat such documents, materials and other information in confidence shall not apply to any information which (i) is or becomes available to such party from a source other than the other party, (ii) is or becomes available to the public other than as a result of disclosure by such party or its agents, (iii) is required to be disclosed under applicable law or judicial process, but only to the extent it must be disclosed, or (iv) such party reasonably deems necessary to disclose to obtain any of the consents or approvals contemplated hereby.

13. GENERAL PROVISIONS

13.1 Expenses. Except as otherwise provided in this Agreement, each party to this Agreement will bear its respective fees and expenses incurred in connection with the preparation, negotiation, execution and performance of this Agreement and the Contemplated Transactions, including all fees and expense of its Representatives. Buyer will pay one-half and Sellers will pay one-half of (a) the costs of compliance with the HSR Act, including the HSR Act filing fee and the attorneys' fees incurred in connection with such compliance, and (b) the fees and expenses of the Escrow Agent under the Escrow Agreement. If this Agreement is terminated, the obligation of each party to pay its own fees and expenses will be subject to any rights of such party arising from a breach of this Agreement by another party.

13.2 Public Announcements. Any public announcement, press release or similar publicity with respect to this Agreement or the Contemplated Transactions will be issued, if at all, at such time and in such manner as Buyer determines. Except with the prior consent of Buyer and Sellers' Representatives or as permitted by this Agreement, Buyer and its Representatives shall not disclose, and Sellers, Sellers' Representatives and their Representatives shall not disclose, to any Person any information about the Contemplated Transactions, including the status of such discussions or negotiations, the execution of any documents (including this Agreement) or any of the terms of the Contemplated Transactions or the related documents (including this Agreement); provided, however, that the parties may make such disclosures as are specifically permitted by this Agreement and may disclose the terms of the Contemplated Transactions to Governmental Bodies (to the extent contemplated by this Agreement) and to the parties' lenders, prospective lenders and Representatives on a confidential basis. Sellers' Representatives and Buyer will consult with each other concerning the means by which any Seller's employees, customers, suppliers and others having dealings with such Seller will be informed of the Contemplated Transactions, and Buyer will have the right to be present for any such communication.

13.3 Notices. All notices, Consents, waivers and other communications required or permitted by this Agreement shall be in writing and shall be deemed given to a party when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); (b) sent by facsimile with confirmation of transmission by the transmitting equipment; or (c) received or rejected by the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses or facsimile numbers and

marked to the attention of the person (by name or title) designated below (or to such other address, facsimile number or person as a party may designate by notice to the other parties):

If to any Seller or any Sellers' Representative, to:

Miami Valley Trotting, Inc.
65 North Broadway Street
Lebanon, Ohio 45036
Attention.: C. Keith Nixon, Jr.
Fax No.:
and
Lebanon Trotting Club, Inc.
665 North Broadway Street
Lebanon, Ohio 45036
Attention.: John Carlo
Fax No.:

with a mandatory copy to:

Carlile Patchen & Murphy LLP
366 East Broad Street
Columbus, Ohio 43215-3819
Attention: Jack C. Butler
Fax No.: (614) 464-1737

If to Buyer, to:

Miami Valley Gaming & Racing, LLC
40 Fountain Plaza
Buffalo, New York 14202
Attention: General Counsel
Fax No.: (716) 858-5056

with mandatory copies to:

Delaware North Companies Gaming & Entertainment, Inc.
40 Fountain Plaza
Buffalo, New York 14202
Attention: General Counsel
Fax No.: 716) 858-5056

and

Vorys, Sater, Seymour and Pease LLP
52 E. Gay Street
Columbus, Ohio 43215
Attention: Michael A. Cline
Fax No.: (614) 719-4662

Churchill Downs Incorporated
700 Central Avenue
Louisville, KY 40208
Attention: General Counsel
Fax No.: (502) 636-4548

and

Sidley Austin LLP
One South Dearborn Street
Chicago, IL 60603
Attention: Brian J. Fahrney
Fax No.: (312) 853-7036

13.4 Jurisdiction; Service of Process. Any Proceeding arising out of or relating to this Agreement or any Contemplated Transaction may be brought in the courts of the State of Ohio, County of Franklin, or, if it has or can acquire jurisdiction, in the United States District Court for the Southern District of Ohio, and each of the parties irrevocably submits to the exclusive jurisdiction of each such court in any such Proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the Proceeding shall be heard and determined only in any such court and agrees not to bring any Proceeding arising out of or relating to this Agreement or any Contemplated Transaction in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and bargained agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any Proceeding referred to in the first sentence of this section may be served on any party anywhere in the world. THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE CONTEMPLATED TRANSACTIONS, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. THE PARTIES AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE TRIAL BY JURY AND THAT ANY PROCEEDING WHATSOEVER BETWEEN THEM RELATING TO THIS AGREEMENT OR ANY OF THE CONTEMPLATED TRANSACTIONS SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

13.5 Enforcement Of Agreement. Each Seller acknowledges and agrees that Buyer would be irreparably damaged if any of the provisions of this Agreement are not performed in accordance with their specific terms and that any breach of this Agreement by any Seller could not be adequately compensated in all cases by monetary damages alone. Accordingly, in addition to any other right or remedy to which Buyer may be entitled, at law or in equity, it shall

be entitled to enforce any provision of this Agreement by a decree of specific performance and to temporary, preliminary and permanent injunctive relief to prevent breaches or threatened breaches of any of the provisions of this Agreement, without posting any bond or other undertaking.

13.6 Waiver; Remedies Cumulative. The rights and remedies of the parties to this Agreement are cumulative and not alternative. Neither any failure nor any delay by any party in exercising any right, power or privilege under this Agreement or any of the documents referred to in this Agreement will operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power or privilege will preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege. To the maximum extent permitted by applicable law, (a) no claim or right arising out of this Agreement or any of the documents referred to in this Agreement can be discharged by one party, in whole or in part, by a waiver or renunciation of the claim or right unless in writing signed by the other party; (b) no waiver that may be given by a party will be applicable except in the specific instance for which it is given; and (c) no notice to or demand on one party will be deemed to be a waiver of any obligation of that party or of the right of the party giving such notice or demand to take further action without notice or demand as provided in this Agreement or the documents referred to in this Agreement.

13.7 Entire Agreement And Modification. This Agreement supersedes all prior agreements, whether written or oral, between the parties with respect to its subject matter (including any letter of intent and any confidentiality agreement between Buyer and Seller) and constitutes (along with the Disclosure Letter, Exhibits and other documents delivered pursuant to this Agreement) a complete and exclusive statement of the terms of the agreement between the parties with respect to its subject matter. This Agreement may not be amended, supplemented, or otherwise modified except by a written agreement executed by all of the parties hereto.

13.8 Disclosure Letter. The information in the Disclosure Letter attached hereto as Exhibit 13.8 (the "Disclosure Letter") relate only to the provisions in the Section of this Agreement to which they expressly relate and not to any other provision in this Agreement. If there is any inconsistency between the statements in this Agreement and those in the Disclosure Letter (other than an exception expressly set forth as such in the Disclosure Letter with respect to a specifically identified representation or warranty), the statements in this Agreement will control. The Disclosure Letter is incorporated herein by reference.

13.9 Assignments, Successors And No Third-Party Rights. No party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other parties, except that Buyer may assign any of its rights and delegate any of its obligations under this Agreement to any subsidiary of Buyer. Any assignment of rights or assets by Buyer (a) shall not relieve, release or serve to cancel any obligation or liability of Buyer under or with respect to any of the Assignment and Assumption Agreement, the Escrow Agreement, the Consulting Agreement, the Buyer Promissory Note, the Security Agreement, the Lease Agreement and this Agreement and (b) to be effective shall require the receipt by Sellers' Representatives of a written agreement, reasonably satisfactory to Sellers' Representatives, of such assignee of Buyer to assume the obligations and liabilities of Buyer under and with respect to Assignment and Assumption Agreement, the Escrow Agreement, the Consulting Agreement,

the Buyer Promissory Note, the Security Agreement, the Lease Agreement and this Agreement. Subject to the preceding sentence, this Agreement will apply to, be binding in all respects upon and inure to the benefit of the successors and permitted assigns of the parties. Nothing expressed or referred to in this Agreement will be construed to give any Person other than the parties to this Agreement any legal or equitable right, remedy or claim under or with respect to this Agreement or any provision of this Agreement, except such rights as shall inure to a successor or permitted assignee pursuant to this Section 13.9.

13.10 Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

13.11 Construction. The headings of Articles and Sections in this Agreement are provided for convenience only and will not affect its construction or interpretation. All references to "Articles," "Sections" and "Parts" refer to the corresponding Articles, Sections and Parts of this Agreement and the Disclosure Letter.

13.12 Governing Law. This Agreement will be governed by and construed under the laws of the State of Ohio without regard to conflicts-of-laws principles that would require the application of any other law.

13.13 Execution Of Agreement. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile shall be deemed to be their original signatures for all purposes.

13.14 Sellers' Representatives.

(a) Sellers (by virtue of their execution of this Agreement and the acceptance of the consideration payable hereunder) hereby irrevocably nominate, constitute and appoint Nixon and Carlo, acting together unanimously, as Sellers' Representatives and the agents and true and lawful attorneys-in-fact of Sellers, with full power of substitution, to act in the name, place and stead of Sellers for purposes of executing any documents and taking any actions that the Sellers' Representative may, in their sole discretion, determine to be necessary, desirable or appropriate in all matters relating to or arising out of this Agreement, including in connection with any claim for indemnification, compensation or reimbursement under Article 11. The power of attorney granted in this Section 13.14(a): (i) is coupled with an interest and is irrevocable; (ii) may be delegated by Sellers' Representatives; and (iii) shall survive the dissolution and liquidation of each of Sellers. Each of Nixon and Carlo hereby accepts his appointment as a Sellers' Representative.

(b) Sellers (by virtue of their execution of this Agreement) grant to Sellers' Representatives full authority to execute, deliver, acknowledge, certify and file on behalf of

Sellers (in the name of any or all of Sellers or otherwise) any and all documents that Sellers' Representative may, in their sole discretion, determine to be necessary, desirable or appropriate, in such forms and containing such provisions as Sellers' Representative may, in their sole discretion, determine to be appropriate, in performing its duties as contemplated by Section 13.14(a). Notwithstanding anything to the contrary contained in this Agreement or in any other Contract executed in connection with the Contemplated Transactions, each Buyer Indemnified Person shall be entitled to deal exclusively with Sellers' Representatives on all matters relating to Article 11, and shall be entitled to rely conclusively (without further evidence of any kind whatsoever) on any document executed or purported to be executed on behalf of any Seller by Sellers' Representatives, and on any other action taken or purported to be taken on behalf of any Seller by Sellers' Representatives, as fully binding upon such Seller.

(c) Buyer shall be entitled to rely upon any document or other paper delivered by Sellers' Representatives as (i) genuine and correct and (ii) having been duly signed or sent by Sellers' Representatives, and Buyer shall not be liable to any of Sellers for any action taken or omitted to be taken by Buyer in such reliance.

(d) In dealing with this Agreement and in exercising or failing to exercise all or any of the powers conferred upon Sellers' Representatives under this Agreement, (i) Sellers' Representatives shall not assume any, and shall incur no, responsibility to any Seller by reason of any error in judgment or other act or failure to act in connection with this Agreement, except for any act or failure to act which represents gross negligence, willful misconduct or bad faith, and (ii) Sellers' Representatives shall be entitled to rely on the advice of counsel, public accountants or other independent experts experienced in the matter at issue, and any error in judgment or other act or failure to act on the part of Sellers' Representatives pursuant to such advice shall not subject Sellers' Representatives to liability to any Seller. Sellers shall indemnify Sellers' Representatives and hold them harmless against and from any loss, liability or expense (including attorneys fees reasonably incurred or suffered as a result of the performance of their duties under this Agreement) incurred without gross negligence, willful misconduct or bad faith on their part and arising out of or in connection with the acceptance or administration of their duties hereunder. In no event shall Sellers' Representatives be liable for any incidental, consequential or punitive damages.

(e) Upon 30 days' prior written notice to Buyer, a Sellers' Representative shall have the right to resign as such in his sole discretion for any reason and the Sellers (acting unanimously) shall have the right to remove a Sellers' Representative for any reason. If a Sellers' Representative shall be so removed, resign, die, become disabled or otherwise become unable to fulfill his responsibilities under this Section 13.14 or cease to function in his capacity as Sellers' Representative for any reason whatsoever, then Sellers (acting unanimously) may appoint a successor and, promptly thereafter, shall notify Buyer of the identity of such successor. Until any such successor is so appointed, the remaining Sellers' Representative, acting alone, shall exercise all of the power and authority of Sellers' Representatives under this Agreement. In any event, the former Sellers' Representative shall continue to have all rights to indemnification provided in Section 13.14(d). Any such successor shall become a "Sellers' Representative" for all purposes of this Agreement, including Article 11 and this Section 13.14. If for any reason there is no Sellers' Representative at any time, all references herein to the Sellers' Representative shall be deemed to refer to Sellers.

(f) In connection with the performance of their obligations, Sellers' Representatives shall have the right, at any time and from time to time, to select and engage attorneys, accountants and investment bankers, advisors and consultants and obtain such other professional and expert assistance as Sellers' Representatives may deem necessary or advisable in their sole discretion.

(g) All fees and expenses incurred by Sellers' Representatives in connection with the performance of their duties as Sellers' Representatives shall be borne and paid exclusively by Sellers. Sellers' Representatives may pay or reimburse any such fees and expenses from the payments made by Buyer under Section 2.3.

(h) All of the indemnities, immunities and powers granted to Sellers' Representatives under this Agreement shall survive the termination of this Agreement.

13.15 Termination of Restated Joint Venture Plan. At the time of their execution of this Agreement, Buyer and Sellers also shall execute, and Buyer shall cause DNC Gaming to execute, the Termination and Mutual Release Agreement in the form of Exhibit 13.15 pursuant to which the Restated Joint Venture Plan shall be terminated.

* * * * *

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

Buyer:

Miami Valley Gaming & Racing, LLC

By: /s/ William J. Bissett
Print Name: William J. Bissett
Title: President

Sellers:

Lebanon Trotting Club, Inc.

By: /s/ John Carlo
Print Name: John Carlo
Title: President

Miami Valley Trotting, Inc.

By: /s/ Karen Heaberlin
Print Name: Karen Heaberlin
Title: President

Sellers' Representatives:

/s/ C. Keith Nixon, Jr.
C. Keith Nixon, Jr.

/s/ John Carlo
John Carlo

The undersigned, each hereby acknowledging substantial personal benefit from and under this Agreement, in order to induce Buyer to consummate the transactions contemplated by this Asset Purchase Agreement, hereby agree to be bound legally by the terms and provisions of Section 10.6 of this Asset Purchase Agreement.

/s/ Louis Carlo
Louis Carlo

/s/ Keith A. Nixon, Sr.
Keith A. Nixon, Sr.

/s/ John Carlo
John Carlo

/s/ C. Keith Nixon, Jr.
C. Keith Nixon, Jr.

/s/ Karen Heaberlin
Karen Heaberlin

[Signature Page to Asset Purchase Agreement]

EXHIBIT 2.7(a)(vii)

GROUND LEASE

BETWEEN

WARREN GENERAL PROPERTY CO., LLC

AS LANDLORD

AND

MIAMI VALLEY GAMING & RACING, LLC

AS TENANT

, 201

GROUND LEASE

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SCHEDULE OF EXHIBITS

GROUND LEASE

THIS GROUND LEASE ("Lease") is dated the day of , 201 (the "Effective Date"), by and between WARREN GENERAL PROPERTY CO., LLC, an Ohio limited liability company ("Landlord") and MIAMI VALLEY GAMING & RACING, LLC, a Delaware limited liability company ("Tenant").

SECTION 1. Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, upon the terms and provisions hereof, all that certain tract or tracts of real property situated in the County of Warren and State of Ohio, more particularly described on Exhibit A attached hereto and made a part hereof, together with any and all appurtenances, rights, privileges and easements benefiting, belonging or pertaining thereto, and any right, title and interest of Landlord in and to any land lying in the bed of any alley, street, road or highway (open or proposed) adjoining the same (collectively, the "Premises").

