DRAFT ONLY – SUBJECT TO REVISIONS
The Plan Proponents, in consultation with the MGCB, continue to refine the ownership and management structures of the Reorganized Debtors and accordingly, such ownership and management structures and these documents are subject to change.

AMENDED AND RESTATED

LIMITED LIABILITY COMPANY AGREEMENT

OF

New Greektown Holdco LLC

A Delaware Limited Liability Company

Dated as of **[●]**, 2009

GLOSSARY OF TERMS (by Section)

GLOSSARY OF TERMS (by Section)
(Continued)

Term	Section Reference
~~"Holder Minimum Gain"~~	~~Section 1.1~~
"Indebtedness"	Section 1.1
~~"Issuance Notice"~~	~~Section 3.8(a)~~
"Issuance Closing"	Section 3.8(b)
"~~Losses~~**Issuance Notice**"	Section ~~1.1~~**3.8(a)**
"Major Decisions"	Section 4.1(l)
"Manager"	**Section 4.1(a)**
"Member"	Section 1.1
"Membership Interest"	Section 1.1
~~"Manager"~~	~~Section 4.1(a)~~
"Notice"	Section 9.3(a)
"Officer"	Section 1.1
"Operating ~~Distribution~~**Distributions"**	**Section 1.1**
"Original LLC Agreement"	**Section 1.1**
"Original Members"	Section 1.1
"Permitted Transferee"	Section 1.1
"Permitted Withdrawal"	Section 3.5
"Person"	Section 1.1
"Plan"	Preamble
~~"Pro Rata Share"~~	~~Section 1.1~~
"Proceeding"	Section 5.4
"Profits or Losses"	Section 1.1
"Pro Rata Share"	**Section 1.1**
"Public Offering"	Section 1.1
"Quarterly Estimated Tax Amount"	Section 7.3(c)
"Regulatory Allocations"	Section 8.2(c)
~~"Sale Authorization Date~~	~~Section 10.12~~
"Safe Harbor Election"	Section 9.3(a)
"Sale of the Company"	Section 1.1
~~"Sale Notice"~~	~~Section 10.2~~
"Sale Proceeds Amount"	Section ~~10.5~~**10.4**(b)
"SEC"	Section 1.1
"Securities Act"	**Section 1.1**
"Significant Event"	Section 1.1
"Significant Event Distributions"	Section 1.1
~~"Securities Act"~~	~~Section 1.1~~
~~"Selling Member"~~	~~Section 10.2~~
"Subsidiary"	Section 1.1
"Successor in Interest"	Section 1.1
"Tax Amount"	Section 7.3(b)
"Tax Matters Partner"	Section 9.2
"Taxable Year"	Section 1.1
"Termination"	Section 4.1(f)
"Total Equity Value"	**Section 1.1**
"Total Initial Capital Contributions"	Section 1.1
~~"Total Equity Value"~~	~~Section 1.1~~
"Transfer"	Section 1.1

GLOSSARY OF TERMS (by Section)
(Continued)

Term	Section Reference
"Treasury Regulations"	Section 1.1
"Unit"	Section 1.1
"Unit Equivalents"	Section 1.1
"Unreturned Capital"	Section 1.1
"Unreturned Equity Event Adjustment Amount"	Section 1.1

AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT
OF
NEW GREEKTOWN HOLDCO LLC
A Delaware Limited Liability Company

THIS **AMENDED AND RESTATED** LIMITED LIABILITY COMPANY AGREEMENT of New Greektown Holdco LLC dated and effective as of [●], 2009, is adopted, executed and entered into by and among [●]**, the Original Members of the Company,** the other parties hereto and each other Person who becomes a Member in accordance with the terms of this Agreement **and amends, restates and supersedes in its entirety the Limited Liability Company Agreement of the Company dated as of October 13, 2009 (the "Original LLC Agreement")**.

WHEREAS, as of [●], 2009 (the "Formation Date"), the Company was formed under the name "New Greektown Holdco LLC" pursuant to the Delaware Limited Liability Company Act, 6 Del. C. §18-101 et seq. (as from time to time amended and including any successor statute of similar import, the "Act") and the Certificate was filed with the Secretary of State of the State of Delaware;

WHEREAS, this Agreement is entered into as of the Effective Date of the Second Amended Joint Plan of Reorganization of Greektown Holdings L.L.C., Kewadin Greektown Casino, L.L.C., Greektown Holdings II, Inc., Contract Builders Corporation, Realty Equity Company Inc. and Trappers GC Partner, LLC pursuant to Title 11 of the United States Code, 11 U.S.C. Section 101 et seq. (as modified and confirmed by the Bankruptcy Court, the "Plan");

WHEREAS, as of the Effective Date, the Company shall have its Class A Units registered under Section 12(g) of the Securities and Exchange Act of 1934 (the "Exchange Act"); and

WHEREAS, **as of the Effective Date,** the Company ~~has~~**shall have** issued its Class A Units and Class B Units to the persons and entities listed on Schedule A hereto and in accordance with the terms of the Plan**, and the Membership Interests issued pursuant to the Original LLC Agreement shall be cancelled**.

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

ARTICLE I
DEFINITIONS

Section 1.1 Definitions. As used in this Agreement, the following terms have the following meanings:

"Adjusted Capital Account" means, with respect to any Member, the balance in such Member's Capital Account as of the end of the relevant Taxable Year, after giving effect to the following adjustments: (a) credit to such Capital Account any amounts that such Member is obligated to restore pursuant to any provision of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Treasury Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and (b) debit to such Capital Account the items described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6). The above definition of Adjusted Capital Account is intended to comply with the provisions of Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"Affiliate" of any particular Person (a) that is not a natural person, means (i) any other Person controlling, controlled by or under common control with such particular Person, where "control" means the possession, directly or indirectly, of the power to direct the management and policies of a Person whether through the ownership of voting securities, by contract or otherwise and (ii) if such Person is a partnership, any partner thereof and (b) that is a natural person, means (i) the natural person, (ii) the natural person's spouse), (iii) any other natural person who is related to the natural person or the natural person's spouse~~,~~ and (iv) any other natural person who resides with such natural person.

"Agreement" means this **Amended and Restated** Limited Liability Company Agreement, as executed and as amended, modified, supplemented or restated from time to time, as the context requires.

"Bankruptcy" means, with respect to any Person, the occurrence of any of the following events: (i) the filing of an application by such Person for, or a consent to, the appointment of a trustee or custodian of such Person's assets; (ii) the filing by such Person of a voluntary petition in Bankruptcy or the seeking of relief under Title 11 of the United States Code, as now constituted or hereafter amended, or the filing of a pleading in any court of record admitting in writing such Person's inability to pay its debts as they become due; (iii) the failure of such Person to pay its debts as such debts become due; (iv) the making by such Person of a general assignment for the benefit of creditors; (v) the filing by such Person of an answer admitting the material allegations of, or such Person's consenting to, or defaulting in answering, a bankruptcy petition filed against such Person in any bankruptcy proceeding or petition seeking relief under Title 11 of the United States Code, as now constituted or as hereafter amended; or (vi) the entry of an order, judgment or decree by any court of competent jurisdiction adjudicating such Person a bankrupt or insolvent or for relief in respect of such Person or appointing a trustee or custodian of such Person's assets and the continuance of such order, judgment or decree unstayed and in effect for a period of sixty (60) consecutive calendar days.

"Board Service Agreement" means the board service agreement, as amended from time to time, entered into ~~as of [●], 2009 and effective~~ as of the Effective Date, between the Company and each of the Managers.

"Book Value" means, with respect to any Company property, the Company's adjusted basis for federal income tax purposes, adjusted from time to time to reflect the adjustments required or permitted by Treasury Regulation Section 1.704-1(b)(2)(iv)(d) through (g) (provided that, in the case of permitted adjustments, the Company chooses to make such adjustments); provided that, the Book Value of any non-cash asset contributed to the Company shall be equal to the Fair Market Value of the contributed asset on the date of contribution.

"Capital Contribution" means, with respect to any Holder, the amount of cash contributions and the initial Book Value of non-cash contributions made (or deemed made) by or on behalf of such Holder to the Company pursuant to ARTICLE III as of the date in question, **including, without limitation, cancellation of debt in exchange for Membership Interests pursuant to the Plan,** as shown opposite such Holder's name on Schedule A, as the same may be amended from time to time, and in respect of any Unit, the total consideration contributed (or deemed contributed) by the applicable Holder pursuant to ARTICLE III in respect of such Unit; in each case net of any liabilities assumed by the Company from such Holder in connection with such contribution and net of any liabilities to which assets contributed by such Holder in respect thereof are subject.

"Casino" shall mean the casino located in Detroit, Michigan indirectly owned by the Company.

"Cause" shall mean (a) the commission of a felony or a crime involving moral turpitude or the commission of any other act or omission involving dishonesty or fraud with respect to the Company or

any of its Subsidiaries or any of their customers or suppliers or with respect to its Members, (b) conduct tending to bring the Members, the Company or any of its Subsidiaries into public disgrace or disrepute, (c) breach of fiduciary duty or engaging in gross negligence or willful misconduct with respect to the Company or any of its Subsidiaries, (d) any act or omission aiding or abetting a competitor, supplier or customer of the Company or any of its Subsidiaries to the disadvantage or detriment of the Company and its Subsidiaries, (e) any material breach of this Agreement which breach is not cured (if curable) to the Board's satisfaction within five (5) days after notice thereof from the Board or (f) any material violation of the Gaming Laws.

"Certificate" means the Certificate of Formation of the Company as filed with the Secretary of State of the State of Delaware.

"Class A Holder" means a Holder holding one or more Class A Units.

"Class A Majority" means Members holding at least 50.1% of the aggregate amount of all Class A Units held by Members.

"Class A Member" means a Member holding one or more Class A Units.

"Class A Unit" means a Unit representing a fractional part of the ownership of the Company and having the rights, preferences and obligations specified with respect to Class A Units in this Agreement.

"Class B Distribution Amount" means, in respect of any Class B Holder, the product of (a) the lesser of the amount of the Significant Event Distribution remaining to be distributed pursuant to Section 7.2(b)(iii) and the Class B Profits Amount and (b) a percentage expressed as a fraction, the numerator of which is the aggregate number of Class B Units held by such Class B Holder and the denominator of which is the aggregate number of Class B Units authorized to be issued at such time by the Board, and which may be modified by the Board as permitted herein.

"Class B Holder" means a Holder holding one or more Class B Units.

"Class B Member" means a Member holding one or more Class B Units.

"Class B Profits Amount" shall be equal to [●] of the Total Initial Capital Contributions; provided that the Class B Profits Amount shall be zero at all times there are no Class B Units issued or outstanding.

"Class B Unit" means a Unit representing a fractional part of the ownership of the Company and having the rights, preferences and obligations specified with respect to Class B Units in this Agreement.

"Code" means the Internal Revenue Code of 1986 and any successor statute, as amended from time to time, in effect as of the date hereof. The Board may, in its sole discretion, treat any amendment to the Code as having been in effect as of the date hereof, provided that, in the case of any such amendment and corresponding provisions ~~which~~**that** are discretionary, such amendment does not result in a material adverse effect in the rights or obligations of any Member under this Agreement.

"Company" means the Delaware limited liability company formed pursuant to the Certificate and this Agreement, as such limited liability company may be constituted from time to time, and including its successors.

"Distribution" means a distribution made by the Company to a Holder, whether in cash, property or securities and whether by liquidating distribution or otherwise; provided that, none of the following

shall be a Distribution: (a) any redemption or repurchase by the Company of any Units, (b) any recapitalization or exchange of securities of the Company (including pursuant to Section 10.7 or Section 10.8 below), (c) any subdivision (by Unit split or otherwise) or any combination (by reverse Unit split or otherwise) of any outstanding Units or (d) any fees or other remuneration paid to any Holder in such Holder's capacity as an employee, officer, consultant or other provider of services to the Company.

"Economic Interest" means a Member's or Economic Owner's share of the Company's net profits, net losses and Distributions pursuant to this Agreement and the Act, but shall not include any right to participate in the management or affairs of the Company, including the right to vote on, consent to or otherwise participate in any decision of the Members, or any right to receive information concerning the business and affairs of the Company, in each case to the extent provided for herein or otherwise required by the Act.

"Economic Owner" means any owner of an Economic Interest who is not a Member. No owner of an Economic Interest who is not a Member shall be deemed a "member" (as that term is used in the Act) of the Company.

"Effective Date" means [●], 2009.

"Equity Event Adjustment Amount" shall mean with respect to a Holder~~,~~ the excess, if any, of the cumulative Profits over the cumulative Losses allocated to such Holder (other than with respect to any Class A Holder's rights to receive Distributions pursuant to Section 7.2(a)(i) as a result of a revaluation of the Company's assets pursuant to Section 6.4 (or otherwise as a result of any revaluation of the Company's assets pursuant to Treasury Regulation §1.704-1(b)(2)(iv)(f**1**)).

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time.

"Fair Market Value" means the fair market value of the asset or service in question, as determined in the good faith judgment of the Board using all factors, information and data deemed to be pertinent and with due regard to the value implied by any transaction giving rise to the need for a determination of Fair Market Value. In the case of Units (other than Unit Equivalents), Fair Market Value shall mean the amount which would be distributable in respect of such Unit if the assets of the Company (or the assets of its Subsidiaries on a consolidated basis) as a going concern were sold in an orderly transaction designed to maximize the proceeds therefrom, and such proceeds were then distributed in accordance with Section 7.2. If a Member or Members disputes the Board's determination of Fair Market Value by providing written notice to the Company within five (5) business days following such determination, the Company shall retain a Firm to determine the Fair Market Value in accordance with the methodology set forth above. The determination of Fair Market Value as provided herein, by the Board or the Firm as applicable, shall be final and binding on all Holders. The Company shall pay all expenses related to such determination by the Firm~~,~~**;** provided, however, that if the Fair Market Value as determined by the Firm is not (a) greater than the Board's determination of Fair Market Value by more than ten percent (10%) of the Board's determination of Fair Market Value or (b) lesser than the Board's determination of Fair Market Value by more than ten percent (10%) of the Board's determination of Fair Market Value, then the Member or Members (pro rata based on the number of disputing Members) disputing such determination shall reimburse the Company for all such expenses.

"Firm" means a nationally recognized accounting or valuation firm.

"Fiscal Year" means the fiscal year of the Company and shall be the same as its Taxable Year. Each Fiscal Year shall commence on the day immediately following the last day of the immediately preceding Fiscal Year.

"Gaming Laws" means all legal requirements pursuant to which the Michigan Gaming Control Board ~~possess~~**possesses** regulatory, licensing, permit, approval or suitability authority with respect to gambling, gaming or casino activities conducted within Michigan, including, specifically, the Michigan Gaming Control and Revenue Act, MCL 432.201 et~~.~~ seq., as amended, supplemented and construed, and the rules regulations, resolutions~~,~~ and orders promulgated pursuant thereto.

"Holder" means any Person who holds any Units, whether as a Member or as an unadmitted assignee of a Member.

"Indebtedness" means all indebtedness for borrowed money (including purchase money obligations), all indebtedness under revolving credit arrangements, all capitalized lease obligations and all guarantees of any of the foregoing.

"Member" means each Person identified on Schedule A hereto as of the date hereof who has executed this Agreement or a counterpart hereof and each Person who is hereafter admitted as a Member in accordance with the terms of this Agreement and the Act, in each case so long as such Person is shown on the Company's books and records as the owner of one or more Units. The Members shall constitute the "members" (as that term is defined in the Act) of the Company. Except as expressly provided herein, the Members shall constitute a single class or group of members of the Company for all purposes of the Act and this Agreement.

"Membership Interest" means a Member's interest in the Company, including such Member's Economic Interest and the right, if any, to participate in the management of the business and affairs of the Company, including the right, if any, to vote on, consent to or otherwise participate in any decision or action of or by the Members and the right to receive information concerning the business and affairs of the Company, in each case to the extent expressly provided in this Agreement or otherwise required by the Act.

"Officer" means each Person designated as an officer of the Company pursuant to Section 4.2 for so long as such Person remains an officer pursuant to the provisions of Section 4.2.

"Operating Distributions" means Distributions other than Significant Event Distributions.

"Original LLC Agreement" has the meaning given to such term in the Preamble.

"Original Members" means Michael D. Rumbolz, Anthony J. Brolick and G. Michael Brown.

"Permitted Transferee" means a Person who holds Units pursuant to a Transfer permitted by Section 10.1(a)(~~ii~~**iii**).

"Person" means a natural person, partnership (whether general or limited), limited liability company, trust, estate, association, corporation, custodian, nominee or any other individual or entity in its own or any representative capacity.

"Pro Rata Share" means, at any time, (a) with respect to each Unit, such Unit's pro rata share of the Total Equity Value at such time based on the Economic Interest represented by such Unit at such time and (b) with respect to each Holder, such Holder's pro rata share of Total Equity Value at such time based on the Economic Interest represented by all Units owned by such Holder at such time, in each case as determined in good faith by the Board; provided that, to the extent applicable, such determination shall account for the exercise or conversion of any then currently exercisable or convertible Unit Equivalents to

the extent that such exercise or conversion would result in a larger allocation of Total Equity Value to the Holder or Holders of such Unit Equivalents.

"Profits or Losses" means**,** for each period taken into account under Article VIII, an amount equal to the Company's taxable income or taxable loss for such period, determined in accordance with U.S. federal income tax principles, adjusted to the extent the Board determines that such adjustment is necessary to comply with the requirements of Section 704(b) of the Code.

"Public Offering" means any sale of equity securities to the public pursuant to an effective registration statement under the Securities Act or to the public through a broker, dealer or market maker pursuant to the provisions of Rule 144 adopted under the Securities Act (or any similar rule then in force); provided that, none of the following shall be considered a Public Offering: (a) any issuance of common equity securities as consideration for a merger, acquisition or similar transaction~~,~~ or (b) any issuance of common equity securities or rights to acquire common equity securities to employees of the Company or its Subsidiaries as part of an incentive or compensation plan.

"Sale of the Company" means the sale of the Company resulting from any of (a) a sale, conveyance or other disposition or a series of related sales, conveyances or other dispositions of Units by the Holders thereof (other than in a Public Offering) representing more than 90% of the Total Equity Value (including by operation of law, merger, consolidation, or otherwise**)**; (b) a sale, conveyance or other disposition or a series of related sales, conveyances or other dispositions of more than 90% of the Company's and its Subsidiaries' assets (measured on the basis of Fair Market Value on a consolidated basis) (in the case of the sale, conveyance or other disposition of equity interests in the Company's Subsidiaries, other than in a Public Offering); provided that, in no event shall a Sale of the Company be deemed to include any transaction effected for the purpose of (x) changing, directly or indirectly, the form of organization or the organizational structure of the Company or any of its Subsidiaries or (y) contributing equity securities to entities controlled by the Company.

"SEC" means the Securities and Exchange Commission or any successor agency thereto that administers the Securities Act and the Securities Exchange Act of 1934, as amended from time to time.

"Securities Act" means the Securities Act of 1933, as amended from time to time.

"Significant Event" **means** a sale of substantially all of the assets of the Company.

"Significant Event Distributions" means distributions that are made in connection with, or are attributable to, a Significant Event.

"Subsidiary" means, with respect to any Person, any corporation, limited liability company, partnership, association or other business entity of which (a) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (b) if a limited liability company, partnership, association or other business entity, a majority of the membership, partnership or other similar ownership interest thereof or the power to elect a majority of the members or the governing body thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control any managing director, managing member, manager, board of managers or general partner of such limited

liability company, partnership, association or other business entity. For purposes hereof, references to a "Subsidiary" of any Person shall be given effect only at such times that such Person has one or more Subsidiaries, and, unless otherwise indicated, the term "Subsidiary" refers to a Subsidiary of the Company.

"Successor in Interest" means any (i) trustee, custodian, receiver or other Person acting in any Bankruptcy or reorganization proceeding with respect to, (ii) assignee for the benefit of the creditors of, (iii) trustee or receiver, or current or former officer, director or partner~~,~~ or other fiduciary acting for or with respect to the dissolution, liquidation or termination of, or (iv) other executor, administrator, committee, legal representative or other successor or assign of, any Holder, whether by operation of law or otherwise.

"Taxable Year" means the Company's taxable year ending on the last day of each calendar year (or part thereof, in the case of the Company's last taxable year), or such other year as is (a) required by Section 706 of the Code or (b) determined by the Board.

"Total Equity Value" means the amount of total net pre-tax proceeds that would be received by the Holders if the assets of the Company were sold as a going concern in an orderly transaction designed to maximize the proceeds therefrom and the proceeds therefrom were then distributed in accordance with Section 7.2, after payment of, or provision for, all Company obligations in accordance with Section 11.2 as determined in good faith by the Board with due regard for the value implied by any transaction giving rise to the need for a determination of Total Equity Value.

"Total Initial Capital Contributions" means the total amount of Capital Contributions contributed by the Members as set forth on Schedule A as of the date hereof.

"Transfer" means, with respect to any Unit, (i) when used as a verb, to sell, assign, dispose of, exchange, pledge, encumber, hypothecate or otherwise transfer such Unit or any participation or interest therein, whether with or without consideration, whether voluntarily, involuntarily or by operation of law and whether directly or indirectly, or permit, agree or commit to do, any of the foregoing~~,~~ and (ii) when used as a noun, a direct or indirect sale, assignment, disposition, exchange, pledge, encumbrance, hypothecation or other transfer of such Unit or any participation or interest therein, in each case, whether with or without consideration and whether voluntarily, involuntarily or by operation of law, or any agreement or commitment to do any of the foregoing.

"Treasury Regulations" means the federal income tax regulations, including any temporary or proposed regulations, promulgated under the Code~~,~~ in effect as of the date hereof. The Board may, in its sole discretion, treat any amendment to such Treasury Regulations as having been in effect as of the date hereof; provided that, such amendment does not result in a material change in the rights or obligations of any Member under this Agreement.

