EXHIBIT F

Facilities Ground Lease Agreement

EXECUTION

Exhibit F

AQUEDUCT RACETRACK

FACILITIES GROUND LEASE AGREEMENT

between

THE PEOPLE OF THE STATE OF NEW YORK ACTING BY AND THROUGH THE STATE FRANCHISE OVERSIGHT BOARD PURSUANT TO CHAPTER 18 OF THE LAWS OF 2008
as Lessor,

and

THE NEW YORK RACING ASSOCIATION, INC.

as Lessee

September 12, 2008

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FACILITIES GROUND LEASE AGREEMENT

FACILITIES GROUND LEASE AGREEMENT (this "Lease"), dated as of September 12, 2008, by and between THE PEOPLE OF THE STATE OF NEW YORK ACTING BY AND THROUGH THE STATE FRANCHISE OVERSIGHT BOARD PURSUANT TO CHAPTER 18 OF THE LAWS OF 2008, having an address at c/o Executive Chamber, The Capitol, Albany, New York 12224, Attn: Chairman (the "Lessor"), and THE NEW YORK RACING ASSOCIATION, INC., a not-for profit racing corporation incorporated pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York, as authorized by Chapter 18 of the Laws of 2008, with a place of business at 110-00 Rockaway Boulevard, South Ozone Park, New York 11417 (the "Lessee"), sometimes collectively referred to herein as the "Parties" or singularly as a "Party."

RECITALS

Contemporaneously with the execution of this Lease, and pursuant to (i) the authority granted by Chapter 18 of the Laws of 2008 passed February 13, 2008, by the New York State Senate and the New York State Assembly, and signed into law by the Governor of the State on February 19, 2008 (as the same may hereafter be amended, the "Legislation"), (ii) the Chapter 11 plan filed by the New York Racing Association Inc. ("Old NYRA") pursuant to section 1121(a) of the Bankruptcy Code (the "Plan"), as confirmed by an order, dated April 28, 2008, of the United States Bankruptcy Court for the Southern District of New York and (iii) the State Settlement Agreement made by and among Lessee, Old NYRA and the State of New York, the New York State Racing and Wagering Board, the New York State Non-Profit Racing Association Oversight Board and the New York State Division of the Lottery (the "Settlement Agreement"), Old NYRA is conveying all right, title and interest in and to the Leased Premises (as hereinafter defined) to Lessor. Lessor and Lessee are concurrently herewith entering into that certain Franchise Agreement (as hereinafter defined) pursuant to which Lessee is granted the Franchise (as hereinafter defined) to conduct thoroughbred racing and pari-mutuel wagering with respect to thoroughbred racing at the Leased Premises.

In order for Lessee to operate the Franchise granted pursuant to the Franchise Agreement, Lessor is authorized pursuant to the Legislation to lease to Lessee the Aqueduct Racing Premises (as defined in the Franchise Agreement). Lessor desires to lease the Aqueduct Racing Premises to Lessee, for such rentals, and upon such terms and conditions, contained in this Lease.

Concurrently herewith, Lessor and Lessee are also entering into that certain "Ground Lease" pursuant to which Lessor is leasing to Lessee the remaining portions of the Aqueduct Racing Premises, for such rentals, and upon such terms and conditions, contained in the Ground Lease.

The Parties hereto intend that (i) Lessee will assign its right, title and interest as lessee under this Lease to the VLT Operator (hereinafter defined) pursuant to the terms and conditions of that certain "Assignment and Assumption of Facilities Ground Lease Agreement" to be entered into by Lessee as assignor and the VLT Operator as assignee; (ii) VLT Operator as lessee and Lessor, as lessor, will amend and restate this Lease; (iii) VLT Operator, as sublessor and Lessee will enter into a Sublease Agreement (the "Sublease Agreement") for a portion of the Leased Premises, as more particularly set forth in the Sublease Agreement; (iv) Lessor as landlord under the Facilities Ground Lease will enter into a Non-disturbance and Attornment Agreement and an Omnibus Agreement (the "Omnibus Agreement") with Lessee, as sublessee under the Sublease Agreement. The Parties agree that none of the actions listed in the preceding sentence shall be effective unless they all occur and occur one immediately after the other in the order in which they are listed in the preceding sentence.

ARTICLE I

Grant, Term of Lease and Certain Definitions

1.1 Leasing Clause. Upon and subject to the terms, provisions and conditions hereinafter set forth, Lessor does hereby LEASE, DEMISE and LET unto Lessee, and Lessee does hereby take and lease from Lessor, the Leased Premises, TO HAVE AND TO HOLD, together with all rights, privileges, easements and appurtenances belonging to or in any way pertaining to the Leased Premises (including the Art Work (hereinafter defined)), for the term hereinafter provided, upon and subject to the terms, conditions and agreements contained herein.

1.2 Term. The term of this Lease (the "Term") shall be for a period commencing on the Commencement Date (hereinafter defined), and terminating on the date on which the Franchise Agreement terminates pursuant to the terms thereof, or upon the sooner termination of this Lease as set forth herein (the "Expiration Date").

1.3 Certain Definitions. Capitalized terms not otherwise defined herein shall have the respective meanings given them in the Franchise Agreement. The following terms shall have the respective meanings set forth below in this Section 1.3 for purposes of this Lease:

(a) Additional Charges. All other taxes, levies impositions, assessments of whatever type or nature levied or assessed against the Leased Premises, Improvements, and /or Lessee, other than Impositions.

(b) Art Work. All art work transferred from Old NYRA to Lessor, including, but not limited to, the items listed on Exhibit C hereto.

(c) Base Rental. The base rental for the Leased Premises as defined in Section 2.1 of this Lease.

(d) Commencement Date. The date first above written, on which date this Lease has been fully executed by Lessor and Lessee and approved and filed in the Office of the State Comptroller pursuant to Section 112 of the State Finance Law.

(e) Contaminants. Any material, substance or waste classified, characterized or regulated as toxic, hazardous or a pollutant or contaminant under any Requirements, including asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or the equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of fifty parts per million.

(f) Contractor. Any construction manager, contractor, subcontractor, laborer or materialman who shall supply goods, services, labor or materials in connection with the development, construction, management, maintenance or operation of any part of the Leased Premises.

(g) Default Rate. The rate of interest per annum applicable to judgment claims in the State of New York.

(h) Franchise. The authority granted to Lessee to conduct racing and pari-mutuel wagering with respect to thoroughbred racing, as provided for in the Legislation and the Franchise Agreement.

(i) Franchise Agreement. That certain Franchise Agreement between Lessor and Lessee of even date herewith which is annexed hereto as Exhibit B.

(j) Impositions. All taxes set forth in Paragraph 8.a. of the Legislation, as the same is amended by Subdivision 3 of Section 530 of the Real Property Tax Law and constructed through Sections 102, 530 and 532 of the Real Property Tax Law, levied or assessed against the Leased Premises and Improvements and coming due during the Term, now or hereafter located thereon associated with the ownership, which are required, pursuant to the above referenced sections, to be paid by Lessor. In no event shall Impositions include any personal or corporate income or franchise taxes imposed upon Lessee, or other taxes imposed on the income or revenues from the operation of the Leased Premises or other activities of Lessee.

(k) Improvements. All buildings, structures, improvements and other real and personal property associated therewith from time to time situated on the Leased Premises.

(l) Insurance Trustee. An institutional lender with offices located in the State of New York, proposed by Lessee and reasonably satisfactory to Lessor, which agrees to serve as the Insurance Trustee for purposes of this Lease on terms reasonably satisfactory to Lessor and Lessee.

(m) Land. Those certain tracts of land underlying the Leased Premises.

(n) Lease. This Lease Agreement by and between Lessor, as lessor, and Lessee, as lessee.

(o) Lease Year. Each calendar year during the Term of this Lease, with the first Lease Year being the partial year beginning on the Commencement Date and ending on December 31 of the year in which the Commencement Date occurs, and the final Lease Year expiring on the Expiration Date.

(p) Leased Premises. The Land, together with all present and future improvements on the Land, including, without limitation, rights, privileges, easements and appurtenances benefiting, belonging to or in any way appertaining thereto, including, but not limited to, (i) any and all rights, privileges, easements and appurtenances of Lessor as the owner of fee simple title to the Land now or hereafter existing in, to, over or under adjacent streets, parking lots, sidewalks, alleys and property contiguous to the Land, and (ii) any and all strips and gores relating to the Land, commonly referred to as the Aqueduct Racetrack, New York, all as more particularly described in Exhibit A annexed hereto. All property demised under the Ground Lease is excluded from the Leased Premises.