SECTION 2. Term. The term of this Lease shall commence on , 201 (the "Commencement Date"). The initial term of this Lease shall be for the period of approximately forty (40) years ending on the day prior to the fortieth (40th) anniversary of the Commencement Date unless the Commencement Date is not the first day of a month, in which event the term shall end on the last day of the month containing such anniversary (the "Expiration Date"), unless sooner terminated as herein provided.

SECTION 3. Rent.

(a) Commencing on the Commencement Date, Tenant covenants and agrees to pay Landlord for the Premises, within fifteen (15) days following written demand therefor sent by Landlord to Tenant, "Basic Rent" at the rate of One and 00/100 Dollars ($1.00) per annum.

(b) Tenant has delivered to Lebanon Trotting Club, Inc. and Miami Valley Trotting, Inc., affiliates of Landlord, a promissory note of even date herewith in the original principal amount of Fifty Million Dollars ($50,000,000.00) (the "Note") and if a default occurs with respect to the payments due under the Note which is not cured so as to eliminate the continuance of any such default under the Note, additional rent at the rate of Three Hundred Eighty-Two Thousand Five Hundred Dollars ($382,500.00) per annum ("Additional Rent") shall be due and owing for all periods from and after the date of the uncured payment default under the Note. Upon payments on the Note that cure all payment defaults under the Note, Additional Rent shall cease until and if there is a subsequent default with respect to payments due under the Note. Upon payment of all amounts required to cure any then-existing payment defaults under the Note, the full amount of all Additional Rent paid will be applied to accrued and unpaid interest under the Note. Additional Rent shall be payable in equal monthly installments, in arrears, on the first day of each month. Basic Rent and Additional Rent are sometimes hereinafter referred to as "Rent".

(c) All amounts payable by Tenant to Landlord under this Lease shall be made by wire transfer of immediately available funds to an account designated by Landlord in writing. If any payment is due on a day that is not a Business Day, such payment shall be due on the next succeeding Business Day. "Business Day" means any day other than a Saturday, Sunday or legal holiday in the State of Ohio.

SECTION 4. Use of Premises. Tenant may use the Premises for any lawful use. Tenant shall not use the Premises for any unlawful or illegal use. Tenant and its designees may, at any time, and from time to time, rezone the Premises and any part thereof,

secure desired permits and subject all or any part of the Premises to such zoning, conservation, permit and other restrictions or limitations as it deems necessary or appropriate and Landlord shall cooperate therewith, at Tenant's sole expense, and shall promptly execute and deliver to Tenant or its designee such applications, requests, submittals and other documents as may be requested by Tenant.

SECTION 5. Real Estate Taxes.

(a) Tenant shall, during the term, when the same are due and payable, pay directly to the taxing authority all ad valorum real estate taxes and assessments applicable to the Premises ("Taxes"). Landlord shall cause the Premises to be designated as a separate tax parcel and direct that the tax bills shall be sent directly to Tenant at the office of Tenant set forth in Section 24 hereof or such other place requested by Tenant.

(b) Tenant shall have the right to apply for the conversion of any assessment for local improvements to annual installments, and upon such conversion Tenant shall pay and discharge said installments as they shall become due and payable during the term. Landlord agrees to permit the application for the foregoing conversion to be filed in Landlord's name, if necessary, and shall execute any and all documents requested by Tenant.

(c) Tenant shall have the right to contest or review all Taxes by legal proceedings, or in such other manner as it may deem suitable (at Tenant's cost and expense, and, if necessary, in the name of and with the cooperation of Landlord and Landlord shall execute all necessary documents). Tenant shall pay the amount of Taxes finally levied or assessed against the Premises. If there shall be any refunds or rebates of Taxes paid by Tenant, such refund or rebate shall belong to Tenant and any refunds received by Landlord are to be held in trust and promptly paid to Tenant.

(d) On request of Tenant at any time, and from time to time, but without cost to Landlord, Landlord shall make application individually or join in Tenant's application for creation of multiple tax parcels for the Premises and separate tax assessments for such portions of the Premises as Tenant shall designate. Landlord agrees upon request of Tenant to execute such instruments and to give Tenant such assistance in connection with such applications as may be required.

(e) Nothing in this Lease shall require or be construed to require Tenant to pay any inheritance, estate, succession, conveyance, transfer, gift, franchise, corporate activities, income or profit taxes that are or may be imposed upon Landlord, its successors or assigns, or as a result of or measured by the rents payable under this Lease.

SECTION 6. Utilities and Services

Tenant shall secure and pay for all charges for sewer, water, heat, gas, hot water, electricity, light, power, telecommunications and all other utilities and services furnished to the Premises during the term.

SECTION 7. Improvements. Tenant may, at Tenant's own cost and expense at any time and from time to time, construct, reconstruct, remove, repair or replace any part or all the improvements to the Premises, including, without limitation, buildings, garages, parking areas, driveways and walks as Tenant shall determine, in its sole discretion. At all times during the term of this Lease, Tenant shall be deemed to be the owner of all improvements on the Premises and Tenant shall have the sole and exclusive right to carry the value of all improvements on its books and the sole and exclusive right to all depreciation thereon for Federal, State and Local tax purposes.

SECTION 8. Covenant Against Liens.

(a) If, because of any act of Tenant, any mechanic's lien is filed against any portion of the Premises, Tenant shall, at its own cost and expense, defend the same or cause the same to be discharged of record or bonded; and Tenant shall indemnify and save harmless Landlord against and from all costs, liabilities, suits, penalties, claims and demands, including reasonable counsel fees, resulting therefrom. Notice is hereby given that the Landlord shall not be liable for any labor or materials furnished to Tenant upon credit, and that no mechanic's or any other lien for any such labor or materials furnished shall attach to or affect the reversionary or other estate or interest of Landlord in the Premises.

(b) Landlord shall not, prior to termination of this Lease, without the prior written consent of Tenant, (i) grant any mortgages, security interests, easements, occupancy rights, rights-of-way or encumbrances with respect to the Premises; (ii) permit any lien or other encumbrance to be filed against or attach to the Premises; or (iii) change the zoning or other entitlements affecting the Premises.

SECTION 9. Assignment and Subletting; Transfers.

(a) Tenant may at any time, and from time to time, assign, mortgage or grant security interests in all or any portion of Tenant's interest in this Lease, in whole or in part, and sublet, license and grant other occupancy rights in all or any portion of the Premises and the improvements thereon, in Tenant's sole discretion, without the consent or approval of Landlord.

(b) In the event that Landlord transfers the fee interest in the Premises to a third party, Landlord shall simultaneously transfer to such third party Landlord's interest in both (i) this Lease; and (ii) the Premises Purchase Promissory Note (as hereinafter defined), it being the intention of the parties that the fee ownership of the Premises, the Landlord's interest in this Lease and the maker's interest in the Premises Purchase Promissory Note shall at all times be owned by the same person or entity.

SECTION 10. Indemnity. Tenant shall defend, indemnify and save harmless Landlord from and against any and all liabilities, damages, penalties or judgments arising from loss, damage or injury to person or property sustained by anyone in and on the Premises, unless due to the willful acts or gross negligence of Landlord or its members, officers or employees.

SECTION 11. Insurance.

(a) Tenant shall provide at its expense during the term, general liability insurance from an insurance company licensed to do business in the State of Ohio in the amount of at least Five Million Dollars ($5,000,000.00) combined single limit with respect to injury or death to persons or damage to property. Such policy or policies shall include Landlord as an additional insured. Tenant shall deliver certificates of such insurance to Landlord at the beginning of the term and thereafter upon written request from Landlord.

(b) Tenant may keep the improvements on the Premises insured for the benefit of Tenant and the holder of any Mortgage (as hereinafter defined), as their respective interests may appear, against loss or damage by casualty in an amount and with a deductible chosen by Tenant. All proceeds payable under such policies shall be payable to Tenant and Mortgagee (as hereinafter defined), if any, or, if no Mortgagee, to Tenant. All proceeds shall be paid directly to Tenant or a Mortgagee, and Landlord shall not be entitled to, and shall have no interest in, any such proceeds. Landlord shall cooperate fully with

Tenant in order to obtain the largest possible recovery and execute any and all consents and other instruments and take all other actions necessary or desirable in order to effectuate the same and to cause such proceeds to be paid as hereinbefore provided. Landlord shall not carry any insurance concurrent in coverage and contributing in the event of loss with any insurance secured by Tenant.

(c) Any insurance carried by Tenant pursuant to this Lease may be provided by blanket insurance covering the Premises and other locations of Tenant or its affiliates.

SECTION 12. Waiver of Subrogation. Landlord and Tenant each hereby waive all rights of recovery and causes of action against the other and all persons claiming by, through or under them with respect to damage to property to the extent that such damage is covered by insurance, and all property insurance policies carried by Tenant covering the improvements on the Premises shall expressly waive any right on the part of the insurer against Landlord.

SECTION 13. Damage and Destruction. In the event that the improvements on the Premises shall be damaged or destroyed by fire or other casualty then Tenant may elect to: (i) terminate this Lease, and remove, if requested by Landlord, all debris and the remains of the damaged improvements from the Premises; or (ii) not terminate this Lease and remove, construct and repair such improvements as Tenant deems desirable. Tenant shall give written notice to Landlord of such election within one hundred eighty (180) days after the receipt of all final insurance proceeds. Notwithstanding such damage or destruction, until such time as Tenant elects to terminate this Lease, if applicable, Rent and other amounts shall be paid as and when due under this Lease. Landlord hereby waives and relinquishes all rights to any insurance proceeds with respect to damage or destruction.

SECTION 14. Eminent Domain.

(a) If during the term the entire Premises shall be taken by any public authority for any public use or by condemnation or eminent domain proceedings, and such taking relates to the entire fee estate in and to the land, as well as all right, title and interest of Tenant hereunder in the Premises, then this Lease shall terminate as of the date of such taking, and all rights and obligations of the parties hereto thereafter accruing shall cease and terminate except as hereinafter set forth. In the event of such taking, the entire award compensation and damages shall be paid to and be the sole property of Tenant, and Landlord waives and relinquishes any rights to such award.

(b) If during the term a material part of the Premises shall be taken and Tenant determines that the remaining portion of the Premises cannot reasonably be used or utilized for the purposes for which the Premises were being used at the time of the taking, Tenant shall have the right and option upon sixty (60) days written notice to Landlord to terminate this Lease, in which event the award, shall be paid to and be the sole property of Tenant, and Landlord waives and relinquishes any rights to such award.

(c) If during the term a part of the Premises shall be taken and this Lease is not terminated pursuant to subsection (b), any compensation and damages that may be awarded as the result of any such taking shall be paid to and be the sole property of Tenant and Landlord waives and relinquishes any rights to such award.

(d) Landlord shall not make any voluntary settlement with the condemning authority in any condemnation proceedings, nor convey or agree to convey the whole or any portion of, or interest in, the Premises to such authority in lieu of condemnation, without first obtaining the written consent of Tenant and any Mortgagee. Tenant shall have the right to negotiate with the condemning authority with respect

to the Premises, but shall not make any voluntary settlement with the condemning authority, nor convey or agree to convey the whole or any portion of the Premises to such authority in lieu of condemnation (subject however to the provisions of Section 15 of this Lease), without first obtaining the written consent of Landlord. Tenant may, at Tenant's sole cost and expense, join in any condemnation proceeding as it affects the Premises.

SECTION 15. Easements, Restrictions and Highway Alignment. Tenant shall have the right to enter into easements, restrictions and other agreements as Tenant deems necessary or desirable to service, use and occupy the Premises and Landlord covenants and agrees to consent thereto, without compensation therefor, and to execute any and all easements, documents, agreements and instruments, and to take all other actions requested by Tenant in order to effectuate the same, all at Tenant's cost and expense. Landlord further covenants and agrees, upon request of Tenant, to convey without compensation therefor, portions of the Premises, for highway or roadway purposes, to the State of Ohio or any other appropriate governmental body.

SECTION 16. Leasehold Mortgages. Tenant, and its successors and assigns may, at any time and from time to time, without Landlord's consent, mortgage Tenant's interests in this Lease and Tenant's interest in the Premises, or any part thereof, and any sublease(s) under one or more leasehold mortgage(s) (whether one or more than one, "Mortgage(s)") and assign this Lease and all of Tenant's rights hereunder, or any part thereof, including, without limitation, Tenant's obligation to purchase the Premises as set forth in Section 35 hereof, and any sublease(s), as collateral security for such Mortgage(s). If Tenant and/or Tenant's successors and assigns shall mortgage this leasehold, or any part or parts thereof, and if the holder(s) of such Mortgage(s) (hereinafter "Mortgagee") shall deliver to Landlord a copy thereof, together with written notice specifying the name and address of the Mortgagee and the pertinent recording data with respect to such Mortgage(s), Landlord agrees that so long as any such Mortgage(s) shall remain unsatisfied of record or until written notice of satisfaction is given by the holder(s) to Landlord, whichever shall first occur, the following provisions shall apply, notwithstanding any other provision of this Lease to the contrary:

(a) There shall be no cancellation, surrender or modification of this Lease by joint action of Landlord and Tenant without the prior consent in writing of such Mortgagee(s).

(b) Landlord shall, upon serving Tenant with any notice of default, simultaneously serve a copy of such notice upon the holder(s) of such Mortgage(s). The Mortgagee(s) shall thereupon have the same period provided to Tenant hereunder, after service of such notice upon it, to remedy or cause to be remedied the defaults, and Landlord shall accept such performance by or at the instigation of such Mortgagee(s) as if the same had been done by Tenant.

(c) If any Event of Default (as hereinafter defined) shall occur which, pursuant to this Lease, entitles Landlord to terminate this Lease, and if, before the expiration of thirty (30) days from the date of service of notice of termination upon such Mortgagee(s), such Mortgagee(s) shall have notified Landlord of its desire to nullify such notice and shall have paid to Landlord all Rent and other payments required under this Lease, and then in default, and shall have complied or shall commence the work of complying with all of the other requirements of this Lease, if any, which are then in default, and shall prosecute the same to completion with reasonable diligence, then in such event Landlord shall not be entitled to terminate this Lease and any notice of termination theretofore given shall be void and of no effect.

(d) If Landlord shall elect to terminate this Lease due to the occurrence of an Event of Default, the Mortgagee(s) shall not only have the right to nullify any notice of termination by curing such default, as aforesaid, but shall also have the right to postpone and extend the specified date for the termination of this Lease as fixed by Landlord in its notice of termination, for a period of not more than six (6) months, provided that such Mortgagee shall cure or cause to be cured any then existing defaults within thirty (30) days and meanwhile pay Rent and comply with and perform all of the other terms, conditions and provisions of this Lease on Tenant's part to be complied with and performed, other than past non-monetary defaults, and provided further that the Mortgagee(s) shall take steps to acquire or sell Tenant's interest in this Lease by foreclosure the Mortgage(s) or otherwise and shall prosecute the same to completion with all due diligence. If, at the end of said six (6) month period, the Mortgagee(s) shall be actively engaged in steps to acquire or sell Tenant's interest under this Lease, the time of said Mortgagee to comply with the provisions hereof shall be extended for such period as shall be reasonably necessary to complete such steps with reasonable diligence and continuity.

(e) Landlord agrees that in the event of termination of this Lease by reason of any Event of Default, or due to any order in bankruptcy or receivership or due to any other action, Landlord shall enter into a new lease of the Premises with the Mortgagee(s) or its nominee(s), for the remainder of the term, effective as of the date of such termination, at the Rent and upon the terms, provisions, covenants and agreements as herein contained and subject only to the same conditions of title as this Lease is subject to on the date of the execution hereof, and to the rights, if any, of any parties then in possession of any part of the Premises.

(f) A Mortgagee may foreclose upon a Mortgage and after such foreclosure the Tenant's interest in this Lease may be transferred to Mortgagee or a third party and thereafter further transferred to other third parties.

(g) Nothing herein contained shall require any Mortgagee(s) or its nominee(s) to cure any default of Tenant which cannot be reasonably cured by such Mortgagee(s).