"Unit" means, at any time, an Economic Interest in the Company representing a fractional part of the entire Economic Interest in the Company and shall include Class A Units and Class B Units; provided that, any class or group of Units issued shall have the relative rights, powers and duties set forth in this Agreement and the Economic Interest represented by such class or group of Units shall be determined in accordance with such relative rights, powers and duties; provided further that, unless otherwise specified herein, the term "Unit" shall also refer to any Unit Equivalent that would not otherwise constitute a Unit. **For the avoidance of doubt, the Company shall not issue fractional Units.**

"Unit Equivalents" means all rights, warrants, options, convertible securities, exchangeable securities, indebtedness or other rights, in each case exercisable for or convertible or exchangeable into,

directly or indirectly, Units (as such term is defined disregarding the second proviso in the definition of "Unit") or securities exercisable for or convertible or exchangeable into Units (as such term is defined disregarding the second proviso in the definition of "Unit"), whether at the time of issuance or upon the passage of time or the occurrence of some future event.

"Unreturned Capital" means, with respect to any Class A Unit, an amount equal to the excess, if any, of (a) the aggregate amount of Capital Contributions made or deemed in exchange for or on account of such Class A Unit~~,~~ over (b) the aggregate amount of prior Distributions made by the Company that constitute a return of the Capital Contributions therefor pursuant to Section 7.2(a)(i).

"Unreturned Equity Event Adjustment Amount" shall mean with respect to any Holder, as of any date, the excess, if any, of (a) such Holder's Equity Event Adjustment Amount~~,~~ over (b) the aggregate amount of prior Distributions made by the Company to such Holder pursuant to Section 7.2(a)(ii) which constitute a distribution of Equity Event Adjustment Amount to such Holder.

Section 1.2 Construction. In this Agreement, unless otherwise specified or where the context otherwise requires:

(a) the gender of all words used in this Agreement includes the masculine, feminine and neuter;

(b) the words importing the singular only shall include the plural and vice versa;

(c) the words "including," "includes" and "include" shall be deemed to be followed by "without limitation," except to the extent already so followed;

(d) the words "hereof," "herein" and "herewith" and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole and not to any particular provision of this Agreement;

(e) references to "Articles" and "Sections" refer to articles and sections of this Agreement, and all references to "Schedules" and "Exhibits" are to schedules and exhibits attached hereto, each of which is made a part hereof for all purposes;

(f) references to any Person include the successors and permitted assigns of such Person;

(g) the use of the words "or," "either" and "any" shall not be exclusive;

(h) wherever a conflict exists between this Agreement and any other agreement, this Agreement shall control but solely to the extent of such conflict; and

(i) references to "$" or "dollars" means the lawful currency of the United States of America.

Section 1.3 Discretion. Notwithstanding any other provision of this Agreement or otherwise applicable provision of law or equity, whenever in this Agreement~~,~~ any Person (including the Board) is permitted or required to make a decision in its "sole discretion" or "discretion" or under a grant of similar authority or latitude, such Person (including, in the case of the Board, each Manager) shall be entitled to consider only such interests and factors as he, she or it desires, including his, her or its own interests, and shall, to the fullest extent permitted by applicable law, have no duty or obligation to give any consideration to any interest of or factors affecting the Company, the Holders or any other Person.

ARTICLE II
ORGANIZATION

Section 2.1 **Formation**. The Company has been organized as a Delaware limited liability company on the Formation Date by the execution and filing of the Certificate under and pursuant to the Act and shall be continued in accordance with the terms of this Agreement. The rights, powers, duties, obligations and liabilities of the Members shall be determined pursuant to the Act and this Agreement. To the extent that the rights, powers, duties, obligations and liabilities of the Members are different by any provision of this Agreement than they would be in the absence of such provision, this Agreement shall, to the extent permitted by the Act, control.

Section 2.2 **Company Name**. The name of the Company is, and shall continue to~~,~~ be~~,~~ "New Greektown Holdco LLC" and all Company business is, and shall continue to be, conducted in that name or such other names that comply with applicable law as the Board may select from time to time. Notification of any change in the name of the Company shall be given to all Members. The Company's business may be conducted under its name and/or any other name or names deemed advisable by the Board.

Section 2.3 **The Certificate, Etc**. The Certificate was filed with the Secretary of State of the State of Delaware on the Formation Date and the Members hereby ratify such filing. The Members hereby agree to execute, file and record all such other certificates and documents, including amendments to the Certificate~~,~~ and to do such other acts as may be appropriate to comply with all requirements for the formation, continuation and operation of a limited liability company, the ownership of property~~,~~ and the conduct of business under the laws of the State of Delaware and any other jurisdiction in which the Company may own property or conduct business.

Section 2.4 **Term of the Company**. The term of the Company commenced on the Formation Date and shall continue in existence until termination and dissolution thereof as determined under Section 11.1 and 11.2 of this Agreement.

Section 2.5 **Registered Office; Registered Agent; Principal Office; Other Offices**. The registered office of the Company required by the Act to be maintained in the State of Delaware is, and shall continue to be, the office of the initial registered agent named in the Certificate 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 law. The registered agent of the Company in the State of Delaware is, and shall continue to be, the initial registered agent named in the Certificate or such other Person or Persons as the Board may designate from time to time in the manner provided by law. The principal office of the Company is, and shall continue to be, 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 thereat. The Company may have such other offices as the Board may designate from time to time.

Section 2.6 **Purposes and Powers**. The nature of the business or purposes to be conducted or promoted by the Company is to engage in any lawful act or activity for which limited liability companies may be organized under the Act. The Company may engage in any and all activities necessary, desirable or incidental to the accomplishment of the foregoing. Notwithstanding anything herein to the contrary, nothing set forth herein shall be construed as authorizing the Company to possess any purpose or power, or to do any act or thing, forbidden by law to a limited liability company organized under the laws of the State of Delaware. Subject to the provisions of this Agreement, the Company shall have the power and authority to take any and all actions necessary, appropriate, proper, advisable, convenient or incidental to or for the furtherance of the purposes set forth in this Section 2.6.

Section 2.7 **Foreign Qualification**. Prior to the Company's conducting business in any jurisdiction other than Delaware, the Board shall cause the Company to comply, to the extent procedures are available and those matters are reasonably within the control of the Officers, with all requirements necessary to qualify the Company as a foreign limited liability company in that jurisdiction. At the request of the Board or any officer, each Member shall execute, acknowledge, swear to and deliver any or all certificates and other instruments conforming with this Agreement that are necessary or appropriate to qualify, continue and terminate the Company as a foreign limited liability company in all such jurisdictions in which the Company may conduct business.

Section 2.8 **Merger**. Subject to the provisions of this Agreement, the Company may, with the approval of the Board and the Class A Majority and without the need for any further act, vote or approval of any Holder, merge with, or consolidate into, another limited liability company (organized under the laws of Delaware or any other state), a corporation (organized under the laws of Delaware or any other state) or other business entity (as defined in Section 18-209(a) of the Delaware Act), regardless of whether the Company or such other entity is the survivor. If a merger is used as a means of effecting the intent of Section ~~10.5~~**10.4** of this Agreement, then the provisions of that Section shall apply to such transaction.

ARTICLE III
MEMBERS AND UNITS

Section 3.1 **Members**.

(a) Names, Capital Contributions, etc. **Upon the Effective Date, the Membership Interests of the Original Members will be deemed to have been cancelled and the Original Members will be deemed to have withdrawn as Members of, and will have no further Membership Interest in, the Company, without any return of capital to the Original Members, and the Company will issue Units to the Members as set forth on Schedule A who shall then be admitted as the Members of the Company.** The name, residence, business or mailing addresses, amount of Capital Contributions made or deemed made and the type and number of Units of each Member are set forth on Schedule A, as such Schedule shall be amended from time to time in accordance with the terms of this Agreement. Unless otherwise specified, any reference in this Agreement to Schedule A shall be deemed to be a reference to Schedule A as amended and in effect from time to time in accordance with the terms of this Agreement. Each Person listed on Schedule A (as in effect on the date hereof) upon (i) his, her or its execution of this Agreement or counterpart thereto and (ii) receipt (or deemed receipt) by the Company of such Person's Capital Contributions as set forth on Schedule A, is hereby admitted to the Company as a Member and shall be deemed to own the number and type of Units set forth opposite such Member's name on Schedule A, as amended from time to time in accordance with the terms of this Agreement.

(b) Loans by Members; Capital Contributions. No Member, as such, shall be required to lend any funds to the Company or to make any additional contribution of capital to the Company, except as otherwise required by applicable law, this Agreement or any other agreement between such Member and the Company. Any Holder may make loans to the Company, and any loan by a Holder to the Company shall not be considered to be a Capital Contribution for any purpose and shall not result in an increase in the amount of the Capital Account of such Holder.

(c) Representations and Warranties of Members. Each Member, severally (and not jointly) and solely as to itself, hereby represents and warrants to the Company and acknowledges that: (i) such Member has knowledge and experience in financial and business matters and is capable of evaluating the merits and risks of an investment in the Company and making an informed investment decision with respect thereto; (ii) such Member has reviewed and evaluated all information necessary to

assess the merits and risks of his, her or its investment in the Company and has had answered to its satisfaction any and all questions regarding such information; (iii) such Member is able to bear the economic and financial risk of an investment in the Company for an indefinite period of time; (iv) such Member is an "accredited investor" (as such term is used in Regulation D of the Securities Act); (v) such Member is acquiring Units in the Company for investment only and not with a view to, or for resale in connection with, any distribution to the public or public offering thereof; (vi) the execution, delivery and performance of this Agreement have been duly authorized by such Member and do not require such Member to obtain any consent or approval that has not been obtained and do not contravene or result in a default under any provision of any law or regulation applicable to such Member or other governing documents or any agreement or instrument to which such Member is a party or by which such Member is bound; (vii) the determination of such Member to purchase or otherwise acquire Units in the Company has been (or was) made by such Member independent of any other Member and independent of any statements or opinions as to the advisability of such purchase or as to the properties, business, prospects or condition (financial or otherwise) of the Company and its Subsidiaries ~~which~~**that** may have been made or given by any other Member or by any agent or employee of any other Member; and (viii) this Agreement is valid, binding and enforceable against such Member in accordance with its terms.

Section 3.2 No Liability of Members.

(a) No Liability. Except as otherwise required by applicable law or as may be required pursuant to Section ~~10.5~~**10.4**(a), no Member shall have any personal liability whatsoever in such Member's capacity as a Member, whether to the Company or any of its Subsidiaries, to any of the other Members, to the creditors of the Company or any of its Subsidiaries or to any other third party, for the debts, liabilities, commitments or any other obligations of the Company or any of its Subsidiaries or for any losses of the Company or any of its Subsidiaries. Each Member shall be liable only to make such Member's initial Capital Contribution to the Company and the other payments provided expressly herein.

(b) Distribution. In accordance with the Act and the laws of the State of Delaware, a member of a limited liability company may, under certain circumstances, be required to return amounts previously distributed to such member. It is the intent of the Members that no Distribution to any Member pursuant to ARTICLE VII hereof shall be deemed a return of money or other property paid or distributed in violation of the Act. The payment of any such money or distribution of any such property to a Member shall be deemed to be a compromise within the meaning of the Act, and the Member receiving any such money or property except as set forth in Section ~~10.5~~**10.4**(a) shall not be required to return to any Person any such money or property. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, any Member is obligated to make any such payment, such obligation shall be the obligation of such Member and not of any other Member.

Section 3.3 Limitation on Authority of Members. No Member is an agent of the Company solely by virtue of being a Member, and no Member (other than the Managers or an authorized Officer of the Company) has authority or power to represent, act for, sign for, bind or make expenditures on behalf of the Company solely by virtue of being a Member. This Section 3.3 supersedes any authority granted to the Members pursuant to the Act. Any Member who represents, takes any action, signs for, binds or makes any expenditure on behalf of the Company in violation of this Section 3.3 shall be solely responsible for any loss and expense incurred by the Company as a result of the unauthorized action and shall indemnify and hold the Company harmless with respect to the loss or expense (provided that, for the avoidance of doubt, any consent right or similar rights granted to the Members hereunder shall not be deemed to constitute the taking of action or the binding of the Company).

Section 3.4 Meetings of and Voting by Members.

(a) Notwithstanding anything to the contrary herein, no Person shall be entitled to vote with respect to any Units unless such Person is a Class A Member, the proxy of a Class A Member or an authorized representative of a Class A Member that is not a natural Person. Each Class A Unit shall be entitled to one vote on each matter that shall be submitted to a vote to the Class A Members pursuant to this Agreement~~; provided that, if the amount of issued and outstanding Class A Units held by a Member is (i) greater than 14.99% of the total issued and outstanding Class A Units, then such Member shall be limited to voting only 14.99% of the total issued and outstanding Class A Units, or (ii) less than or equal to 14.99% of the total issued and outstanding Class A Units, then such Member shall be entitled to vote its actual percentage of the total issued and outstanding Class A Units~~. The Class B Members shall not have any voting rights with respect to matters requiring the vote of the Class A Members or otherwise.

(b) A meeting of the Class A Members may be called at any time by the Board or by the Class A Majority. Meetings of Class A Members shall be held at the Company's principal place of business or at any other place designated by the Board. Not less than ~~two~~**ten** (~~2~~**10**) nor more than ninety (90) days before each meeting, the Board shall give written notice of the meeting to each Class A Member entitled to vote at the meeting. The notice shall state the time, place and purpose of the meeting **(including those items to be acted on at such meeting), and the only items that can be acted on at a meeting of the Class A Members are those specifically set forth in such notice**. Notwithstanding the foregoing provisions, each Class A Member who is entitled to notice waives notice if before or after the meeting the Class A Member signs a waiver of the notice ~~which~~**that** is filed with the records of Class A Members' meetings, or is present at the meeting in person or by proxy, except when such Class A Member attends a meeting for the express purpose of objecting, and objects at the beginning of the meeting, to the transaction of any business because the meeting is not properly called or convened. Unless this Agreement provides otherwise, at a meeting of Class A Members, the presence in person or by proxy of Class A Members holding a majority of the outstanding Class A Units entitled to vote shall constitute a quorum. A Class A Member entitled to vote may vote either in person or by written proxy signed by the Class A Member or by his, her or its duly authorized attorney in fact. Persons present by telephone shall be deemed to be present "in person" for purposes hereof.

(c) Except as otherwise expressly provided in this Agreement, the affirmative vote of the Class A Majority shall be required to approve any matter coming before such Class A Members.

(d) In lieu of holding a meeting, the Class A Members entitled to vote may vote or otherwise take action by written consent signed by Class A Members holding at least the percentage of the Units that would be required to approve such action if submitted to a vote at a meeting of Class A Members entitled to vote. Prompt notice of the taking of the action without a meeting by less than unanimous consent of the Class A Members entitled to vote shall be given to those Class A Members entitled to vote who have not consented in writing, which notice may be oral, telephonic, via facsimile or otherwise. Except as otherwise provided in this Agreement, wherever the Act requires unanimous consent to approve or take any action, that consent may be given in writing.

Section 3.5 Resignation and Withdrawal. No Member shall have the right to resign or withdraw as a Member without the prior written consent of the Board (which may be given or withheld at the Board's sole discretion), except simultaneously with (i) the Transfer of all of such Member's Units (including all interests therein including voting rights) in a Transfer permitted by this Agreement or (ii) the Transfer to a Successor in Interest in accordance with Section 10.1(b) (a resignation and withdrawal pursuant to (i) and (ii) above being a "Permitted Withdrawal"). Any Member that resigns or withdraws (or attempts to resign or withdraw) without the consent of the Board (other than a Permitted Withdrawal) in contravention of this Section 3.5 shall be liable to the Company for all damages (including all lost profits and special, indirect and consequential damages) directly or indirectly caused by the resignation

and/or withdrawal of such Member, and such Member shall be entitled to receive the fair value of his, her or its interest in the Company as of the date of his, her or its resignation (or, if less, the fair value of his, her or its interest as of the date of the occurrence of a liquidation or other winding up of the Company), as conclusively determined by the Board, only promptly following the occurrence of a liquidation or other winding up of the Company.

Section 3.6 Issuance of Additional Units; Additional Members.

(a) Additional Units. Subject to this Section 3.6(a) and Section 3.8, the Board shall not have the right to cause the Company to issue or sell to any Person (including Members and Affiliates of Members) any of the following (which for purposes of this Agreement shall be "Additional Units"): (i) additional Units (including new classes or series thereof having rights ~~which~~**that** are different than the rights of any then ~~-~~existing class or series) whether in a private sale or through a Public Offering;~~ and~~ (ii) obligations, evidences of Indebtedness or other securities or interests convertible into or exchangeable for Units, in each case without the prior written consent of the Members holding at least 66 2/3% of the aggregate and outstanding Class A Units**; and (iii) fractional Units or Unit Equivalents**. Once so approved, the Board shall determine the terms and conditions governing the issuance of such Additional Units, including the number and designation of such Additional Units, the preference (with respect to Distributions, in liquidation or otherwise) over any other Units and any required contributions in connection therewith, and shall be entitled to make such amendments to this Agreement (including Section 7.2 below) as may be necessary to effectuate the foregoing.

(b) Additional Members. In order for a Person to be admitted as a Member of the Company with respect to an Additional Unit: (i) such Person shall have delivered to the Company a written undertaking to be bound by the terms and conditions of this Agreement and shall have delivered such other documents and instruments as the Board determines to be necessary or appropriate in connection with the issuance of such Additional Unit to such Person or to effect such Person's admission as a Member; and (ii) the Board or an authorized Officer shall amend Schedule A without the further vote, act or consent of any other Person to reflect such new Person as a Member. Upon the amendment of Schedule A, such Person shall be deemed to have been admitted as a Member and shall be listed as such on the books and records of the Company and thereupon shall be issued his, her or its Units. If an Additional Unit is issued to an existing Member, the Board or an authorized Officer of the Company shall amend Schedule A without the further vote, act or consent ~~or~~**of** any other Person to reflect the issuance of such Additional Unit and, upon the amendment of such Schedule A, such Member shall be issued his, her or its Additional Unit, including any Membership Interest that corresponds to and is part of such Additional Unit.

Section 3.7 Issuance of Class B Units.

(a) The Class B Units are authorized and reserved for issuance to natural persons, and, subject to the terms of this Agreement, the Board from time to time may establish such vesting, forfeiture and repurchase criteria for any Class B Units as the Board in its sole discretion determines.

(b) Each Class B Member hereby acknowledges that:

(i) each grant of Class B Units will be issued in connection with, and as part of, the compensation and incentive arrangements between the Company or one of its Subsidiaries and such recipient of Class B Units;

(ii) each grant of Class B Units is intended to qualify as an exempt offering under Rule 701 of the Securities Act;

(iii) neither the grant of Class B Units nor any provision contained herein shall entitle any recipient of Class B Units to continue to render services to the Company or its Subsidiaries;

(iv) neither the grant of Class B Units nor any provision contained herein shall entitle such recipient of Class B Units to receive any additional Units;

(v) neither the Company nor any of its Affiliates makes any representations with respect to the application of Code §409A to Class B Units and, by the acceptance of such Units, each recipient of Class B Units agrees to accept the potential application of Code §409A to such Units and the other tax consequences of the issuance, vesting, ownership, modification, adjustment and disposition of such Units; and

(vi) the Class B Units shall not be entitled to any voting rights.

Section 3.8 Preemptive Rights.

(a) If the Company authorizes the issuance and sale of Additional Units, then each Class A Member who is an "accredited investor" (as such term is used in Regulation D of the Securities Act) at the time of such issuance and sale (each such Member, an "Eligible Member") shall be entitled to purchase a portion of such Additional Units as provided herein. At least thirty (30) days prior to any issuance by the Company of any Additional Units, the Company shall deliver a written notice (the "Issuance Notice") to each Eligible Member specifying in reasonable detail the number and type of Additional Units to be issued and the terms and conditions of the issuance. Each Eligible Member may elect to participate in the contemplated issuance at the same price per Additional Unit (however denominated) and on the same terms by delivering written notice to the Company within twenty (20) days after delivery of the Issuance Notice specifying the maximum amount of Additional Units such Member desires to purchase; provided that, each Eligible Member purchasing Additional Units shall pay in cash an amount equal to the Fair Market Value of any non-cash consideration to be received for such Additional Units. If any Eligible Members have elected to purchase Additional Units (or a portion thereof), such Additional Units shall be allocated among the Eligible Members so electing in an amount equal to the lesser of (i) the maximum amount specified by each such Eligible Member in his, her or its notice to the Company and (ii) such Eligible Member's pro rata share of all Class A Units held by all Eligible Members electing to participate in such issuance and sale. ~~If any Additional Units remain after giving effect to such procedure, such procedure shall be repeated until either all Additional Units requested to be purchased by Eligible Members have been so allocated or no Additional Units remain available for purchase.~~ If any Additional Units remain after giving effect to such procedure, such procedure shall be repeated until either all Additional Units requested to be purchased by Eligible Members have been so allocated or no Additional Units remain available for purchase.

(b) Upon the delivery of the Issuance Notice and subject to the provisions hereof, within thirty (30) days after the delivery of the Issuance Notice, the Company shall sell, and each Eligible Member electing to participate in such issuance shall purchase, the amount of Additional Units determined pursuant to the formula above at a mutually agreeable time and place (the "Issuance Closing"). At the Issuance Closing, the Company shall deliver to each such Eligible Member the certificates or other instruments representing the issued securities (if certificated) free and clear of all liens and encumbrances, and each such Eligible Member shall make customary investment representations to the Company and shall deliver to the Company the purchase price therefor by cashier's or certified check payable to the Company or by wire transfer of immediately available funds to an account designated by the Company.