(q) Legislation. As defined in the Recitals.

(r) Lessee. As defined in the Recitals.

(s) Lessor. As defined in the Recitals.

(t) Person. A corporation, an association, a partnership (general or limited), a limited liability company, a joint venture, a limited liability partnership, a private company, a public company, a limited life public company, a trust or fund (including but not limited to a business trust), an organization or any other legal entity, an individual or a government or any agency or political subdivision thereof.

(u) Phase II Developer. Shall have the meaning given it in Section 3 of the Omnibus Agreement.

(v) Phase II Development. The development of one or more of the Real Estate Development Parcels undertaken by the Phase II Developer.

(w) Real Estate Development Parcels. Certain parcels as depicted in the Sublease Agreement.

(x) Rental. The rent payable during the Term.

(y) Requirements. All applicable laws, rules, regulations or other legal requirements enacted by a governmental authority having jurisdiction over the

Leased Premises or the operations or the activity at the Leased Premises, including, but not limited to, the protection of the environment.

(z) State. The People of the State of New York.

(aa) Sublessee. Any permitted sublessee or user under Section 7.2 of this Lease.

(bb) Term. The term of this Lease as provided in Section 1.2 of this Lease.

(cc) VLT Operations. The operation at the VLT Premises (hereinafter defined) of video lottery gaming terminals and activities and uses associated with such operations.

(dd) VLT Operator. Shall mean the entity selected by the State as the operator with respect to the video lottery gaming terminals at the Aqueduct Racing Premises.

(ee) VLT Premises. That portion of the Leased Premises designated for VLT Operations.

ARTICLE II

Rental

2.1 Base Rental. Lessee shall pay to Lessor the Base Rental for the Leased Premises in an amount equal to One Dollar ($1.00) per annum, which Base Rental has been paid in full for the entire Term, in advance, on the date hereof (the "Base Rental"). Notwithstanding the foregoing, Lessee shall pay other charges and costs due under this Lease as additional rent throughout the term of this Lease.

ARTICLE III

Impositions and Utilities

3.1 Payment of Impositions. Lessor shall be solely responsible for the payment of all Impositions before the same become delinquent. Lessee agrees to cooperate with Lessor in seeking the delivery of all notices of Impositions to Lessor directly from the applicable taxing authorities. Lessor shall be entitled to contest the amount or validity of any Impositions, at Lessor's expense; provided that such contest does not materially adversely affect Lessee's use of and operations upon the Leased Premises.

3.2 Additional Charges and Utilities. Lessee shall be solely responsible to pay all charges when due for (i) Additional Charges and (ii) utilities

furnished to the Leased Premises, including, but not limited to, electricity, gas, heat, light and power, telephone and any and all other services and utilities furnished to the Leased Premises (the "Utilities"), including, without limitation, charges for Additional Charges and Utilities incurred prior to the Commencement Date. Lessee may, at Lessee's sole cost and expense, dispute and contest any and all charges for Additional Charges and Utilities for which Lessee is responsible for payment, provided there is no danger of an imminent threat of Lessor losing title to the Leased Premises. If there is the threat of the Leased Premises becoming subject to any lien, encumbrance or charge, Lessor may require Lessee to deposit with Lessor a surety bond issued by a surety company of recognized responsibility, guaranteeing and securing payment in full of such charges for Additional Charges or Utilities.

3.3 Operating Expenses. Lessee shall be solely responsible for the payment of all operating expenses for the Leased Premises, including without limitation repair and maintenance charges, insurance charges, and all other charges incurred in connection with the operation of the Leased Premises pursuant to this Lease (the "Operating Expenses").

ARTICLE IV

Improvements and Alterations

4.1 Improvement Rights and Alterations; Capital Plan.

(a) Lessee shall have the right, subject to the restrictions imposed by the Legislation, the Franchise Agreement and the applicable Requirements, to develop, redevelop, refurbish, renovate or make such other improvements, capital expenditures or otherwise ("Alterations"), to the Leased Premises and the fixtures and improvements thereon, as shall be necessary or desirable for the operation of the Leased Premises for the uses permitted under this Lease and the Franchise Agreement.

(b) Intentionally Omitted.

(c) Lessee has heretofore delivered to Lessor, and Lessor, concurrently with the execution of this Lease, hereby approves, a five-year capital expenditure plan (the "Capital Plan") setting forth in reasonable detail the capital expenditures and the budgeted costs therefor which Lessee proposes to make with respect to the Leased Premises for the Lease Years 2008-2013. Lessee shall be entitled to perform all Alterations which are set forth in an approved Capital Plan, without further approval from Lessor. If Lessee desires to perform any Alterations which are not set forth in an approved Capital Plan, Lessee shall obtain the prior written consent of Lessor, not to be unreasonably withheld or delayed, to such Alterations, unless such Alterations (y) will not, in the good faith estimation of Lessee's architect or engineer, cost more than $100,000 to complete and (z) do not affect any structural elements or building systems of the Improvements which, in the case of (y) and (z) above, Lessor's prior written consent shall not be required.

(d) Prior to performing any proposed Alterations to which Lessor's consent has been obtained, including those set forth in an approved Capital Plan, Lessee shall, at Lessee's expense, procure and maintain in its possession: (w) detailed plans and specifications for such Alterations, (x) a construction budget setting forth the cost to perform and complete such Alterations, (y) insurance certificates from all Contractors evidencing the insurance coverages required under this Lease and (z) all permits, approvals and certifications required by any governmental authorities having jurisdiction over the Leased Premises. Upon completion of any Alterations, Lessee shall obtain any certificates of final approval of such Alterations required by any governmental authority, together with the "as-built" plans and specifications for such Alterations (together, the "Completion Documents"). Upon Lessor's request, Lessee shall promptly provide to Lessor, in hard copy or electronic form (as Lessor may request), any or all of the documents required to be obtained under this Section 4.1(d), including the Completion Documents upon completion of the Alteration.

(e) All Alterations shall be made and performed, in all material respects, in accordance with the plans and specifications therefor (as submitted to Lessor, if applicable), as same may be modified from time to time. All Alterations shall be made and performed in a good and workmanlike manner, using materials substantially similar in quality to the existing materials at the Leased Premises, and in compliance with all applicable Requirements, as well as requirements of insurance bodies having jurisdiction over the Leased Premises. No Alterations shall impair the structural integrity or soundness of any Improvements.

(f) All Alterations made by Lessee shall become the property of Lessor upon the expiration of the Lease. Throughout the Term of this Lease, to the extent permitted under the applicable tax laws, rules and regulations, Lessee shall have the sole and exclusive right to take depreciation of all Alterations made by Lessee to the Leased Premises.

4.2 Easements and Dedications. In order to maintain and/or improve the Leased Premises, it may be necessary or desirable that street, water, sewer, drainage, gas, power lines, set back lines, and other easements, and dedications and similar rights be granted or dedicated over or within portions of the Leased Premises by plat, replat, grant, deed or other appropriate instrument (collectively, "Easements and Dedications"). Lessor, shall, within thirty (30) days following written request by Lessee to Lessor, and to the extent reasonably necessary as fee owner of the Leased Premises, join with Lessee in executing and delivering such Easements and Dedications, as may be appropriate or reasonably required for the future improvement of the Leased Premises, provided that Lessor reasonably determines that the said Easements and Dedications will not interfere in a material adverse way with the future development, use and occupancy of, and operations on the Leased Premises by the VLT Operator or Phase II Developer. In order to cooperate and to assist with the compliance of this provision, if the Parties determine that any proposed Easements and Dedications are reasonably likely to interfere in a material adverse way with such future development, use and occupancy of, and

operations on the Leased Premises, the Parties shall cooperate with each other to take appropriate measures to minimize the likelihood and extent of such interference.

4.3 Zoning. In the event that Lessee deems it necessary or appropriate to obtain use, zoning, site plan approval or any permit from the appropriate governmental entity having jurisdiction over the Leased Premises, or any part thereof, Lessor shall, within thirty (30) days following written request by Lessee to Lessor, and to the extent reasonably necessary as fee owner of the Leased Premises, execute such document, or join in such petitions, applications and authorizations as may be appropriate or reasonably required by Lessee, and cooperate in good faith with Lessee in any such reasonable efforts, provided that Lessor reasonably determines that the matter will not interfere in a material adverse way with the future development, use and occupancy of, and operations on the Leased Premises by the VLT Operator or Phase II Developer. In order to cooperate and assist with the compliance of this provision, if the Parties determine that the proposed matter is reasonably likely to interfere in a material adverse way with such future development, use and occupancy of, and operations on the Leased Premises, the Parties shall cooperate with each other to take appropriate measures to minimize the likelihood and extent of such interference.