(h) Landlord agrees promptly after submission to execute, acknowledge and deliver any agreements modifying this Lease requested by any Mortgagee(s), provided that such modification does not materially decrease Tenant's obligations or materially decrease Landlord's rights under this Lease.

(i) Landlord shall, at any time and from time to time, upon request, execute, acknowledge and deliver to each Mortgagee(s), an agreement prepared at the cost and expense of Tenant, in form satisfactory to such Mortgagee(s), between Landlord, Tenant and Mortgagee(s), confirming all of the provisions of this Section and containing such other protections and rights of the Mortgagee as may be reasonably requested by Tenant provided any request of Tenant does not materially adversely alter or affect the interests of Landlord in the Premises and under this Lease. The term "Mortgage" whenever used herein shall include whatever security instruments are used by the Mortgagee(s), such as, without limitation, mortgages, assignments of leases, financing statements, security agreements and other documentation requested by the Mortgage(s).

Notwithstanding anything herein to the contrary, Landlord and Tenant acknowledge and agree that the only interest in the Premises that will be subject to a lien of any lender or any other party to secure indebtedness of Tenant ("Third Party Lien") will be Tenant's leasehold interest in the Premises and all improvements thereon. Nothing herein shall be construed so as to imply any obligation upon Landlord to subject its fee simple interest in the Premises to a lien, other than the mortgage lien given to Tenant to secure amounts owed to Tenant by Landlord under the Premises Purchase Promissory Note.

SECTION 17. Performance by Subtenant or Mortgagee. Any act required to be performed by Tenant pursuant to this Lease may be performed by any sublessee of Tenant or by any Mortgagee(s) and the performance of such act shall be deemed to be performance by Tenant and shall be acceptable as Tenant's act by Landlord.

SECTION 18. Quiet Enjoyment; Warranties and Representations.

(a) Tenant, upon paying the Rent and all other sums and charges to be paid by it as herein provided, and observing and keeping all covenants, warranties, agreements and conditions of this Lease on its part to be kept, shall quietly have and enjoy the Premises during the term of this Lease, without hindrance or molestation by anyone claiming by, through or under Landlord.

(b) Landlord represents and warrants to Tenant that:

(i) Contemporaneously with the execution and delivery of this Lease, Landlord is acquiring fee simple title to the Premises, subject only to the Permitted Encumbrances (as hereinafter defined) and has the power and authority to execute and deliver this Lease and to carry out and perform all covenants to be performed by it hereunder.

(ii) On the Commencement Date, sole and undisturbed physical possession of the entire Premises will be delivered to Tenant free and clear of all liens, defects in title, encumbrances, restrictions, agreements, easements, tenancies and violations of law except for any mortgage granted by Landlord to Tenant and those listed on Exhibit B attached hereto (the "Permitted Encumbrances"). Notwithstanding anything to the contrary herein, if the Premises is subject to or encumbered by any lien, encumbrance, restriction, agreement, easement, tenancy or violations of law as the result of any action of Landlord taken at the request of Tenant, any such encumbrance shall be deemed a Permitted Encumbrance and deemed set forth on Exhibit B attached hereto.

SECTION 19. Defaults.

(a) In the event any one or more of the following events shall have occurred and shall not have been remedied as hereinafter provided, Tenant shall be deemed to be in default under this Lease (an "Event of Default"): (1) Tenant's failure to pay any Rent when the same shall be due and payable and the continuance of such failure for a period of thirty (30) days after receipt by Tenant of notice in writing from Landlord specifying in detail the nature of such failure; or (2) Tenant's failure to perform any of the other covenants, conditions and agreements herein contained on Tenant's part to be kept or performed and the continuance of such failure without curing the same for a period of sixty (60) days after receipt by Tenant of notice in writing from Landlord specifying in detail the nature of such failure and Tenant does not cure said failure as provided in subsection (b) of this Section. Simultaneously with the sending of the notices to Tenant, Landlord shall send copies of such notices to any sublessee(s) of the Premises or portions thereof that Tenant may have selected and notified Landlord thereof, in writing, from time to time, any Mortgagees and any additional persons or parties having an interest in the Premises that Tenant may have selected and notified Landlord thereof, in writing, from time to time. The curing of any default(s) within the above time limits by any of the aforesaid parties or combination thereof, shall constitute a curing of any default(s) hereunder with like effect as if Tenant had cured same hereunder and no Event of Default shall be deemed to have occurred.

(b) In the event that Landlord gives notice of a default under clause (a)(2) above which is of non-monetary nature and of a nature that it cannot be cured within such sixty (60) day period, no Event of Default shall be deemed to have occurred so long as Tenant, after receiving such notice, proceeds to cure the default as soon as reasonably possible and continues to take steps necessary to complete the same within a period of time which, under all prevailing circumstances, shall be reasonable. Except for an Event of Default described in Section 19 (a), clause (1) above, no Event of Default shall be deemed to have occurred if and so long as Tenant shall be so proceeding to cure the same in good faith or be delayed in or prevented from curing the same by any item of force majeure.

(c) If an Event of Default occurs, Landlord, as its sole and exclusive remedy, and to the exclusion of any other remedy, may terminate this Lease and reenter the Premises by judicial order and recover possession thereof in the manner prescribed by statute. In case of any such Event of Default and reentry, Rent shall be due only up to the time of such reentry.

SECTION 20. Waivers. Failure of Landlord or Tenant to object to any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by Landlord or Tenant at any time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision. No acceptance by Landlord of any partial payment shall constitute an accord or satisfaction but shall only be deemed a partial payment on account.

SECTION 21. Limitation of Liability. Subject to the provisions hereinafter set forth and notwithstanding anything to the contrary provided in this Lease (each and every term, covenant, condition and provision of this Lease being hereby made specifically subject to the provisions of this Section) and regardless of whether Tenant or any successor in interest of Tenant shall be one or more Mortgagee(s), or an individual, joint venture, tenancy in common, firm, corporation or partnership, it is specifically understood and agreed that there shall be absolutely no personal liability on the part of Tenant or its successors or assigns, or on the part of their officers, directors, employees, members, stockholders, partners or others, with respect to any of the terms, covenants and conditions of this Lease, and Landlord shall look solely to the equity of Tenant, Mortgagee(s) or such successor in interest in the leasehold estate of Tenant in the Premises for the satisfaction of each and every remedy of Landlord in the event of any breach by Tenant or by such successor in interest of any of the terms, covenants, and conditions of this Lease to be performed by Tenant, such exculpation of personal liability to be absolute and without any exception whatsoever.

SECTION 22. Surrender.

(a) Whenever this Lease is terminated, whether by lapse of time, forfeiture, or otherwise, Tenant will yield and deliver up the Premises, including any building and improvements then located thereon, to Landlord in the condition then existing, without representation or warranty of any kind.

(b) All personal property, furnishings, equipment and fixtures (collectively, "Personal Property" which are placed upon the Premises by Tenant or others shall remain the property of Tenant or such others and may be removed at any time. Landlord hereby waives any lien or right to distrain any Personal Property.

SECTION 23. Force Majeure. In the event that Landlord or Tenant shall be delayed or prevented from the performance of any act required hereunder by

reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, or the act, failure to act or default of the other party, or other reason beyond their control, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, that this provision shall have no application to an obligation to pay rent or other monetary obligations hereunder.

SECTION 24. Notices . Every request, notice, approval, consent or other communication authorized or required by this Lease shall not be effective unless same shall be in writing and sent postage prepaid by United States registered or certified mail, return receipt requested, or by reputable overnight courier, directed to the other party at the following address(es), or such other address and to such other party or parties as either Landlord or Tenant may designate to the other by notice given from time to time in accordance with this Section and the same shall be deemed given upon receipt:

If to Landlord:

C. Keith Nixon, Jr.
12 East Warren Street
Lebanon, Ohio 45036

with a copy to:

Carlile Patchen & Murphy, LLP
Attn: Jack C. Butler, Esq.
366 East Broad Street
Columbus, Ohio 43215

If to Tenant:

Miami Valley Gaming & Racing, LLC
40 Fountain Plaza
Buffalo, New York 14202
Attention: General Counsel

with a copy to:

Vorys, Sater, Seymour and Pease LLP
Attn: Michael A. Cline, Esq.
52 East Gay Street
Columbus, Ohio 43215

SECTION 25. Certificates. Either party shall, without charge, at any time and from time to time, within ten (10) days after written request of the other, certify by written instrument duly executed and acknowledged to any Mortgagee or purchaser, or proposed Mortgagee or proposed purchaser, or any other person specified in such request: (a) as to whether this Lease has been supplemented or amended, and if so, the substance and manner of such supplement or amendment; (b) as to the validity and force and effect of this Lease; (c) as to the existence of any default thereunder; (d) as to the existence of any offsets, counterclaims or defenses thereto on the part of such other party; (e) as to the commencement and expiration dates of the term; and (f) as to any other matters as may be reasonably requested. Any such certificate may be relied upon by the party requesting it and any other person to whom the same may be exhibited or delivered, and the contents of such certificate shall be binding on the party executing same.

SECTION 26. Governing Law. This Lease and the performance thereof shall be governed and interpreted by the laws of the State of Ohio.

SECTION 27. Partial Invalidity. If any term, covenant, condition or provision of this Lease or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

SECTION 28. Memorandum of Lease. Simultaneously with its execution of this Lease, Landlord shall execute and deliver to Tenant the memorandum of lease in the form of Exhibit "C" attached hereto, which Tenant may record.

SECTION 29. Interpretation. The singular shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa, as the context shall require. The section headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof. This Lease may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. The terms "Landlord" and "Tenant" whenever used herein shall mean only the owner at the time of Landlord's or Tenant's interest herein, and upon any sale or assignment of the interest of either Landlord or Tenant herein, their respective successors in interest and/or assigns shall, during the term of their ownership of their respective estates herein, be deemed to be Landlord or Tenant, as the case may be.

SECTION 30. Entire Agreement. This Lease constitutes the entire agreement of the parties with respect to the subject matter hereof and no oral statement or prior written matter shall have any force or effect and is deemed superseded by this Lease. This Lease shall not be modified or cancelled except in a writing subscribed by all parties.

SECTION 31. Parties. The covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and their respective heirs, successors, administrators and assigns.

SECTION 32. Hold Over. Should Tenant hold over in possession of the Premises or any part thereof after the expiration of the term, unless otherwise agreed to in writing, such tenancy shall constitute a tenancy from year to year, on the same terms and conditions as are applicable to the year prior to such expiration.

SECTION 33. Non-Merger. There shall be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate in the Premises by reason of the fact that this Lease, the leasehold estate created by this Lease, or any interest in this Lease or in any such leasehold estate, may be held, directly or indirectly, by or for the account of any person who shall own the fee estate in the Premises or any interest in such fee estate, and no such merger shall occur unless and until all persons at the time having an interest in the fee estate in the Premises and all persons (including any Mortgagee(s)) having an interest in this Lease, or in the leasehold estate created by this Lease, shall join in a written instrument effecting such merger and shall duly record the same.

SECTION 34. Lease to Constitute a Single Land Purchase Transaction For Income Tax Purposes.

Contemporaneously with the execution and delivery of this Lease, Landlord is acquiring the Premises from the seller thereof ("Land Seller") and Tenant is advancing to Landlord an amount sufficient to pay the sum of (i) the purchase price for the Premises, (ii) all brokers' commissions and fees required to be paid in connection with such purchase, and (iii) all other closing costs of Landlord due and payable in connection with Landlord's purchase of the Premises (such aggregate amount hereafter being referred to as the "Property Acquisition Funds"). This advance of the Property Acquisition Funds is reflected in a promissory note of even date herewith being delivered by Landlord to Tenant in the form of Exhibit D attached hereto and made a part hereof (the "Premises Purchase Promissory Note"), which Premises Purchase Promissory Note is secured by a mortgage on the Premises is the form of Exhibit E or other form which is agreed upon by Landlord and Tenant. The Premises Purchase Promissory Note does not provide for the payment of interest by Landlord to Tenant for so long as the indebtedness reflected thereby is outstanding. Pursuant to the terms of Section 35 below, Tenant will have the obligation, under the circumstances described therein, to acquire fee title to the Premises from Landlord. The parties intend that the purchase and resale of the Premises described in this Section 34 be interpreted as a single land purchase transaction by Tenant only for federal, state and local income tax purposes pursuant to which (i) the advance of the Property Acquisition Funds in exchange for the Premises Purchase Promissory Note, the purchase of the Premises by Landlord from the Land Seller, this Lease, and the obligation of Landlord to sell and Tenant to buy the Premises as reflected in Section 35 of this Lease, is treated as (a) the purchase of the Premises by Tenant from the Land Seller with Tenant as beneficial owner of the Premises, and (b) the retention of title to the Premises by Landlord as an arrangement to provide financial incentive to Tenant to make payments to Landlord under the Note, (ii) the payment of any Additional Rent after a payment default under the Note as described in Section 3(b) of this Lease will be treated as a reduction in the interest obligations as provided under the Note, and (iii) the Premises Purchase Promissory Note is not treated as a further security arrangement to secure payment to Landlord of the Note, and not as debt (all the foregoing, the "Intended Tax Treatment"). The parties agree to treat and report the transactions under this Lease for federal, state and local income tax purposes consistent with the Intended Tax Treatment.

Notwithstanding anything to the contrary set forth herein, Tenant acknowledges and agrees, except for the Intended Tax Treatment, as follows:

(a) for all purposes of state and federal law applying or related to interests and rights in and to real property, rights and interests of parties in any receivership proceeding, rights of debtors and creditors under any federal bankruptcy law and general rights of debtors and creditors (i) Landlord shall be treated and characterized as owner of the fee title interest in and to the Premises, (ii) Landlord shall be treated and characterized as a landlord of and with respect to this Lease , and (iii) this Lease shall be treated or characterized as a lease of real property; and

(b) under no circumstances may Tenant or any other party, including but not limited to any successor, transferee, assignee, creditor, receiver or trustee of Tenant, claim that this Lease is or constitutes a mortgage, a security interest in real estate, or a financing vehicle.

None of the foregoing provisions of this Section 34 shall be construed or applied to prevent Tenant from having the obligation to purchase the Premises or receive conveyance of the Premises pursuant to Section 35 below, including in a circumstance where liability under the Premises Purchase Promissory Note is extinguished in a bankruptcy or receivership proceeding.

SECTION 35. Obligation to Sell and Purchase the Premises.

(a) Obligation. Landlord shall sell, and Tenant shall purchase, the fee simple interest in the Premises, upon the terms and conditions set forth in this Section 35, upon the occurrence of either of the following events (the "Purchase Obligation"): (i) the payment in full of the Note; or (ii) the occurrence of a Guaranty Event (as defined in the Note) under the Note. The date of the occurrence of the event that triggers the Purchase Obligation is hereinafter the "Trigger Date". In the event that either Landlord or Tenant shall default in its obligations under this Section 35, the non-defaulting party shall have the right, in additional to any other rights and remedies allowed at law or in equity, to seek specific performance of the obligations of the defaulting party.

(b) Purchase Price. The purchase price for the Premises shall be equal to the amount of the outstanding principal amount of the Premises Purchase Promissory Note. The purchase price shall be paid at Closing (as hereinafter defined) by Tenant's cancellation of the Premises Purchase Promissory Note and delivery to Landlord by Tenant of a release of all of its liabilities and obligations thereunder. Rent shall be prorated as of the date of closing. If liability for the principal amount of the Premises Purchase Promissory Note is extinguished in a bankruptcy or receivership proceeding, the purchase price to be paid at Closing by Tenant shall be One Hundred Dollars ($100.00) cash.

(c) Landlord Transfers. In the event that Landlord sells, transfers or otherwise conveys the Premises or any part thereof to a third party, then such sale, transfer or conveyance shall be subject to this Lease, including the terms of this Section, and Landlord's buyer, assignee or transferee shall be required to agree, in writing, to accept the obligations of Landlord under this Lease, and Landlord shall assign to such buyer, and such buyer shall assume, all of Landlord's interest in the Premises Purchase Promissory Note.