(c) If the Eligible Members fail to purchase all of the Additional Units being offered, the Company may, within 120 days after the delivery of the Issuance Notice, sell such remaining Additional Units at a price no less than the price per Additional Unit and on other terms and conditions no more favorable to the purchaser(s) than offered to the Eligible Members in the Issuance Notice. At the closing of any such sale, the Company shall deliver to the purchasers the certificates or other instruments representing the issued securities (if certificated) free and clear of all liens and encumbrances, make customary investment representations to the Company, and deliver to the Company the purchase price therefor by cashier's or certified check payable to the Company or by wire transfer of immediately available funds to an account designated by the Company. Any Additional Units not sold within the 120 ~~-~~ day period immediately following the delivery of the Issuance Notice shall be reoffered to the Eligible Members pursuant to Section 3.8(b) prior to any subsequent sale.

(d) Notwithstanding anything to the contrary contained herein, the provisions of this Section 3.8 shall not apply to: (i) the issuance of Additional Units to employees, Officers, Managers, consultants or other service providers to the Company or any of its Subsidiaries pursuant to incentive or other compensation plans or arrangements; (ii) the issuance of Additional Units in connection with a split, dividend, recapitalization or similar event with respect to any class of Units; (iii) the issuance of Additional Units in connection with a change in form or a restructuring; (iv) the issuance of Additional Units upon exercise or conversion or exchange of any equity interest ~~which~~**that** was issued in compliance with this Section 3.8 or the issuance of an equity interest ~~which~~**that** was issued in an issuance ~~which~~**that** is exempt from this Section 3.8; (v) the issuance of Additional Units to equipment lessors, banks, financial institutions or other Persons in connection with any financing, refinancing, restructuring, leasing or similar transactions approved by the Board; (vi) any issuance of Additional Units pursuant to a Public Offering; and (vii) the issuance of Additional Units in connection with any transactions involving the Company or any of its Subsidiaries and other Persons that are deemed "strategic" transactions by the Board (including the issuance of Additional Units in connection with acquisitions, joint ventures, technology licensing or research and development or similar arrangements, or pursuant to any arrangements for the development, distribution, marketing or sale of any of the Company's or its Subsidiaries' products or services or as consideration in connection with any acquisition or similar transaction).

ARTICLE IV
MANAGEMENT POWER, RIGHTS AND DUTIES

Section 4.1 Management by the Board.

(a) Board. The business and affairs of the Company shall be managed under the direction of a board of managers (the "Board"). The Board shall consist of three (3) managers (collectively, the "Managers" and each, a "Manager"), each of which shall be appointed by the Class A Majority. The initial board, appointed by the Class A Majority, shall be: Michael D. Rumbolz, Anthony J. Brolick and G. Michael Brown.

(b) General Powers; Ratification. Subject to the terms and provisions of this Agreement, all powers of the Company shall be exercised by the Board; decisions of the Board within its scope of authority shall be binding upon the Company and each Member, and the Board shall have sole, full, exclusive and complete discretion, power~~,~~ and authority, subject to any other provisions of this Agreement or by non-waivable provisions of applicable law, to manage, control, administer~~,~~ and operate the business and affairs of the Company, and to make all decisions affecting such business and affairs. The Board shall make all filings and take all actions as are required pursuant to the Exchange Act and Gaming Laws. Except as otherwise expressly provided for herein, the Members hereby consent to the exercise by the Board of all such powers and rights conferred on them by the Act with respect to the

management and control of the Company. Any act or contract approved or ratified by the Board shall be as valid and as binding upon the Company and upon all the Members (in their capacity as Members) as if it had been approved or ratified by each Member of the Company.

(c) Term of Office. Managers shall serve until their resignation, permanent incapacitation, death or removal in accordance with Section 4.1(g) below.

(d) Vacancies. In the event of a vacancy, a Manager shall be appointed with the affirmative written consent of the Class A Majority.

(e) Resignation. A Manager may resign as such by delivering his or her written resignation to the Company at the Company's principal office addressed to the Board. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

(f) Termination of Manager. Unless otherwise set forth in any applicable employment, consulting or other agreement (which shall govern in the event of any inconsistency herewith), upon the cessation of ~~employment~~**service** of any Manager with the Company for any reason (a "Termination"), such Manager's Units (whether held by such Manager or any transferee) shall be subject to cancellation or purchase as set forth below. With respect to such Manager's Class B Units:

(i) In the event of a Termination by the Company for Cause, all Class B Units shall be cancelled automatically upon Termination without any further action by the Company; and

(ii) In the event of a Termination for any other reason (including such Manager's death or disability), a Class A Majority may elect to cause the Company to purchase all or any portion of the Class B Units held by such Manager (and any transferee of such Manager's Units) at a purchase price per Unit equal to the Fair Market Value (determined as of the date of Termination) of each such Class B Unit.

(g) Removal. Subject to the terms of the applicable Board Service Agreement, any Manager may be removed at any time with or without cause by the affirmative written consent of the Class A Majority.

(h) Compensation. The Managers shall be paid compensation by the Company for his or her services as such. The foregoing shall not be deemed to limit or restrict the payment of any reasonable compensation or remuneration to any Person in such Person's capacity as an Officer, employee, advisor or consultant to the Company or any agreement or arrangement with the Company ~~which~~**that** has been approved by the Board.

(i) Reimbursement. All ~~non-employee~~ Managers shall be entitled to be reimbursed for reasonable out-of-pocket costs and expenses incurred in the course of their service hereunder (including travel and lodging expenses) related to attending meetings of the Board (or any Subsidiary board and any committee thereof) and other board matters.

(j) Reliance by Third Parties. Any Person dealing with the Company, other than a Member, may rely on the authority of the Board (or any Officer authorized by the Board) in taking any action in the name of the Company without inquiry into the provisions of this Agreement or compliance herewith, regardless of whether that action actually is taken in accordance with the provisions of this Agreement. Every agreement, instrument or document executed by the Board (or any Officer authorized by the Board) in the name of the Company with respect to any business or property of the Company shall

be conclusive evidence in favor of any Person relying thereon or claiming thereunder that (i) at the time of the execution or delivery thereof this Agreement was in full force and effect, (ii) such agreement, instrument or document was duly executed according to this Agreement and is binding upon the Company~~,~~ and (iii) the Board or such Officer was duly authorized and empowered to execute and deliver such agreement, instrument or document for and on behalf of the Company.

(k) Meetings of the Board; Actions. Each Manager shall have one (1) vote on all matters submitted to the Board or any committee thereof (whether the consideration of such matter is taken at a meeting, by written consent or otherwise), except as set forth by this Agreement. Meetings of the Board shall be held at the principal place of business of the Company or at any other place that Managers possessing a majority of the votes of the Board determine. At any meeting, any Manager may participate by telephone or similar communication equipment; provided**,** that~~,~~ each Manager can hear the others. Persons present by telephone shall be deemed to be present "in person" for purposes hereof. The presence of a number of Managers possessing at least three (3) votes (including by proxy) shall constitute a quorum for the transaction of business ~~(provided that, at least one (1) such Manager is a Manager)~~. The Board also may make decisions, without holding a meeting, by written consent of the Managers required for approval of such decision, with prior notice thereof to all other Managers. Decisions of the Board shall require the approval of at least two (2) votes of the Managers.

(l) Major Decisions. Although day ~~-~~to ~~-~~day management shall be vested in the Board, the Board shall not, and shall not cause the Company or any of its Subsidiaries to, take any of the following actions (collectively, "Major Decisions" and each, a "Major Decision") without the prior written consent **or vote** of the Class A Majority:

(i) enter into or terminate any contract, lease, license, arrangement or agreement with, or materially amend, repeal, modify or waive any material provision of any contract, lease, license, arrangement or agreement, with any Manager, **executive** officer~~, key employee or any material service provider (including~~ **or** any third ~~part~~**-party** manager or operator of the Casino~~) of~~ **or** the Company or any of its Subsidiaries;

(ii) merge or consolidate with any Person or sell, exchange, transfer, contribute, mortgage, pledge, encumber, lease or ~~other~~**otherwise** dispose or transfer ~~of~~ all or substantially all of the assets of the Company or any of its Subsidiaries;

(iii) authorize or conduct any Sale of the Company;

(iv) invest any of the Company's assets in excess of $10,000,000;

(v) incur any Indebtedness in excess of $10,000,000;

(vi) materially amend this Agreement;

(vii) adopt any material change in the structure or business purpose of the Company;

(viii) cause the Company to be treated as anything other than a partnership for U.S. federal income tax purposes;

(ix) to the fullest extent permitted by law, dissolve or liquidate, in whole or in part, make an assignment for the benefit of any creditor, file or otherwise initiate on behalf of the Company or any Subsidiary a petition in bankruptcy, petition or apply to any tribunal for the

appointment of a custodian, receiver or any trustee for it or for a substantial part of its property, commence any proceeding under any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereinafter in effect, consent or acquiesce in the filing of (or invoke or cause any Person to file) any such petition, application or proceeding, or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Company or any Subsidiary or any substantial part of its property, or admit its inability to pay its debts generally as they become due or authorize any of the foregoing to be done or taken on behalf of the Company or any Subsidiary, or consent to or acquiesce in (A) the filing or other initiation of an involuntary petition for relief against the Company or any Subsidiary under any Chapter of the Bankruptcy Code or (B) the appointment of any trustee, receiver, conservator, assignee, sequestrator, custodian, liquidator (or other similar official) for the Company or any Subsidiary of all or substantially all of its respective assets;

(x) invest in, loan or advance to, or guarantee the obligations of, any person or entity in excess of $1,000,000;

(xi) approve of all distributions (except for tax distributions) whether payable in cash or in property to be made by the Company to the Members; or

(xii) approve the transfer or sale of all or any portion of the real property.

(m) Committees; Delegation of Duties. The Board shall have the power and right (but not the obligation) to create and disband committees and to determine the duties, responsibilities, activities and composition thereof. The Board may authorize any Person (including any Member, Officer or Manager) to enter into and perform under any document on behalf of the Company.

(n) Limitation on Individual Managers. Except as otherwise provided in this Agreement, no Manager has authority or power to represent, act for, sign for, bind or make expenditures on behalf of the Company solely by virtue of being a Manager (other than (i) acting together with the other Managers as the Board pursuant to the terms of this Agreement, (ii) acting at the direction or authorization of the Board or (iii) acting in the capacity of an authorized Officer of the Company). This Section 4.1(n) supersedes any authority granted to the Members pursuant to the Act (including section 18-402 of the Act).

(o) Existence and Good Standing. The Board may take all action ~~which~~**that** may be necessary or appropriate (i) for the continuation of the Company's valid existence as a limited liability company under the laws of the State of Delaware (and of each other jurisdiction in which such existence is necessary to enable the Company to conduct the business in which it is engaged) and (ii) for the maintenance, preservation and operation of the business of the Company in accordance with the provisions of this Agreement and applicable laws and regulations. The Board may file or cause to be filed for recordation in the office of the appropriate authorities of the State of Delaware, and in the proper office or offices in each other jurisdiction in which the Company is formed or qualified, such certificates (including certificates of limited liability companies and fictitious name certificates) and other documents as are required by the applicable statutes, rules or regulations of any such jurisdiction or as are required to reflect the identity of the Members and the amounts of their respective capital contributions.

(p) Securities in Subsidiaries. The Company shall vote, or cause to be voted, all of the securities it holds in any direct or indirect Subsidiary of the Company as directed by the Board or as otherwise required pursuant to this Agreement.

Section 4.2 Officers.

(a) Designation and Appointment. The Board may, from time to time, employ ~~and~~**or** retain Persons as may be necessary or appropriate for the conduct of the Company's business (**including pursuant to a management consulting, services or similar agreement), in all cases** subject to the supervision and control of the Board~~)~~, including employees, **consultants,** agents and other Persons (any of whom may be a Member) who may be designated as Officers of the Company, with titles including "chairman," "chief executive officer," "president," "vice president," "treasurer," "secretary," "general manager," "director," "chief financial officer" and "chief operating officer," as and to the extent authorized by the Board. Any number of offices may be held by the same Person. In its sole discretion, the Board may choose not to fill any office for any period as it may deem advisable. Officers need not be Members or residents of the State of Delaware. Any Officers so designated shall have such authority and perform such duties as the Board may, from time to time, delegate to them. The Board may assign titles to particular Officers. Each Officer shall hold office until his or her successor shall be duly designated and shall qualify or until his or her death or until he shall resign or shall have been removed in the manner hereinafter provided. The salaries or other compensation, if any, of the Officers of the Company shall be fixed from time to time by the Board.

(b) Resignation/Removal. Any Officer may resign as such at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time be specified, at the time of its receipt by the Board. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. Any Officer may be removed as such, either with or without ~~cause~~**Cause** at any time by the Board. Designation of an Officer shall not of itself create any contractual or employment rights.

(c) Duties of Officers Generally. The Officers, in the performance of their duties as such, shall owe to the Company duties of loyalty and due care of the type owed by the officers of a corporation to such corporation and its equityholders under the laws of the State of Delaware.

ARTICLE V
OBLIGATIONS, EXCULPATION AND INDEMNIFICATION

Section 5.1 Compliance with Gaming Laws. Each Member and Manager shall comply, and each Manager shall use reasonable efforts to cause the Company and its Subsidiaries, and the respective officers and employees of the Company and its Subsidiaries to comply, in all material respects with all Gaming Laws.

Section 5.2 Performance of Duties; No Liability of Officers. No Member shall have any duty to the Company or any other Member except as expressly set forth herein or in other written agreements. No Member, Officer or Manager shall be liable to the Company or to any Member for any loss or damage sustained by the Company or to any Member, unless the loss or damage shall have been the result of gross negligence, fraud or intentional misconduct by the Member, Officer or Manager in question. In performing his, her or its duties, each such Person shall be entitled to rely in good faith on the provisions of this Agreement and on information, opinions, reports or statements (including financial statements and information, opinions, reports or statements as to the value or amount of the assets, liabilities, profits or losses of the Company or any facts pertinent to the existence and amount of assets from which Distributions to Members might properly be paid) of the following other Persons or groups: one or more Officers or employees of the Company~~,~~**;** any attorney, independent accountant, appraiser or other expert or professional employed or engaged by or on behalf of the Company or the Board; or any other Person who has been selected with reasonable care by or on behalf of the Company or the Board, in each case as to matters ~~which~~**that** such relying Person reasonably believes to be within such other Person's competence. No Member, Officer or Manager shall be personally liable under any judgment of

a court, or in any other manner, for any debt, obligation or liability of the Company, whether that liability or obligation arises in contract, tort or otherwise, solely by reason of being a Member, Officer or Manager of the Company or any combination of the foregoing.

Section 5.3 **Confidentiality.** Each Member and their respective Affiliates will hold and keep confidential (and will not use, other than in connection with this Agreement and the transactions contemplated hereby) any information provided to it or any of its respective Affiliates or any of their representatives pursuant to or in connection with this Agreement (including the terms and conditions hereof) by or on behalf of the Company or the other Members or any of their Affiliates (whether such information is regarding the Company or the business or otherwise relates to such other Members or any of their Affiliates) ("Confidential Information"); provided that, this Section 5.3 shall not apply to the following:

(a) information ~~which~~**that** is publicly available at the time of disclosure;

(b) information ~~which~~**that** is disclosed to a Member, or an Affiliate of a Member, by a third party ~~which~~**that** did not disclose it in violation of a duty of confidentiality;

(c) information ~~which~~**that** was known to a Member, or an Affiliate of a Member, before such information was provided to it or its representatives by or on behalf of the Company or the Member disclosing such information or any of its Affiliates;

(d) information ~~which~~**that** was developed by an employee, agent or contractor of a Member or any of its Affiliates, independent of (and without any knowledge of) any disclosure to such Member or any of its Affiliates or their representatives by or on behalf of the Company or the Member or any of its Affiliates disclosing such information; or

(e) disclosures ~~which~~**that** are required to be made by the Member or its Affiliates receiving such information under legal process by subpoena or other court order or other applicable laws or stock exchange or other regulations (provided that, such Member or Affiliate makes reasonable efforts to provide copies of such information to, or informs, the Company or the other Member, as appropriate, before disclosure and, other than in the case of disclosure required by stock exchange or regulations, takes reasonable efforts to assist the Company or the other Members, as appropriate, in reasonable attempts to prevent such disclosure).

Each Member shall be permitted to share any such Confidential Information with its Affiliates and legal and accounting advisors; provided, however, that any Confidential Information so disclosed shall remain subject to the confidentiality restrictions set forth herein and provided, further, that each such Member shall remain responsible for any failure by its Affiliates or advisors to maintain the confidentiality of the Confidential Information. Notwithstanding anything in this Agreement to the contrary, to comply with United States Treasury Regulation Section 1.6011-4(b)(3)(i), each Member (and any employee, representative or other agent of such Member) may disclose to any and all persons, without limitation of any kind, the U.S. federal income tax treatment and tax structure of the Company or any transactions undertaken by the Company, it being understood and agreed, for this purpose, (1) the name of, or any other identifying information regarding (A) the Company or any existing or future investor (or any Affiliate thereof) in the Company, or (B) any investment or transaction entered into by the Company; (2) any performance information relating to the Company or its investments; and (3) any performance or other information does not constitute such tax treatment or tax structure information.

Section 5.4 **Right to Indemnification**. **(a)** Subject to the limitations and conditions as provided in this ARTICLE V, each Person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil,

criminal, administrative or arbitrative (hereinafter a "Proceeding"), or any appeal in such a Proceeding or any inquiry or investigation that could lead to such a Proceeding, by reason of the fact that such Person, or a Person of which such Person is the legal representative, is or was a Member, a member of the board or Officer, ~~or~~ an officer or member of the board of a Subsidiary, **or a third-party manager of the Company,** shall be indemnified by the Company to the fullest extent permitted by applicable law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Company to provide broader indemnification rights than said law permitted the Company to provide prior to such amendment) against judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable expenses (including reasonable attorneys' and experts' fees) actually incurred by such Person in connection with such Proceeding, appeal, inquiry or investigation ("Damages"), unless such Damages shall have been the result of gross negligence, fraud or willful misconduct by such Person, in which case such indemnification shall not cover such Damages to the extent resulting from such gross negligence, fraud or willful misconduct. Indemnification under this ARTICLE V shall continue as to a Person who has ceased to serve in the capacity ~~which~~**that** initially entitled such Person to indemnity hereunder. The rights granted pursuant to this ARTICLE V shall be deemed contract rights, and no amendment, modification or repeal of this ARTICLE V shall have the effect of limiting or denying any such rights with respect to actions taken or Proceedings, appeals, inquiries or investigations arising prior to any amendment, modification or repeal.

(b) Expenses (including, without limitation, attorneys' fees and expenses) incurred by a Member, Manager, Officer or third-party manager of the Company in defending a Proceeding shall be paid by the Company in advance of the final disposition of such Proceeding upon receipt of an undertaking by or on behalf of the Member, Manager or Officer to repay such amount if it shall ultimately be determined that such Member, Manager or Officer is not entitled to be indemnified by the Company under Section 5.4(a) or under any other contract or agreement between such Member, Manager or Officer and the Company.

Section 5.5 Insurance. To the extent available on commercially reasonable terms, the Company shall obtain and maintain at all times thereafter, at its expense, insurance (with coverage limits customary for similarly situated companies) to protect itself and any Member, Manager~~,~~ **or** Officer ~~or agent~~ of the Company who is or was serving at the request of the Company as a manager, representative, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against any expense, liability or loss, whether or not the Company would have the power to indemnify such Person against such expense, liability or loss under this ARTICLE V.

Section 5.6 Savings Clause. If this ARTICLE V or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each Person indemnified pursuant to this ARTICLE V as to costs, charges and expenses (including reasonable attorneys' fees), judgments, fines and amounts paid in settlement with respect to any such Proceeding, appeal, inquiry or investigation to the full extent permitted by any applicable portion of this ARTICLE V that shall not have been invalidated and to the fullest extent permitted by applicable law.

ARTICLE VI
CAPITAL CONTRIBUTIONS AND CAPITAL ACCOUNTS

Section 6.1 Establishment and Determination of Capital Accounts. An initial capital account ("Capital Account") shall be established for each Holder on the books of the Company initially reflecting an amount equal to such Holder's Capital Contribution as set forth on Schedule A attached

hereto (as in effect as of the date hereof) and the initial Book Value of the Company's assets shall be equal to the Fair Market Value of such assets as reflected in the agreed ~~-~~upon value of such deemed Capital Contributions, such that no adjustment to Book Values pursuant to Section 6.4 and Treasury Regulation Section 1.701-1(b)(2)(iv)(f) shall be required in connection with the issuance of Units on the date hereof and therefore such issuance will not give rise to a Equity Event Adjustment Amount for any Holder on the date hereof. Each Holder's Capital Account shall be (a) increased by any additional Capital Contributions made by such Holder pursuant to the terms of this Agreement, such Holder's share of Profits~~,~~ and the amount of any Company liabilities that are assumed by such Holder (except to the extent taken into account in the determination of the amount distributed to Holders), (b) decreased by such Holder's share of Losses, any distributions to such Holder of cash or the Fair Market Value of any other Company property (net of liabilities assumed by such Holder and liabilities to which such property is subject) distributed to such Holder~~,~~ **and** the amount of any liabilities of such Holder that are assumed by the Company (except to the extent taken into account in the determination of the amount of a Holder's Capital Contribution)~~,~~ and (c) adjusted as otherwise required by the Code and the regulations thereunder, including the rules of Treasury Regulation Section 1.704-1(b)(2)(iv). Any references in this Agreement to the Capital Account of a Holder shall be deemed to refer to such Capital Account as the same may be increased or decreased from time to time as set forth above. A Holder who has more than one Unit in the Company shall have a single Capital Account that reflects all such Units regardless of the class of Unit owned and regardless of the time or manner in which the Units were acquired.