4.4 Indemnification for Mechanics' Liens. Lessee will pay or cause to be paid all costs and charges for work performed by Lessee or caused to be performed by Lessee in or to the Leased Premises. Lessee will indemnify Lessor against, and hold Lessor and the Leased Premises free, clear and harmless of and from, any and all vendors', mechanics', laborers', or materialmans' liens and claims of liens, and all other liabilities, liens, claims and demands on account of such work by or on behalf of Lessee. If any such lien, at any time, is filed against the Leased Premises, or any part thereof, on account of work performed or caused to be performed by Lessee in or to the Leased Premises, Lessee will cause such lien to be discharged of record within forty-five (45) days after Lessee has received actual notice of the filing of such lien. If Lessee fails to pay any charge for which a mechanic's lien has been filed, and has not discharged same of record as described above, Lessor may, at its option, upon ten (10) days' prior written notice to Lessee and in addition to exercising any other remedies Lessor has under this Lease on account of a default by Lessee, pay such charge and related costs and interest, and the amount so paid, together with reasonable attorneys' fees incurred in connection with the removal of such lien, will be immediately due from Lessee to Lessor.

ARTICLE V

Use of Leased Premises

5.1 Permitted Uses. Lessee's use of the Leased Premises shall be primarily for the management and operations of all functions as may be necessary or appropriate to conduct racing, racing operations, pari-mutuel and simulcast wagering

(collectively, "Uses"), together with various activities related thereto, including without limitation, live wagering and retail, food, beverage, trade expositions and entertainment facilities, racing, equestrian, social and community activities, and other uses and activities historically conducted on the Leased Premises (collectively, "Ancillary Uses" and, taken together with the Uses, the "Permitted Uses") at or with respect to the Leased Premises, subject to and in compliance with the provisions of the Franchise Agreement, applicable Requirements including without limitation the Legislation, and the Certificate of Occupancy for the Leased Premises. Lessee shall not conduct, manage or otherwise operate VLT Operations at the Leased Premises.

5.2 Compliance with Laws.

(a) Lessee shall use, operate and maintain the Leased Premises and the Improvements situated thereon in compliance with all applicable laws, regulations or ordinances of the United States, the State of New York, the City of New York or other lawful authority having jurisdiction over the Leased Premises, as applicable (collectively, "Requirements").

(b) Lessee shall have the right to contest the validity, enforceability or applicability of any Requirements applicable to the Land, Building and Improvements constituting the Leased Premises and Improvements, provided that there is no danger of an imminent threat of Lessor losing title to the Leased Premises or criminal liability to Lessor. During such contest, compliance with any such contested Requirements may be deferred by Lessee; provided, however, that Lessee shall promptly comply with the final determination of any such contest. If non-compliance (x) shall result in a lien being filed against the Leased Premises or (y) may reasonably be expected (in Lessor's reasonable judgment) to result in civil liability to Lessor, Lessor may require Lessee to deposit with Lessor a surety bond issued by a surety company of recognized responsibility guaranteeing and securing the payment in full of such lien. Prior to instituting such proceeding, Lessee shall provide notice to the Attorney General of the State of New York, which may choose to be a party in such contest. Any such proceeding instituted by Lessee shall be commenced as soon as is reasonably possible after the issuance of any such contested matters, or after actual notice to Lessee of the applicability of such matters to the Leased Premises, and shall be prosecuted with reasonable dispatch. In the event that Lessee shall institute any such proceeding, Lessor shall cooperate with Lessee in connection therewith, and Lessee shall be responsible for the reasonable and actual out-of-pocket costs and expenses incurred by Lessor in connection with such cooperation.

5.3 Maintenance and Repairs. Lessee shall perform all maintenance, repair and upkeep of the Leased Premises, including the Improvements thereon, so as to keep the same in good order and repair in compliance with all Requirements (subject to Lessee's right to contest pursuant to Section 5.2(b)). The costs of such maintenance shall be borne solely by Lessee.

5.4 Disposition of Personal Property. Lessee shall have the right to dispose of any personal property or Alterations during the term of this Lease in the ordinary course of business, but Lessee agrees that it will not purposefully remove any such personal property or Alterations to circumvent the intent that the same shall become the property of Lessor at the end of the Term and Lessee further agrees that it shall replace any such personal property or Alterations to the extent they are required to conduct racing operations. Notwithstanding the foregoing, the Art Work may not be disposed of by Lessee without the prior written consent of Lessor, which consent Lessor may withhold in its sole discretion.

ARTICLE VI

Insurance

6.1 Required Coverages of Lessee.

(a) Lessee, throughout the Term, or as otherwise required by this Lease, shall obtain and maintain Insurance, in full force and effect, from an insurance company licensed or authorized to do business in the State of New York, in accordance with the terms, coverages and requirements set forth in Exhibit D attached hereto.

ARTICLE VII

Assignment and Subletting

7.1 Assignment. Lessee may, subject to the prior written approval of Lessor as required by Section 138 of the State Finance Law and the receipt of all required governmental approvals in connection with any assignment of Lessee's rights and obligations under the Franchise Agreement, assign (or sublease, license or otherwise transfer) to any party to which the Franchise is assigned, Lessee's leasehold interest granted to Lessee under this Lease, in whole only. It is understood and agreed that Lessee's interest in the Lease may only be assigned or transferred to a party in which the Franchise is being assigned and which party shall hold the Franchise at the time of assignment, or any successor thereto. Upon any such assignment, the assignee shall execute and deliver to Lessor a written assumption, in form and substance satisfactory to the Lessor in its reasonable judgment, of all of the obligations of Lessee under this Lease. Lessee shall be released from any obligations arising under this Lease which accrue from and after such an assignment, but not those accruing prior to the date of such assignment. For purposes of this Section 7.1, approval of the Franchise Oversight Board of an assignment of the Franchise Agreement shall be deemed to constitute approval by the Lessor of Lessee's assignment of this Lease.

7.2 Concessions, Subletting and Licensing. (a) Lessee shall have the right from time to time, with the prior written consent of Lessor to the extent required by

the Legislation (including without limitation Section 206 thereof), to grant concessions at the Leased Premises as Lessee may deem proper for the conduct at the Leased Premises of Ancillary Uses as permitted in Section 5.1 hereof ("Concessions"). All Concessions shall be entered into in compliance with the Legislation (including, without limitation, Section 208-6 thereof), and other Requirements. Agreements for the operation of Concessions may, at the election of Lessee, be in the form of subleases, licenses or concession agreements; provided, that no subletting or licensing shall relieve Lessee of any of its obligations under the Lease, and all Concessions, whether in the form of subleases, licenses or concession agreements, shall be strictly subject and subordinate to the terms and provisions of this Lease.

(b) Other than with respect to the grant of Concessions, Lessee may not sublet all or any portion of the Leased Premises without the prior written consent of Lessor, in Lessor's sole discretion, as required by Section 138 of the State Finance Law and the receipt of all required governmental approvals in connection with any sublease or transfer. Notwithstanding anything to the contrary contained herein, (x) the stabling of horses belonging to third parties shall not constitute a sublease under the terms of this Lease and (y) those subleases set forth on Exhibit E hereto (the "Permitted Subleases") shall not be subject to the general subleasing prohibition set forth in this Section 7.2 and Lessor hereby consents to the Permitted Subleases. In addition to the foregoing, Lessee shall also have the right to enter into any sublease or occupancy agreement with The New York Thoroughbred Breeders Inc., The New York Thoroughbred Horsemen's Association (or such other entity as is certified and approved pursuant to Section 228 of the New York State Racing, Pari-Mutuel Wagering and Breeding Law, as amended), The New York State Racing and Wagering Board, The New York State Department of Taxation and Finance, and with any governmental authorities, agencies, boards or regulators of the State, with the prior written consent of Lessor, such consent not to be unreasonably withheld, conditioned or delayed.

7.3 General Provisions. Lessee shall, in connection with any Concession, whether or not Lessor's consent is required thereto, provide written notice to Lessor of the name, legal composition and address of any Concessionaire, together with a complete copy of the agreement under which such Concession is granted, and a description of the nature of the Concessionaire's business to be carried on in the Leased Premises.