(d) Title Matters. From and after the date hereof, Landlord shall not permit any mortgages, easements, leases, contracts or other encumbrances, other than the Permitted Encumbrances, to affect the Premises without the prior written consent of Tenant. The Premises shall be conveyed to Tenant or its designee or assignee at the Closing pursuant to a limited warranty deed, free and clear of all claims, liens, mortgages, security interests, zoning changes and other encumbrances, excepting only the Permitted Encumbrances, those matters which have been approved in writing by Tenant, and real estate taxes.

(e) Closing. Unless otherwise agreed in writing by Landlord and Tenant, the transactions contemplated hereby shall be closed within thirty (30) days after the Trigger Date (the "Closing"). There shall be no proration of real estate taxes, and Tenant shall be responsible for all real estate taxes due after Closing. Tenant shall pay for all conveyance and transfer fees, escrow and closing fees, costs of title insurance, surveys and recording the deed and other documents. Tenant and Landlord shall each pay their own legal fees. At Closing, Landlord shall execute a seller's title affidavit, settlement statement, affidavits requested by the title company and other documents as are customarily executed and delivered at a commercial real estate closing in the vicinity of the Premises.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

LANDLORD:

WARREN GENERAL PROPERTY CO., LLC,an Ohio limited liability company

By: _____

Name: _____

Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this day of , 201 , by the of , a , on behalf of Warren General Property Co., LLC, and Ohio limited liability company, on behalf of the company.

_____

NOTARY PUBLIC

My Commission Expires: _____

TENANT:

MIAMI VALLEY GAMING & RACING, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this day of , 201 , by the of Miami Valley Gaming & Racing, LLC, a Delaware limited liability company, on behalf of the company.

_____
NOTARY PUBLIC
My Commission Expires: _____

EXHIBIT A

Legal Description of Premises

EXHIBIT B

Permitted Encumbrances

EXHIBIT C

MEMORANDUM OF LEASE

Warren General Property Co., LLC, an Ohio limited liability company ("Landlord"), whose address is c/o C. Keith Nixon, Jr., 12 East Warren Street, Lebanon, Ohio 45036, has leased to **Miami Valley Gaming & Racing, LLC**, a Delaware limited liability company ("Tenant"), whose address is 40 Fountain Plaza, Buffalo, New York 14202, Attention: General Counsel; the real property described in Attachment 1 attached hereto (the "Premises"), in accordance with the terms, covenants, and conditions set forth in a Ground Lease (the "Lease") entered into between Landlord and Tenant dated as of , 201 .

1. The Lease shall be for an initial term of approximately forty (40) years. The initial term of the Lease shall commence and end on . Lessee has not paid a security deposit in connection with the Lease.

2. Upon payment of the Note or the occurrence of a Guaranty Event (as both of those terms are defined in the Lease) Landlord has the obligation to sell the Premises to Tenant upon the terms and conditions stated in the Lease.

3. Notice is hereby given that the Landlord shall not be liable for any labor or materials furnished to Tenant upon credit, and that no mechanic's or any other lien for any such labor or materials furnished shall attach to or affect the reversionary or other estate or interest of Landlord in the Premises.

4. This Memorandum is not a complete summary of the Lease. Provisions in this Memorandum shall not be used in interpreting the Lease provisions. In the event of conflict between this Memorandum and the Lease, the Lease shall control.

5. Landlord acquired title to the property by deed of record in the office of the Recorder of Warren County, Ohio as Instrument No. ; Volume , Page .

(the remainder of this page is intentionally left blank)

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of , 201 .

LANDLORD:

WARREN GENERAL PROPERTY CO., LLC,an Ohio limited liability company

By: _____
Name: _____
Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this day of , 201 , by the of , a , on behalf of Warren General Property Co., LLC, and Ohio limited liability company, on behalf of the company.

_____
NOTARY PUBLIC
My Commission Expires: _____

TENANT:

MIAMI VALLEY GAMING & RACING, LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

STATE OF _____)

) SS:

COUNTY OF _____)

The foregoing instrument was acknowledged before me this day of , 201 , by the of Miami Valley Gaming & Racing, LLC, a Delaware limited liability company, on behalf of the company.

_____

NOTARY PUBLIC
My Commission Expires: _____

PREPARED BY AND RETURN TO:
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
Columbus, Ohio 43215

ATTACHMENT 1 TO
MEMORANDUM OF LEASE

EXHIBIT D

PREMISES PURCHASE PROMISSORY NOTE

$, 20

FOR VALUE RECEIVED, WARREN GENERAL PROPERTY CO., LLC, an Ohio limited liability company ("Maker"), promises to pay to the order of MIAMI VALLEY GAMING & RACING, LLC, a Delaware limited liability company ("Payee"), in lawful money of the United States of America, the principal sum of Dollars ($) (the "Principal"), plus interest as provided herein and all other charges herein provided, payable in immediately available funds, at the rates and in the manner hereinafter set forth.

This Note has been executed and delivered pursuant to and in accordance with the terms and conditions of the Ground Lease, dated , 201 , by and among Maker and Payee (the "Lease") and is subject to the terms and conditions of the Lease, which are, by this reference, incorporated herein and made a part hereof. Capitalized terms used in this Note without definition shall have the respective meanings set forth in the Lease. This Note is secured by the real estate of Maker described in Exhibit A attached hereto, and is not subject to recourse against any member, employee or manager of Maker.

1. PAYMENTS

1.1 PRINCIPAL

The outstanding Principal balance of this Note shall be due and payable on the date of the termination or expiration of the Lease.

1.2 INTEREST

The Note shall not bear interest.

1.3 PREPAYMENT

Maker may not prepay all or any portion of the outstanding Principal balance of this Note, provided that Payee shall surrender and cancel this Note upon Maker's conveyance of the real property demised under the Lease to Payee or its designee in accordance with the terms of the Lease.

1.4 MANNER OF PAYMENT

All sums paid by Maker to Payee with respect to this Note shall be made by wire transfer of immediately available funds to an account designated by Payee in writing. If any payment is due on a day that is not a Business Day, such payment shall be due on the next succeeding Business Day, and such extension of time shall not be taken into account in calculating the amount of interest payable under this Note. "Business Day" means any day other than a Saturday, Sunday or legal holiday in the State of Ohio.

2. DEFAULTS

2.1 EVENTS OF DEFAULT

The occurrence of any one or more of the following events with respect to Maker shall constitute an event of default hereunder ("Event of Default"):

(a) If Maker shall fail to perform its obligations under this Note or the Lease and such failure continues for thirty (30) days after Payee notifies Maker thereof in writing.

(b) If, pursuant to or within the meaning of the United States Bankruptcy Code or any other federal or state law relating to insolvency or relief of debtors, Maker shall (i) commence a voluntary case or proceeding; (ii) consent to the entry of an order for relief against it in an involuntary case; (iii) consent to the appointment of a trustee, receiver, assignee, liquidator or similar official; (iv) make an assignment for the benefit of its creditors; or (v) admit in writing its inability to pay its debts as they become due.

2.2 REMEDIES

Upon the occurrence of an Event of Default hereunder (unless all Events of Default have been cured or waived by Payee), Payee may, at its option, (i) by written notice to Maker, declare the entire unpaid principal balance of this Note, together with all accrued interest thereon, immediately due and payable regardless of any prior forbearance and (ii) exercise any and all rights and remedies available to it under applicable law, including, without limitation, the right to collect from Maker all sums due under this Note. Maker shall pay all reasonable costs and expenses incurred by or on behalf of Payee in connection with Payee's exercise of any or all of its rights and remedies under this Note, including, without limitation, reasonable attorneys' fees.

3. ASSIGNMENT

Neither Payee nor Maker may assign its interest in this Note without the prior written consent of the other, and any attempted assignment without such consent shall be void ab initio; provided, however (i) that Maker may assign its interest in this Note without Payee's consent to any person or entity that simultaneously acquires Maker's fee interest in the premises demised under the Lease and Maker's interest as landlord under the Lease; and (ii) Payee may assign its interest in this Note without maker's consent to any person or entity that simultaneously acquires Payee's interest as tenant under the Lease.

4. MISCELLANEOUS

4.1 WAIVER

The rights and remedies of Payee under this Note shall be cumulative and not alternative. No waiver by Payee of any right or remedy under this Note shall be effective unless in a writing signed by Payee. Neither the failure nor any delay in exercising any right, power or privilege under this Note will operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power or privilege by Payee will preclude any other or further exercise of such right, power or privilege or the exercise of any other right, power or privilege. To the maximum extent permitted by applicable law, (a) no claim or right of Payee arising out of this Note can be discharged by Payee, in whole or in part, by a waiver or renunciation of the claim or right unless in a writing signed by Payee; (b) no waiver

that may be given by Payee will be applicable except in the specific instance for which it is given; and (c) no notice to or demand on Maker will be deemed to be a waiver of any obligation of Maker or of the right of Payee to take further action without notice or demand as provided in this Note. Maker hereby waives presentment, demand, protest and notice of dishonor and protest.

4.2 NOTICES

Any notice required or permitted to be given hereunder shall be given in accordance with Section 24 of the Lease.

4.3 SEVERABILITY

If any provision in this Note is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Note will remain in full force and effect. Any provision of this Note held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

4.4 GOVERNING LAW

This Note will be governed by and construed under the laws of the State of Ohio.

4.5 PARTIES IN INTEREST

This Note shall not be assigned or transferred by Payee without the express prior written consent of Maker. Subject to the preceding sentence, this Note will be binding in all respects upon Maker and inure to the benefit of Payee and its successors and assigns.

4.6 SECTION HEADINGS; CONSTRUCTION

The headings of Sections in this Note are provided for convenience only and will not affect its construction or interpretation. All references to “Section” or “Sections” refer to the corresponding Section or Sections of this Note unless otherwise specified. All words used in this Note will be construed to be of such gender or number as the circumstances require. Unless otherwise expressly provided, the words “hereof’ and “hereunder” and similar references refer to this Note in its entirety and not to any specific section or subsection hereof, the words “including” or “includes” do limit the preceding words or terms and the word “or” is used in the inclusive sense.

IN WITNESS WHEREOF, Maker has executed and delivered this Note as of the date first stated above.

[MAKER]

_____

By: _____

Print Name: _____

Title: _____

EXHIBIT A
TO PREMISES PURCHASE PROMISSORY NOTE

Legal Description of Land Securing Premises Purchase Promissory Note

EXHIBIT E

MORTGAGE TO SECURE PREMISES PURCHASE PROMISSORY NOTE

MORTGAGE
(Ohio Revised Code Section 5302.14)

WARREN GENERAL PROPERTY CO., LLC, an Ohio limited liability company, as mortgagor, with an address of 12 East Warren Street, Lebanon, Ohio 45036, for good and valuable consideration paid, grants with mortgage covenants, MIAMI VALLEY GAMING & RACING, LLC, a Delaware limited liability company, as mortgagee, with an address of 40 Fountain Plaza, Buffalo, New York 14202, Attention: General Counsel, subject to all liens and encumbrances of record as of the date hereof, the following REAL PROPERTY:

See Exhibit A attached hereto.

This mortgage is given, upon the statutory condition, to secure the payment of money in the amount of $ as evidenced by that certain Premises Purchase Promissory Note of even date herewith.

"Statutory condition" is defined in Section 5302.14 of the Ohio Revised Code and provides generally that if the mortgagor pays the principal and interest secured by this mortgage, performs the other obligations secured hereby and the conditions of any prior mortgage, pays all taxes and assessments, maintains insurance against fire and other hazards, and does not commit or suffer waste, then this mortgage shall be void.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, mortgagor has executed this Mortgage as of the day of , 201 .

WARREN GENERAL PROPERTY CO., LLC,
an Ohio limited liability company

By: _____
Name: _____
Title: _____

STATE OF _____)
) SS:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this day of , 201 , by the of , a , on behalf of Warren General Property Co., LLC, and Ohio limited liability company, on behalf of the company.

_____
NOTARY PUBLIC
My Commission Expires: _____

This Instrument was prepared by:

Vorys, Sater, Seymour and Pease
52 East Gay Street
Columbus, Ohio 43215

EXHIBIT A
TO MORTGAGE

Legal Description of Mortgaged Property

Exhibit 2.7(a)(xii)

SECURITY AGREEMENT

THIS SECURITY AGREEMENT (this "Agreement"), dated as of , 2012, is entered into by and among Miami Valley Gaming & Racing, LLC, a Delaware limited liability company having an address of 40 Fountain Plaza, Buffalo, New York 14202 (the "Debtor"), and Lebanon Trotting Club, Inc., an Ohio corporation , and Miami Valley Trotting, Inc., an Ohio corporation (together with their respective successors and assigns, collectively, "Secured Party"). Debtor hereby grants to Secured Party a continuing security interest in and to, and a lien on and hereby assigns to Secured Party as collateral, all of the "Collateral", as defined in Section 2 of this Agreement.

1. Secured Obligations. The security interest hereby granted shall secure the full, prompt and complete payment and performance of all of the indebtedness and obligations (collectively, the "Obligations") evidenced by that certain Buyer Promissory Note of even date herewith made by Debtor, as maker, payable to the order of Secured Party, as payee, in the principal amount of $50,000,000 (as the same may be adjusted, modified, amended, renewed, consolidated, restated or replaced from time to time, the "Note"). The Note has been executed and delivered pursuant to and in accordance with the terms and conditions of the Asset Purchase Agreement dated as of March 1, 2012, by and among Debtor, as buyer, Secured Party, as sellers, and Keith Nixon, Jr. and John Carlo, each a resident of the State of Ohio, as sellers' representatives, as applicable (as the same may be modified or amended from time to time, the "Purchase Agreement"), and is subject to the terms and conditions of the Purchase Agreement. Capitalized terms used in this Agreement without definition shall have the respective meanings set forth in the Purchase Agreement.

Secured Party agrees and acknowledges that the Note, and the payment of the Obligations evidenced thereby, will be subject to the terms of a subordination agreement (the "Subordination Agreement") to be executed by and between Secured Party and the Senior Lender, at the time that the Senior Obligations Documents (as hereinafter defined) are entered into between Debtor and the Senior Lender. Secured Party understands that the terms of the Subordination Agreement will need to be negotiated between the Senior Lender and Secured Party, but agrees and covenants that the following terms and conditions will be acceptable to Secured Party:

(a) payment of the Obligations will be subordinate to the payment of the Senior Obligations (as hereinafter defined), and for purposes of clarity, the parties agree that this subsection (a) shall in no way constitute or be construed to be a waiver of Secured Party's ability to declare a Maker Payment Default (as defined in the Note);

(b) the security interests granted by Debtor to the Secured Party pursuant to this Agreement or otherwise to secure the payment and performance of the Obligations will be subject to and subordinate in priority to the security interests and liens granted by Debtor to the Senior Lender to secure the payment and performance of the Senior Obligations;

(c) so long as no default in the payment or performance of the Senior Obligations has occurred, regularly scheduled payments of principal and interest on the indebtedness evidenced by the Note will be permitted by the Senior Lender;

(d) upon a default in the payment or performance of any of the Senior Obligations,

(i) payment of the Obligations will be blocked and subject to a specified standstill period until the earlier of (A) the date on which such default in the Senior Obligations has been fully cured or the Senior Obligations have been paid in full, and (B) 360 days after the date on which Secured Party obtains a Judgment (as hereinafter defined) as described in subsection (e) below, and

(ii) except to the extent set forth in subsection (e), enforcement or remedial actions by Secured Party to enforce payment of any of the Obligations or any of its rights or remedies under the Note or this Agreement will be blocked and subject to a specified standstill period until the earlier of (A) the date on which such default in the Senior Obligations has been fully cured or the Senior Obligations have been paid in full, and (B) 360 days after the date on which Secured Party obtains a Judgment; and

(e) upon the occurrence and during the continuation of a Maker Payment Default, Secured Party may obtain a judgment with respect to the Obligations (a "Judgment"), but collection, enforcement or remedial actions by the Secured Party to collect or enforce payment thereof or of any Obligation, or any of Secured Party's rights or remedies under the Note or this Agreement, will be blocked and subject to a specified standstill period until the earlier of (A) the date on which any default in the Senior Obligations has been fully cured or the Senior Obligations have been paid in full, and (B) 360 days after the date on which Secured Party obtains a Judgment.