Section 6.2 Negative Capital Accounts. No Holder shall be required to pay to the Company or any other Holder any deficit or negative balance ~~which~~**that** may exist from time to time in such Holder's Capital Account.

Section 6.3 Company Capital. No Holder shall be paid interest on any Capital Contribution to the Company or on such Holder's Capital Account, and no Holder shall have any right (a) to demand the return of such Holder's Capital Contribution or any other Distribution from the Company (whether upon resignation, withdrawal or otherwise), except upon dissolution of the Company pursuant to ARTICLE XI hereof~~,~~ or (b) to cause a partition of the Company's assets.

Section 6.4 Adjustments to Book Value. The Company shall adjust the Book Values of its assets to Fair Market Value in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(f) as of the following times: (a) in connection with the issuance of Class B Units in connection with the issuance of other Units; (b) in the Board's sole discretion in connection with Distribution to a Holder of more than a de minimis amount of Company assets, including money, if as a result of such Distribution, such Holder's interest in the Company is reduced; and (c) the liquidation of the Company within the meaning of Treasury Regulation Section 1.704-1(b)(2)(ii)(g).

Section 6.5 Compliance With Section 1.704-1(b). The provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Section 1.704-1(b) of the Treasury Regulations, and shall be interpreted and applied in a manner consistent with such Treasury Regulations. In the event the Board shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto (including debits or credits relating to liabilities that are secured by contributed or distributed property or that are assumed by the Company or any Holder), are computed in order to comply with such Treasury Regulation, the Board may make such modification~~,~~**:** provided that, it is not likely to have a material effect on the amount distributable to any Holder pursuant to Section 7.2 hereof upon the dissolution of the Company. The Board also shall (a) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Holders and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(q)~~,~~ and (b) make any

appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Treasury Regulation Section 1.704-1(b).

Section 6.6 **Transfer of Capital Accounts**. The original Capital Account established for each substituted Holder shall be in the same amount as the Capital Account of the Holder (or portion thereof) to which such substituted Holder succeeds, at the time such substituted Holder becomes a Holder. The Capital Account of any Holder whose interest in the Company shall be increased or decreased by means of the transfer to it of all or part of the Units of another Holder or shall be appropriately adjusted to reflect such transfer or repurchase. Any reference in this Agreement to a Capital Contribution of or Distribution to a Holder that has succeeded any other Holder shall include any Capital Contributions or Distributions previously made by or to the former Holder on account of the Units of such former Holder transferred to such Holder.

ARTICLE VII
DISTRIBUTIONS

Section 7.1 **Generally**. Subject to the provisions of section 18-607 of the Act and to the provisions of this ARTICLE VII, the ~~Board shall have sole discretion regarding the~~ amounts and timing of **all** Distributions to Holders **shall be subject to the prior written consent or vote of a Class A Majority in accordance with Section 4.1(l)(xi)**. The making of Distributions hereunder shall be subject to the terms and conditions of any Indebtedness incurred by the Company or its Subsidiaries.

Section 7.2 **Distributions**.

(a) Operating Distributions. Subject to Section ~~7.1~~**7.1, Section 4.1(l)(xi)** and the obligation of the Company to make tax Distributions pursuant to Section 7.3, Operating Distributions shall be made ~~as and when declared by the Board~~ to the Class A Holders in the following order and priority; provided that each Operating Distribution pursuant to this Section 7.2(a) shall be treated as an advance of amounts the Class A Holders are entitled to under Section 7.2(b):

(i) First, to the Class A Holders, an amount equal to the aggregate Unreturned Capital with respect to their Class A Units outstanding immediately prior to such Operating Distribution (in the proportion that each such Holder's share of Unreturned Capital with respect to its Class A Units outstanding immediately prior to such Operating Distribution bears to the aggregate Unreturned Capital with respect to all Class A Units outstanding immediately prior to such Operating Distribution) until each such Holder has received Operating Distributions with respect to its Class A Units pursuant to this Section 7.2(a)(i) in an amount equal to the aggregate Unreturned Capital with respect to its Class A Units outstanding immediately prior to such Operating Distribution, and no Operating Distribution or any portion thereof shall be made under Section 7.2(a)(ii) below at any time when any such Holder's Unreturned Capital with respect to his, her or its Class A Units exceeds zero;

(ii) Second, to Class A Holders in the proportion that the number of Class A Units held by each Holder immediately prior to such Operating Distribution bears to the aggregate number of Class A Units outstanding immediately prior to such Operating Distribution.

(b) Significant Event Distributions. Subject to Section 7.1 and the obligation of the Company to make tax Distributions pursuant to Section 7.3, Significant Event Distributions shall be made as and when declared by the Board to each Holder in the following order and priority:

(i) First, to the Class A Holders, an amount equal to the aggregate Unreturned Capital with respect to their Class A Units outstanding immediately prior to such

Significant Event Distribution (in the proportion that each such Holder's share of Unreturned Capital with respect to its Class A Units outstanding immediately prior to such Significant Event Distribution bears to the aggregate Unreturned Capital with respect to all Class A Units outstanding immediately prior to such Significant Event Distribution) until each such Holder has received Significant Event Distributions with respect to its Class A Units pursuant to this Section 7.2(b)(i) in an amount equal to the aggregate Unreturned Capital with respect to its Class A Units outstanding immediately prior to such Significant Event Distribution, and no Significant Event Distribution or any portion thereof shall be made under Section 7.2(b)(ii), Section 7.2(b)(iii) or Section 7.2(b)(iv) below at any time when any such Holder's Unreturned Capital with respect to his, her or its Class A Units exceeds zero;

(ii) Second, to the Class A Holders and Class B Holders an amount equal to the aggregate Unreturned Equity Event Adjustment Amount with respect to their Class A Units and Class B Units outstanding immediately prior to such Significant Event Distribution (in the proportion that each such Holder's share of Unreturned Equity Event Adjustment Amount with respect to his, her or its Class A Units and/or Class B Units outstanding immediately prior to such Significant Event Distribution bears to the aggregate Unreturned Equity Event Adjustment Amount with respect to all Class A Units and Class B Units outstanding immediately prior to such Significant Event Distribution) until each such Holder has received Significant Event Distributions with respect to his, her or its Class A Units and/or Class B Units pursuant to this Section 7.2(b)(ii) in an amount equal to the aggregate Unreturned Equity Event Adjustment Amount with respect to his, her or its Class A Units and/or Class B Units outstanding immediately prior to such Significant Event Distribution, and no Significant Event Distribution or any portion thereof shall be made under Section 7.2(b)(iii) or Section 7.2(b)(iv) below at any time when any such Holder's Unreturned Equity Event Adjustment Amount with respect to his, her or its Class A Units and Class B Units exceeds zero;

(iii) Third, to each Class B Holder, an amount equal to the Class B Holder's Class B Distribution Amount; and

(iv) Fourth, to the Class A Holders, an amount equal to the difference between (A) the remaining aggregate amount to be distributed pursuant to this Section 7.2(b)(~~iii~~**iv**) as part of the specific Significant Event Distribution in question, minus (B) the aggregate amount distributed to the Class B Holders pursuant to Section 7.2(b)(iii)~~)(1)~~ above, respectively (in the proportion that the number of Class A Units held by each Holder immediately prior to such Significant Event Distribution bears to the aggregate number of Class A Units outstanding immediately prior to such Significant Event Distribution);

~~Provided~~**provided**, however, that the aggregate amount that may be distributed to Class B Holders pursuant to Section 7.2(b) (and for the avoidance of doubt, Section 11.2(d)) shall not exceed the Class B Profits Amount.

Section 7.3 Tax Distributions.

(a) Notwithstanding Section 7.2 above, so long as the Board has not determined in good faith that such Distribution would be prohibited or create a default or event of default under the Act (including section 18-607 of the Act) or any agreement with any Person who is not a Member or an Affiliate thereof, to which the Company is subject (including agreements governing the terms of Indebtedness), then, to the extent of available cash (as determined by the Board) the Company shall distribute to each Holder on the first day of the fourth, sixth, ninth and twelfth month of each calendar year an amount of cash equal to such Holder's Quarterly Estimated Tax Amount for the quarter of the

Taxable Year with respect to which such Distribution is being made. If the aggregate amount of such Distributions made to a Holder under this Section 7.3 with respect to any Taxable Year exceeds such Holder's Tax Amount for such Taxable Year, the Company's obligations to make future Distributions to such Holder pursuant to this Section 7.3 shall be reduced by the amount of such excess until such excess has been fully deducted from such Distributions. Subject to the foregoing, such Distributions may be made on a quarterly or other more frequent basis as shall be determined by the Board in its sole discretion.

(b) A Holder's "Tax Amount" for any Member for a Taxable Year shall be forty percent (40%) (irrespective of tax rates actually applicable to such Holder) multiplied by the net taxable income allocated by the Company to such Holder on IRS Form 1065 and Schedule K-1 for such Taxable Year, assuming that such Holder carried forward any taxable loss or tax credit previously allocated by the Company to such Holder (to the extent such carryforward has not expired for federal income tax purposes and not been previously used to offset taxable income pursuant to this clause), taking into account the character of any loss carryover as a capital or ordinary loss minus tax credits previously allocated by the Company to such Holders (to the extent such tax credits have not been previously used to offset such Holder's Tax Amount pursuant to this clause). The amounts in respect of tax withholding on payments to or from the Company for which Holders (or owners directly or indirectly of such Holders) are credited under applicable tax law shall be credited against payments of the Tax Amount to such Holders. A Holder's Tax Amount shall be determined initially by the Board on the basis of figures set forth on IRS Form 1065 filed by the Company and the similar state or local forms filed by the Company but shall be subject to subsequent adjustment pursuant to audit, litigation, settlement, amended return~~,~~ or the like.

(c) An "Estimated Tax Amount" for a Taxable Year (or fiscal period) shall be a Holder's Tax Amount for such Taxable Year (or fiscal period) as estimated from time to time by the Board in its sole discretion. In making such estimate, the Board shall take into account amounts shown on IRS Form 1065 filed by the Company and similar state or local forms filed by the Company for the preceding taxable year and other adjustments as in the reasonable business judgment of the Board are necessary or appropriate to reflect the estimated operations of the Company for the Taxable Year (or fiscal period). A Holder's "Quarterly Estimated Tax Amount" for any quarter of a Taxable Year shall be the excess of (i) the product of (1) ¼ in the case of the first quarter of the Taxable Year, ½ in the case of the second quarter of the Taxable Year, ¾ in the case of the third quarter of the Taxable Year and 1 in the case of the fourth quarter of the Taxable Year and (2) such Holder's Estimated Tax Amount for such Taxable Year over (ii) all prior Distributions for such Taxable Year.

(d) Each Distribution pursuant to Section 7.3(a) shall be made to the Persons shown on the Company's books and records as Holders as of the date of such Distribution. Each Distribution pursuant to Section 7.3(a) shall be treated as advances of amounts that Holders are entitled to under Section 7.2.

Section 7.4 Withholding of Certain Amounts.

(a) Notwithstanding any other provision contained herein to the contrary, the Company, at the discretion of the Board, may withhold from any distribution to any Manager contemplated by this Agreement any amounts due and payable by such Manager to the Company or to any other Person in connection with the business of the Company and its Subsidiaries to the extent not otherwise paid. Any amount withheld pursuant to this Section 7.4 shall be applied or paid by the Company to discharge the obligation in respect of which such amount was withheld.

(b) Notwithstanding anything to the contrary contained herein, all amounts withheld by the Company pursuant to Section 7.4(a) with respect to a Manager shall be treated as if such amounts were distributed to such Manager under this Agreement.

(c) The Company is authorized to withhold from distributions to be made to a Holder, or with respect to allocations to a Holder, and to pay over to a federal, state or local government, any amounts required to be withheld pursuant to the Code or any provisions of any other federal, state or local law. Any amounts so withheld shall be treated as distributed to such Holder pursuant to Section 7.2 for all purposes of this Agreement and shall be offset against the net amounts otherwise distributable to such Holder. In addition, any tax imposed upon the Company resulting from the Membership Interest of any Holder shall be treated as a distribution to such Holder and shall reduce future distributions to such Holder.

ARTICLE VIII
ALLOCATIONS OF PROFITS AND LOSSES

Section 8.1 Allocation of Profits and Losses.

(a) For each Taxable Year of the Company, after adjusting each Holder's Capital Account for all Capital Contributions and Distributions during such Taxable Year and all special allocations pursuant to Section 8.2 with respect to such Taxable Year, all Profits and Losses (other than Profits and Losses specially allocated pursuant to Section 8.2) shall be allocated to the Holders' Capital Accounts in a manner such that, to the extent possible, as of the end of such Taxable Year, the Adjusted Capital Account of each Holder (which may be either a positive or negative balance) shall be equal to (i) the amount ~~which~~**that** would be distributed to such Holder, determined as if the Company were to liquidate all of its assets for the Book Value thereof and distribute the proceeds thereof pursuant to Section 7.2 hereof (for the avoidance of doubt, the Distribution entitlements under Section 7.2 are to be determined prior to any change in the Equity Event Adjustment Amount resulting from the applicable allocation) after the payment of all liabilities (limited, with respect to each nonrecourse liability, to the Book Value of the assets securing such liabilities) minus (ii) such Holder's share of Company Minimum Gain and Holder Minimum Gain, computed immediately before the foregoing hypothetical liquidation of the Company's assets.

(b) Items of loss and deduction allocated pursuant to Section 8.1(a) shall not exceed the maximum amount that can be so allocated without causing any Holder to have a deficit balance in its Adjusted Capital Account at the end of any Taxable Year (any such excess being "Excess Losses"). In the event that some but not all of the Holders would have deficit balances in their Adjusted Capital Accounts as a consequence of an allocation pursuant to Section 8.1(a), the limitation set forth in this Section 8.1(b) shall be applied on a Holder -by -Holder basis so as to allocate the maximum permissible items of loss and deduction to each Holder under Treasury Regulations Section 1.704-1(b)(2)(ii)(d). With respect to each Taxable Year thereafter, 100% of items of income and gain shall be allocated to the Holders up to the aggregate of, and in proportion to, any Excess Losses previously allocated to each Holder in accordance with this Section 8.1(b) in the reverse order in which such Excess Losses were allocated.

Section 8.2 Regulatory and Special Allocations. Notwithstanding the provisions of Section 8.1:

(a) Profits and Losses**. Profits and Losses** shall be allocated as though this Agreement contained (and there is hereby incorporated herein by reference) a qualified income offset provision ~~which~~**that** complies with Treasury Regulation Section 1.704-1(b)(2)(ii)(d) and minimum gain chargeback and Holder minimum gain chargeback provisions which comply with the requirements of Treasury Regulation Section 1.704-2.

(b) Offsetting Allocations. If, and to the extent that, any Holder is deemed to recognize any item of income, gain, deduction or loss as a result of any transaction between such Holder

and the Company pursuant to ~~Sections~~**Section** 1272, 1274, 7872, 483, 482 or 83 of the Code or any similar provision now or hereafter in effect, and the Board determines that any corresponding Profit or Loss of the Holder who recognizes such item should be allocated to such Holder in order to reflect the Holders' Economic Interests in the Company, then, to the extent permitted by the Code and Treasury Regulations, the Board may so allocate such Profit or Loss.

(c) Reallocation. The allocations set forth in this Section 8.2 (the "Regulatory Allocations") are intended to comply with certain requirements of the Treasury Regulations under Code Section 704. The Regulatory Allocations may not be consistent with the manner in which the Members intend to allocate Profit and Loss or make Company Distributions. Accordingly, notwithstanding the other provisions of this ARTICLE VIII, but subject to the Regulatory Allocations, income, gain, deduction~~,~~ and loss shall be reallocated among the Holders so as to eliminate the effect of the Regulatory Allocations and thereby to cause the respective Capital Accounts of the Holders to be in the amounts (or as close thereto as possible) they would have been in if Profit and Loss (and such other items of income, gain, deduction and loss) had been allocated without reference to the Regulatory Allocations. In general, the Holders anticipate that this will be accomplished by specially allocating other Profit and Loss (and such other items of income, gain, deduction and loss) among the Holders so that the net amount of the Regulatory Allocations and such special allocations to each such Holder is zero.

Section 8.3 Tax Allocations.

(a) Except as provided in Section 8.3(b) and~~,~~ for federal, state and local income tax purposes, each item of income, gain, loss or deduction shall be allocated among the Holders in the same manner and in the same proportion that the corresponding Profits and Losses have been allocated among the Holders' respective Capital Accounts, except that if any such allocation is not permitted by the Code or other applicable law, the Company's subsequent income, gains, losses~~,~~ and deductions will be allocated among the Holders so as to reflect as nearly as possible the allocation set forth herein in computing their Capital Accounts.

(b) In accordance with Section 704(c) of the Code and the Treasury Regulations thereunder, income, gain, loss and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Holders so as to take account of any variation between the adjusted basis of such asset for federal income tax purposes and its initial Book Value. Such allocations shall be made using any reasonable method specified in Treasury Regulations Section 1.704-3 as the Board determines. In the event the Book Value of any Company asset is adjusted pursuant to Section 6.4, subsequent allocations of income, gain, loss and deduction with respect to such asset shall take into account any variation between the adjusted basis of such asset for federal income tax purposes and its Book Value in the same manner as under Section 704(c) of the Code and the Treasury Regulations thereunder. Such allocation shall be made based on any reasonable method specified in Treasury Regulations Section 1.704-3 as the Board determines.

(c) In the event that any other contribution, distribution or allocation made pursuant to this Agreement would (but for this Section 8.3(c)) cause a Holder to not ultimately receive cumulative distributions consistent with the amounts allocated to such Holder for federal and applicable) state and local income tax purposes, the Company shall, to the extent possible and solely for federal and applicable state and local income tax purposes, allocate its future income, gains, losses, deductions~~,~~ and credits among the Holders in a manner ~~which~~**that** shall result in the cumulative federal and applicable state and local income tax allocations to each Holder being as nearly consistent with the cumulative distributions to each Holder as possible, each item of income, gain, loss or deduction shall be allocated among the Holders in the same manner and in the same proportion that the corresponding Profits and Losses have been allocated among the Holders' respective Capital Accounts.

Section 8.4 **Section 754 Election**. Upon the request of the Board, the Company shall elect, pursuant to Section 754 of the Code, to adjust the basis of Company property as permitted and provided in Sections 734 and 743 of the Code. Such election shall be effective solely for Federal (and, if applicable, state and local) income tax purposes and shall not result in any adjustment to the Book Value of any Company asset or to the Holder's Capital Accounts (except as provided in Treasury Regulations Section 1.704-1(b)(2)(iv)(m)) or in the determination or allocation of Profit or Loss for purposes other than such tax purposes.

ARTICLE IX
TAX AND ACCOUNTING MATTERS; INFORMATION RIGHTS

Section 9.1 **Tax Returns**. Without limiting the provisions of and subject to Section 8.4, the Board shall cause to be prepared and filed all necessary federal and state income tax returns for the Company, and shall cause the Company to make any elections and filings it may deem appropriate and in the best interests of the Members. Each Holder shall furnish to the Company all pertinent information in its possession relating to Company operations that is necessary to enable the Company's income tax returns to be prepared and filed. The Company shall furnish all pertinent information to the Holders that is necessary to determine amounts includable on their tax returns with respect to the Company (including Schedule K-1) not later than 120 days after the end of the Taxable Year or any extension period granted by the relevant authority having jurisdiction over such matters.

Section 9.2 **Tax Matters Partner**. The "Tax Matters Partner" shall be a Holder (subject to such Holder's written consent) designated (and subject to replacement) by the Board if, as and when required pursuant to Section 6231(a)(7) of the Code (the "Tax Matters Partner"), and such Tax Matters Partner shall also be the "notice partner" within the meaning of Section 6223 of the Code. The Tax Matters Partner is authorized to represent the Company before the Internal Revenue Service and any other governmental agency with jurisdiction, and to sign such consents and to enter into settlements and other agreements with such agencies as the Board deems necessary or advisable. Each Holder agrees to cooperate with the Tax Matters Partner and to do or refrain from doing any or all things reasonably requested by the Tax Matters Partner with respect to the conduct of such proceedings. The Tax Matters Partner shall provide the Holders with all notices required to be provided to them by law in connection with such proceedings, and shall otherwise keep the Holders reasonably informed of the progress thereof. Promptly following the written request of the Tax Matters Partner, the Company shall, to the fullest extent permitted by law, reimburse and indemnify the Tax Matters Partner for all reasonable expenses, including reasonable legal and accounting fees, claims, liabilities, losses and damages incurred by the Tax Matters Partner in connection with any administrative or judicial proceeding (a) with respect to the tax liability of the Company and/or (b) with respect to the tax liability of the Holders in connection with the operations of the Company. The Tax Matters Partner shall take such action as may be necessary to cause each Class A Member to become a "notice partner" within the meaning of Section 6223 of the Code. The Tax Matters Partner shall inform each Class A Member of all significant matters that may come to his or her attention in his or her capacity as Tax Matters Partner by giving notice thereof on or before the tenth (10th) business day after becoming aware thereof and, within that time, shall forward to each other Class A Member copies of all significant written communications he or she may receive in that capacity. The Tax Matters Partner shall not bind any Class A Member to a settlement agreement without obtaining the consent of all of the Class A Members. The provisions of this Section 9.2 shall survive the termination of the Company or the termination of any Holder's interest in the Company and shall remain binding on the Holders for as long a period of time as is necessary to resolve with the Internal Revenue Service any and all matters regarding the Federal income taxation of the Company or the Holders.

Section 9.3 **Code §83 Safe Harbor Election**.