7.4 Transfer by Lessor of the Leased Premises. Lessor and Lessee acknowledge and agree that certain benefits accrue to Lessor and Lessee by virtue of Lessor's ownership of fee title to the Leased Premises and that such benefits are material inducements to Lessor and Lessee to enter into this Lease. Accordingly, Lessor covenants and agrees that, during the Term of this Lease and any renewals or extensions thereof, and prior to the termination of this Lease, whether through expiration of the Term or the earlier termination thereof pursuant to a right to so terminate this Lease, it will at all times own and hold title to the Leased Premises, as encumbered by this Lease, for the benefit of and on behalf of the State in accordance with the Legislation, and

further covenants and agrees that it will not, if and to the extent prohibited by the Legislation, sell, transfer or otherwise convey all or any portion of the Leased Premises to any Person or entity, other than an agency, division, subdivision or department of the State of New York, or a public benefit corporation, local development corporation, municipal corporation or public authority constituting a political subdivision of the State of New York.

ARTICLE VIII

Leasehold Mortgages/Subordination

8.1 Lessor's Consent to Leasehold Mortgage. Lessee may not mortgage or encumber its leasehold interest under this Lease.

ARTICLE IX

Default of Lessee

9.1 Non-Revocation Events of Default. The following events shall each constitute a "Non-Revocation Event of Default" under this Lease:

(a) Monetary Defaults. Failure on the part of Lessee to pay Rental or any other sums and charges when due to Lessor hereunder and the continuation of such failure for thirty (30) days after written notice to Lessee.

(b) Nonmonetary Defaults. Failure on the part of Lessee to perform any of the terms or provisions of this Lease other than the provisions (x) requiring the payment of Rental and (y) breach of which would give rise to the revocation of the Franchise Agreement pursuant to the terms thereof, and the continuation of such failure for thirty (30) days after written notice to Lessee, provided that if the default is of such character as to require more than thirty (30) days to cure, if Lessee shall fail to commence curing such default within thirty (30) days following Lessor's notice and thereafter fail to use reasonable diligence in curing such default.

9.2 Remedies for Non-Revocation Event of Default. If a Non-Revocation Event of Default shall occur, Lessor shall be entitled, at Lessor's election, to exercise any remedies available at law or in equity on account of such Non-Revocation Event of Default, including without limitation to bring one or more successive suits for monetary damages and/or specific performance, but Lessor shall not be entitled to terminate this Lease and remove Lessee from possession of the Leased Premises. In addition to the foregoing, Lessor may undertake to cure such Non-Revocation Event of Default for the account of and at the cost and expense of Lessee, and the full amount so expended by Lessor (with interest accruing at the Default Rate) shall immediately be owing by Lessee to Lessor.

9.3 Revocation of Franchise Agreement. Notwithstanding anything in this Lease to the contrary, if Lessee's Franchise shall be duly revoked pursuant to Racing Law §§ 244 and 245, then this Lease shall be deemed automatically, without further notice or legal action, terminated as of the date of such Franchise revocation, and Lessor shall have the right, at Lessor's election, to exercise any of the remedies set forth in Section 9.4 of this Lease which are applicable following termination of the Lease. Lessee shall have the right to remain in possession of the Leased Premises for a period of not more than thirty (30) days following the termination of the Lease, solely for the purposes of orderly vacating the Leased Premises in the condition required by this Lease, TIME BEING OF THE ESSENCE to the obligation of Lessee to vacate the Leased Premises as provided in this Lease no later than the thirtieth (30^{th}) day following Lease termination.

9.4 Lease Termination Following Revocation of Franchise Agreement.

(a) If this Lease shall be terminated as provided in Section 9.3, Lessor, without notice, may re-enter and repossess the Leased Premises using such force for that purpose as may be necessary and permissible pursuant to applicable laws, without being liable for indictment, prosecution or damages therefor and may dispossess Lessee by summary proceedings or otherwise.

(b) No termination of this Lease pursuant to Section 9.3, or taking possession of or reletting the Leased Premises or any part thereof, shall relieve Lessee of its liabilities and obligations under this Lease arising prior to the date of termination.

9.5 No Waiver. No failure by Lessor to insist upon the strict performance of any covenant, agreement, term or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial Rental during the continuance of any such breach, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition, unless Lessor agrees in writing to waive such breach at the time of its occurrence or anytime thereafter. No covenant, agreement, term or condition of this Lease to be performed or complied with by Lessee, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by Lessor. No waiver of any breach shall affect or alter this Lease, but each and every covenant, agreement, term and condition of this Lease still continue in full force and effect with respect to any other then existing or subsequent breach thereof.

9.6 Remedies Cumulative. All amounts expended by Lessor to cure any default or to pursue remedies hereunder shall be paid by Lessee to Lessor upon demand and shall be in addition to the Rentals otherwise payable hereunder. Each right and remedy of Lessor provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Lessor of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not

preclude the simultaneous or later exercise by Lessor of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

ARTICLE X
Intentionally Omitted

ARTICLE XI
Casualty Restoration

11.1 Notice of Damage. If all or any part of any of the Leased Premises shall be destroyed or damaged in whole or in part by fire or other casualty of any kind or nature (including any casualty for which insurance was not obtained or obtainable), ordinary or extraordinary, foreseen or unforeseen (a "Casualty"), Lessee, upon actual knowledge of the occurrence of such Casualty, shall give to Lessor prompt notice thereof.

11.2 Obligation to Restore.

(a) Lessee Obligation to Restore. In the event of a Casualty, Lessee shall be obligated to repair, alter, restore, replace and rebuild (collectively, "Restore" and the act of Restoring, a "Restoration") the Leased Premises, as nearly as possible equal to the condition, quality, character and class of the Leased Premises existing immediately prior to such occurrence. Notwithstanding the foregoing, Lessee, with the consent of Lessor, not to be unreasonably withheld, conditioned or delayed, may Restore the Leased Premises with such changes and modifications that Lessee may deem desirable in the exercise of its sound business judgment, for use for racing operations and to accommodate the Permitted Uses; it being agreed that Lessee shall not be required to rebuild such facilities that Lessee deems are no longer useful or necessary for the continued operation of racing at the Leased Premises (the "Unnecessary Facilities") and accordingly that withholding, conditioning or delaying consent for failure to rebuild the Unnecessary Facilities will be deemed unreasonable. Provided that Lessee's Property Insurance at the time of a Casualty is in full force and effect and is in compliance with the requirements of this Lease, including policy limits equal to the full replacement cost of the Improvements, Lessee shall not be obligated or required to expend any funds in connection with a restoration (x) in excess of the Insurance Proceeds, plus (y) the deductible amount under Lessee's Property Insurance.

(b) No Obligation of Lessor to Restore. Lessor shall have no obligation to Restore the Leased Premises.

(c) Non-Interference During Restoration. In the event of a Restoration whereby the Leased Premises are being restored in a manner substantially different than that existing immediately prior to the time of the occurrence of the Casualty (the "Alternate Restoration"), and (i) if such Alternate Restoration is to occur prior to any future development of the VLT Premises or the Real Estate Development

Parcels, Lessor may withhold its consent to such Alternate Restoration if Lessor reasonably determines that said Alternate Restoration is of a design and construction that will interfere in a material way with any such future development, and (ii) if such Alternate Construction is to occur after any such future development, the design and construction of the Alternate Restoration shall not interfere in a material way with either the VLT Operator or the Phase II Developer or their respective uses and occupancy of and operations on the VLT Premises or the Real Estate Development Parcels.

11.3 Restoration Funds.

(a) In the event of a Restoration which is subject to Section 11.2(a) and which cost thereof is to exceed $1,000,000, Lessee shall cause to be deposited with the Insurance Trustee all proceeds of Lessee's Property Insurance, less the cost, if any, incurred in connection with the adjustment of the loss and the collection thereof (hereinafter referred to as the "Insurance Proceeds"). Prior to commencing any Restoration, Lessee shall furnish Lessor with an estimate of the cost of such Restoration, prepared by an independent licensed professional engineer or registered architect selected by Lessee and reasonably approved by Lessor (the "Approved Engineer"). The Insurance Proceeds shall be applied by the Insurance Trustee to the payment of the cost of the Restoration, and shall be paid to, or for the account of, Lessee from time to time, as the Restoration progresses, but not more frequently than once in any calendar month. Said Insurance Trustee shall make such payments upon written request of Lessee accompanied by the following:

(i) a certificate, dated not more than fifteen (15) days prior to such request, signed by Lessee and by an architect in charge of the Restoration who shall be selected by Lessee and reasonably satisfactory to Lessor setting forth that:

(A) the sum then requested either has been paid by Lessee or is justly due to contractors, subcontractors, materialmen, architects or other persons who have rendered services or furnished materials in connection with the Restoration, giving a brief description of the services and materials and the several amounts so paid or due and stating that no part of such sum has been made the basis for a withdrawal of Insurance Proceeds in any previous or then pending request or has been paid out of any Insurance Proceeds received by Lessee, and that the sum requested does not exceed the value of the services and materials described in the certificate.