Debtor agrees that Secured Party's election to abide by, and not deviate from, the terms set forth above in Secured Party's negotiations with the Senior Lender regarding the terms of the Subordination Agreement shall not constitute a breach by Secured Party of any duty to act in good faith or in a commercially reasonable manner.

Secured Party also agrees and acknowledges that, at Debtor's election at any time (such election, a "Guaranty Event"), Debtor may elect to terminate this Agreement and all security interests granted to Secured Party pursuant hereunder, to trigger the Purchase Obligation (as defined in the Ground Lease) under the Ground Lease, and to provide Secured Party with written Guaranties (as hereinafter defined) of the Note from the owners of each of the members of the Debtor, which members are direct or indirect wholly-owned subsidiaries of Delaware North Companies Gaming & Entertainment, Inc. ("DNC") and of Churchill Downs Incorporated ("CDI") (each of DNC and CDI, collectively, the "Parent Companies", and each, a "Parent Company"). Provided that the Parent Companies directly or indirectly own, collectively, one hundred percent (100%) of the financial interests or rights in and of Debtor, Debtor and Secured Party agree that they shall, within thirty (30) days following the delivery of written notice by Debtor to Secured Party that Debtor is electing to trigger the Guaranty Event, take any and all actions deemed reasonably necessary or appropriate by the Debtor and Secured Party to (a) terminate this Agreement and Secured Party's security interest hereunder, and all other rights and duties of the respective parties hereunder, and to file a UCC termination or release of any financing statement filed by Secured Party as secured party thereunder, and return any collateral

then held by Secured Party in its possession as secured party to Debtor, (b) close on the Purchase Obligation, and have Debtor, as tenant, together with the lessor under the Ground Lease, proceed with the actions to be taken pursuant to the Purchase Obligation as set forth in the Ground Lease, and (c) confirm Secured Party's receipt of the written Guaranties of the Parent Companies. In connection with the foregoing, the Parent Companies will simultaneously provide Secured Party with unconditional pro rata guaranties of the Note, with each such Parent Company, as guarantor, guaranteeing the payment of a pro rata portion of the Obligations evidenced by the Note, based upon the direct and indirect percentage ownership interests of each such Parent Company in the financial interests or rights of Debtor, and with the result that payment of all Obligations evidenced by the Note is severally but not jointly guaranteed by the Parent Companies. For purposes of the foregoing, "Guaranties" means the full and unconditional agreement to pay all Obligations of the Note in accordance with the terms and provisions of Sections 1.1 and 1.2 thereof.

2. Collateral. (a) The collateral in which a security interest is hereby granted comprises any and all Debtor's Accounts, Goods, Chattel Paper, Commercial Tort Claims, Deposit Accounts, Documents, Electronic Chattel Paper, Equipment, Goods, Fixtures, General Intangibles, Instruments, Inventory, Investment Property, Letter-of-Credit Rights, Payment Intangibles, Pledged Deposits, Software, Stock Rights and Other Collateral, wherever located, in which the Debtor now has or hereafter acquires any right or interest, and the proceeds, insurance proceeds and products thereof, together with all books and records, customer lists, credit files, software, computer files, programs, printouts and other computer materials and records related thereto (all of the foregoing hereinafter sometimes called the "Collateral"). All capitalized collateral descriptions in this paragraph, other than Stock Rights and Other Collateral shall have the meaning given to such terms in Article 9 of the Ohio UCC. "*Other Collateral*" means any property of the Debtor, other than real estate, not included within the defined terms Accounts, Goods, Chattel Paper, Commercial Tort Claims, Deposit Accounts, Documents, Electronic Chattel Paper, Equipment, Goods, Fixtures, General Intangibles, Instruments, Inventory, Investment Property, Letter-of-Credit Rights, Payment Intangibles, Pledged Deposits, Software and Stock Rights, including, without limitation, all goods, cash on hand, and other deposits (general or special, time or demand, provisional or final) with any bank or other financial institution, it being intended that the Collateral include all property of the Debtor other than real estate. "*Stock Rights*" means any Securities, dividends or other distributions and any other right or property which the Debtor shall receive or shall become entitled to receive for any reason whatsoever with respect to, in substitution for or in exchange for any Securities or other ownership interests in a corporation, partnership, joint venture, limited liability company or other entity constituting Collateral and any Securities, any right to receive Securities and any right to receive earnings, in which the Debtor now has or hereafter acquires any right, issued by an issuer of such Securities. Securities shall have the meaning given to such term in Article 8 of the Uniform Commercial Code as enacted in the State of Ohio. Collateral also specifically includes, without limitation, the "Acquired Assets" which are located at, or used in connection with the operation of the business located at, the Raceway Facilities at 665 North Broadway Street, Lebanon, Ohio, and any and all personal property of Debtor to be located at the New Facility, including, but not limited to, all of Debtor's rights, titles and interests in and to the following:

(i) the Operating Bankroll;

(ii) all inventories and accounts receivable;

(iii) all rights relating to deposits and prepaid expenses, claims for refunds and rights to offset in respect thereof;

(iv) all Tangible Personal Property;

(v) all transferable Governmental Authorizations and all pending applications therefor or renewals thereof, in each case to the extent transferable to Secured Party, including the Gaming or Racing Approvals, the Gaming License and the Racing License, and other items listed in Part 3.15(b) of the Purchase Agreement;

(vi) all data and records related to the business and operations of Debtor, including client, customer and supplier lists and records, sales and credit records, referral sources, service and warranty records, equipment logs, operating guides and manuals, financial and accounting records, creative materials, advertising and sales materials, promotional materials, studies, reports, correspondence, and other similar documents and records; except that no compensation history, personnel books or records of any employee of Debtor shall be included as part of the Collateral without the consent of the employee to whom such documents and records relate;

(vii) all of the intangible rights and property, including Intellectual Property, going concern value, goodwill associated with the business of Debtor, telephone, telecopy and e-mail addresses and listings and those items listed in Part 3.23 of the Disclosure Letter;

(viii) all insurance benefits, including rights and proceeds, arising from or relating to the Acquired Assets prior to Closing, unless expended in accordance with the Purchase Agreement;

(ix) the Acquired Contracts;

(x) all claims of Buyer against third parties relating to the Collateral, whether choate or inchoate, known or unknown, contingent or non-contingent, including all such claims listed in Part 2.1(i) of the Purchase Agreement: and

(xi) all proceeds and products of the foregoing property, including, without limitation, products and cash proceeds and noncash proceeds (including all rents, revenues, issues, and profits arising from the sale, lease, license, encumbrance, collection, or any other temporary or permanent disposition of any and all of the assets and property described above in this definition of Collateral or any interest therein) of any and all of the assets and property described above in this definition of Collateral, and all additions, accessions, attachments, parts, appurtenances and improvements to, replacements and substitutions of, and all supporting obligations for, guaranties of, and all insurance policies and proceeds of insurance payable by reason of loss or damage to, any of the foregoing property, including unearned premiums, and documents covering, the assets and property described above in this definition of Collateral, all sales of accounts, all tort or other claims against third parties arising out of damage or destruction of property described above in this definition of Collateral, and all property received wholly or partly in trade or exchange for property described above in this definition of Collateral.

(b) Notwithstanding the foregoing or anything else contained herein to the contrary, the Secured Party agrees and acknowledges that (i) none of the Collateral consists or shall consist of any Excluded Assets or Excluded Property, or any other property or assets which are not described in Section 2(a), and (ii) the security interest in and lien on the Collateral granted to Secured Party hereunder is subject and subordinate in priority to the security interest and lien granted in the Collateral or any part thereof by Debtor to the Senior Lender to secure the payment and performance of the Senior Obligations but in a principal amount not exceeding $175,000,000.00.

3. Definitions. All of the uncapitalized terms contained in this Agreement which are now or hereafter defined in the Ohio UCC will, unless the context expressly indicates otherwise, have the meanings provided for now or hereafter in the Ohio UCC, as such definitions may be enlarged or expanded from time to time by amendment or judicial decision. As used herein, the following terms have the following meanings:

(a) "Event of Default" means the occurrence of any one or more of the following events: (i) a Maker Payment Default (as defined in the Note) occurs, or any other payment of principal or interest due and owing on the Note, whether by its terms or as otherwise provided herein, is not paid on the date when due (subject to any applicable cure periods, if any); or (ii) all or substantially all of the assets of Debtor are sold or transferred in a transaction or series of related transactions, or Debtor merges or consolidates with any other entity in a transaction or series of related transactions where Debtor is not the surviving entity, and which were not otherwise consented to by Secured Party in writing (such consent not to be unreasonably withheld or delayed); or (iii) the ownership interests of Debtor are sold or transferred to any Person such that the owners of such issued and outstanding ownership interests on the date hereof and their affiliates collectively own less than fifty-one percent (51%) of the then-outstanding issued and outstanding ownership interests of Debtor following such sale or transfer; or (iv) the business of Debtor is discontinued, sold, liquidated or otherwise disposed of, whether by liquidation or dissolution; or (v) Debtor shall take, or any other Person shall receive a judgment, order or decree from a court of competent jurisdiction, in each case, for Debtor's winding up, liquidation, dissolution, or for the appointment of a receiver in relation to any or all of Debtor's assets, that is not otherwise consented to by Secured Party in writing (such consent not to be unreasonably withheld or delayed); or (vi) Debtor shall commit any other act of insolvency; or (vii) Debtor seeks protection, or an involuntary proceeding is filed or initiated against Debtor and not dismissed within sixty (60) days of such filing, under any state or federal insolvency or bankruptcy laws, or similar laws relating to creditors' rights generally.

(b) "Excluded Property" means, collectively: (i) any right, title or interest in any permit, license or any contractual obligation (other than for borrowed money) entered into by Debtor or any directly held investment property or any general intangibles now or hereafter owned by Debtor (A) that prohibits the creation by Debtor of a security interest or lien thereon or requires the consent of any Person other than Debtor, which consent has not been obtained as a condition to the creation of such security interest or lien or which would be breached or give any party the right to terminate it as a result of creation of such security interest or lien, or (B) to the

extent that any requirement of law applicable thereto prohibits the creation of a security interest or lien thereon, but only, in each case, to the extent, and for so long as, such prohibition is not terminated or rendered unenforceable or otherwise deemed ineffective by the UCC or any other requirement of law;

(ii) any property now owned or hereafter acquired by Debtor that is subject to a purchase money lien or a capital lease if the contractual obligation pursuant to which such lien is granted (or the documentation providing for such purchase money lien or capital lease) prohibits the creation by Debtor of a lien thereon or requires the consent of any Person other than Debtor which consent has not been obtained as a condition to the creation of any other lien on such property;

(iii) any "intent to use" Trademark applications for which a statement of use has not been filed (but only until such statement is filed);

(iv) assets sold to a Person in the ordinary course of business;

(v) any property to the extent that such grant of a security interest is prohibited by a governmental authority, or requires a consent not obtained of any governmental authority; and

(vi) leasehold interests in real property with respect to which any Debtor is a tenant or subtenant.

(b) "Ohio UCC" means the Uniform Commercial Code in effect in the State of Ohio.

(c) "Permitted Liens" means (i) liens for taxes, assessments, or other governmental charges which are not yet due and payable or which are being contested in good faith by appropriate proceedings; (ii) any liens granted to Secured Party or its Affiliates to secure the repayment or performance of the Obligations; (iii) deposits or pledges to secure obligations under worker's compensation, social security or similar laws, or under unemployment insurance; (iv) deposits or pledges to secure bids, tenders, contracts (other than contracts for the payment of money), leases, statutory obligations, surety and appeal bonds, and other obligations of like nature arising in the ordinary course of business; (v) mechanics', workers', materialmen's or other like liens arising in the ordinary course of business with respect to obligations that are not more than thirty (30) days past due; (vi) liens and security interests now or hereafter granted by Debtor to the Senior Lender hereunder or otherwise to secure the payment and performance of the Senior Obligations; (vii) to the extent such transactions create a lien thereunder, liens in favor of lessors securing operating leases or sale and leaseback transactions; and (viii) liens on fixed or capital assets acquired, constructed or improved by Debtor after the date hereof.

(c) "Senior Lender" means any one or more banks or other Persons that extend financing to Debtor which constitutes all or any part of the Senior Obligations,.

(d) "Senior Obligations" means the indebtedness and obligation owed by Debtor to the Senior Lender in the maximum principal amount of up to One Hundred Seventy-Five Million Dollars ($175,000,000.00), together with interest thereon, pursuant to and as evidenced by the Senior Obligations Documents.

(e) "Senior Obligations Documents" means the loan, credit or other type of financing agreement hereafter entered into by and between Debtor, as borrower, and the Senior Lender, as lender, and the promissory note or notes made by Debtor payable to the order of the Senior Lender in the original principal amount of up to One Hundred Seventy-Five Million Dollars ($175,000,000.00), and the other agreements, documents and instruments evidencing or securing the Senior Obligations, in each case as the same may be modified, amended, supplemented, restated or replaced.

(f) "Uniform Commercial Code" means the Uniform Commercial Code as adopted in each applicable jurisdiction, as amended or superseded from time to time.

4. Representations and Warranties. To induce Secured Party to extend credit to Debtor as evidenced by the Note and pursuant to the Purchase Agreement, Debtor hereby represents and warrants to Secured Party as follows:

(a) Debtor is a limited liability company with its chief executive office and mailing address located at the address set forth on Exhibit A and is organized in the State of Delaware, with an organizational number as set forth on Exhibit A. Debtor has taken any and all action required under its organizational documents to authorize the grant of the security interest to Secured Party. Debtor further warrants that (i) its exact legal name is set forth on Exhibit A, (ii) Debtor's federal tax identification number is as set forth on Exhibit A, and (iii) Exhibit A lists the location of any and all of the Collateral as of the date hereof;

(b) Debtor is, and as to any property which at any time forms a part of the Collateral, shall be, the owner of each and every item of the Collateral, or otherwise have the right to grant a security interest in the Collateral, free from any lien except to the extent, if any, of Permitted Liens; and

(c) Debtor has full right to grant the security interest hereby granted; and Debtor shall defend the Collateral and each and every part thereof against all claims of all Persons at any time claiming any of the Collateral or claiming any interest therein adverse to Secured Party except to the extent, if any, of Permitted Liens.