(a) By executing this Agreement, each Holder authorizes and directs the Company to elect to have the "Safe Harbor" described in Internal Revenue Service Notice 2005-43 (the "Notice") apply to any interest in the Company transferred to a service provider by the Company on or after the effective date of such Revenue Procedure in connection with services provided to the Company. For purposes of making such Safe Harbor election, the Tax Matters Partner is hereby designated as the "Partner who has responsibility for federal income tax reporting" by the Company and, accordingly, execution of such Safe Harbor election by the Tax Matters Partner constitutes execution of a "Safe Harbor Election" in accordance with section 3.03(1) of the Notice. The Company and each Holder hereby agrees to comply with all requirements of the Safe Harbor described in the Notice, including the requirement that each Holder shall prepare and file all federal income tax returns reporting the income tax effects of each Safe Harbor interest issued by the Company in a manner consistent with the requirements of the Notice.

(b) Any Holder that fails to comply with the requirements set forth in Section 9.3(a) shall indemnify and hold harmless the Company and each adversely affected Holder from and against any and all losses, liabilities, taxes, damages, judgments, fines, costs, penalties, amounts paid in settlement and reasonable out-of-pocket costs and expenses incurred in connection therewith (including costs and expenses of suits and proceedings, and reasonable fees and disbursements of counsel), in each case resulting from such Holder's failure to comply with such requirements. The Tax Matters Partner may offset Distributions or other payments to which a Person is otherwise entitled under this Agreement against such Person's obligation to indemnify the Company and any other Person under this Section 9.3(b) (and any amount so offset with respect to such Person's obligation to indemnify a Person other than the Company shall be paid over to such other Person by the Company). A Holder's obligations to comply with the requirements of Section 9.3(a) and to indemnify the Company and any Holder under this Section 9.3(b) shall survive such Holder's ceasing to be a Holder of the Company and/or the termination, dissolution, liquidation and winding up of the Company, and, for purposes of this Section 9.3, the Company shall be treated as continuing in existence. The Company and any Holder may pursue and enforce all rights and remedies it may have against each Holder under this Section 9.3(b), including (i) instituting a lawsuit to collect such indemnification and contribution, with interest calculated, from time to time, at a rate equal to the prime rate plus three percentage points per annum (but not in excess of the highest rate per annum permitted by law), compounded on the last day of each fiscal quarter and (ii) specific performance and/or immediate injunctive or other equitable relief from any court of competent jurisdiction (without the necessity of showing actual money damages, or posting any bond or other security) in order to enforce or prevent any violation of the provisions of Section 9.3(a).

(c) Each Holder authorizes the Board to amend subsections (a) and (b) of Section 9.3 to the extent necessary to achieve substantially the same tax treatment with respect to any interest in the Company transferred to a service provider by the Company in connection with services provided to the Company as set forth in section 4 of the Notice (e.g., to reflect changes from the rules set forth in the Notice in subsequent Internal Revenue Service guidance); provided that, such amendment is not materially adverse to any Member (as compared with the after-tax consequences that would result if the provisions of the Notice applied to all interests in the Company transferred to a service provider by the Company in connection with services provided to the Company).

Section 9.4 Reserves. The Board may from time to time establish such reasonable cash reserves as it shall reasonably determine.

Section 9.5 Bank Accounts. Except as may be agreed to by the Board, all funds of the Company and each of its Subsidiaries shall be deposited and maintained in the Company's name in a bank account or accounts of one or more commercial banks, each having combined capital and surplus of at least $500 million, or shall be invested in obligations of the United States government or any agency thereof or obligations guaranteed by the United States government or commercial paper with a rating of at

least "Prime 1" by Moody's Investors Service, Inc. Subject to the foregoing, the Board shall determine the institution or institutions at which the accounts will be opened and maintained, the types of accounts, and the individuals who will have authority with respect to the accounts and the funds therein.

Section 9.6 **Maintenance of Books**. Except as may be agreed to by the Board, the Company shall keep, or cause to be kept, complete and accurate books and records of accounts of the Company in accordance with United States generally accepted accounting principles and shall keep minutes of the proceedings of its Members, the Board and each committee. The books of the Company (other than books required to maintain Capital Accounts) shall be kept on the accrual method of accounting in accordance with generally accepted accounting principles, consistently applied. Each of the following shall be maintained at the principal business office of the Company: (a) a current list of the full name and last known business address of each Member, setting forth the amount of cash each Member contributed or has agreed to contribute, a description and statement of the Fair Market Value (at the time of contribution) of property or other services each Member has contributed or agreed to contribute (which, except as otherwise expressly provided herein, shall be the amount reasonably determined by the Board) and the date on which each Member became a Member, (b) a copy of this Agreement and all amendments hereto (and executed copies of all powers of attorney pursuant to which this Agreement or any amendment has been executed), (c) a copy of the Certificate and all certificates of amendment thereto (and executed copies of all powers of attorney pursuant to which the Certificate or any certificate of amendment has been executed), (d) copies of the Company's federal, state and local income tax returns and reports, if any, for the three (3) most recent fiscal years~~,~~ and (e) the financial statements of the Company for the three (3) most recent fiscal years or such lesser period of the Company's existence, and (f) all other records required to be maintained pursuant to the Act.

Section 9.7 **Accounting Year**. The Taxable Year shall be the accounting year of the Company for tax and financial reporting purposes.

Section 9.8 **Information Rights**. Other than as specifically set forth in Section 9.1, Holders and Members shall not have the right to require the Company to provide information or accounting of the affairs of the Company (including quarterly and annual financial statements, projections, annual budgets and the like) to such Members and Holders, and each Holder and Member acknowledges that the information rights provided for in section 18-305(a) of the Act have been waived hereunder in accordance with section 18-305(g) of the Act.

ARTICLE X
TRANSFERS AND OTHER EVENTS

Section 10.1 **Transfers and Restrictions on Transfer**.

(a) Subject to the terms of this ARTICLE X and to any additional restrictions contained in this Agreement, without the prior written consent of the Board (which consent may be withheld in the Board's sole discretion~~ and is subject to Section 10.2~~), no Holder shall be permitted to Transfer any Units to any Person (an "Assignee"); provided that:

(i) the restrictions on Transfer contained in this Section 10.1(a) shall not apply to any proposed Transfer if the Board does not deliver written notice to the transferring Holder (the "Assignor") of its decision to withhold its consent with respect to such Transfer within seven (7) calendar days of the Board's receipt of written notice from the Assignor of such proposed Transfer pursuant to Section 10.2(a)(i);

(ii) ~~**(i)**~~ the restrictions on Transfer contained in this Section 10.1(a) shall not apply to Transfers by Holders properly made pursuant to and in accordance with Section ~~10.5~~**10.4** (Sale of the Company)**:** and~~;~~

(iii) ~~**(ii)**~~ the restrictions on Transfer contained in this Section 10.1(a) shall not apply to Transfers by Members (but, for the avoidance of doubt, not including Holders that are not Members) to Affiliates; provided that, as a condition to any Transfer to an Affiliate, the transferor hereby covenants, and such Affiliate shall be required to covenant, to the Company that if such Affiliate at any time ceases for any reason to be an Affiliate of the original transferor, then such Affiliate shall Transfer his, her or its Units back to such original transferor or to a Person that at such time is an Affiliate of such original transferor.

(b) Upon the Bankruptcy or death of a Holder, (i) the rights of such Holder (other than any rights such Holder may have hereunder by virtue of being a Member in addition to being a Holder) and (ii) the restrictions and obligations applicable to such Holder, including the restrictions on Transfer hereunder, shall devolve on such Holder's Successor in Interest for the purpose of settling such Holder's estate or administering such Holder's property, and such Successor in Interest shall be deemed to be subrogated to such rights, restrictions and obligations of such Holder hereunder (for example, such Successor in Interest would be subject to the transfer restrictions as applicable to the bankrupt or deceased Holder) in addition to any other obligations applicable to Successors in Interest hereunder. The Successor in Interest of such Holder shall be liable for all the obligations of such Holder hereunder, and, upon the Bankruptcy or death of a Holder, such Holder shall cease to be a Holder (and, if applicable, Member) hereunder. For the avoidance of doubt, subject to the terms of this Section 10.1(b), such Successor In Interest shall be treated as a Holder hereunder, but shall not be admitted as a Member except pursuant to the terms hereof.

(c) Unless otherwise specified in this ARTICLE X, the restrictions contained in this ARTICLE X shall continue to be applicable to all Units and enforceable against any new Holder following any Transfer.

~~**Section 10.2 Right of First Refusal**. Not later than two (2) calendar days following receipt by the Board of a notice of a Member's desire (the "Selling Member") to Transfer all or any portion of such Selling Member's Units, the Board shall provide written notice (a "Sale Notice") to all Class A Members of such proposed Transfer. The Sale Notice shall disclose in reasonable detail the identity of the prospective transferee(s), the number of Units to be transferred and the terms and conditions of the proposed Transfer. The Board shall not authorize any such proposed Transfer, if at all, earlier than ten (10) business days after the Sale Notice has been sent to the Class A Members (the "Sale Authorization Date"). Following receipt by the Class A Members of the Sale Notice, each Class A Member may elect to purchase its Pro Rata Share of the Units upon the same terms and conditions as those set forth in the Sale Notice by delivering written notice of such election to the Board prior to the Sale Authorization Date; provided that, the consummation of any such purchase by a Class A Member shall occur no later than ten (10) days after the Sale Authorization Date. If a Class A Majority fails (or chooses not) to elect to purchase all of the Units subject to the Sale Notice prior to the Sale Authorization Date, the Board may elect in its sole discretion whether to authorize the proposed Transfer on the terms and conditions set forth in the Sale Notice. The restrictions set forth in this Section 10.2 shall not apply with respect to any Transfers authorized by Sections 10.1(a)(i) and (ii).~~

Section 10.2 ~~**Section 10.3**~~ **Assignments Generally; Substituted Member**.

(a) Conditions. In addition to any other restrictions contained in this Agreement (including Section 10.1 hereof) and subject to Gaming Laws, unless otherwise waived by the Board in writing (in its sole discretion), a Transfer shall be valid and effective hereunder only if:

(i) the ~~transferring Member (the "~~Assignor~~")~~ gives at least ten (10) days**'** prior written notice to the Board of any proposed Transfer permitted by Section 10.1, including the identity and contact details of such proposed Affiliate and such other documentation reasonably requested by the Board to ensure compliance with the terms of this Agreement (other than a Transfer to a Successor in Interest by operation of law pursuant to Section 10.1(b), provided that, such Successor in Interest promptly notify the Board upon becoming a Successor in Interest);

(ii) the Assignor and the Assignee (or the Successor in Interest, if applicable) execute and deliver to the Company such documents and instruments of conveyance as may be requested by the Board to effect such Transfer and to confirm the agreement of the Assignee (or Successor in Interest, if applicable) to be bound by the provisions of this Agreement;

(iii) the Assignor and Assignee (or Successor in Interest, if applicable) provide to the Board the Assignee's (or Successor in Interest's, if applicable) taxpayer identification number and any other information reasonably necessary to permit the Company to file all required federal and state tax returns and other legally required information statements or returns. Without limiting the generality of the foregoing, the Company shall not be required to make any Distribution otherwise provided for in this Agreement with respect to any interest Transferred until the Board has received such information;

(iv) (A) the Transfer will not cause the Company to be deemed to be an "investment company" under the Investment Company Act of 1940, as amended, (B) **the Assignor delivers an opinion of counsel reasonably acceptable to the Board that** the Transfer will not cause the Company to be deemed a "publicly traded partnership" within the meaning of Code Section 7704 or ineligible for "safe harbor" treatment under the Treasury Regulations promulgated under Code Section 7704 and (C) either the interest Transferred has been registered under the Securities Act and any applicable state securities laws or the Transfer is exempt from all applicable registration requirements and will not violate any applicable laws regulating the Transfer of securities and the Assignor (or Successor in Interest, if applicable) furnishes to the Company an opinion of counsel, which counsel and opinion shall be reasonably satisfactory to the Board, that each of (A), (B) and (C) have been satisfied;

(v) in all cases, the Company is reimbursed by the Assignor and/or Assignee (or Successor in Interest, if applicable) for all costs and expenses that the Company reasonably incurs in connection with the Transfer; and

(vi) such Transfer complies with all Gaming Laws.

(b) Rights and Obligations of Assignees (or Successors in Interest, if applicable) and Assignors.

(i) A Transfer by a Member or other Person shall not itself dissolve the Company or entitle the Assignee (or Successor in Interest, if applicable) to become a Member or exercise any rights of a Member.

(ii) Except as set forth herein, a Transfer by a Member shall eliminate the Member's power and right to vote (in proportion to the extent of the interest Transferred) on any matter submitted to the Members, and, for voting purposes, such interest shall not be counted as outstanding in proportion to the extent of the interest Transferred. A Transfer shall also eliminate the Member's right to participate in the issuance of Additional Units pursuant to Section 3.6 to the extent of the interest Transferred. A Transfer shall not otherwise eliminate the Member's entitlement to any rights associated with the Member's remaining interest, including rights to information, and shall not cause the Member to be released from any liability to the Company solely as a result of the Transfer.

(c) Admission of Assignee as Member.

(i) Subject to the other restrictions contained in this Agreement (including Section ~~10.7~~**10.6** hereof), an Assignee (or Successor in Interest, if applicable) that is not admitted as a Member pursuant to this Section ~~10.3~~**10.2**(c) shall be treated as a Holder hereunder and shall be entitled only to the Economic Interest with respect to the Units held thereby and shall have no other rights (including rights to any information or accounting of the affairs of the Company or to inspect the books or records of the Company) with respect to the interest Transferred. The Assignee (or Successor in Interest, if applicable) shall nevertheless be subject to all of the obligations applicable to a Holder under this ARTICLE X and shall be deemed to make all acknowledgments and representations and warranties of a Holder hereunder (and shall be liable hereunder for any breach thereof). If the Assignee (or Successor in Interest, if applicable) becomes a Member, the voting and other rights associated with the interest held by the Assignee (or Successor in Interest, if applicable) shall be restored and be held by the Member along with all other rights with respect to the interest Transferred.

(ii) Subject to the other provisions of this ARTICLE X an Assignee may be admitted to the Company as a Member only upon (x) the valid Transfer of Units to an Assignee pursuant to the terms hereof (provided such Transfer represents a complete transfer of all of the rights and obligations associated with such Units and does not, among other things, represent or constitute a collateral assignment or grant of security interest in such Units), (y) the written consent of the Board (which consent may be given or withheld at the Board's sole discretion), and (z) satisfaction (or waiver by the Board, in its sole discretion) of all of the following conditions, upon which consent and satisfaction the Assignee shall have, to the extent assigned, the rights and powers, and be subject to the restrictions and liabilities, of a Member under the Act and this Agreement:

(1) The Assignee (or Successor in Interest, if applicable) becomes a party to this Agreement as a Member by executing a counterpart signature page to this Agreement and executing such documents and instruments as the Board may request as necessary or appropriate to confirm such Assignee (or Successor in Interest, if applicable) as a Member in the Company and such Assignee's agreement to be bound by the terms and conditions of this Agreement;

(2) The Assignee (or Successor in Interest, if applicable) pays or reimburses the Company for all reasonable legal, filing and publication costs that the Company incurs in connection with the admission of the Assignee (or Successor in Interest, if applicable) as a Member; and

(3) If the Assignee (or Successor in Interest, if applicable) is not a natural Person of legal majority, the Assignee (or Successor in Interest, if

applicable) provides the Company with evidence reasonably satisfactory to the Board of the authority of the Assignee (or Successor in Interest, if applicable) to become a Member and to be bound by the terms and conditions of this Agreement.

(d) Effect of Admission of Member on Assignor and Company. Notwithstanding the admission of an Assignee (or Successor in Interest, if applicable) as a Member, the Assignor shall not be released from any obligations to the Company existing as of the date of the transfer (other than obligations of the Assignor to make future capital contributions or if such Assignee assumes all obligations of the Assignor), but, subject to Section 10.1(b), such admission shall cause an Assignor that is a Member to cease to be a Member with respect to the interest Transferred when the Assignee becomes a Member. In any such case, the admission of the Assignee as a Member shall constitute the requisite consent of the Members to continue the business of the Company notwithstanding that such admission will cause the termination of the membership of the Assignor with respect to the interest Transferred.

(e) Distributions and Allocations Regarding Transferred Units. Upon any Transfer during any Fiscal Year of the Company made in compliance with the provisions of this ARTICLE X, profits, losses, each item thereof and all other items attributable to such interest for such Fiscal Year shall be divided and allocated between the Assignor and the Assignee by taking into account their varying interests during such Fiscal Year, using any conventions permitted by law and selected by the Board. All Distributions on or before the date of such Transfer shall be made to the Assignor and all Distributions thereafter shall be made to the Assignee. Solely for purposes of making such allocations and Distributions, the Company shall recognize such Transfer not later than the end of the calendar month during which it is given notice of such Transfer; provided that, if the Company is given notice of a Transfer at least ten (10) business days prior to the Transfer, the Company shall recognize such Transfer as of the date of such Transfer, and provided further that, if the Company does not receive a notice stating the date such interest was Transferred and such other information as the Board may reasonably require within thirty (30) days after the end of the Fiscal Year during which the Transfer occurs, then all such items shall be allocated, and all Distributions shall be made, to the Holder that, according to the books and records of the Company, was the owner of the interest on the last day of the Fiscal Year during which the Transfer occurs. Neither the Company nor the Board shall incur any liability for making allocations and Distributions in accordance with the provisions of this Section ~~10.3~~**10.2**(e), whether or not the Company or the Board has knowledge of any Transfer of any interest.

Section 10.3 ~~**Section 10.4**~~ **Required Amendments; Continuation**. If and to the extent any Assignee is admitted as a Member pursuant to Section ~~10.3~~**10.2,** this Agreement shall be amended to admit such Assignee as a Member and to reflect the elimination of the transferor Member (or the reduction of such member's interest) and (if and to the extent then required by the Act) a certificate of amendment to the Certificate reflecting such admission and elimination (or reduction) shall be filed in accordance with the Act. The admission of any substitute Member pursuant to this ARTICLE X shall be deemed effective on the effective date of such amendment to this Agreement.

Section 10.4 ~~**Section 10.5**~~ **Sale of the Company**.

(a) Approved Sale. Subject to the terms of this Section ~~10.5~~**10.4,** if the Board approves a Sale of the Company (any such Sale of the Company, an "Approved Sale"), then each Holder shall (i) vote (to the extent permitted to vote for), consent to and raise no objections against such Approved Sale or the process by which such was arranged, (ii) waive any dissenters' rights, appraisal rights and other similar rights, to the extent applicable, and (iii) take all other actions necessary to cause the consummation of such Approved Sale on the terms and conditions proposed by the Board as the case may be, including the execution of any merger, redemption, sale or other such agreement designed to

facilitate such Approved Sale that is approved by the Board, as the case may be, in connection with such Approved Sale. Each Holder shall be (1) severally (whether through a contribution agreement or otherwise) obligated to make the same representations, warranties and indemnities regarding the Company and its assets, liabilities and business (collectively, the "Company Reps") and (2) solely obligated as requested by the Board, as the case may be, on behalf of such Holder to make such representations and warranties concerning such Holder and the Units (if any) to be sold by such Holder as may be set forth in any agreement approved by the Board.

(b) Condition as to Consideration. The obligations of each Holder hereunder with respect to an Approved Sale are subject to the satisfaction of the following conditions: (i) the consideration payable to such Holder upon consummation of the Sale of the Company is at least equal to such Holder's Pro Rata Share of the total consideration payable upon consummation of such Sale of the Company (accounting for any escrowed amounts, holdbacks, earn-out obligations and like deferred or contingent consideration) (such total consideration being the "Sale Proceeds Amount"); (ii) upon the consummation of the Sale of the Company, all of the Holders receive the same form of consideration, or if any Holders are given an option as to the form of consideration to be received, all Holders are given the same option; and (iii) to the extent such Holder holds Unit Equivalents, such Holder is given an opportunity to exercise such Unit Equivalents prior to the consummation of the Approved Sale and participate in such sale as a Holder of the related underlying Units or, in the Board's sole discretion, upon the consummation of the Approved Sale, receives in exchange for each such Unit Equivalent consideration equal to the product of (A) the consideration per Unit to be received by Holders of such type and class of underlying Unit into which such Unit Equivalent is exercisable or convertible less the exercise price (or equivalent) of such Unit Equivalent multiplied by (B) the number of underlying Units represented by such Unit Equivalent.

(c) Rule 506. If the Company enters into any negotiation or transaction for which Rule 506 promulgated by the SEC (or any similar rule then in effect) may be available with respect to such negotiation or transaction (including a merger, consolidation or other reorganization), each Holder that is not an "accredited investor" (within the meaning of Rule 501(a) promulgated by the SEC) will, at the request of the Board, appoint a purchaser representative (as such term is defined in Rule 501 promulgated by the SEC) approved by the Board. If any such Holder declines to appoint the purchaser representative approved by the Board, such Holder will appoint another purchaser representative, and such Holder will be responsible for the fees of the purchaser representative so appointed.