(B) the cost, as estimated by the persons signing such certificate, of the Restoration remaining to be done subsequent to the date of such certificate, does not exceed the amount of Insurance Proceeds remaining deposited with the Insurance Trustee after the payment of the sum so requested; and

(ii) a certificate dated not more than fifteen (15) days prior to such request of a reputable national title company then doing business in the State of New York, covering the period from the date of this Lease to the date of such certificate, setting forth that there are no liens or encumbrances of record of any kind on the Leased Premises or Lessee's interest therein other than those that Lessee is contesting in good faith, those permitted by the terms of this Lease, and except such as will be discharged by payment of the amount then requested.

(b) Upon compliance with the foregoing provisions of this Section 11.3, the Insurance Trustee shall, out of such Insurance Proceeds, pay or cause to be paid to Lessee or to the Persons named in the certificate, the respective amounts stated therein to have been paid by Lessee or to be due to said Persons, as the case may be. All sums so paid to Lessee and any other Insurance Proceeds received or collected by or for the account of Lessee, and the right to receive the same, shall be held by Lessee in trust for the purpose of paying the cost of the Restoration.

(c) When the Insurance Trustee shall receive evidence satisfactory to it of the character required by subparagraph (a) of this Section 11.3 and that the Restoration has been completed and paid for in full and that there are no liens of the character referred to herein, the Insurance Trustee shall pay any remaining balance of the Insurance Proceeds to Lessee, unless Lessor has notified the Insurance Trustee that there has been a Non-Revocation Event of Default by Lessee under this Lease, in which case the Insurance Trustee shall refrain from paying to Lessee any remaining balance of the Insurance Proceeds until the Insurance Trustee shall have received (i) notice from Lessor that the Non-Revocation Event of Default has been cured (which Lessor shall give to Insurance Trustee within fifteen (15) Business Days from the date of determination), or (ii) notice from Lessee or Lessor of an official determination by a court of competent jurisdiction that there was no such Non-Revocation Event of Default by Lessee under this Lease as claimed by Lessor. Subject to the availability of lawful appropriations and consistent with Section 8 of the State Court of Claims Act, Lessor hereby agrees to indemnify Lessee for any claims against Lessee and for any loss, cost or expense incurred by Lessee by reason of Lessor claiming a Non-Revocation Event of Default causing the Insurance Trustee to withhold the Insurance Proceeds and preventing Lessee from making payments when due, where a court of competent jurisdiction makes an official determination that there was no such Non-Revocation Event of Default by Lessee under this Lease.

(d) It is expressly understood that the requirements under this Article XI are for the benefit only of Lessor, and no contractor or other person shall have or acquire any claim against Lessee as a result of any failure of Lessee actually to undertake or complete any Restoration or to obtain the evidence, certifications and other documentation provided for herein.

11.4 No Termination or Abatement. This Lease shall not terminate or be forfeited or be affected in any manner by reason of damage to or total, substantial or partial destruction of any of the Building or any part thereof or by reason of the

untenantability of the same or any part thereof, for or due to any reason or cause whatsoever, and Lessee, notwithstanding any law or statute present or future, waives any and all rights to quit or surrender any part of the Leased Premises thereof. It is the intention of Lessor and Lessee that the foregoing is an "express agreement to the contrary" as provided in Section 227 of the Real Property Law of the State of New York.

ARTICLE XII

Representations, Warranties and Special Covenants

12.1 Lessor's Representations, Warranties and Special Covenants. Lessor hereby represents, warrants and covenants as follows:

(a) Existence. Lessor has been established and exists pursuant to the Legislation.

(b) Authority. Pursuant to the Legislation, Lessor has all requisite power and authority to own its property and the Leased Premises, effectuate its mandate, enter into this Lease and consummate the transactions herein contemplated, and by proper action in accordance with all applicable law has duly authorized the execution and delivery of this Lease and the consummation of the transactions herein contemplated.

(c) Binding Obligation. This Lease will be a valid obligation of Lessor and is binding upon Lessor in accordance with its terms once approved by the applicable state authorities.

(d) No Defaults. The execution by Lessor of this Lease and the consummation by Lessor of the transactions contemplated hereby do not, as of the Commencement Date, result in a breach of any of the terms or provisions of, or constitute a default or a condition which upon notice or lapse of time or both would ripen into a default under the Legislation, which constitutes the articles of organization of Lessor, or under any resolution, indenture, agreement, instrument or obligation to which Lessor is a party or by which the Leased Premises or any portion thereof is bound; and does not to the knowledge of Lessor, constitute a violation of any order, rule or regulation applicable to Lessor or any portion of the Leased Premises of any court or of any federal or state or municipal regulatory body or administrative agency or other governmental body having jurisdiction over Lessor or any portion of the Leased Premises.

(e) Consents. No permission, approval or consent by third parties or any other governmental authorities, other than those that have already been obtained, is required in order for Lessor to enter into this Lease, make the agreements herein contained, other than those which have been obtained.

(f) Quiet Enjoyment. So long as the Franchise Agreement is in full force and effect, Lessee shall have the quiet enjoyment and peaceable possession

of the Leased Premises during the Term of this Lease, against hindrance or disturbance of any person or persons whatsoever claiming by, through or under Lessor.

(g) Proceedings. To the knowledge of Lessor, there are no actions, suits or proceedings pending or threatened in writing against Lessor which would, if successful, prevent Lessor from entering into this Lease or performing its obligations hereunder.

(h) Limitations. Except as otherwise expressly provided herein, this Lease is made by Lessor without representation or warranty of any kind, either express or implied, as to the condition of the Leased Premises, title to the Leased Premises, its merchantability, its condition or its fitness for Lessee's intended use or for any particular purpose and all of the Leased Premises is leased on an "as is" basis with all faults.

12.2 Lessee's Representations, Warranties and Special Covenants. Lessee hereby represents, warrants and covenants as follows:

(a) Existence. Lessee is a not-for-profit racing corporation incorporated pursuant to Section 402 of the Not-for-Profit Corporation Law of the State of New York, as authorized by Chapter 18 of the Laws of 2008, validly existing and in good standing under the laws of the State of New York and its adopted and currently effective articles of incorporation.

(b) Authority. Lessee has all requisite power and authority to own its property, operate its business, enter into this Lease and consummate the transactions herein contemplated, and by proper action has duly authorized the execution and delivery of this Lease and the consummation of the transactions herein contemplated.

(c) Binding Obligations. This Lease constitutes a valid and legally binding obligation of Lessee and is enforceable against Lessee in accordance with its terms.

(d) No Defaults. The execution by Lessee of this Lease and the consummation by Lessee of the transactions contemplated hereby do not, as of the Commencement Date, result in a breach of any of the terms or provisions of, or constitute a default or a condition which upon notice or lapse of time or both would ripen into a default under the Legislation, the articles of organization of Lessee, or under any resolution, indenture, agreement, instrument or obligation to which Lessee is a party or by which the Leased Premises or any portion thereof is bound; and does not to the knowledge of Lessee, constitute a violation of any order, rule or regulation applicable to Lessee or any portion of the Leased Premises of any court or of any federal or state or municipal regulatory body or administrative agency or other governmental body having jurisdiction over Lessee or any portion of the Leased Premises.

(e) Consents. No other permission, approval or consent by third parties or any other governmental authorities is required in order for Lessee to enter into this Lease or consummate the transactions herein contemplated, other than those which have been obtained.

(f) Proceedings. To the knowledge of Lessee, there are no actions, suits or proceedings pending or threatened in writing against Lessee which would, if successful, prevent Lessee from entering into this Lease or performing its obligations hereunder.