5. Debtor's Responsibilities.

(a) Until all of the Obligations are fully paid, performed and satisfied and this Agreement is terminated, Debtor will:

(i) furnish to Secured Party in writing upon Secured Party's reasonable written request (which, except during such time as an Event of Default has occurred and is continuing, shall occur no more frequently than annually) a current list of all Collateral for the purpose of identifying the Collateral and, further, execute and deliver such supplemental instruments, in the form of assignments or otherwise, as Secured Party shall reasonably request for the purpose of confirming and perfecting Secured Party's security interest in any or all of the Collateral, or as is necessary to provide Secured Party with control over the Collateral or any portion thereof (subject to the rights of the Senior Lender);

(ii) keep the Collateral fully insured and furnish certificates of insurance evidencing such insurance on the Collateral (with such certificates showing Secured Party or the Senior Lender) as loss payee and additional insured, and the agreement of the carrier to provide 30 days' prior written notice to Secured Party or Senior Lender prior to cancellation, and make available to Secured Party any and all of Debtor's books, records, written memoranda, correspondence and other instruments or writings that in any way evidence or relate to the Collateral;

(iii) maintain all Collateral in good condition and handle, maintain and store the Collateral in a safe and careful manner in accordance with all applicable laws, rules, regulations, ordinances and governmental orders, except to the extent such Collateral is obsolete or otherwise no longer used in the business of Debtor;

(iv) notify Secured Party at least ten (10) days in advance in writing of any change in Debtor's (x) chief executive office or principal place of business or (y) any change to Debtor's exact legal name as set forth on Exhibit A;

(v) pay all reasonable out-of-pocket costs of filing any financing, continuation or termination statements with respect to the security interest granted and the rights created hereby;

(vi) maintain possession of all tangible Collateral at the locations set forth on Exhibit A and not remove the Collateral from those locations (except for (x) inventory in transit and sales of inventory in the ordinary course of business and (y) the periodic replacement of furniture, fixtures and equipment with items of comparable value and quality in the ordinary course of Debtor's business without giving Secured Party at least ten (10) days' prior notice of such action and complying with the other terms of this Agreement; provided, however, that such location is within the continental United States;

(vii) take any other and further action necessary or desirable as reasonably requested by Secured Party to grant to Secured Party, following the occurrence and during the continuation of any Event of Default, control over the Collateral, including the execution and/or authentication of any assignments or third party agreements; to obtain delivery of the Collateral to the possession of Secured Party; or to obtain acknowledgments of the lien and security interest of Secured Party from third parties in possession of any Collateral. Debtor agrees to consent to and authorize any third party in an authenticated record or agreement between Debtor, Secured Party, and the third party, including depository institutions, securities intermediaries, and issuers of letters of credit or other supporting obligations to accept direction from Secured Party regarding the maintenance and disposition of the Collateral and the products and proceeds thereof, and to enter into agreements with Secured Party regarding same in form and substance reasonably satisfactory to Debtor, without further consent of Debtor (subject to the rights of the Senior Lender);

(viii) not, without at least ten (10) days prior written notice to Secured Party, change the form of or the jurisdiction of Debtor's organization;

(ix) if any of the Collateral is or will be attached to real estate in such a manner as to become a fixture under applicable state law, Debtor will take commercially reasonable efforts to secure from the lien holder, or the party in whose favor it is, a written consent and subordination to the security interest hereby granted or a written disclaimer of any interest in the Collateral, in such form as is reasonably acceptable to Secured Party;

(x) promptly after Secured Party's request, deliver to Secured Party any and all evidences of ownership of the Collateral, including any certificates of title and applications for title pertaining to Debtor's motor vehicles so that Secured Party may cause its security interest and lien to be noted on such certificates of title; and

(xi) as soon as practicable after the end of each fiscal year of Debtor, and in any event within one hundred twenty (120) days thereafter, reviewed financial statements of Debtor, including, a balance sheet, statements of cash flows and owners' equity for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and accompanied by a report of independent certified public accountants of recognized standing, selected by Debtor and satisfactory to Secured Party (with Secured Party's agreement as of the date hereof that PricewatrhouseCoopers and Ernst & Young are acceptable to Secured Party), which report and opinion shall be prepared in accordance with generally accepted auditing standards, together with a certificate by such accountants briefly setting forth the scope of their examination and stating that in their judgment such examination is sufficient to enable them to give the certificate.

(xi) pay promptly when due all taxes, assessments, charges or levies upon the Collateral or in respect to the income or profits therefrom, except that no such charge need be paid if (i) the validity thereof is being contested in good faith by appropriate proceedings; (ii) such proceedings do not involve any danger of sale, forfeiture or loss of any Collateral or any interest therein; and (iii) such charge is adequately reserved against in accordance with generally accepted accounting principles.

(b) To protect, perfect, or enforce, from time to time, Secured Party's rights or interests in the Collateral, Secured Party may, in its discretion (but without any obligation to do so), (i) discharge any liens or other encumbrances (other than Permitted Liens) at any time levied or placed on the Collateral (subject to the rights of the Senior Lender), (ii) pay any insurance to the extent Debtor has failed to timely pay the same, (iii) maintain guards where any Collateral is located if an Event of Default has occurred and is continuing and such Collateral is not guarded in accordance with industry standards and provided such guards shall not interfere with the operations of Debtor, and (iv) obtain any record from any service bureau and pay such service bureau the cost thereof. All costs and expenses incurred by Secured Party in exercising its discretion under this subparagraph (b) will be part of the Obligations, payable on Secured Party's demand and secured by the Collateral.

(c) Debtor shall remain liable under any contracts and agreements included in the Collateral to perform all of its duties and obligations thereunder to the same extent as if this Agreement had not been executed, and Secured Party shall not have any obligation or liability under such contracts and agreements by reason of this Agreement or otherwise.

6. Power of Attorney. Debtor hereby makes, constitutes and appoints Secured Party its true and lawful attorney-in-fact after the occurrence and during the continuation of any Event of Default to act with respect to the Collateral in any transaction, legal proceeding, or other matter in which Secured Party is acting pursuant to this Agreement. Debtor (a) specifically authorizes Secured Party, upon the occurrence and during the continuance of an Event of Default (following the lapse of any applicable cure period), to act as its true and lawful attorney–in—fact to execute and/or authenticate on its behalf and/or file financing statements reflecting its security interest in the Collateral and any other documents necessary or desirable to perfect or otherwise further the security interest granted herein; (b) specifically authorizes Secured Party, upon the occurrence and during the continuance of an Event of Default, to act as its true and lawful attorney-in-fact to execute and/or authenticate any third party agreements or assignments to grant Secured Party control over the Collateral, including third party agreements between the Debtor, Secured Party, and depository institutions, securities intermediaries, and issuers of letters of credit or other supporting obligations which third party agreements direct the third party to accept direction from Secured Party regarding the maintenance and disposition of the Collateral and the products and proceeds thereof, such power of attorney to be exercised after the occurrence of an Event of Default (following the lapse of any applicable cure period) or after Debtor's failure to so execute and/or authenticate after Secured Party's request therefor; and (c) specifically authorizes Secured Party, upon the occurrence and during the continuance of an Event of Default (following the lapse of any applicable cure period), to issue, without further consent of Debtor, all (i) instructions to any bank at which any deposit account of Debtor is maintained with respect to all existing or future funds held in such deposit account and (ii) exclusive entitlement orders to all securities intermediaries with respect to all existing or future investment property of Debtor held in any securities account maintained by such securities intermediary.

Debtor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

The powers conferred upon Secured Party hereunder are solely to protect its interests in the Collateral and shall not impose any duty upon Secured Party to exercise such powers and neither Secured Party nor any of its officers, directors, employees or agents shall be responsible to Debtor for any act or failure to act, except for Secured Party's own gross negligence or willful misconduct.

7. Remedies Upon Default. Upon the occurrence and during the continuance of any Event of Default (following the lapse of any applicable cure period), Secured Party shall have, and have the right to exercise, all rights, powers and remedies set forth in this Agreement and any other agreements, documents or instruments executed in connection herewith or the transactions evidenced hereby, and in any other written agreement or instrument relating to any of the Obligations or any security therefor, as a secured party under the Ohio UCC, or as otherwise provided at law or in equity. Without limiting the generality of the foregoing, Secured Party may, at its option, upon the occurrence and during the continuance of any Event of Default (following the lapse of any applicable cure period), declare all Obligations to be immediately due and payable, and all of Obligations then owing to Secured Party shall be automatically due and payable in full without demand, notice or further action of any kind required on the part of

Secured Party. In addition, upon the occurrence and during the continuance of any Event of Default (following the lapse of any applicable cure period), Secured Party shall have the following rights and remedies:

(a) Sale of Collateral. Subject to the rights of the Senior Lender, Secured Party may sell any or all of the Collateral at public or private sale, upon such terms and conditions as Secured Party may deem proper, and Secured Party may purchase any or all of the Collateral at any such sale. Notwithstanding the foregoing, before selling any Collateral the operation of which requires a Gaming License to any Person which does not have such license, Secured Party shall use commercially reasonable efforts to sell such Collateral to a Person which holds the applicable Gaming License. Debtor acknowledges that Secured Party may be unable to effect a public sale of all or any portion of the Collateral because of certain legal and/or practical restrictions and provisions which may be applicable to the Collateral and, therefore, may be compelled to resort to one or more private sales to a restricted group of offerees and purchasers. Secured Party may apply the net proceeds, after deducting all costs, expenses, including attorneys' and paralegals' fees, incurred or paid at any time in the collection, protection and sale of the Collateral and the Obligations, to the payment of the Obligations, returning the excess proceeds, if any, to Debtor. Debtor shall remain liable for any amount remaining unpaid after such application. Any notification of intended disposition of the Collateral required by law shall be conclusively deemed reasonably and properly given if given by Secured Party at least ten (10) calendar days before the date of such disposition. Debtor hereby confirms, approves and ratifies all acts and deeds of Secured Party relating to the foregoing, and each part thereof, and expressly waives any and all claims of any nature, kind or description which it has or may hereafter have against Secured Party or its representatives by reason of taking, selling or collecting any portion of the Collateral in accordance herewith. Debtor consents to releases of the Collateral at any time following the occurrence of any Event of Default (following the lapse of any applicable cure period), and to sales of the Collateral in groups, parcels or portions, or as an entirety, as Secured Party shall deem appropriate.

(b) UCC Rights. In addition to, and not in lieu of, any rights and remedies expressly granted in this Agreement, Secured Party also may exercise, from time to time, any and all rights and remedies available to it under the UCC or under any other applicable law.

8. Indemnification; Expenses.

(a) Indemnification. Debtor absolutely, irrevocably and unconditionally hereby agrees to and does hereby indemnify and hold harmless Secured Party against any and all claims, demands, suits, actions, causes of action, damages, losses, settlement payments, obligations, costs, expenses and all other liabilities whatsoever (collectively, "Indemnified Liabilities") which shall at any time or times be incurred or sustained by Secured Party or by any of its respective shareholders, directors, officers, employees, subsidiaries, affiliates or agents on account or in relation to, or in any way in connection with, any of the arrangements or transactions contemplated by, associated with, arising out of, or ancillary to this Agreement or the Collateral, whether or not all or any of the transactions contemplated by, associated with or ancillary to this Agreement are ultimately consummated; provided, however, that Debtor will not be obligated to indemnify an indemnified party in accordance with this Section 8(a) to the extent such Indemnified Liabilities resulted from a breach by such indemnified party of its express

obligations under this Agreement, the Purchase Agreement, any other agreement between or among Debtor and one or more of such indemnified parties as contemplated thereby or the gross negligence or willful misconduct of such indemnified party. The indemnification provided for in this Section 8(a) is in addition to, and not in limitation of, any other indemnification or insurance provided by Debtor to Secured Party.

(b) Expenses. Upon demand Debtor shall pay to Secured Party the amount of any and all reasonable and documented out-of-pocket expenses, including reasonable attorneys' fees, costs and expenses, which Secured Party may incur in connection with any and all of the following (i) the administration of this Agreement; (ii) the custody or preservation of, or the sale of, collection from or other realization upon any of the Collateral; (iii) the exercise or enforcement of any of the rights of Secured Party; or (iv) the failure by Debtor to perform or observe any of the provisions of this Agreement, all of which constitute part of the Obligations and are secured by the Collateral.

9. General Provisions.

(a) Successors and Assigns. All rights of Secured Party shall inure to the benefit of its successors, assigns and affiliates and all obligations of Debtor shall bind the successors and assigns of Debtor. Neither party may assign its rights hereunder without the prior written consent of the other (such consent not to be unreasonably withheld or delayed) and any attempted assignment without such consent shall be void ab initio and of no force or effect.

(b) Entire Agreement. This Agreement and the Purchase Agreement contain the entire agreement of the parties with respect to the subject matter of this Agreement, and supersede all previous understandings and agreements relating to the subject matter hereof, and no oral agreement whatsoever, whether made contemporaneously herewith or hereafter shall amend, modify or otherwise affect the terms of this Agreement.

(c) Governing Law. This Agreement and all rights and liabilities hereunder shall be governed and limited by and construed in accordance with the local laws of the State of Ohio (without regard to Ohio conflicts of law principles).

(d) Severability. It is the express intent of the parties hereto that if any provision of this Agreement is found invalid by a court of competent jurisdiction, the invalid term will be considered excluded from this Agreement and will not invalidate the remaining provisions of this Agreement.

(e) Authorizations, etc. Debtor hereby authorizes Secured Party to file a copy of this Agreement as a financing statement with government authorities necessary to perfect Secured Party's security interest in the Collateral. Debtor hereby irrevocably authorizes Secured Party at any time and from time to time to file in any filing office in any jurisdiction any initial financing statements and amendments thereto that (i) indicate the Collateral (A) as all assets of Debtor, whether now owned or hereafter acquired or arising, and all proceeds and products thereof, including, without limitation, Debtor's assets which are located at the Raceway Facilities at 665 North Broadway Street, Lebanon, Ohio, or at the New Property, and (B) as being of an equal or lesser scope or with greater detail, and (ii) provide any other information required by

Part 5 of Article 9 of the Ohio UCC for the sufficiency or filing office acceptance of any financing statement or amendment, including whether Debtor is an organization, the type of organization and any organizational identification number issued to Debtor. Debtor hereby irrevocably authorizes Secured Party at any time and from time to time to correct or complete, or to cause to be corrected or completed, any financing statements, continuation statements or other such documents as have been filed naming Debtor as debtor and Secured Party as secured party. Secured Party is hereby authorized to give notice to any creditor, landlord or any other Person as may be necessary or desirable under applicable laws to evidence, protect, perfect, or enforce the security interest granted to Secured Party in the Collateral.

(f) Extensions and Compromises. With respect to any Collateral held by Secured Party as security for the Obligations, Debtor assents to all extensions or postponements of the time of payment thereof or any other indulgence in connection therewith, to each substitution, exchange or release of Collateral, to the addition or release of any party primarily or secondarily liable, to the acceptance of partial payments thereon and to the settlement, compromise or adjustment thereof, all in such manner and at such time or times as Secured Party may deem advisable. Except to the extent required by applicable law, Secured Party shall have no duty as to the collection or protection of Collateral or any income therefrom, nor as to the preservation of rights against prior parties, nor as to the preservation of any right pertaining thereto, beyond the safe custody of Collateral in the possession of Secured Party.

(g) Schedules, Exhibits, etc. The definition of any document, instrument or agreement includes all schedules, attachments and exhibits thereto and all renewals, extensions, supplements, restatements and amendments thereof. All schedules, exhibits or other attachments to this Agreement are incorporated into, and are made and form an integral part of, this Agreement for all purposes. As used in this Agreement, “hereunder,” “herein,” “hereto,” “this Agreement” and words of similar import refer to this entire document; “including” is used by way of illustration and not by way of limitation, unless the context clearly indicates the contrary; the singular includes the plural and conversely; and any action required to be taken by Debtor is to be taken promptly, unless the context clearly indicates the contrary.

(h) Notices. All notices hereunder shall be made and delivered in accordance with the provisions of the Purchase Agreement.

(i) Prohibited or Unenforceable Provision. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Secured Party shall not be deemed to have waived any of its rights hereunder or under any other agreement, instrument or paper signed by Debtor unless such waiver is in writing and signed by Secured Party. No delay or omission on the part of Secured Party in exercising any right shall operate as a waiver of such right or any other right. All of Secured Party’s rights and remedies, whether evidenced hereby or by any other agreement, instrument or paper, shall be cumulative and may be exercised singularly or concurrently.

(j) Jurisdiction; Service of Process. Any proceeding arising out of or relating to this Agreement may be brought in the courts of the State of Ohio, County of Franklin or Montgomery, or, if it has or can acquire jurisdiction, in the United States District Court for the Southern District of Ohio, and each of the parties irrevocably submits to the exclusive jurisdiction of each such court in any such proceeding, waives any objection it may now or hereafter have to venue or to convenience of forum, agrees that all claims in respect of the proceeding shall be heard and determined only in any such court and agrees not to bring any proceeding arising out of or relating to this Agreement in any other court. The parties agree that either or both of them may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and bargained agreement between the parties irrevocably to waive any objections to venue or to convenience of forum. Process in any proceeding referred to in the first sentence of this Section 9(j) may be served on any party anywhere in the world. THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. THE PARTIES AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE TRIAL BY JURY AND THAT ANY PROCEEDING WHATSOEVER BETWEEN THEM RELATING TO THIS AGREEMENT OR ANY OF THE CONTEMPLATED TRANSACTIONS SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

(k) Termination. This Agreement will terminate upon the full performance, payment and satisfaction of all of the Obligations. Upon such termination, Secured Party shall, at Debtor’s expense, promptly execute and deliver to Debtor proper documentation to release the liens on and security interests in the Collateral or similar instrument of re-conveyance prepared by Secured Party, and Secured Party shall duly deliver to Debtor such Collateral as has been released and is in the possession of Secured Party.

(l) Cumulative Remedies. The remedies provided in this Agreement, are cumulative and not exclusive of any remedies provided by law. Exercise of one or more remedy(ies) by Secured Party does not require that all or any other remedy(ies) be exercised and does not preclude later exercise of the same remedy.