(d) Indemnification and Expenses. Notwithstanding anything to the contrary in this Section ~~10.5~~**10.4** or otherwise, the Holders shall be severally (whether through a contribution agreement or otherwise) obligated to join in any indemnification obligation the Board has agreed to in connection with such Approved Sale (other than any such obligations that relate specifically to a particular Holder, such as indemnification with respect to representations and warranties given by a Holder regarding such Holder's title to and ownership of Units). The allocable share of each Holder of any amounts payable in connection with any claim under the Company Reps by the purchaser(s) in such Approved Sale (any such amount payable, a "Company Loss") shall be an amount equal to the amount by which such Holder's Sale Proceeds Amount would have been reduced had the aggregate consideration from such Sale of the Company been distributed by the Company in accordance with Section 7.2 after deducting from such aggregate consideration the aggregate amount of such Company Loss. In addition, unless a prospective Transferee permits a Holder to give a guarantee, letter of credit or other similar assurance mechanism other than an escrow arrangement (which shall be addressed on an individual basis), any escrow of proceeds of any such Approved Sale shall be withheld, such that the allocable share of each Holder of any such withholding shall be an amount equal to the amount by which such Holder's Sale Proceeds Amount would have been reduced had the aggregate consideration from such Sale of the Company been distributed by the Company in accordance with Section 7.2 after deducting from such aggregate

consideration the aggregate amount of such withholding. Each Holder will bear his, her or its pro rata share of the reasonable costs (the "Expenses") of any sale of Units pursuant to an Approved Sale to the extent such Expenses are incurred for the benefit of all Holders and are not otherwise paid by the Company or the acquiring party. The allocable share of each Holder of any Expenses shall be an amount equal to the amount by which such Holder's Sale Proceeds Amount would have been reduced had the aggregate consideration from such Sale of the Company been distributed by the Company in accordance with Section 7.2 after deducting from such aggregate consideration the aggregate amount of such Expenses. Costs incurred by or on behalf of a Holder for his, her or its sole benefit will be borne by such respective Holder (i.e., not borne by the Company or any other Holders).

Section 10.5 ~~**Section 10.6**~~ **No Appraisal Rights**. No Holder shall be entitled to any appraisal rights with respect to such Holder's Units, whether individually or as part of any class or group of Holders, in the event of a merger, consolidation, Approved Sale or other transaction involving the Company or its securities unless such rights are expressly provided herein or by the agreement of merger, agreement of consolidation or other document effectuating such transaction.

Section 10.6 ~~**Section 10.7**~~ **Void Assignment**. Any Transfer by any Holder in contravention of this Agreement shall be void and ineffectual and shall not bind or be recognized by the Company or any other party. In the event of any Transfer in contravention of this Agreement, the purported transferee shall have no right to any profits, losses or Distributions of the Company or any other rights of a Holder.

ARTICLE XI
LIQUIDATION AND TERMINATION

Section 11.1 **Dissolution**. The Company shall be dissolved and its affairs shall be wound up on the first to occur of the following:

(a) a determination of the Board; and

(b) the entry of a decree of judicial dissolution of the Company under section 18-802 of the Act.

The death, retirement, resignation, expulsion, incapacity, Bankruptcy or dissolution of a Holder, or the occurrence of any other event that terminates the continued membership of a Member in the Company, shall not cause a dissolution of the Company, and the Company shall continue in existence subject to the terms and conditions of this Agreement. Neither the dissolution of the Company pursuant to this Section 11.1 nor upon a happening of the events set forth in section 18-304 of the Act shall result in a Member ceasing to be a Member of the Company.

Section 11.2 **Liquidation and Termination**. On dissolution of the Company, the Board shall act as liquidator or may appoint one or more Members as liquidator(s). The liquidators(s) shall proceed diligently to wind up the affairs of the Company and make final distributions as provided herein and in the Act. The costs of liquidation shall be borne as a Company expense. Until final Distribution, the liquidator(s) shall continue to operate the Company's properties with all of the power and authority of the Board. The steps to be accomplished by the liquidator(s) are as follows:

(a) As promptly as possible after dissolution and again after final liquidation, the liquidator(s) shall cause a proper accounting to be made by a recognized firm of certified public accountants of the Company's assets, liabilities and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, as applicable.

(b) The liquidator(s) shall cause the notice described in the Act to be mailed to each known creditor of and claimant against the Company in the manner described thereunder.

(c) The liquidator(s) shall pay, satisfy or discharge from Company funds all of the debts, liabilities and obligations of the Company (including all expenses incurred in liquidation) or otherwise make adequate provision for payment and discharge thereof (including the establishment of a cash fund for contingent liabilities in such amount and for such term as the liquidator(s) may reasonably determine).

(d) The balance, if any, of the Company's remaining assets shall be distributed to the Holders in accordance with Section 7.2(b); provided that, it is the Members' intent that, after giving effect to all allocations of Profit or Loss for the current and all prior Taxable Years of the Company under Section 8.1, the Holders' positive Capital Account balances shall be in proportion to the amounts to be distributed pursuant to this Section 11.2(d). In furtherance thereof, notwithstanding the provisions of Section 8.1, Profits and Losses for the final Taxable Year of the Company shall be allocated to the Holders' Capital Accounts in such a manner that, to the extent possible, the Holders' positive Capital Account balances shall be, immediately prior to the Distribution pursuant to this Section 11.2(d), in such proportion. Distributions pursuant to this Section 11.2(d) shall be made by the end of the Taxable Year of the Company during which the liquidation occurs (or, if later, ninety (90) days after the date of the liquidation).

(e) The liquidator(s) shall cause only cash, evidences of Indebtedness and other securities to be distributed in any liquidation. The Distribution of cash and/or property to a Member in accordance with the provisions of this Section 11.2 constitutes a complete return to such Member of his, her or its Capital Contributions and a complete Distribution to the Member of his, her or its interest in the Company and all the Company's property and constitutes a compromise to which all Holders have consented within the meaning of the Act. The Distribution of cash and/or property to a Holder who is not a Member in accordance with the provisions of this Section 11.2 constitutes a complete Distribution to such Holder of his, her or its interest in the Company and all the Company's property and constitutes a compromise to which all Holders have consented within the meaning of the Act. To the extent that a Member returns funds to the Company, he, she or it has no claim against any other Member for those funds.

Section 11.3 Deemed Distribution and Recontribution. Notwithstanding any other provision of this ARTICLE XI, in the event the Company is "liquidated" within the meaning of Treasury Regulation section 1.704-1(b)(2)(ii)(g), the Company's assets shall not be liquidated, the Company's liabilities shall not be paid or discharged~~,~~ and the Company's affairs shall not be wound up. Instead, the Company shall be deemed to have contributed its assets to a newly created limited liability company in exchange for such company's assumption of the Company's liabilities and equity interests in such new company. Immediately thereafter, the Company shall be deemed to have distributed the new limited liability company equity interests to the Holders in accordance with their Capital Accounts.

Section 11.4 Deficit Capital Accounts. Notwithstanding any custom or rule of law to the contrary, to the extent that any Member has a deficit Capital Account balance, upon dissolution of the Company such deficit shall not be an asset of the Company and any such Member shall not be obligated to contribute such amount to the Company to bring the balance of such Member's Capital Account to zero.

Section 11.5 Cancellation of Certificate. On completion of the distribution of Company assets as provided herein, the Company is terminated, and shall file a certificate of cancellation with the Secretary of State of the State of Delaware, cancel any other filings made pursuant to Section 2.1 and take such other actions as may be necessary to terminate the Company.

ARTICLE XII
MISCELLANEOUS PROVISIONS

Section 12.1 **Creditors**. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company or any of its Affiliates, and no creditor who makes a loan to the Company or any of its Affiliates may have or acquire (except pursuant to the terms of a separate agreement executed by the Company in favor of such creditor) at any time as a result of making the loan any direct or indirect interest in the Company's profits, losses, distributions, capital or property other than as a secured creditor.

Section 12.2 **Offset**. Whenever the Company is required to pay any sum (other than mandatory tax Distributions pursuant to Section 7.2) to any Member, any amounts that such Member owes to the Company may, at the election of the Company, be deducted from that sum before payment; provided that, the full amount that would otherwise be distributed shall be debited from the Member's Capital Account pursuant to Section 6.1.

Section 12.3 **Notices**. Except as expressly set forth to the contrary in this Agreement, all notices, demands or other communications to be given or delivered under or by reason of the provisions of this Agreement must be in writing (which shall include electronic mail) and shall be deemed delivered: (a) upon delivery if delivered in person; (b) three (3) business days after deposit in the United States mail, addressed to the recipient, postage paid, and registered or certified with return receipt requested; (c) upon transmission if sent via facsimile, with a confirmation copy sent via overnight mail, provided that, confirmation of such overnight delivery is received; or (d) one (1) business day after (i) transmission if sent via electronic mail and (ii) deposit with a national overnight courier, provided that, confirmation of such overnight delivery is received. All notices, requests and consents to be sent to a Member must be sent to or made at the address (or facsimile number) given for that Member on Schedule A, or such other address (or facsimile number) as that Member may specify by notice to the other Members. Any notice, request or consent to the Company or the Board must be given to the Board or, if appointed, the secretary of the Company at the Company's chief executive offices. Whenever any notice is required to be given by law or this Agreement, a written waiver thereof, signed by the Person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Any notice given to the Company shall include a copy to (which shall not constitute notice to the Company):

Mayer Brown LLP
71 South Wacker Drive
Chicago, IL 60606-4637
Attention: J. Robert Stoll
Facsimile: (312) 706-8240

Section 12.4 **Public Announcements**. No Member shall make any public announcement or filing with respect to the transactions provided for herein without the prior consent of the Board, unless such party has been advised by counsel such disclosure is required by applicable law. To the extent reasonably feasible, any press release or other announcement or notice regarding the transactions contemplated by this Agreement shall be made by the Board or any other party designated by the Board.

Section 12.5 **Entire Agreement**. This Agreement and other written agreements among the Members and their Affiliates relating to the Company of even date herewith constitute the entire agreement among the Members relating to the Company and supersedes all prior contracts or agreements with respect to the Company, whether oral or written.

Section 12.6 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 hereunder or 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 hereunder or 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 hereunder or 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.

Section 12.7 Amendment or Modification. Except as set forth in Section 4.1(l), this Agreement and any provision hereof may be amended or modified from time to time only by a written instrument adopted by the Board.

Section 12.8 Severability. Should any provision of this Agreement be held to be enforceable only if modified, such holding shall not affect the validity of the remainder of this Agreement, the balance of which shall continue to be binding upon each Member with any such modification to become a part hereof and treated as though originally set forth in this Agreement. The Members further agree that any court or arbitrator is expressly authorized to modify any such unenforceable provision of this Agreement in lieu of severing such unenforceable provision from this Agreement in its entirety, whether by rewriting the offending provision, deleting any or all of the offending provision, adding additional language to this Agreement, or by making such other modifications as it deems warranted to carry out the intent and agreement of the Members as embodied herein to the maximum extent permitted by law. The Members expressly agree that this Agreement as so modified shall be binding upon and enforceable against each of them. In any event, should one or more of the provisions of this Agreement be held to be invalid, illegal or unenforceable in any respect under applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and if such provision or provisions are not modified as provided above, this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been set forth herein.

Section 12.9 Successors and Assigns. Except as otherwise provided herein, this Agreement is binding on and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, administrators, executors, successors and permitted assigns; provided that, no Person claiming by, through or under a Member (whether as such Member's Successor in Interest or otherwise), as distinct from such Member itself, shall have any rights as, or in respect to, a Member (including the right to approve or vote on any matter or to notice thereof) unless such Person is properly admitted as a Member hereunder.

Section 12.10 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 or refrain from performing additional acts, as applicable, as it may be necessary or appropriate to effectuate and perform the provisions of this Agreement and those transactions.

Section 12.11 Notice to Members of Provisions. By executing this Agreement, each Member acknowledges that it has actual notice of (a) all of the provisions hereof (including the restrictions on Transfer set forth herein) and (b) all of the provisions of the Certificate.

Section 12.12 Third Parties. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any Person or entity, other than the parties to this Agreement and their respective successors and permitted assigns, any rights or remedies under or by reason of this Agreement.

Section 12.13 **GOVERNING LAW**. THIS AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF DELAWARE EXCLUDING ANY CONFLICT OF LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION.

Section 12.14 **Waiver of Jury Trial**. The parties to this Agreement each hereby waives, to the fullest extent permitted by law, any right to trial of any claim, demand, action~~,~~ or cause of action (a) arising under this Agreement or (b) in any way connected with or related or incidental to the dealings of the parties hereto in respect of this Agreement or any of the transactions related hereto, in each case whether now existing or hereafter arising, and whether in contract, tort, equity~~,~~ or otherwise. The parties to this Agreement each hereby agrees and consents that any such claim, demand, action~~,~~ or cause of action shall be decided by court trial without a jury and that the parties to this Agreement may file an original counterpart of a copy of this Agreement with any court as written evidence of the consent of the parties hereto to the waiver of their right to trial by jury.

Section 12.15 **Waiver of Certain Rights**. Each Member irrevocably waives any right it may have to demand any Distributions or withdrawal of property from the Company or to maintain any action for dissolution (except pursuant to section 18-802 of the Act) of the Company or for partition of the property of the Company.

Section 12.16 **Counterparts; Delivery by Facsimile or Email**. This Agreement may be executed in multiple counterparts with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and constitute the same instrument. This Agreement, the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or email with scan or facsimile attachment, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine or email to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or email as a defense to the formation or enforceability of a contract, and each such party forever waives any such defense.

Section 12.17 **Specific Performance.** The parties hereto agree that irreparable damage would occur if any of the provisions of this Agreement were not performed in accordance with its specific terms or were otherwise breached. It is accordingly agreed that the Company (and only the Company)~~,~~ in its sole discretion shall be entitled to an injunction or injunctions to prevent breaches or threatened breaches of this Agreement (and the other parties hereto hereby waive as defense that there would otherwise be an adequate remedy at law) and to enforce specifically the terms and provisions hereof (without posting a bond or other security), in addition to any other remedy to which it is entitled at law or in equity.

Section 12.18 **Descriptive Headings**. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a substantive part of this Agreement.

Section 12.19 **Severability with the Act**. In the event of a direct conflict between the provision of this Agreement and any provision of the Certificate or any mandatory provision of the Act, the applicable provision of the Certificate or the Act shall control.

Section 12.20 **Computation of Time**. Whenever the last day for the exercise of any privilege or the discharge or any duty hereunder shall fall upon a Saturday, Sunday~~,~~ or any date on which banks in New York, New York are authorized to be closed, the party having such privilege or duty may exercise such privilege or discharge such duty on the next succeeding day which is a regular business day.

Section 12.21 **No Strict Construction**. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

* * * * * *

IN WITNESS WHEREOF, the Members have executed this **Amended and Restated** Limited Liability Company Agreement as of the day and year first above written.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

[Signature Page to the New Greektown Holdco LLC
***Amended and Restated** Limited Liability Company Agreement]*

~~13459769.17 05060097~~**13459769.17 05060097**

~~TABLE OF CONTENTS~~

SCHEDULE A

MEMBERS

Document comparison by Workshare Professional on Wednesday, October 28, 2009 1:41:52 PM

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BOARD SERVICE AGREEMENT

This Board Service Agreement (the "Agreement")**, dated as of [●], 2009,** is entered into between New Greektown Holdco L.L.C., a Delaware limited liability company (the "Company"), and [●] (the "Manager").

WHEREAS, the Company holds 100% of the issued and outstanding membership interests of Greektown Holdings, L.L.C., a Michigan limited liability company ("Greektown Holdings"), which holds 100% of the issued and outstanding membership interests of Greektown Casino, L.L.C., a Michigan limited liability company ("Greektown Casino"), which holds 100% of the issued and outstanding shares of each of Contract Builders Corporation ("Contract Builders") and Realty Equity Company, Inc. (with the Company, Greektown Holdings, Greektown Casino and Contract Builders, collectively, the "Greektown Entities");

WHEREAS, the primary asset of Greektown Casino is a casino located in Detroit, Michigan known as the "Greektown Casino" (the "Casino");

WHEREAS, this Agreement is entered into as of the effective date (the "Effective Date") of the Second Amended Joint Plan of Reorganization of Greektown Holdings L.L.C., Kewadin Greektown Casino, L.L.C., Greektown Holdings II, Inc., Contract Builders Corporation, Realty Equity Company Inc. and Trappers GC Partner, LLC pursuant to Title 11 of the United States Code, 11 U.S.C. Section 101 et seq. (as modified and confirmed by the Bankruptcy Court, the "Plan"); and

WHEREAS, the Manager has been appointed to the board of managers or board of directors, as applicable, of each of the Greektown Entities (collectively, the "Greektown Boards") as part of the Plan;

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein set forth, the parties agree as follows:

1. Term. This Agreement shall become effective on the Effective Date and shall continue thereafter for as long as Manager remains appointed to the Greektown Boards.

2. Duties. In his capacity as a manager or director, as applicable, of each of the Greektown Boards (the "Board Positions"), Manager shall perform such duties and fulfill such responsibilities as are normally related to such positions, in accordance with the provisions of the applicable charter and organizational documents of the respective Greektown Entity (the "Organizational Documents") and/or the Delaware Limited Liability Company Act, the Michigan Limited Liability Company Act or the Michigan Business Corporation Act, in each case as applicable. Manager shall also comply with all resolutions and policies of each of the respective Greektown Entities, including, but not limited to, those concerning conflicts of interest, prohibitions on gaming at the Casino and confidentiality. Without limiting the foregoing, Manager's duties with regard to the Board Positions shall be as set forth in the applicable Organizational

Documents, including, but not limited to, to attend and participate in the respective Greektown Board meetings, to assist with the overall implementation of the Greektown Entities' business plans and objectives and to fulfill such other duties as assigned by the Greektown Entities' from time to time. Manager shall perform his duties using his best efforts and in accordance with any statutes, rules, regulations and orders of any governmental or quasi-governmental authority, including the Michigan Gaming Control and Revenue Act and regulations of the Michigan Gaming Control Board, as well as the Greektown Entities' rules, regulations and practices, including but not limited to, any system of internal controls that are applicable to the performance of services in the Board Positions. As a manager or director for the Greektown Entities, Manager understands and agrees that he must at all times be deemed suitable and eligible by the Michigan Gaming Control Board to perform such duties. Manager further understands and agrees that he must obtain occupational licenses from the Michigan Gaming Control Board before engaging in numerous activities, including, but not limited to, accessing restricted areas of the Casino or the Casinos' computer-gaming systems or working on the Casino floor, and that he is responsible for abiding by all Michigan Gaming Control Board requirements and that failure to do so will result in immediate termination of his position as Manager.

3. Compensation. During the period that Manager serves in the Board Positions, the Company will compensate him for all board-related work and activities in an aggregate amount of $~~[●]~~**100,000** per ~~month~~**year**, payable **in monthly payments** on the first day of each month. In addition, (a) the Company will reimburse Manager for any reasonable expenses incurred in the performance of his duties in the Board Positions, in accordance with the Company's policies regarding reimbursement as in effect from time to time, and (b) the Manager will be entitled to receive certain additional compensation as set forth on Exhibit A attached hereto. During the period that Manager serves in the Board Positions, the Company agrees to maintain directors' and officers' liability insurance for and on behalf of Manager in the same manner and on the same terms as it does for other board members.

4. Termination. Any one of the Greektown Entities may remove Manager, and Manager may resign, from the Board Positions at any time in accordance with the applicable Organizational Documents. Neither the Greektown Entities nor Manager shall be required to provide any advance notice or any reason or cause for the termination or resignation, unless required by the applicable Organizational Documents. Any of the Greektown Entities may terminate Manager immediately and without notice if at any time Manager is no longer found eligible and suitable by the Michigan Gaming Control Board or otherwise deemed unacceptable to the Michigan Gaming Control Board.

5. Termination Obligations. Upon the cessation of Manager's service in the Board Positions, this Agreement will terminate and the parties will have no further obligations toward each other except as follows: (a) Manager shall continue to be bound by, and

adhere to, the obligations set forth in Section 6 below, (b) Manager will cooperate with the Greektown Entities in winding up and/or transferring to the Greektown Boards any pending work, (c) Manager will cooperate with the Greektown Entities (to the extent allowed by law) in the defense of any action brought against any Greektown Entity and (d) the Company will pay to Manager all compensation and expense reimbursements to which he is entitled through the date of termination.

6. Confidentiality. Manager acknowledges that, during the course of serving in the Board Position, he will gain access to, use and compile confidential and/or trade secretive information with respect to the business or affairs of the Greektown Entities (and its affiliates or predecessors), including, but not limited to, deliberations of the Greektown Boards, business plans, marketing strategies, practices and procedures, personnel information, labor relations strategies, compensation data, financial data or strategies, accounting records, pricing information, sales and revenue figures and projections, profit or loss figures and projections, legal proceedings and strategies, contractual arrangements, research, and information relating to customers, prospects, clients and suppliers (collectively, "Confidential Information"). Manager agrees that the Confidential Information is and shall remain the property of the respective Greektown Entities. Therefore, Manager agrees that, except as required by law or court order, he will not disclose to any unauthorized person or entity, or use for his own account or for the account of any other person or entity (other than the Greektown Entities), any Confidential Information without the prior written consent of the Greektown Entities. Further, Manager agrees to take all necessary precautions to keep the Confidential Information secret, private, concealed and protected from disclosure, and shall notify all other members of the Greektown Boards immediately of any breach in privacy or disclosure of the Confidential Information. In addition, within seven (7) days of the termination of this Agreement for any reason, or at any other time that any Greektown Entity may request, Manager shall deliver to another member of the Greektown Boards all memoranda, notes, plans, records and other documents and data (and copies thereof), whether tangible or electronic form, containing any Confidential Information that Manager may then possess or have under his control. In the event that Manager is compelled by law to disclose any Confidential Information, or the fact that Confidential Information has been made available to him by the Greektown Entities, Manager agrees that he will provide another member of the Greektown Boards with prompt written notice of such request, so that the applicable Greektown Entity may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. If a protective order or other remedy is not obtained, or any Greektown Entity waives compliance with the provisions of this Agreement, Manager agrees that he will furnish only that portion of Confidential Information that is legally required and that he will use his best efforts to obtain reliable assurances that confidential treatment will be accorded to the information or documents disclosed.