ARTICLE XIII

Indemnification, Waiver and Release

13.1 Lessee Indemnification. Lessee shall indemnify, defend and hold harmless the Lessor, Empire State Development Corporation, the Franchise Oversight Board, the Racing and Wagering Board, and their respective officers, directors, trustees, employees, members, managers, and agents (the "Lessor Indemnitees"), from and against any and all claims, actions, damages, liability and expense, arising from or out of (i) the negligence or intentional acts or omissions of Lessee, its officers, directors, agents or employees at the Leased Premises ("Lessee Parties") in connection with the occupancy or use by Lessee of the Leased Premises or any part thereof, and (ii) any occurrence at the Leased Premises not arising out of the negligence or intentional acts or omissions of a Lessee Party, but which is covered by the insurance which Lessee is required to maintain pursuant to the terms of this Lease (or any additional insurance which Lessee actually carries). Lessee's liability arising out of (ii) above shall be limited to the actual amount of proceeds available under such insurance. In case any Lessor Indemnitee shall be made a party to any litigation covered by this indemnity, whether or not also commenced by or against Lessee, then Lessee shall indemnify, defend and hold the Lessor Indemnitees harmless and shall pay all costs, expenses and reasonable attorneys' fees incurred or paid by the Lessor Indemnitees in connection with such litigation.

13.2 Lessor's Indemnification. Subject to the availability of lawful appropriations and consistent with Section 8 of the State Court of Claims Act, Lessor shall hold Lessee and its officers, directors, trustees, employees, members, managers, and agents (the "Lessee Indemnitees"), harmless from any final judgment of a court of competent jurisdiction to the extent attributable to the negligence of Lessor and its officers or employees when acting within the course and scope of their employment.

13.3 Survival. The provisions of this Article XIII shall survive the expiration or termination of this Lease with respect to matters that accrued prior to the Expiration Date, whether or not claims in respect of such matters are brought prior to or following the Expiration Date.

ARTICLE XIV

Miscellaneous

14.1 Inspection. Lessee shall permit Lessor and its agents, upon no less than twenty-four (24) hours' prior notice, to enter into and upon the Leased Premises during normal business hours for the purpose of inspecting the same on the condition that Lessor and its agents shall use reasonable efforts to ensure that Lessee's and Lessee's invitees' use and quiet enjoyment of the Leased Premises is not interfered with.

14.2 Estoppel Certificates. Either Party shall, at any time and from time to time upon not less than ten (10) days' prior request by the other Party, execute, acknowledge and deliver to such requesting party, a statement in writing certifying (i) its ownership of its interest hereunder, (ii) that this Lease is unmodified and in full force and effect (or if there have been any modifications, that the same is in full force and effect as modified and stating the modifications), (iii) the dates to which the Rental and any other charges have been paid, and (iv) that, to the best of their knowledge, no default hereunder on the part of the other Party exists (except that if any such default does exist, then such default shall be specified).

14.3 Lease Termination Agreement. If requested by Lessor or Lessee, Lessor and Lessee shall, upon termination of this Lease, execute and deliver to one another an appropriate release, cancellation and termination of the Lease, in form proper for recording, of all Lessee's interest in the Leased Premises and all of Lessee's obligations under the Lease, other than such obligations as survive the termination hereof.

14.4 Notices. All notices hereunder to the respective Parties will be in writing and will be served by personal delivery or by prepaid, express mail (next day) via a reputable courier service, or by prepaid, registered or certified mail, return receipt requested, addressed to the respective parties at their addresses set forth below. Any such notice to Lessor or Lessee will be deemed to be given and effective: (i) if personally delivered, then on the date of such delivery, (ii) if sent via express mail (next day), then one (1) business day after the date such notice is sent, or (iii) if sent by registered or certified mail, then three (3) business days following the date on which such notice is deposited in the United States mail addressed as aforesaid. For purposes of this Lease, a business day shall be deemed to mean a day of the week other than a Saturday or Sunday or other holiday recognized by banking institutions of the State of New York. Copies of all notices will be sent to the following:

If to Lessee:

The New York Racing Association, Inc.
Aqueduct Racetrack
110-00 Rockaway Boulevard
South Ozone Park, New York 11417
Attn: General Counsel

With a copy to:

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Attn: Brian S. Rosen, Esq.

If to Lessor:

The New York State Franchise Oversight Board
Franchise Oversight Board
c/o Executive Chamber
The Capitol
Albany, NY 12224
Attention: Chairman
Telecopy: (518) 486-9652

With a copy to:

The New York State Office of General Services
State of New York State Office of General Services
Legal Services Bureau
41st Floor, Corning Tower
The Governor Nelson A. Rockefeller Empire State Plaza
Albany, New York 12242

With a copy to:

Charities Bureau
Department of Law
120 Broadway - 3rd Floor
New York, New York 10271

With a copy to:

The Racing and Wagering Board
Chairman
N.Y.S. Racing and Wagering Board
1 Broadway Center, Suite 600
Schenectady, New York 12305
Telecopy: (518) 347-1250

With a copy to:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019
Attn: Alan S. Kornberg, Esq.

14.5 Modifications. This Lease may be modified only by written agreement signed by Lessor and Lessee and approval of the State Comptroller.

14.6 Descriptive Headings. The descriptive headings of this Lease are inserted for convenience in reference only and do not in any way limit or amplify the terms and provisions of this Lease.

14.7 Force Majeure. The time within which either Party hereto shall be required to perform any act under this Lease shall be extended by a period of time equal to the number of days during which performance of such act is delayed unavoidably by strikes, lockouts, acts of God, governmental restrictions, failure or inability to secure materials or labor by reason of priority or similar regulations or order of any governmental or regulatory body, enemy action, civil disturbance, fire, unavoidable casualties or any other cause beyond the reasonable control of the party seeking the delay.

14.8 Partial Invalidity. If any term, provision, condition or covenant of this Lease or the application thereof to any Party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Lease, or the application of such term, provisions, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

14.9 Applicable Law and Venue. This Lease shall be governed by and construed in accordance with the laws of the State of New York.

14.10 Attorneys' Fees. If any Party to this Lease brings an action against the other party based on an alleged breach by the other party of its obligations under this Lease, the prevailing party may seek to recover all reasonable expenses incurred, including reasonable attorneys' fees and expenses. In the event that Lessee fails to quit and surrender to Lessor the Premises upon the termination of this Lease as provided herein, Lessee shall be responsible for all costs and expenses, including reasonable attorneys' fees and expenses, incurred by Lessor in regaining possession of the Leased Premises following the Expiration Date.

14.11 Net Rental. It is the intention of Lessor and Lessee that the Rental payable under this Lease after the Commencement Date and other costs related to Lessee's use or operation of the Leased Premises, other than Impositions, shall be absolutely net to Lessor, and that Lessee shall pay during the Term, without any offset or deduction whatsoever, all such costs.

14.12 No Broker. Lessor and Lessee represent and warrant one to the other that no broker commission, finder's fees or similar compensation is due to any party claiming through Lessor or Lessee, as applicable, and Lessor and Lessee agree to hold the other Party harmless from any liability to pay any such brokerage commission, finder's fees or similar compensation to any parties claiming same through the indemnifying Party.

14.13 Memorandum of Lease. Lessor and Lessee agree to execute and deliver to each other a short form of this Lease in recordable form which incorporates all of the terms and conditions of this Lease by reference in the form mutually agreed upon by Lessor and Lessee ("Memorandum of Lease"). Lessor and Lessee agree that at Lessee's option, and at Lessee's cost, Lessee may record such Memorandum of Lease, in the office of the county clerk in which the Leased Premises is located.

14.14 No Waiver. No waiver of any of the provisions of this Lease shall be deemed, or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver, nor shall a waiver in any instance constitute a continuing waiver, nor shall a waiver in any instance constitute a waiver in any subsequent instance.

14.15 Consents.

(a) Wherever in this Lease Lessor's consent or approval is required and Lessor agrees that such consent or approval shall not be unreasonably withheld, conditioned or delayed, if Lessor shall refuse such consent or approval, Lessee in no event shall be entitled to and shall not make any claim, and Lessee hereby waives any claim, for money damages (nor shall Lessee claim any money damages by way of set-off, counterclaim or defense) based upon any assertion by Lessee that Lessor unreasonably withheld or unreasonably delayed its consent or approval. Lessee's sole remedy in such circumstance shall be an action or proceeding to enforce any such provision by way of specific performance, injunction or declaratory judgment.