(m) Governing Document. In the event of any conflict between the provisions of this Agreement and the Note then the provisions of the Note shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

DEBTOR:

Miami Valley Gaming & Racing, LLC, a Delaware limited liability company

By: _____

Title: _____

SECURED PARTY:

Miami Valley Trotting, Inc., an Ohio corporation

By: _____

Title: _____

Lebanon Trotting Club, Inc., an Ohio corporation

By: _____

Title: _____

Exhibit A

Debtor's Organizational Identification

Number in the State of Delaware: 5080029

Debtor's Federal Tax Identification Number: 37-1657920

Debtor's Chief Executive Office and Mailing Address:

Miami Valley Gaming & Racing, LLC
40 Fountain Plaza
Buffalo, New York 14202
Attention: General Counsel
Fax no.: (716) 858-5056

and

700 Central Avenue
Louisville, KY 40208
Attention: General Counsel
Fax No.: (502) 636-4548

Debtor's Offices or Locations Where any Collateral is Located:

Raceway Facilities and/or New Facility

Trade Names, Assumed Names and Fictitious Names:

A. Currently in Use: None

B. Used During Last Five Years but not Currently in Use: N/A

Assets Acquired in Bulk Transfer: N/A

Exhibit 2.7(b)(iii)

NON-NEGOTIABLE PROMISSORY NOTE

$50,000,000.00

Columbus, Ohio
, 2012

FOR VALUE RECEIVED, MIAMI VALLEY GAMING & RACING, LLC, a Delaware limited liability company ("Maker"), promises to pay to ***LEBANON TROTTING CLUB, INC***., an Ohio corporation ("LTC"), and ***MIAMI VALLEY TROTTING, INC.***, an Ohio corporation ("MVT") (collectively "Payee"), the principal sum of FIFTY MILLION AND 00/100 DOLLARS ($50,000,000.00) (the "Initial Principal"), plus interest as provided herein and all other charges herein provided, payable in cash, at the rates and in the manner hereinafter set forth.

The Initial Principal of this Note shall be reduced by payments to Payee as herein provided. The outstanding and unpaid balance of the Initial Principal is referred to herein as the "Principal".

This Note has been executed and delivered pursuant to and in accordance with the terms and conditions of the Asset Purchase Agreement, dated March 1, 2012, by and among Maker, Payee and Seller's Representatives (the "Agreement") and is subject to the terms and conditions of the Agreement, which are, by this reference, incorporated herein and made a part hereof. Capitalized terms used in this Note without definition herein shall have the respective definitions thereof as set forth in the Agreement. This Note is secured by a lien as described and provided in an agreement (the "Security Agreement") executed on the date hereof.

For purposes hereof, "Obligation" shall mean each and every sum or amount that Maker is obligated to pay under this Note as Principal, Base Interest, Default Interest, and "Obligations" shall mean more than one Obligation.

1. PAYMENTS

1.1 PRINCIPAL AND INTEREST

Except as hereinafter provided, the Principal of this Note and Base Interest (hereinafter defined) thereon shall be due and payable in twenty four (24) equal consecutive quarterly payments of $2,083,333 of Principal and a sum payable along with such quarterly payment of Principal equal to the Base Interest on the then outstanding Principal (each such payment a "Periodic Payment") with the first Periodic Payment due and payable on the date that is ninety-one (91) days after the date on which the New Facility is opened to the general public ("Commencement Date"). Each subsequent Periodic Payment shall be due and payable on the date that is 3 months to the date after the preceding Periodic Payment until all Periodic Payments have been made in full. The unpaid and outstanding balance of the Principal shall bear interest ("Base Interest") at the fixed rate of 5% per annum, calculated on a 365-day per annum period, paid in arrears, which shall accrue from the Commencement Date, and shall be due and payable quarterly together with each Periodic Payment.

In addition, any payments of "Additional Rent" (as defined in the "Ground Lease", as hereinafter defined) made by the Maker to Warren General Property Co., LLC, an Ohio limited partnership, as landlord (the "Landlord") pursuant to Section 3 of that certain Ground Lease of even date herewith by and between the Maker, as tenant, and the Landlord (the "Ground Lease"), shall serve to reduce accrued and unpaid interest under the Note at such time as all principal and interest payments on the Note are brought current. Payee acknowledges that, upon payment by Maker of all amounts required to cure any then-existing payment defaults under the Note, the full amount of all Additional Rent paid under the Ground Lease will be applied to accrued and unpaid interest under the Note.

All sums received by Payee with respect to any Obligation of this Note shall be applied in the following order of priority: (a) Base Interest as unpaid and then due under this Note; (b) Default Interest (defined in Section 2 hereof) as unpaid and then due under this Note, and (c) outstanding and unpaid Principal then due under this Note. Each such payment shall be applied to each Periodic Payment in the order in which such Periodic Payment became due.

Payee agrees and acknowledges that this Note, and the payment of the Obligations evidenced hereby, will be subject to the terms of a subordination agreement (the "Subordination Agreement") to be executed by and between Payee and the Senior Lender (as defined in the Security Agreement), at the time that the Senior Obligations Documents (as defined in the Security Agreement) are entered into between Maker and the Senior Lender. Payee understands that the terms of the Subordination Agreement will need to be negotiated between the Senior Lender and Payee, but agrees and covenants that the following terms and conditions will be acceptable to Payee:

(a) payment of the Obligations will be subordinate to the payment of the Senior Obligations (as defined in the Security Agreement), and for purposes of clarity, the parties agree that this subsection (a) shall in no way constitute or be construed to be a waiver of Payee's ability to declare a Maker Payment Default;

(b) the security interests granted by Maker to the Payee pursuant to the Security Agreement or otherwise to secure the payment and performance of the Obligations will be subject to and subordinate in priority to the security interests and liens granted by Maker to the Senior Lender to secure the payment and performance of the Senior Obligations;

(c) so long as no default in the payment or performance of the Senior Obligations has occurred, regularly scheduled payments of principal and interest on the indebtedness evidenced by this Note will be permitted by the Senior Lender;

(d) upon a default in the payment or performance of any of the Senior Obligations,

(i) payment of the Obligations will be blocked and subject to a specified standstill period until the earlier of (A) the date on which such default in the Senior Obligations has been fully cured or the Senior Obligations have been paid in full, and (B) 360 days after the date on which Payee obtains a Judgment (as hereinafter defined) as described in subsection (e) below, and

(ii) except to the extent set forth in subsection (e), enforcement or remedial actions by the Payee to enforce payment of any of the Obligations or any of its rights or remedies under this Note or the Security Agreement will be blocked and subject to a specified standstill period until the earlier of (A) the date on which such default in the Senior Obligations has been fully cured or the Senior Obligations have been paid in full, and (B) 360 days after the date on which Payee obtains a Judgment; and

(e) upon the occurrence and during the continuation of a Maker Payment Default, Payee may obtain a judgment with respect to the Obligations (a "Judgment"), but collection, enforcement or remedial actions by the Payee to collect or enforce payment thereof or of any Obligation, or any of Payee's rights or remedies under this Note or the Security Agreement, will be blocked and subject to a specified standstill period until the earlier of (A) the date on which any default in the Senior Obligations has been fully cured or the Senior Obligations have been paid in full, and (B) 360 days after the date on which Payee obtains a Judgment.

Maker agrees that Payee's election to abide by, and not deviate from, the terms set forth above in Payee's negotiations with the Senior Lender regarding the terms of the Subordination Agreement shall not constitute a breach by Payee of any duty to act in good faith or in a commercially reasonable manner.

Payee also agrees and acknowledges that, at Maker's election at any time (such election, a "Guaranty Event"), Maker may elect to terminate the Security Agreement and all security interests granted to Payee pursuant thereto, to trigger the Purchase Obligation (as defined in the Ground Lease) under the Ground Lease, and to provide Payee with written Guaranties (as hereinafter defined) of this Note from the owners of each of the members of the Maker, which members are direct or indirect wholly-owned subsidiaries of Delaware North Companies Gaming & Entertainment, Inc. ("DNC") and of Churchill Downs Incorporated ("CDI") (each of DNC and CDI, collectively, the "Parent Companies", and each, a "Parent Company"). Provided that the Parent Companies directly or indirectly own, collectively, one hundred percent (100%) of the financial interests or rights in and of Maker, Maker and Payee agree that they shall, within thirty (30) days following the delivery of written notice by Maker to Payee that Maker is electing to trigger the Guaranty Event, take any and all actions deemed reasonably necessary or appropriate by the Maker and Payee to (a) terminate the Security Agreement and Payee's security interest thereunder, and all other rights and duties of the respective parties thereunder, and to file a UCC termination or release of any financing statement filed by Payee as secured party thereunder, and return any collateral then held by Payee in its possession as secured party to Maker, (b) close on the Purchase Obligation, and have Maker, as tenant, together with the lessor under the Ground Lease, proceed with the actions to be taken pursuant to the Purchase Obligation as set forth in the Ground Lease, and (c) confirm Payee's receipt of the written Guaranties of the Parent Companies. In connection with the foregoing, the Parent Companies will simultaneously provide Payee with unconditional pro rata guaranties of this Note, with each such Parent Company, as guarantor, guaranteeing the payment of a pro rata portion of the Obligations evidenced by this Note, based upon the direct and indirect percentage ownership interests of each such Parent Company in the financial interests or rights of Maker, and with the result that payment of all Obligations evidenced by this Note is severally but not jointly guaranteed by the Parent Companies. For purposes of the foregoing, "Guaranties" means the full and unconditional agreement to pay all Obligations of this Note in accordance with the terms and provisions of Sections 1.1 and 1.2 hereof.

1.2 MANNER OF PAYMENT

All sums paid by Maker to Payee with respect to the Obligations under this Note shall be made by wire transfer of immediately available funds to an account designated by Payee in writing. If any Periodic Payment is due on a day that is not a Business Day, such payment shall be due on the next succeeding Business Day, and such extension of time shall be taken into account in calculating the amount of interest payable under this Note. “Business Day” means any day other than a Saturday, Sunday or legal holiday in the State of Ohio.

1.3 PREPAYMENT

Maker may, without premium or penalty, at any time and from time to time, prepay all or any portion of the outstanding and unpaid balance of the Principal of this Note. Any partial prepayments shall be applied to installments of principal in the inverse order of their maturity.

1.4 CHANGE IN CONTROL

Unless Payee shall have consented thereto in writing, immediately upon the occurrence of a Change in Control (hereinafter defined) of Maker, the entire outstanding and unpaid balance of the Principal of this Note, together with all accrued and unpaid Base Interest and Default Interest thereon shall be immediately due and payable without demand by Payee. “Change in Control” means (a) the holders of a majority of the voting rights of Maker as of the date of execution of the Agreement and/or their respective Affiliates (“Control Persons”) cease to hold a majority of the voting rights of Maker as the result of one or more than one sale, transfer, relinquishment, delegation (by proxy, power of attorney or otherwise); (b) the sale, transfer or exchange of all or substantially all of the assets of Maker and its subsidiaries, in each case other than to an Affiliate of Maker; or (c) the sale, transfer or assignment by Maker of (i) any horse racing permit issued or regulated by any department, agency or commission of the state of Ohio and utilized in connection with harness racing at the Raceway Facilities or the New Facility or (ii) any license or permit that is needed by Maker to operate video lottery terminals as a video lottery terminal licensee at the Raceway Facilities or the New Facility under Chapter 3770 of the Ohio Revised Code, in each case other than to an Affiliate of Maker. Notwithstanding anything in this Note to the contrary, any partial or total transfer of voting rights, assets or racing or gaming permits between Members of Maker existing as of the date on which this Note is issued shall not be considered a “Change of Control.”

1.5 RIGHT OF SET OFF

Maker shall have the right to withhold and set off against any amount due hereunder the amount of any claim for indemnification or payment of damages to which Maker may be entitled under the Agreement, as provided in Section 11.1(b) thereof. Any amount of setoff by Maker to which it is entitled under the Agreement shall be deemed to be, in the amount thereof, a payment of Maker’s Obligations hereunder and shall not be deemed to be a prepayment under Section 1.3 hereof by Maker.

2. DEFAULT INTEREST

If an Event of Default (defined in Section 3 below) arises or occurs and is not corrected, eliminated or cured within 30 days after it arises or occurs, in addition to the Base Interest provided herein there shall be additional interest ("Default Interest") on the outstanding and unpaid balance of Principal as of the date the Event of Default arose or occurred in the amount of three percent (3%) per annum. Default Interest shall be charged and shall apply from the date that the Event of Default arose or occurred and shall continue until the outstanding and unpaid Principal then due and owing is paid in full.

3. DEFAULT

3.1 Each of the following events shall be deemed an "Event of Default" hereunder:

(a) failure by Maker to pay or cause to be paid any Obligation in full as the same shall become due and payable, or within ten (10) days thereafter (a "Maker Payment Default"); or

(b) failure to observe or perform any material covenant, agreement or provision contained in the Agreement beyond any applicable grace or cure period; or

(c) a default, if it continues beyond a grace or cure period, by Maker in paying or performing any obligation imposed upon Maker with respect to any indebtedness of Maker in excess of $500,000.00 ("Material Indebtedness"), regardless if such Material Indebtedness is owed to any lender, vendor, supplier or licensor (including the state of Ohio or any of its agencies, commissions, or departments); or

(d) if Maker shall become involved in financial difficulties, as evidenced by any of the following events: (i) generally not paying debts as they become due; (ii) making an assignment for the benefit of creditors or the commencement of any similar debt relief proceeding, whether judicial or otherwise; (ii) consenting to or applying for appointment of a trustee, interim trustee, custodian, or receiver for all or any material portion of any of its property; (iv) voluntary commencement by Maker of any action or proceeding under any other federal or state bankruptcy, insolvency, composition, debtor relief, reorganization, or other similar law, and failure to obtain dismissal or stay of the proceeding within sixty (60) days of its commencement; (v) involuntary commencement of such a proceeding against Maker and entry of either an order of insolvency, composition, debtor relief, reorganization or other similar order, and failure to obtain dismissal or stay of the proceeding within sixty (60) days of its commencement; or (vi) dissolution or suspension of the corporate charter (except any administrative dissolution or suspension that is subsequently cured), insolvency, or failure or suspension of the usual business of Maker; or

(e) the entry of any judgment or lien against Maker in favor of any third person in excess of $50,000,000.00 which judgment or lien is not satisfied, discharged or bonded off within sixty (60) days from the date of entry of said judgment or lien and which is not otherwise stayed or the subject of an appeal filed by Maker in connection with same.

Upon the occurrence of any Event of Default, all Obligations of and under this Note, as are then outstanding and unpaid, shall immediately become due and payable, without demand made therefor, and without notice to any person, and Payee shall have all remedies, including as a secured party, under law and equity to enforce its rights under this Note. In addition, any waiver by Payee's of any of its rights hereunder, including the imposition of Default Interest and the right to accelerate Maker's payment of Obligations by declaring the Obligations of this Note immediately due and payable, must be made in writing and cannot be waived by oral representation or the submission to the Maker of a billing statement.

4. SECURITY

The Obligations of the Maker under this Note are secured pursuant to the Security Agreement.

5. NON-NEGOTIABILITY

This Note is non-negotiable. Neither Payee nor Maker may assign its rights or obligations under this Note without the prior written consent of the other, and any attempted assignment without such consent shall be void *ab initio.* The foregoing notwithstanding, the parties acknowledge and agree that, other than the issue of negotiability, the provisions of this Note will be interpreted in accordance with Ohio Revised Code Chapter 1303, including, but not limited to, the official comments and case law interpreting the provisions of said Chapter. The rights of a holder or transferee of this Note are subject to claims or defenses that Maker could assert against Payee. Any claims which Payee has against Maker under this Note may be asserted by any such holder or transferee.

6. TIME IS OF THE ESSENCE

Time is of the essence in performing and carrying out all of the provisions in this Note.

7. MISCELLANEOUS

7.1 The failure of Payee to exercise any right herein provided upon the occurrence of any Event of Default shall not constitute a waiver of such right in the event of any continuing or subsequent Event of Default.