7. Miscellaneous.

a. Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

b. Complete Agreement. Portions of the Organizational Documents pertaining to managers or directors, as applicable, are incorporated by reference into this Agreement. This Agreement otherwise contains the entire understanding and agreement between the parties with respect to the matters addressed herein and as to the nature and extent of the relationship between the parties hereto. This Agreement supersedes any and all other representations, agreements or contracts, either oral or written, between the parties with respect to the subject matter hereof, provided that this Agreement does not supersede the Organizational Documents in any way.

c. Counterparts. This Agreement may be executed in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

d. Assigns. The services contemplated under this Agreement are of a personal nature, and Manager may not assign his rights and obligations under this Agreement. The Greektown Entities may transfer and/or assign this Agreement to another entity if such entity shall perform substantially the same functions as the Greektown Entities.

e. Governing Law; Venue. All questions concerning the construction, validity and interpretation of this Agreement will be governed by and construed in accordance with the domestic laws of the State of Delaware, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware. Any lawsuit arising out of or in any way related to this Agreement to the parties' relationship under this Agreement shall be brought only in those state or federal courts having jurisdiction over actions arising in the State of Delaware.

f. Remedies Upon Breach of Sections 5 or 6. Manager acknowledges that his obligations under Sections 5 and 6 of this Agreement will survive termination of this Agreement. In addition to, and not in limitation of, the provisions of

Sections 5 and 6, Manager agrees that any breach of Sections 5 or 6 will cause irreparable damage to the Greektown Entities. In the event of such breach, the Greektown Entities shall have, in addition to any and all other legal remedies, the right to a temporary restraining order, an injunction, specific performance or other equitable relief to prevent the violation of any obligations under this Agreement, without the necessity of proving irreparable harm or posting a bond. In the event any Greektown Entity takes action to enforce Section 5 or 6 of this Agreement, Manager agrees to reimburse such Greektown Entity for any fees and expenses (including reasonable attorney's fees) incurred in connection with such action.

g. Amendment and Waiver. The provisions of this Agreement may be amended or waived only with the prior written consent of the Company and Manager.

[SIGNATURE PAGE FOLLOWS]

DRAFT ONLY – SUBJECT TO REVISIONS
The Plan Proponents, in consultation with the MGCB, continue to refine the ownership and management structures of the Reorganized Debtors and accordingly, such ownership and management structures and these documents are subject to change.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

NEW GREEKTOWN HOLDCO L.L.C.

By: _____

Name: _____

Title: _____

MANAGER

By: _____

Name: _____

Title: _____

DRAFT ONLY – SUBJECT TO REVISIONS
The Plan Proponents, in consultation with the MGCB, continue to refine the ownership and management structures of the Reorganized Debtors and accordingly, such ownership and management structures and these documents are subject to change.

Exhibit A

~~Manager Compensation~~

~~[**TBD**]~~

Success Exit Fee

During the period that Manager serves in the Board Positions, if all or substantially all of the assets, operations or equity interests of the Company are sold to a purchaser in a sale transaction or series of related sale transactions, the Company will pay to Manager within 30 days following the consummation of such transaction or transactions a success exit fee in an amount equal to one of the following:

(1) If the purchase price paid by such purchaser with respect to such transaction or transactions is less than $600 million, the Company will pay to Manager an amount in cash equal to one-third of 0.15% of such purchase price;

(2) If the purchase price paid by such purchaser with respect to such transaction or transactions is equal to or greater than $600 million, but less than or equal to $700 million, the Company will pay to Manager an amount equal to one-third of 0.25% of such purchase price; or

(3) If the purchase price paid by such purchaser with respect to such transaction or transactions is greater than $700 million, the Company will pay to Manager an amount equal to one-third of 0.35% of such purchase price.

Document comparison by Workshare Professional on Wednesday, October 28, 2009 1:44:19 PM

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DRAFT ONLY – SUBJECT TO REVISIONS
The Plan Proponents, in consultation with the MGCB, continue to refine the ownership and management structures of the Reorganized Debtors and accordingly, such ownership and management structures and these documents are subject to change.

~~CONSULTING~~CASINO OPERATING AGREEMENT

This ~~CONSULTING~~**CASINO OPERATING AGREEMENT** (this "Agreement") is entered into as of [●], 2009 by and between **NEW GREEKTOWN HOLDCO L.L.C.**, a Delaware limited liability company (the "Company"), and **THE FINE POINT GROUP** (the "~~Consultant~~**Operator**").~~**WHEREAS**, the Company holds 100% of the issued and outstanding membership interests of Greektown Holdings, L.L.C., a Michigan limited liability company ("Greektown Holdings"), which holds 100% of the issued and outstanding membership interests of Greektown Casino, L.L.C., a Michigan limited liability company ("Greektown Casino"), and the primary asset of Greektown Casino is a casino located in Detroit, Michigan known as the "Greektown Casino" (the "Casino");~~

WHEREAS, this Agreement is entered into as of the effective date (the "Effective Date") of the Second Amended Joint Plan of Reorganization of Greektown Holdings L.L.C., Kewadin Greektown Casino, L.L.C., Greektown Holdings II, Inc., Contract Builders Corporation, Realty Equity Company Inc. and Trappers GC Partner, LLC pursuant to Title 11 of the United States Code, 11 U.S.C. Section 101 et seq. (as modified and confirmed by the Bankruptcy Court, the "Plan");

WHEREAS, **as of the Effective Date, the Company holds 100% of the issued and outstanding membership interests of Greektown Holdings, L.L.C., a Michigan limited liability company ("Greektown Holdings"), which holds 100% of the issued and outstanding membership interests of Greektown Casino, L.L.C., a Michigan limited liability company ("Greektown Casino"), and the primary asset of Greektown Casino is a casino-hotel located in Detroit, Michigan known as the "Greektown Casino-Hotel" (the "Casino");**

WHEREAS, prior to the Effective Date, the Operator provided certain consulting and operations services to Greektown Casino pursuant to that certain consulting agreement, dated as of December 31, 2008, as amended (the "Consulting Agreement"), between Greektown Casino and the Operator;

WHEREAS, the Operator and its employees, Randy Fine and Chris Colwell, obtained all necessary gaming approvals and licenses (collectively, the "Gaming Approvals") from all applicable governmental authorities, including the Michigan Gaming Control Board (the "MGCB"), prior to the Effective Date in order to provide the services to Greektown Casino required under the Consulting Agreement, and all such Gaming Approvals are effective as of the date of this Agreement;

WHEREAS, the Company desires to engage the ~~Consultant~~**Operator to operate and manage the Casino and** to perform certain ~~consulting~~**other** services for the Company **and its wholly owned subsidiary, Greektown Casino**; and

~~**WHEREAS**,~~ **WHEREAS,** the ~~Consultant~~**Operator** desires to perform such services for the Company **and Greektown Casino**, subject to the terms and provisions contained herein;

DRAFT ONLY – SUBJECT TO REVISIONS
The Plan Proponents, in consultation with the MGCB, continue to refine the ownership and management structures of the Reorganized Debtors and accordingly, such ownership and management structures and these documents are subject to change.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the ~~Consultant~~**Operator** agree as follows:

(1) ~~**1.**~~ **Term and Termination.**

(a) ~~a.~~ The term of this Agreement (the "Term") shall commence on the Effective Date and shall expire upon the earlier of (~~a~~**i**) a Sale of the Company (as defined in the Limited Liability Company Agreement of the Company, dated as of the date hereof) or (~~b~~**ii**) the third anniversary of the date of this Agreement; provided, that the Term may be ~~terminated earlier (i) by the Company at any time without Cause (as defined below) upon 30 days' prior written notice to the Consultant; provided, that during such 30-day notice period, the Consultant shall make itself, and shall cause its employees to make themselves, reasonably available to the Company to consult regarding the business and affairs of the Company, (ii) by the Company at any time for Cause or (iii) pursuant to Section 11 of this Agreement.~~ **earlier terminated:**

~~b.[**Early termination provisions TBD.**]~~

1. by the Company at any time without Cause (as defined below) upon 30 days' prior written notice to the Operator; provided, that during such 30-day notice period, the Operator shall cause its employees to make themselves reasonably available to the Company to consult regarding the business and affairs of the Company;

2. by the Company at any time for Cause;

3. by the Operator upon 30 days' prior written notice to the Company following a material breach of this Agreement by the Company; provided, that the Company's liability under this Agreement, if any, in the event of its material breach hereunder shall be limited to the amount it is obligated under this Agreement to pay the Operator for services rendered and the reimbursement of expenses hereunder; or

4. pursuant to Section 12 of this Agreement.

(b) In the event that this Agreement is terminated by the Company without Cause prior to the expiration of the Term in accordance with subsection (1) of the preceding Section 1(a), the Operator shall be entitled to the payment by the Company of (i) any accrued but unpaid Base Fee (as defined in Section 4 below) plus the lesser of (x) $900,000 or (y) the number of months remaining under the Term multiplied by the Base Fee (any remaining partial months shall be pro-rated); (ii) a short-term success

fee, which shall equal the pro-rata earned Success Fee (as defined in Appendix B attached hereto), if any, for the quarter-to-date period; (iii) any unpaid expenses to be reimbursed in accordance with Section 6 below and incurred by the Operator as a result of providing services hereunder prior to the date of such termination; and (iv) the Exit Fee (as defined in Appendix C attached hereto and only as provided in paragraph 2 of such Appendix C).

(c) ~~c.~~ For purposes of this Agreement, "Cause" shall mean the occurrence of any of the following:

(i) ~~(i)~~ the ~~Consultant~~**Operator** engages in any act or omission that constitutes fraud, criminal activity or gross negligence;

(ii) ~~(ii)~~ the ~~Consultant~~**Operator** engages in any act or omission that constitutes a breach, non-performance or non-observance of this Agreement;

(iii) ~~(iii)~~ the ~~Consultant~~**Operator** engages in willful misconduct with regards to the ~~Casino~~**Company or any of its subsidiaries**, including refusing or failing to comply with any instructions of the Board (as defined below);

(iv) ~~(iv)~~ the ~~Consultant~~**Operator** engages in any act or omission that has, or may have, a material adverse impact on the business reputation or goodwill of the Company or any of its subsidiaries;

(v) ~~(v)~~ the ~~Consultant~~**Operator** or Randy Fine is no-longer licensed by the MGCB;

(vi) ~~(vi)~~ Randy Fine is no longer employed by the ~~Consultant~~**Operator**; and

(vii) ~~(vii)~~ EBITDAR **(as defined in Appendix B attached hereto)** during any two consecutive fiscal quarters falls below 85% of the EBITDAR amounts set forth in the Plan.

(d) ~~d.~~ Upon the expiration or earlier termination of this Agreement, the ~~Consultant~~**Operator** shall transfer, assign and make available to the Company or the Company's representatives all property and materials in the ~~Consultant~~**Operator**'s possession or control belonging to the Company.

(2) Appointment; Responsibilities of Operator; Operator Employees.

(a) The Company hereby appoints the Operator to manage and operate the day-to-day operations of the Casino, on behalf of and for the account of

the Company during the Term, and the Operator hereby accepts such appointment, in each case subject at all times to the oversight and control of the board of managers of the Company (the "Board").

(b) On the terms and subject to the conditions of this Agreement, and subject at all times to the oversight and control of the Board, the Operator will manage the day-to-day operations of the Casino, including the gaming, hotel, food/beverage and other ancillary operations related thereto. The Operator will perform its duties and responsibilities in a diligent and lawful manner so as to manage, direct, supervise, operate, maintain, repair and service the Company and the Casino. Subject at all times to the oversight and control of the Board, the Operator will have the responsibility to, among other things, implement all operating policies and procedures necessary or appropriate for the operation of the Casino, including standards of operation, staffing levels and organization, service and maintenance, employment and labor policies, compliance with laws and regulations, accounting and financial systems, sales and promotions, pricing and other policies and activities affecting the Casino.

(c) In addition to those services to be provided by the Operator in connection with the management and operation of the Casino hereunder, during the Term, without additional cost or expense to the Company (or the Casino), the Operator will provide the Company with senior management personnel of the Operator to provide executive management services (the "Executive Management Services"), including as set forth on Appendix A attached hereto. Each such senior manager of the Operator that provides Executive Management Services to the Company pursuant to this Agreement is referred to herein as an "Operator Employee." Each Operator Employee shall remain an employee of the Operator at all times during the Term.

(d) ~~**2. Services.** During the Term, the Consultant shall provide comprehensive marketing and operations consulting services for the Company, including but not limited to the services set forth on Appendix A attached hereto, and such other services as the Company and the Consultant may mutually agree in writing from time to time (collectively, the "Services"). The Consultant agrees that upon obtaining all necessary approvals from the Michigan Gaming Control Board (the "MGCB") to provide the Services, each of Randy Fine, Amanda Totaro and Chris Colwell will be employed by the Company under employment agreements satisfactory to the Company, as its Chief Executive Officer, Vice President of Marketing, and General Manager, respectively. During the Term, the Services shall be provided by Randy Fine, Amanda Totaro and Chris Colwell and such other persons approved by the Company; provided, that if~~**The initial Operator Employees shall be Randy Fine and Chris Colwell. If** for any reason whatsoever, Randy Fine~~, Amanda Totaro~~ or Chris Colwell are unable or unwilling to provide the **Company with**

Executive Management Services in accordance with ~~Appendix A~~**this Agreement**, then the **Executive Management** Services to be provided by such person shall be provided by such person's replacement who shall be satisfactory to the Company in all respects. **As of the Effective Date, the Company shall duly appoint Randy Fine as the Chief Executive Officer of the Company and the Casino and Chris Colwell as General Manager of the Casino, in each case with all corporate and agency powers customarily attendant to such positions.**

(e) The Operator may appoint additional Operator Employees to provide management consulting services to the Company (or the Casino) hereunder subject to the approval of the Board in its sole discretion.

(3) ~~**3.**~~ **Reporting Structure.** The ~~Consultant and any executive officer put forward by the Consultant~~**Operator, Randy Fine, as the Company's Chief Executive Officer, and each of the Company's officers that are employed by the Company or a subsidiary of the Company** shall report directly to, and operate solely at the direction of, the ~~board of managers of~~**Board. The employees of the Operator (other than Randy Fine) that provide services to** the Company (**or** the ~~"Board").~~ ~~[**Additional reporting structure requirements TBD**.]~~**Casino) shall report directly to the Operator; provided, that the Operator shall make such employees, including the Operator Employees, available to the Board upon the Board's reasonable request.**

(4) ~~**4. Payment**~~**Base Fee.** As consideration for the ~~Services~~**services** provided hereunder, the Company shall pay the ~~Consultant~~**Operator** the fixed fee of $150,000 per month (the "**Base** Fee"), to be paid monthly in advance during the Term~~; provided, that~~ ~~(a)~~ the **Base** Fee shall be pro-rated for any partial months~~, (b) if any employee of the Consultant is employed by the Company during the Term (any such employee, a "Consultant Employee"), the Fee shall be reduced each month by an amount equal to~~**. For the avoidance of doubt, the Company shall not be responsible for and shall not be obligated to pay** the gross monthly salary ~~of each such employee and (c) the aggregate amount of the gross monthly salaries of all Consultant Employees shall not exceed the Fee~~**or any other compensation or other amounts with respect to any of the Operator Employees**.

(5) ~~**5.**~~ **Success Fee; Exit ~~Success~~ Fee.** The ~~Consultant~~**Operator** shall be entitled to receive ~~an additional success fee~~ (a**) a** "Success Fee"~~)~~**," as defined in, and** in accordance with~~ the terms set forth on~~**,** Appendix B attached hereto~~. The Consultant shall be entitled to receive an exit success fee~~ (**, and (b)** an "Exit Success Fee"~~)~~**Fee," as defined in, and** in accordance with~~ the terms set forth on~~**,** Appendix C attached hereto.

(6) ~~**6.**~~ **Reimbursement of Expenses.** ~~ **; Benefits.**

(a) The Company shall reimburse the ~~Consultant~~**Operator** for those reasonable and necessary expenses incurred by the ~~Consultant~~**Operator** in connection with its performance of the Services**, including reasonable attorneys' fees incurred by the Operator in connection with this Agreement and reasonable temporary housing expenses incurred by employees of the Operator who temporarily relocate to Detroit in connection with the provision of services under this Agreement**; provided, that the aggregate amount of expenses that are reimbursed hereunder **without prior written approval of the Board** during any fiscal quarter shall not exceed $75,000. Any expenses exceeding $75,000 shall be incurred only with the prior written approval of the Board. The ~~Consultant~~**Operator** shall submit to the Company a monthly invoice that will include a list of any expenses for which payment is requested (together with appropriate evidence or receipts), which list shall include: (a) the amount of each expense and enough specificity to determine the nature of each expense and (b) the total amount of out-of- pocket expenses being requested in the invoice. The Company agrees to pay all undisputed amounts on such invoice within thirty (30) days of its receipt. The ~~Consultant~~**Operator** and its employees shall (i) for overnight stays in Detroit, stay onsite at the Company's facility, (ii) travel coach class (when available) and (iii) eat at the Company's facilities, when possible.

(b) To the extent permitted under the Company's or Greektown Casino's health benefit plans, up to two (2) employees of the Operator that have relocated to Detroit to provide services to the Company (or the Casino) pursuant to this Agreement may participate in the Company's health benefit plan; provided, that any incremental cost incurred by the Company with respect to such participation shall be counted against the Operator's $75,000 quarterly cap referred to in Section 6(a) above.

(7) Board Observation Rights.

(a) The Company hereby grants to Randy Fine (and only Randy Fine), as the Company's Chief Executive Officer (for purposes of this Section 7, the "Observer"), the right to observe and only observe (the "Observation Rights") all meetings of the Board; provided, that the Observer's Observation Rights shall not extend or be applicable to those meetings or portions of meetings of the Board that involve or relate to the assessment of the performance of the Operator or any of its employees (including the Observer) under this Agreement ("Excluded Subjects"). The meetings and portions of meetings of the Board that are eligible for the Observer to exercise his Observation Rights pursuant to the immediately preceding sentence are referred to herein in as "Eligible Meetings." In connection with the foregoing, the Company shall use reasonable efforts to: (a) deliver written notice to the Observer of all Eligible Meetings; (b) invite the Observer to attend (or, in the case of telephonic meetings, monitor) all

such Eligible Meetings; (c) deliver to the Observer all information and reports that are furnished to the Board with respect to the Eligible Meetings at the same time and in the same manner as the same are furnished to the Board and (d) deliver to the Observer at the same time and in the same manner as the same are furnished to the Board copies of the minutes of all such Eligible Meetings. The Operator hereby acknowledges and agrees that the Board is under no obligation to delay or postpone any Eligible Meeting in the event that the Observer is unable to attend such Eligible Meeting on the date or at the time chosen by the Board. If any action is proposed to be taken by the Board by written consent in lieu of an Eligible Meeting, the Company shall use reasonable efforts to give advance notice thereof to the Observer, which notice shall describe in reasonable detail the nature and substance of such proposed action. The Operator hereby acknowledges and agrees that these Observation Rights are specific to Randy Fine only and may not be assigned or transferred to any other employee of the Operator or otherwise.

(b) For the avoidance of doubt, the Observer shall not be a member or deemed a manager of the Board and shall not be entitled to vote on any matters presented to the Board (or otherwise) or consent to any matter as to which the consent of the Board shall have been requested. The Board may restrict the Observer's attendance at any meeting of the Board (or any portion thereof involving Excluded Subjects) if and to the extent the Board determines, in its sole discretion, that (i) such meeting does not qualify as an Eligible Meeting or such portion thereof involves discussion of an Excluded Subject or (ii) attendance at such meeting could cause the Company to lose the benefit of protection in respect of what would otherwise be attorney-client privileged communications. The Operator shall cause the Observer to keep all information received by the Observer related to the Company confidential in accordance with Section 26 below.

(8) ~~**7.**~~ **Independent Contractor.** The ~~Consultant~~**Operator** acknowledges that it (and its employees, agents and representatives) shall be deemed to be, and shall be, an independent contractor ~~(which for clarification purposes shall not include those Services of Consultant Employees while employed by the Company)~~, and shall not be entitled to any benefits applicable to the Company's employees **other than certain employee health benefits as described in Section 6(b) above**.

(9) ~~**8. Consultant**~~**Operator's Taxes.** All amounts paid to the ~~Consultant~~**Operator** hereunder shall be reported to the Internal Revenue Service on a Form 1099, and the ~~Consultant~~**Operator** shall be obligated to pay any and all federal, state, local or other income taxes and all employment and other taxes due thereon.

The Plan Proponents, in consultation with the MGCB, continue to refine the ownership and management structures of the Reorganized Debtors and accordingly, such ownership and management structures and these documents are subject to change.

~~**9. No Authority to Bind Company.** All Services provided by the Consultant shall be performed by the Consultant (which for clarification purposes shall not include those Services of Consultant Employees while employed by the Company) directly and independently and not as an agent, employee or representative of the Company. This Agreement is not intended to and does not constitute, create or otherwise give rise to a joint venture, partnership or other type of business association or organization of any kind by or between the Company and the Consultant. Specifically, and without limitation, the Consultant has no power or authority to contract for, or bind, the Company in any manner.~~

(10) Company Approval. As of the Effective Date, this Agreement and the transactions contemplated hereunder will be duly authorized and approved by the Company in accordance with the Company's organization documents.

(11) ~~**10.**~~ **Exclusivity.** ~~[**TBD**]~~

(a) During the Term and for 12 months thereafter (the "Exclusivity Period"), the Operator shall not, directly or indirectly, accept any position or affiliation with, or render any services on behalf of, any casino located in the Detroit Metropolitan Market (as defined below) not owned or operated by the Company; provided, that the Operator shall be permitted to provide services to the corporate entities of any competitor so long as that work does not consist of matters specific to the Company or the Casino or take place in or relate to the Detroit Metropolitan Market. For purposes of this Agreement, "Detroit Metropolitan Market" shall mean the City of Detroit, Michigan, and the area within a 50 mile radius from the Casino. The Operator agrees that the conditions set forth in this Section 11 are reasonable and necessary to preserve and protect the legitimate business interests of the Company, do not impose an undue hardship on the Operator, are not injurious to the public and shall be binding on the Operator at all times during the Exclusivity Period. In the event the Operator breaches any term or provision of this Section 11, then the Exclusivity Period shall be extended to compensate the Company for the time period the Operator was in violation of this Section 11 and such breach remains uncured.