(b) If Lessor fails to approve or disapprove a request for consent within thirty (30) days (provided, that if Lessee requires a response from Lessor prior to such thirtieth (30^{th}) day in order to ensure the orderly operation of the Franchise and the Leased Premises, Lessee may, in its initial submission to Lessor, request that Lessor respond with a shorter period of time, but in no event less than fifteen (15) Business Days), Lessee shall have the right to provide Lessor with a second written request for consent (a "Second Consent Request"), which shall set forth in bold capital letters the following statement: "IF LESSOR FAILS TO RESPOND WITHIN TEN (10)

BUSINESS DAYS AFTER RECEIPT OF THIS NOTICE, THEN LESSEE SHALL BE ENTITLED TO TAKE THE ACTION LESSEE HAS REQUESTED LESSOR'S CONSENT TO PREVIOUSLY AND TO WHICH LESSOR HAS FAILED TO TIMELY RESPOND." In the event that Lessor fails to respond to a Second Consent Request within ten (10) Business Days after receipt by Lessor, the action for which the Second Consent Request is submitted shall be deemed to be approved by Lessor. Notwithstanding the foregoing, in no event shall this Section 14.15 (b) apply to a request by Lessee to assign the Lease or sublet the Leased Premises pursuant to Section 7.1 hereof or to mortgage or encumber its leasehold interest in the Leased Premises pursuant to Section 8.1 hereof.

14.16 Non-Interference. Lessor will use reasonable efforts to ensure that neither Lessor nor any tenants, licensees or occupants of the Premises or any adjacent property owned by Lessor, interferes in a material adverse manner with Lessee's use and occupancy of and the conduct of its operations at the Leased Premises.

14.17 Primacy of Documents. In the event of a conflict between the provisions of the Legislation and the provisions of this Lease or the Franchise Agreement, the provisions of the Legislation shall prevail. In the event of a conflict between the provisions of this Lease and the Franchise Agreement, the provisions of the Franchise Agreement shall prevail. Notwithstanding the foregoing, the description of the Leased Premises set forth in this Lease shall prevail over any contrary provision in the Franchise Agreement.

14.18 Counterparts. This Lease may be executed in two or more fully or partially executed counterparts, each of which shall be deemed an original, binding the signer thereof against the other signing Party, but all counterparts together will constitute one and the same instrument.

14.19 State Appendix. New York State Appendix A, attached hereto as Exhibit F, is incorporated herein and made a part of this Lease.

14.20 Regulatory Space. Lessee acknowledges that certain agencies of the State of New York relating to racing and wagering (the "Agencies") occupy space on the Leased Premises, and Lessee agrees that the Agencies may continue to occupy such space, free of charge, for the Term hereof. In the event that Lessee desires to relocate the Agencies within the Leased Premises, Lessee shall provide facilities of comparable size, character, quality and utility and reasonably convenient location to the Agencies, and shall pay all reasonable costs of relocating the Agencies to such replacement space.

14.21 Condition Precedent to Future Development of Real Estate Development Parcels. Notwithstanding anything to the contrary contained herein, in no event shall Lessor permit the Phase II Developer to undertake any Phase II Development prior to the Sublease Agreement and the Omnibus Agreement being in full force and effect.

14.22 Lessor Mortgage of Leased Premises. Lessor represents and warrants that as of the date hereof it has not mortgaged or encumbered its fee interest in the Leased Premises. Lessor may not mortgage or encumber its fee interest in the Leased Premises without obtaining a non-disturbance agreement in favor of Lessee, which must be in form and content reasonably satisfactory to Lessee.

14.23 Non-Competition Pari-Mutuel Wagering. Lessor acknowledges and agrees that there shall be no pari-mutuel or simulcast wagering or horse racing conducted at the Aqueduct Racetrack by any party other than Lessee.

14.24 Successors and Assigns. The provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

SIGNATURE PAGES TO FOLLOW

Lessor and Lessee have executed this Lease as of the day and year first above written.

LESSOR:

THE PEOPLE OF THE STATE OF NEW YORK ACTING BY AND THROUGH THE STATE FRANCHISE OVERSIGHT BOARD PURSUANT TO CHAPTER 18 OF THE LAWS OF 2008

By: _____
Name: Laura L. Anglin
Title: Chairperson

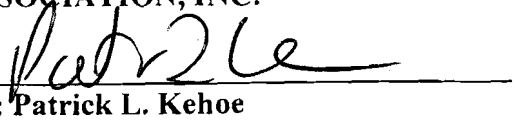
Approved as to form by:

THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF NEW YORK

By: _____
Name:
Title:

LESSEE:

THE NEW YORK RACING ASSOCIATION, INC.



By: Patrick L. Kehoe
Title: General Counsel

Lessor and Lessee have executed this Lease as of the day and year first above written.

LESSOR:

THE PEOPLE OF THE STATE OF NEW YORK ACTING BY AND THROUGH THE STATE FRANCHISE OVERSIGHT BOARD PURSUANT TO CHAPTER 18 OF THE LAWS OF 2008

By: _____
Name: Laura L. Anglin
Title: Chairperson

Approved as to form by:

THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF NEW YORK

By: _____
Name:
Title:

APPROVED AS TO FORM
NYS ATTORNEY GENERAL
SEP 12 2008
PETER FAVRETTO
ASSOCIATE ATTORNEY

State of New York)

County of NY) ss.:

On the 12th day of Sept in the year 2008 before me, the undersigned, personally appeared Laura L. Arglin, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Christine Shrestha

Signature and Office of individual
taking acknowledgment

CHRISTINE SHRESTHA
NOTARY PUBLIC, State of New York
No. 01SH50566934
Qualified in New York County
Commission Expires March 11, 2010

State of New York)

County of NY) ss.:

On the 12th day of Sept. in the year 2008 before me, the undersigned, personally appeared Patrick L. Kehoe, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

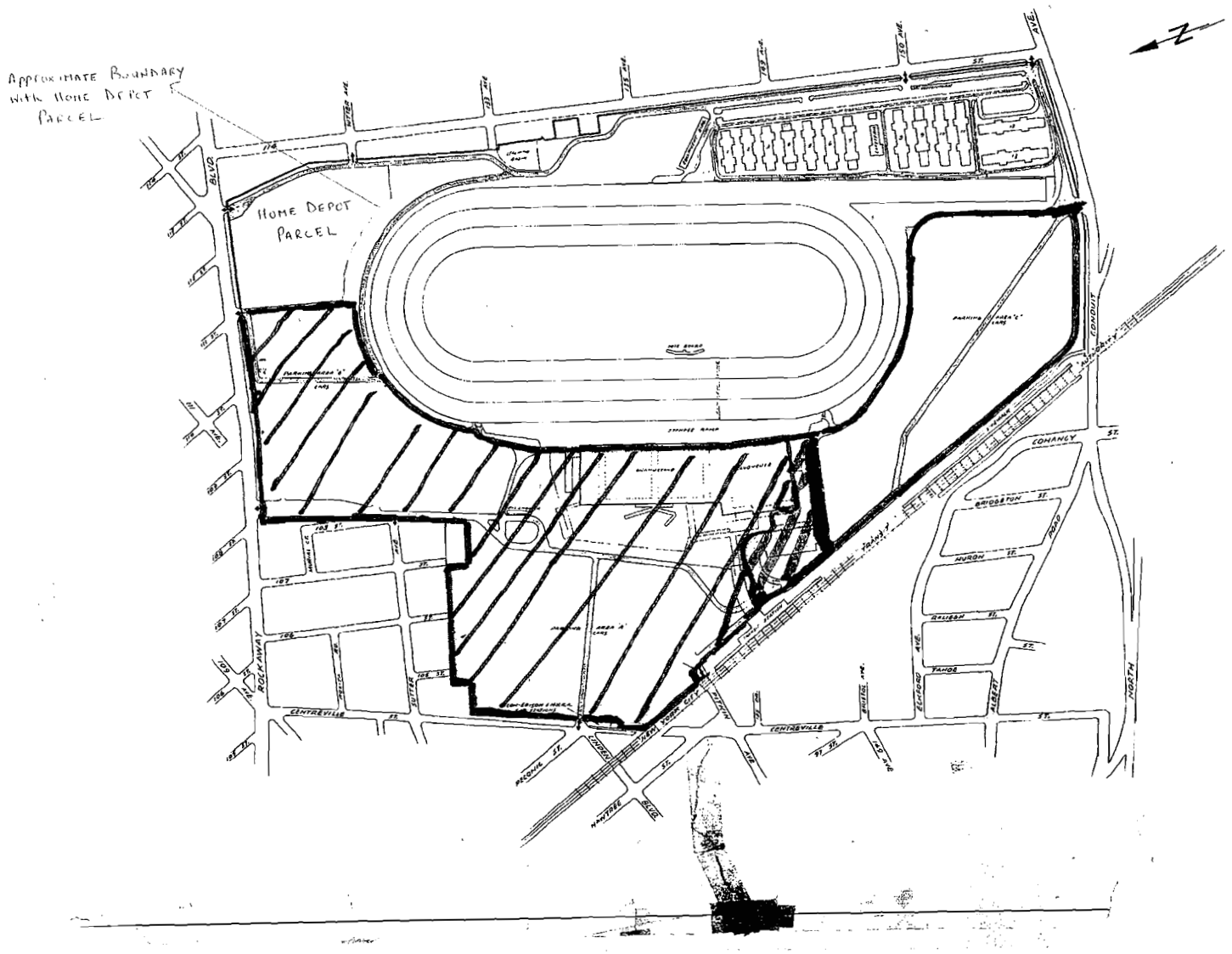
Christine Shrestha

Signature and Office of individual
taking acknowledgment

CHRISTINE SHRESTHA
NOTARY PUBLIC, State of New York
No. 01SH50566934
Qualified in New York County
Commission Expires March 11, 20 10