7.2 To the extent permitted by applicable law, Maker hereby waives all relief from any and all appraisement or exemption laws now in force or hereafter enacted.

7.3 Payment of the Obligations and rights of Payee evidenced or created by this Note shall be the obligations of and binding on any and all others who may at any time, as a successor, purchaser, transferee, assignee, or otherwise, become liable for the payment of any or all Obligations of this Note.

7.4 Nothing herein contained or in the Agreement shall be construed or so operate as to require Maker, or any person liable for the payment of any Obligation of this Note, to pay interest in an amount or at a rate greater than the highest rate permissible under applicable law. Should any interest or other charges paid by Maker, or any parties liable for the payment of any Obligation of this Note, result in the computation or earning of interest in excess of the highest rate permissible under applicable law, then any and all such excess shall be and the same is hereby waived by Payee, and all such excess shall be automatically credited against and in reduction of the outstanding and unpaid balance of Principal.

Notwithstanding anything to the contrary herein contained, in the event that the interest rate to be charged hereunder ever exceeds the highest rate permissible under applicable law, thereby causing the interest accruing on this Note to be limited to such rate, then any subsequent reduction in the interest rate to which Maker would otherwise be entitled shall be held in abeyance until the total amount of interest accrued on this Note equals the amount of interest which would have accrued on the Note had the interest rate not been limited to the highest rate permissible under applicable law.

7.5 If any provision or any part of any provision contained in this Note shall for any reason be held or deemed to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or remaining part of the affected provision of this Note, and this Note shall be construed as if such invalid, illegal or unenforceable provision or part thereof had never been contained herein and the remaining provisions of this Note shall remain in full force and effect.

7.6 Demand, presentment for payment, notice of dishonor or default, protest, notice of protest and diligence in bringing suit against any party having any liability for payment of the Obligations under this Note are hereby waived by Maker.

7.7 If any legal action, arbitration or other legal proceeding is brought under this Note , in addition to any other relief to which the successful or prevailing party(ies) (the “Prevailing Party”) is entitled, the Prevailing Party shall be entitled to recover (i) all reasonable costs and expenses incurred by the Prevailing Party in such action, arbitration or proceeding and all related appellate proceedings, including, without limitations, reasonable attorneys’ fees, appraisers’ fees, court costs, notice charges and title insurance charges, and said costs and expenses may be included in any judgment or decree rendered by the presiding authority in each such case.

7.8 Any notice required or permitted to be given hereunder shall be in writing. If mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, then such notice shall be effective upon its deposit in the mails. Notice given in any other manner shall be effective only if and when received by the addressee. For

purposes of notice, the addresses of the Maker and Payee shall be as set forth below; provided however, that either party shall have the right to change such party's address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days' written notice to the other party.

If to Payee: Miami Valley Trotting, Inc.
665 North Broadway Street
Lebanon, Ohio 45036
Attn.: Keith Nixon, Jr.

and

Lebanon Trotting Club, Inc.
665 North Broadway Street
Lebanon, Ohio 45036
Attn.: John Carlo

With a mandatory copy to:

Carlile Patchen & Murphy LLP
366 E. Broad Street
Columbus, Ohio 43215
Attn.: Michael A. Smith, Esq.

If to Maker: Miami Valley Gaming & Racing, LLC
40 Fountain Plaza
Buffalo, New York 14202
Attn: General Counsel

With a mandatory copy to:

Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
Columbus, Ohio 43215
Attn.: Michael A. Cline, Esq.

7.9 Maker and Payee agree that this Note creates indebtedness of Maker and shall not be construed as, and Maker and Payee waive any right to contend that this Note represents at any time, including upon or after an Event of Default, an equity interest of Payee of or in Maker.

7.10 This Note was executed and delivered by Maker in Warren County, Ohio and is to be governed by and construed in accordance with the laws of the State of Ohio, without regard to principles of conflict of laws. Maker hereby consents to, and by execution of this Note submits to, the personal jurisdiction of the Court of Common Pleas of Warren County, Ohio and the United States District Court sitting in Columbus, Ohio, for the purposes of any judicial proceedings which are instituted for the enforcement of this Note. Maker agrees that venue is proper in either of said courts.

7.11 ***PAYEE, BY ACCEPTANCE OF THIS NOTE, AND MAKER HEREBY VOLUNTARILY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, ARISING OUT OF, IN CONNECTION WITH, RELATED TO, OR INCIDENTAL TO THIS NOTE AND ANY SECURITY AGREEMENT RELATED TO THIS NOTE OR THE RELATIONSHIPS ESTABLISHED HEREBY OR THEREBY. THIS PROVISION IS A MATERIAL INDUCEMENT TO PAYEE AND-MAKER TO ENTER INTO THE TRANSACTION TO WHICH THIS NOTE RELATES. IT SHALL NOT IN ANY WAY AFFECT, WAIVE, LIMIT, AMEND OR MODIFY PAYEE'S ABILITY TO PURSUE ITS REMEDIES UPON AN EVENT OF DEFAULT HEREUNDER.***

IN WITNESS WHEREOF, Maker has executed this Note as of the date set forth above.

Maker:

MIAMI VALLEY GAMING & RACING, LLC

By: _____

Name: _____

Title: _____

Federal Tax Identification Number: 37-1657920

Exhibit 99.1

Contact: Glen White
(716) 858-5753 (office)
(716) 573-5257 (mobile)
gawhite@dncinc.com

Contact: John Asher
(502) 636-4586 (office)
(502) 494-3626 (mobile)
JohnA@kyderby.com

Delaware North Companies Gaming & Entertainment Announces Joint Venture with Churchill Downs Incorporated to Develop Video Lottery Terminal Facility and Racetrack in Ohio

Purchase of Lebanon Raceway Paves Way for New Venue that will Create 700 Jobs

BUFFALO, NY and LOUISVILLE, KY (March 1, 2012) – Delaware North Companies Gaming & Entertainment, one of the most innovative gaming and racing operators in the country, and Churchill Downs Incorporated ("CDI"), a premier racing, gaming and entertainment company, today announced their joint venture to purchase Lebanon Raceway in Lebanon, Ohio, and develop a new video lottery terminal (VLT) facility with up to 2,500 VLTs and a harness racetrack.

Through a joint venture agreement, Delaware North Companies Gaming & Entertainment and CDI have formed a new company, Miami Valley Gaming & Racing, LLC ("Miami Valley Gaming"), to manage the development and operation of the VLT facility and racetrack. Miami Valley Gaming has entered into an asset purchase agreement through which it intends to acquire the harness racing licenses and certain assets held by Lebanon Trotting Club Inc. (controlled by the Carlo family) and Miami Valley Trotting Inc. (controlled by the Nixon family). These two entities currently conduct harness racing at Lebanon Raceway at the Warren County Fairgrounds. Miami Valley Gaming intends to acquire these assets for an aggregate purchase price of $60 million—$10 million paid in cash with a $50 million promissory note delivered at closing. An additional $10 million could be paid to the sellers if certain conditions are met with respect to the performance of the VLT facility over time.

"We are proud to add Lebanon Raceway to our growing portfolio of U.S. racing and gaming operations," said William Bissett, President of Delaware North Companies Gaming & Entertainment. "We are confident that this facility will create hundreds of jobs and result in millions of dollars in economic impact."

Bill Carstanjen, President and Chief Operating Officer of CDI added, "We are excited to partner with Delaware North Companies Gaming & Entertainment to build a modern gaming and racing venue in an attractive location. This opportunity fits well with our strategy to grow the company through both acquisition and development of new gaming facilities."

The sale is contingent upon the approval of the partnership's application to the Ohio Lottery Commission and the Ohio State Racing Commission as well as other customary closing conditions. Subject to the satisfaction of the closing conditions, including the resolution of any

gaming-based litigation, Delaware North Companies Gaming & Entertainment and CDI hope to begin construction of the new facility this year, with completion scheduled for the fall of 2013. Lebanon Raceway has been awarded 52 race dates in 2012 and will offer live racing during two meets—Jan. 6 through June 9 and Sept. 21 through Dec. 8. Prior to the closing of the asset purchase agreement, the existing licensees will continue to conduct harness racing at the current Lebanon Raceway location. Once the acquisition has closed, Miami Valley Gaming will continue to host races at this location until construction of the new facility is completed.

C. Keith Nixon, Jr., Vice President of Miami Valley Trotting, said, “After all these years of having the track in our families, we wanted to be certain the new owners would have the resources and the experience to operate a successful facility. We’re confident that we are placing our families’ legacy in good hands with both a global hospitality company, Delaware North Companies, and the legendary Churchill Downs Racetrack.”

The Nixon and Carlo families, owners of Lebanon Raceway since 1951, will continue to be involved with the new racing and gaming facility. Both families have agreed to remain consultants to Delaware North Companies Gaming & Entertainment and CDI.

“This track is a huge part of our life, so we wanted the new owners to be someone with the vision and the resources to ensure the raceway remains an economic and entertainment asset for Warren County and the entire region,” said John Carlo, President of Lebanon Trotting Club. “Delaware North Companies Gaming & Entertainment and Churchill Downs Incorporated are committed to keeping the track in Southwest Ohio and provide the best opportunity to design and operate a successful track and gaming facility.”

Bissett said a new location is necessary to provide more room for the construction of a video lottery gaming facility and will provide easier access to Interstate 75. “As with any complex economic development project, there are many factors that could impact the final location of the new track and video lottery facility, and we are currently looking at a number of great possible sites. We will continue to work with local leadership, the State of Ohio and Ohio General Assembly leaders on this development that will create 700 jobs and bring in $24 million a year to the area,” Bissett said.

Delaware North Companies Gaming & Entertainment and CDI will each own a 50 percent interest in the new venture and will have equal representation on its Board of Managers. Collectively, Delaware North Companies Gaming & Entertainment and CDI plan to contribute up to $90 million in equity with the rest of the development funded with debt.

Miami Valley Gaming will apply for a 10-year VLT license. In addition to the $50 million license fee, the joint venture will invest $175 million in the new facility, including the cost of VLTs. Total project cost is estimated to be $225 million. Miami Valley Gaming has teamed with other horse tracks in Ohio for discussions with horse racing associations to establish purse levels to ensure continued racing in Ohio.

About Delaware North Companies Gaming & Entertainment

Delaware North Companies Gaming & Entertainment is one of the most innovative gaming and racing operators in the country, owning and/or operating several successful regional destination casinos and specializing in racing venues with added amenities such as table games, video gaming machines, poker rooms, full-service restaurants, retail shops and lodging. The company operates gaming and hospitality services at locations in New York, Illinois, Florida, West Virginia, Arkansas, and Oklahoma.

Delaware North Companies Gaming & Entertainment is a subsidiary of Delaware North Companies, a $2.5 billion hospitality management company that operates food service, lodging, gaming and retail services at locations in the United States and several other countries.

About Delaware North Companies

Delaware North Companies is one of the world's leading hospitality and food service companies. Its family of companies includes Delaware North Companies Parks & Resorts, Delaware North Companies Gaming & Entertainment, Delaware North Companies Travel Hospitality Services, Delaware North Companies Sportservice, Delaware North Companies International and Delaware North Companies Boston, owner of TD Garden. Delaware North Companies is one of the largest and most admired privately held companies in the world with revenues exceeding $2.5 billion annually and 55,000 associates serving half a billion customers in the United States, Canada, the United Kingdom, Australia and New Zealand. For more information, visit www.DelawareNorth.com.

Delaware North Companies has operated in Ohio for more than 50 years, employing more than 3,200 Ohioans in 2011 and serving in excess of 10 million guests annually at venues across the state. Ohio is one of the company's top three states in terms of the number of locations, revenue and taxes paid. Delaware North operates all food and retail services at the Great American Ball Park in Cincinnati and Nationwide Arena in Columbus, as well as food concessions at Progressive Field and Cleveland Browns Stadium. Delaware North also manages the Lodge at Geneva-on-the-Lake in the heart of Ohio's wine country along Lake Erie.

About Churchill Downs Incorporated

Churchill Downs Incorporated ("CDI") (NASDAQ: CHDN), headquartered in Louisville, Ky., owns and operates the world-renowned Churchill Downs Racetrack, home of the Kentucky Derby and Kentucky Oaks, as well as racetrack and casino operations and a poker room in Miami Gardens, Fla.; racetrack, casino and video poker operations in New Orleans, La.; racetrack operations in Arlington Heights, Ill.; and a casino resort in Greenville, Miss. CDI also owns the country's premier account-wagering company, TwinSpires.com, and other advance-deposit wagering providers; the totalizator company, United Tote; Bluff Media, an Atlanta-based multimedia poker content, brand and publishing company; and a collection of racing-related telecommunications and data companies. Information about CDI can be found online at www.churchilldownsincorporated.com.

Safe Harbor Disclosure for Churchill Downs Incorporated:

Information set forth in this news release contains various "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. The Private Securities Litigation Reform Act of 1995 (the "Act") provides certain "safe harbor" provisions for forward-looking statements. All forward-looking statements made in this Quarterly Report on Form 10-Q are made pursuant to the Act. The reader is cautioned that such forward-looking statements are based on information available at the time and/or management's good faith belief with respect to future events, and are subject to risks and uncertainties that could cause actual performance or results to differ materially from those expressed in the statements. Forward-looking statements speak only as of the date the statement was made. We assume no obligation to update forward-looking information to reflect actual results, changes in assumptions or changes in other factors affecting forward-looking information. Forward-looking statements are typically identified by the use of terms such as "anticipate," "believe," "could," "estimate," "expect," "intend," "may," "might," "plan," "predict," "project," "hope," "should," "will," and similar words, although some forward-looking statements are expressed differently. Although we believe that the expectations reflected in such forward-looking statements are reasonable, we can give no assurance that such expectations will prove to be correct. Important factors that could cause actual results to differ materially from expectations include: the effect of global economic conditions, including any disruptions in the credit markets; a decrease in consumers' discretionary income; the effect (including possible increases in the cost of doing business) resulting from future war and terrorist activities or political uncertainties; the overall economic environment; the impact of increasing insurance costs; the impact of interest rate fluctuations; the effect of any change in our accounting policies or practices; the financial performance of our racing operations; the impact of gaming competition (including lotteries, online gaming and riverboat, cruise ship and land-based casinos) and other sports and entertainment options in the markets in which we operate; our ability to maintain racing and gaming licenses to conduct our businesses; the impact of live racing day competition with other Florida, Illinois and Louisiana racetracks within those respective markets; the impact of higher purses and other

incentives in states that compete with our racetracks; costs associated with our efforts in support of alternative gaming initiatives; costs associated with customer relationship management initiatives; a substantial change in law or regulations affecting pari-mutuel and gaming activities; a substantial change in allocation of live racing days; changes in Kentucky, Florida, Illinois or Louisiana law or regulations that impact revenues or costs of racing operations in those states; the presence of wagering and gaming operations at other states' racetracks and casinos near our operations; our continued ability to effectively compete for the country's horses and trainers necessary to achieve full field horse races; our continued ability to grow our share of the interstate simulcast market and obtain the consents of horsemen's groups to interstate simulcasting; our ability to enter into agreements with other industry constituents for the purchase and sale of racing content for wagering purposes; our ability to execute our acquisition strategy and to complete or successfully operate planned expansion projects; our ability to successfully complete any divestiture transaction; market reaction to our expansion projects; the inability of our totalisator company, United Tote, to maintain its processes accurately or keep its technology current; our accountability for environmental contamination; the ability of our online business to prevent security breaches within its online technologies; the loss of key personnel; the impact of natural and other disasters on our operations and our ability to obtain insurance recoveries in respect of such losses (including losses related to business interruption); our ability to integrate any businesses we acquire into our existing operations, including our ability to maintain revenues at historic levels and achieve anticipated cost savings; the impact of wagering laws, including changes in laws or enforcement of those laws by regulatory agencies; the outcome of pending or threatened litigation; changes in our relationships with horsemen's groups and their memberships; our ability to reach agreement with horsemen's groups on future purse and other agreements (including, without limiting, agreements on sharing of revenues from gaming and advance deposit wagering); the effect of claims of third parties to intellectual property rights; and the volatility of our stock price.

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