(b) If a court of competent jurisdiction declares that any term or provision of this Section 11 is invalid or unenforceable, the Company and the Operator agree that the court making the determination of invalidity or unenforceability shall (a) reduce the scope, duration, or area of such term or provision, (b) delete specific words or phrases and/or (c) 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, and this Agreement will be enforceable as so modified after the expiration of the time within which the judgment may be appealed.

(12) ~~**11.**~~ **Regulatory Considerations.** The ~~Consultant~~**Operator** acknowledges that, as a consequence of entering into **the Consulting Agreement and** this Agreement ~~with the Company~~, the ~~Consultant~~**Operator** is subject to the jurisdiction of the MGCB and must comply at all times with the Michigan Gaming Control and Revenue Act, MCL 432.201, et. seq., as amended, supplemented, or construed (the "Act"), including the rules (the "Rules"), regulations, resolutions and orders promulgated pursuant thereto, plus such other requirements, if any, as may be **lawfully** imposed by the MGCB from time to time (all of the foregoing, collectively, the "MGCB Requirements"). The ~~Consultant~~**Operator** hereby represents and warrants that**, to the best of Operator's knowledge, (i) it is currently in compliance with all MGCB Requirements, including, but not limited to, by having maintained all Gaming Approvals for itself, Randy Fine and Chris Colwell necessary for the operation of the Casino (and to satisfy its obligations hereunder), each of which Gaming Approval is currently effective, and (ii)** it knows of no reason why it will not be able to satisfy the MGCB Requirements during the Term of this Agreement. In connection with the foregoing, the ~~Consultant~~**Operator** hereby agrees as follows:

(a) ~~a. Beginning immediately upon the execution of this Agreement, the Consultant shall promptly comply with all MGCB Requirements~~**During the Term, the Operator shall,** and shall cause each of its key persons **(including the Operator Employees)** and others retained by ~~Consultant~~**Operator** in connection with its obligations under this Agreement to**,** comply with all MGCB Requirements. The ~~Consultant~~**Operator** shall cooperate with and promptly provide information and assistance to the MGCB ~~and the Board~~ regarding this Agreement and its implementation, including, ~~without limitation~~**but not limited to**, by preparing and supplying requested disclosure and registration materials and reports to the MGCB ~~and the Board~~. The ~~Consultant~~**Operator** shall allow the MGCB to inspect the books and records of the ~~Consultant~~**Operator** that pertain directly or indirectly to this Agreement. **The Operator shall keep the Board informed of all material communications between the Operator and the MGCB and shall give copies of all material communications to the Board.**

(b) ~~b.~~ If the MGCB disapproves of or orders termination of this Agreement for any reason, including, ~~without limitation~~**but not limited to**, due to a finding by the MGCB that this Agreement does not comply with the MGCB Requirements or that the ~~Consultant~~**Operator** or any person associated with the ~~Consultant~~**Operator (including any Operator Employee)** or any of their respective affiliates is unsuitable or is otherwise prohibited from doing business

with the Company, the Company shall be entitled to terminate this Agreement immediately and without further obligation**, subject to the right of the Operator to receive all accrued but unpaid fees and reimbursements owed to the Operator under this Agreement as of the time of such termination**. Neither the Company, its direct or indirect members, its employees or representatives, ~~or~~**nor** the Board shall have any liability to the ~~Consultant~~**Operator** or anyone else for any consequences, losses or damages of any nature suffered or incurred by reason of such disapproval or termination~~.~~**, except as provided in the immediately preceding sentence.**

~~c.The Company's liability under this Agreement, if any, in the event of its default hereunder shall be limited to the amount it is obligated under this Agreement to pay for the Consultant's Services.~~

(c) ~~d.~~ The ~~Consultant~~**Operator** acknowledges that the Company operates under privileged licenses in a highly regulated industry and maintains a compliance program to protect and preserve its name, reputation, integrity and good will through a thorough review and determination of the integrity and fitness, both initially and thereafter, of persons or companies with which it associates or contracts. This Agreement and the ~~association~~**relative obligations** of the parties hereto ~~are~~**shall remain** contingent on the continued ~~approval~~**suitability of the Operator** under the compliance program of the Company. ~~The Consultant~~**In connection with the Company's obligation to make determinations of integrity and fitness of the Operator, the Operator** shall cooperate with the Company as reasonably requested and provide such information as it may reasonably request on appropriate notice.

(d) ~~e.~~ The Company may terminate this Agreement in the event that it or its compliance committee discovers facts with respect to the ~~Consultant~~**Operator** that would, in the **reasonable** opinion of the Company, jeopardize ~~the~~**any material** gaming licenses, permits or status of the Company with any gaming commission, board, or similar regulatory or law enforcement authority, including the MGCB. In addition, if the MGCB withdraws its approval of this Agreement, then the Company may terminate this Agreement immediately and thereafter neither party shall have any additional rights or obligations hereunder except for those that expressly survive the expiration or earlier termination hereof. Performance of this Agreement is contingent upon obtaining any and all necessary initial and continuing approval required by any regulatory agency with jurisdiction over the subject matter of this Agreement, including the MGCB.

(e) ~~f.~~ The Company and the ~~Consultant~~**Operator** each hereby acknowledges that it is illegal for a denied license applicant, a revoked licensee (pursuant to the laws, rules and regulations of the State of Michigan and other gaming authorities)

or a business organization under the control of a denied license applicant or a revoked licensee, to enter into, or attempt to enter into, a contract with the other party without the prior approval of the appropriate gaming authorities. The Company and the ~~Consultant~~**Operator** each hereby affirms, represents and warrants to the other party that it is not a denied license applicant, a revoked licensee or a business organization under the control of a denied license applicant or a revoked licensee, and the Company and the ~~Consultant~~**Operator** each hereby agree that this Agreement is subject to immediate termination by the other party (without any liability to either party **except for those that expressly survive the expiration or earlier termination hereof**) if it should become a denied license applicant, a revoked licensee or a business organization under the control of a denied license applicant or a revoked licensee.

(13) ~~**12.**~~ **Compliance with Laws; Cooperation**. The ~~Consultant~~**Operator** shall fully comply with all applicable federal, state and local laws, rules and regulations in performing ~~the Services~~**its obligations hereunder**. The ~~Consultant~~**Operator** shall (a) fully cooperate with the Company in any investigation(s) it may conduct concerning the Company's account with the ~~Consultant~~**Operator** (e.g., interviews and audits) and (b) allow the Company full access to the ~~Consultant~~**Operator**'s accounting and other financial books and records relating to the Company.

(14) ~~**13.**~~ **Non-Solicitation**. ~~Subject to the Company's right to employ Consultant Employees pursuant to Sections 2 and 4 of this Agreement, during the Term hereof~~**During the Term** and for a 12-month period thereafter, neither party shall solicit, employ or attempt to employ, directly or indirectly (whether as employee, consultant or otherwise), any employee of the other party (or any former employee whose employment terminated within the previous six months) without the other party's prior written consent; provided, that the foregoing will not be deemed to prohibit general advertisements or solicitations that are not directed to employees of the other party or its subsidiaries or affiliates.

(15) ~~**14.**~~ **Remedies Upon Breach of Section ~~10~~11 or ~~13~~14.** Each party acknowledges that its obligations pursuant to Sections ~~10~~**11** and ~~13~~**14** of this Agreement will survive the termination of this Agreement. In addition to, and not in limitation of, the provisions of Sections ~~10~~**11** and ~~13~~**14** of this Agreement, each party agrees that any breach of this Agreement by the other party will cause irreparable damage to the non-breaching party. In the event of such breach, such non-breaching party shall have, in addition to any and all other legal remedies, the right to a temporary restraining order, an injunction, specific performance or other equitable relief to prevent the violation of any obligations under this Agreement, without the necessity of proving irreparable harm or posting a bond. In the event the non-breaching party takes action to enforce the obligations set forth in Sections ~~10~~**11** or ~~13~~**14** of this Agreement, the breaching party agrees to reimburse the non-

breaching party for any fees and expenses (including reasonable attorney's fees) incurred in connection with such action.

(16) ~~**15.**~~ **Licensing**. The ~~Consultant~~**Operator** shall obtain whatever licenses are required by the Company in a timely manner; provided, that any expenses associated with such licenses, including, but not limited to, application fees and investigation fees, will be reimbursed, at-cost, by the Company.

(17) ~~**16.**~~ **Notices**. All notices or communications hereunder shall be in writing and sent to the following addresses or at such other addresses as the parties may designate from time to time:

If to the Company: **~~[~~TBD~~]~~New Greektown Holdco LLC**
555 East Lafayette
Detroit, Michigan 48226
Attention: Board of Managers

If to the ~~Consultant~~**Operator**: The Fine Point Group
3960 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
Attention: Randall A. Fine

(18) ~~**17.**~~ **No Assignment or Delegation.** Neither this Agreement nor any duties or obligations provided for in this Agreement shall be assigned or delegated by the ~~Consultant~~**Operator** without the prior written consent of the Company.

(19) ~~**18.**~~ **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without reference to the principles of conflict of laws thereof.

(20) ~~**19.**~~ **Waiver of Jury Trial.** The Company and the ~~Consultant~~**Operator** each hereby knowingly, voluntarily and intentionally waives to the fullest extent permitted by law any rights that they may have to a trial by jury in respect of any litigation based hereon, or arising out of, under or in connection with this Agreement or any course of conduct, course of dealing, statements (whether oral or written) or actions of either or both of the parties hereto. The Company and the ~~Consultant~~**Operator** each agrees that it has received sufficient consideration for this provision and that this provision is a material inducement for each of them entering into this Agreement.

(21) ~~**20.**~~ **Work Made For Hire.** The ~~Consultant~~**Operator** agrees that as between the ~~Consultant~~**Operator** and the Company, all work product and materials created or produced by the ~~Consultant~~**Operator** pursuant to the terms of this Agreement shall be considered to be made on a "work made for hire" basis and shall therefore be the sole property of the Company (collectively, "Work Product"). If for any reason any Work Product is not considered a work made for hire under the copyright laws of the United States, then the ~~Consultant~~**Operator** hereby

grants and assigns to the Company all of the ~~Consultant~~**Operator**'s rights, title and interest in and to such Work Product, including, but not limited to, the copyrights therein throughout the world (and any renewal, extension or reversion copyright now or hereafter provided). The ~~Consultant~~**Operator** shall further assist the Company, at the Company's expense, to further evidence, record and perfect ownership of all such assignments, and to perfect, obtain, maintain, enforce and defend any rights assigned or acknowledged. The ~~Consultant~~**Operator** waives any and all claims it may now or later have in any jurisdiction to so-called "moral rights" with respect to any Work Product and any other rights granted to the Company under this Agreement or any other agreement between the parties. Notwithstanding the foregoing, prior to the date of this Agreement, the ~~Consultant~~**Operator** has created, acquired or otherwise has rights in various concepts, ideas, methods, methodologies, procedures, processes, techniques (including, without limitation, function, process, system and data models) and know-how used by the ~~Consultant~~**Operator** in providing ~~the Services~~**services hereunder** relating to the ~~Consultant~~**Operator**'s business (including all copies, enhancements, modifications, revisions and derivative works of any of the foregoing) (collectively, the "~~Consultant~~**Operator** Properties"). The ~~Consultant~~**Operator** owns all right, title and interest in the ~~Consultant~~**Operator** Properties, including, without limitation, all rights under all copyright, patent and other intellectual property laws. To the extent that the ~~Consultant~~**Operator** utilizes or improves the ~~Consultant~~**Operator** Properties in connection with the performance of ~~the Services~~**services hereunder** or incorporates the ~~Consultant~~**Operator** Properties into the Work Product, (i) such property shall remain the property of the ~~Consultant~~**Operator** and (ii) subject to the ~~Consultant~~**Operator**'s receipt of payment for the relevant ~~Services~~**services**, the ~~Consultant~~**Operator** grants to the Company a non-exclusive, perpetual and royalty-free license to use the ~~Consultant~~**Operator** Properties incorporated into any such Work Product. Except as stated herein, the Company shall acquire no right or interest in such property or the ~~Consultant~~**Operator** Properties. For any maintenance, technical support or updates to any ~~Consultant~~**Operator** Properties contained in the Work Product, the Company will contract directly with the ~~Consultant~~**Operator**. The ~~Consultant~~**Operator** may employ, modify, disclose and otherwise exploit the ~~Consultant~~**Operator** Properties for other clients.

~~(22)~~**21.** **Entire Agreement**. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, discussions, negotiations and undertakings, whether written or oral, between the parties with respect thereto.

~~(23)~~**22.** **Amendments and Modifications**. No modifications or alterations of this Agreement shall be effective unless made in writing and signed by both parties.

(24) ~~23.~~ **Severability**. In the event any provision or portion of this Agreement shall be determined to be invalid or unenforceable for any reason, in whole or in part, the remaining provisions of this Agreement shall remain unaffected.

(25) ~~24.~~ **Counterparts**. This Agreement may be executed in any number of counterparts, each of which may be deemed an original and all of which together shall constitute one and the same instrument. Facsimile copies hereof and facsimile signatures hereon shall have the same force and effect as originals.

(26) **Confidentiality. The Operator acknowledges that, during the Term, it (and its employees, including, but not limited to, the Operator Employees) will gain access to, use and compile confidential and/or trade secretive information with respect to the business or affairs of the Company, its subsidiaries (including, but not limited to, the Casino), affiliates or predecessors (collectively, the "Greektown Entities"), including, but not limited to, business plans, marketing strategies, practices and procedures, personnel information, labor relations strategies, compensation data, financial data or strategies, accounting records, pricing information, sales and revenue figures and projections, profit or loss figures and projections, legal proceedings and strategies, contractual arrangements, research, and information relating to customers, prospects, clients and suppliers (collectively, "Confidential Information"). The Operator agrees that the Confidential Information is and shall remain the property of the respective Greektown Entities. Therefore, the Operator agrees that, except as required by law or court order, it will not, and it will cause its directors, officers, employees, advisors and representatives not to, disclose to any unauthorized person or entity, or use for its or their own account or for the account of any other person or entity (other than the Greektown Entities), any Confidential Information without the prior written consent of the Company. Further, the Operator agrees to take all necessary precautions to keep the Confidential Information secret, private, concealed and protected from disclosure, and shall notify the Board immediately of any breach in privacy or disclosure of the Confidential Information. In addition, within seven (7) days of the termination of this Agreement for any reason, or at any other time that the Company may request, the Operator shall deliver to the Board all memoranda, notes, plans, records and other documents and data (and copies thereof), whether tangible or electronic form, containing any Confidential Information that the Operator may then possess or have under his control. In the event that the Operator is compelled by law to disclose any Confidential Information, or the fact that Confidential Information has been made available to it by the Greektown Entities, the Operator agrees that it will provide the Board with prompt written notice of such request, so that the applicable Greektown Entity may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this**

Agreement. If a protective order or other remedy is not obtained, or the Company waives compliance with the provisions of this Agreement, the Operator agrees that it will furnish only that portion of Confidential Information that is legally required and that it will use its best efforts to obtain reliable assurances that confidential treatment will be accorded to the information or documents disclosed. Notwithstanding anything to the contrary contained herein, Confidential Information does not include information that (a) is developed by or for the Operator as part of the conduct of its regular business activities, including, without limitation, the provision of services for the Company and the Casino under this Agreement, (b) is or has become generally available to the public other than by unauthorized disclosure by the Operator or its employees or representatives or (c) becomes available to the Operator on a non-confidential basis from a source that, to the knowledge of the Operator, after due inquiry, is entitled to disclose the same on a non-confidential basis.

(27) Indemnification. The Operator, each Operator Employee and all other employees of the Operator performing services to the Company and the Casino pursuant to this Agreement shall be covered by and afforded all the benefits of Section 5.4 (Indemnification Rights) (or equivalent provisions if revised or restated) of the amended and restated limited liability company agreement of the Company dated as of the Effective Date.

[**SIGNATURE PAGE FOLLOWS**]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

NEW GREEKTOWN HOLDCO L.L.C.

By: _____
Name: _____
Title: _____

~~**CONSULTANT**~~
OPERATOR

By: _____
Name: _____
Title: _____

DRAFT ONLY – SUBJECT TO REVISIONS
The Plan Proponents, in consultation with the MGCB, continue to refine the ownership and management structures of the Reorganized Debtors and accordingly, such ownership and management structures and these documents are subject to change.

APPENDIX A

Services

~~[TBD]~~

Randy Fine shall devote sufficient time to providing the services contemplated hereunder to the Company and Greektown Casino as Chief Executive Officer through the end of the Term.

Chris Colwell shall devote at least 40 hours per week to providing the services contemplated hereunder to the Company as General Manager of the Casino, including being physically present at the Casino at least 5 days each week through the end of the Term (reasonable vacation, sick days and holidays excepted).

DRAFT ONLY – SUBJECT TO REVISIONS
The Plan Proponents, in consultation with the MGCB, continue to refine the ownership and management structures of the Reorganized Debtors and accordingly, such ownership and management structures and these documents are subject to change.

APPENDIX B

Success Fee

~~[TBD]~~

1) **The Company will pay a success fee to the Operator, which is intended to be performance-based compensation for delivering EBITDAR (as defined below) beyond pre-defined targets, calculated in accordance with paragraph 2 below (a "Success Fee"). To avoid any confusion as it relates to the Company's pending application with the MGCB and the City of Detroit for a reduction in its current gaming taxes from 24% of gross gaming revenue to 19% of gross gaming revenue, the EBITDAR targets assume an effective tax rate of 19% beginning January 1, 2010. Should the gaming tax rollback not be achieved by January 1, 2010, the Company and the Operator hereby agree to revise the EBITDAR targets such that the Operator neither benefits from, nor is harmed by, the different tax rate.**

2) **The Success Fee shall be calculated at the end of each fiscal quarter based on audited quarterly EBITDAR, Before Gaming Taxes. The Success Fee will be two tiered: (a) 10% of the amount by which actual quarterly EBITDAR, Before Gaming Taxes, exceeds the "10% Threshold" up to the "30% Threshold," plus (b) 30% of the amount by which actual quarterly EBITDAR, Before Gaming Taxes, exceeds the 30% Threshold. The quarterly thresholds in 2010 will be determined based on the annual amounts set forth in the following table during the Company's annual budgeting process for 2010, provided the total of the quarterly thresholds in the 2010 will equal the amounts set forth in the following table:**

($ Millions)	2010	2011	2012
10% Threshold:			
EBITDAR (assuming 19% gaming tax rate)	**75.0**	**85% of Prior Year**	
% Plan		**EBITDAR**	
30% Threshold:			
EBITDAR (assuming 19% gaming tax rate)	**85.0**	**100% of Prior Year**	
% Plan		**EBITDAR**	

3) ***Quarterly Clawback*. The 10% and 30% Thresholds in any given quarter will be increased by the amount of any shortfall to the Plan during the prior fiscal quarter.**

4) **For purposes of this Agreement, "EBITDAR," Before Gaming Taxes, means net income of the Casino, plus (a) interest expense, (b) income tax expense, (c) depreciation expense, (d) amortization expense, (e) restructuring expense or post-consummation financial advisory, legal or investment banking fees, not related to normal business operations, (f) other non-cash items reducing net income of the Casino less non-cash items increasing net income of the Casino (including credits related to tax rollback adjustments) and (g) gaming tax expense. Notwithstanding**

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anything to the contrary contained herein, for purposes of this Agreement (and the calculation of the Success Fee), the calculation of quarterly EBITDAR, Before Gaming Taxes, shall not include reasonable accounting, audit, legal and other fees and expenses incurred by the Company in connection with the preparation of its financial statements and SEC filings and other SEC compliance activities.

DRAFT ONLY – SUBJECT TO REVISIONS
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APPENDIX C

Exit ~~Success Fee~~ Fee

1) **Subject to paragraph 2 below, in the event that (a) all or substantially all of the assets, operations or equity interests of the Company are sold to a purchaser in a sale transaction or series of sale transactions *and* (b) the purchase price paid by such purchaser with respect to such transaction or transactions exceeds the midpoint of the Moelis Valuation as set forth in the Disclosure Statement approved by the Bankruptcy Court (i.e., the "Baseline EV"), the Company will pay to the Operator within 30 days following the consummation of such transaction or transactions an amount equal to $3 million (the "Exit Fee").**

2) **In the event that this Agreement is terminated by the Company without Cause prior to the expiration of the Term in accordance with subsection (1) of Section 1(a) of the Agreement, the Operator shall not be entitled to receive an Exit Fee except (a) if the Agreement is terminated after a definitive purchase and sale agreement to sell all or substantially all of the Company's assets (a "Purchase Agreement") has been entered into by the Company but the transactions contemplated under such Purchase Agreement have not yet been consummated (a "Closing"), the Operator shall be entitled to receive the Exit Fee within 30 days of such Closing, if any, and (b) if the Company enters into a Purchase Agreement within 90 days of the termination of this Agreement, the Operator shall be entitled to receive the Exit Fee within 30 days of the Closing with respect thereto, if any.**

~~[TBD]~~

Document comparison by Workshare Professional on Wednesday, October 28, 2009 1:39:04 PM

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Document 2 ID	interwovenSite://CHIMDM/CHDB02/5249767/8
Description	#5249767v8<CHDB02> - Greektown -- Consulting Agreement
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Insertion	
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Style change	
Format change	
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Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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