EXHIBIT A

DESCRIPTION OF THE LEASED PREMISES



AQUEDUCT RACETRACK FACILITIES GROUND LEASE

LEASED PREMISES IS CROSS-HATCHED AND BLUE AND ORANGE ROAD (ORANGE ROAD IS COMMON USE WITH PORT AUTHORITY OF NY NJ)

GENERAL SITE PLAN
AQUEDUCT RACE TRACK
THE NEW YORK RACING ASSOCIATION INC.
SCALE: 1" = 300'

EXHIBIT B

FRANCHISE AGREEMENT

FRANCHISE AGREEMENT

FRANCHISE AGREEMENT (the "***Agreement***"), dated as of September 12, 2008, by and among The New York Racing Association, Inc. ("***New NYRA***"), The State of New York (the "***State***") and The New York State Franchise Oversight Board (the "***FOB***").

RECITALS

A. Unless otherwise defined herein, capitalized terms used but not otherwise defined herein shall have the meanings set forth in Article I below.

B. New NYRA is the not-for profit racing corporation incorporated pursuant to Section 402 of the Not-For-Profit Corporation Law of the State of New York, as authorized by Chapter 18 of the Laws of 2008.

C. Pursuant to (1) the New York State Racing, Pari-Mutuel Wagering and Breeding Law, as amended (the "***Racing Law***"), and (2) that certain Stipulation Relating to, Among Other Things, the Operation of the Racetracks, dated December 31, 2007, as amended, from 1955 up to and including the date hereof, New NYRA's predecessor in interest, The New York Racing Association Inc. ("***Old NYRA***"), has operated the racing facilities known as Aqueduct Racetrack ("***Aqueduct***"), Belmont Park ("***Belmont***") and Saratoga Race Course ("***Saratoga***" and collectively with Aqueduct and Belmont, the "***Racetracks***") and conducted thoroughbred racing and pari-mutuel and simulcast wagering thereon, together with various activities related thereto, including, without limitation, live wagering and retail, food, beverage, trade expositions, and entertainment facilities.

D. On November 2, 2006 (the "***Petition Date***"), Old NYRA filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, as amended (the "***Bankruptcy Code***"), with the United States Bankruptcy Court for the Southern District of New York (the "***Bankruptcy Court***"), Case No. 06-12618 (JMP) (the "***Chapter 11 Case***").

E. On February 13, 2008, the New York State Senate (the "***Senate***") and the New York State Assembly (the "***Assembly***") passed legislation, S. 6950 and A. 9998, respectively, providing for, among other things, the granting of the franchise to New NYRA to continue thoroughbred racing operations and pari-mutuel and simulcast wagering at the Racetracks for a period of not more than twenty-five (25) years, (the "***Legislation***"). On February 19, 2008, the then Governor enacted the Legislation into law as Chapter 18 of the Laws of 2008.

F. On April 28, 2008, (1) the Bankruptcy Court conducted a hearing (the "Confirmation Hearing") to consider the Modified Third Amended Plan of Debtor Pursuant to Chapter 11 of the United States Bankruptcy Code, dated April 28, 2008 (the

"***Modified Plan***"), in accordance with section 1129 of the Bankruptcy Code and (2) in connection therewith, Old NYRA presented testimony and other evidence regarding, among other things, (a) the compromise and settlement between Old NYRA and the State, including, without limitation, the granting of the Franchise to New NYRA, the levels of the Support Fee and the CAPEX Amount, each as set forth in the Legislation, that certain State Settlement Agreement, dated as of the date hereof, by and among Old NYRA, New NYRA, the State, the Oversight Board and the New York State Division of the Lottery (the "***Settlement Agreement***") and herein, the waiver of certain claims by the State and the payment of other monies to Old NYRA by the State and (b) compliance with the provisions of section 1129 of the Bankruptcy Code, including, without limitation, the feasibility of the Plan and the viability of New NYRA's ongoing operations. By order, dated April 28, 2008 (the "***Approval Order***"), and based upon the evidence presented at the Confirmation Hearing, the Bankruptcy Court (1) confirmed the Modified Plan and (2) authorized the consummation of the transactions contemplated by the Modified Plan, including, without limitation, the execution and delivery of (i) this Agreement and (ii) the Settlement Agreement.

G. Chapter 383 of the Laws of 2001 authorized video lottery terminal gaming ("***VLT Gaming***") to be conducted at Aqueduct.

H. On June 24, 2008, the Senate and the Assembly passed legislation, S. 8709 and A. 11502, respectively, amending the Legislation and the Racing Law to correct certain technical errors and certain provisions of the Legislation, including, without limitation, the distribution mechanism associated with the VLT Revenues, as defined below (the "***Chapter Amendment***"). On June 30, 2008, the Governor enacted the Chapter Amendment into law.

I. Contemporaneously herewith, (a) the Plan became effective, (b) Old NYRA irrevocably relinquished and conveyed all of Old NYRA's right, title and interest in, to and under the (i) Racetrack Properties, all improvements thereon and all physical assets appurtenant thereto, including, without limitation, the land underlying the Racetracks, each as described in the Deeds, (ii) works of art, including, without limitation, those works of art listed on Exhibit "P" to the Settlement Agreement, (iii) all rights to intellectual property, including, without limitation, trademarks, tradenames, copyrights and simulcasting rights (collectively, the "***Intellectual Property***"), and (iv) leasehold improvements and interests, now existing or hereafter created with respect to the foregoing ((i) through (iv) collectively, the "***Transferred Property***") to the People of the State of New York in consideration for and in reliance upon the following: (1) the payment to Old NYRA of One Hundred Five Million Dollars ($105,000,000.00) for services and expenses required relating to payments for capital works or purposes, including, without limitation, payments for the purposes of acquisition of clear title to the Racetrack Properties and related real property, (2) the waiver of (i) the State Obligations, (ii) the repayment of any and all obligations arising from or relating to the DIP Orders and the DIP Facility, other than the Supplemental DIP Loan, and (iii) the State Claims (other than the Remaining Tax Claim and the DEC Claim, as defined in the Settlement Agreement), to the extent not otherwise withdrawn, (3) the making of (i) payments to

New NYRA during the Term necessary to support racing operations and the satisfaction of New NYRA's operating expenses, including, without limitation, the payment of New NYRA's pension plan obligations, and (ii) capital expenditure advances by the State or VLT Operator, as the case may be, to New NYRA over the Term of the Franchise, each as set forth in the Racing Law and the State of New York Tax Law, as modified by the Legislation and the Chapter Amendment, and (4) the FOB, as agent for the State, entering into the Leases providing for the lease and/or license of Aqueduct, the lease and/or license of Belmont and the lease of Saratoga, subject to the rights of the State and the FOB pursuant thereto, to New NYRA for the Term at the rate of One Dollar ($1.00) per year, and (c) (1) Old NYRA conveyed all of its right, title and interest in and to all Intellectual Property, now existing or hereafter created and relating to the operation of the Racetracks, and all rights or interests in such assets to the People of the State of New York and (2) the FOB, as agent for the State, entered into a License Agreement providing for the grant by the FOB to New NYRA of an exclusive license to use such Intellectual Property during the Term in connection with the operation of the Racetracks and the conduct of pari-mutuel and simulcast wagering, as more specifically set forth in the License Agreement, and expressly authorizing New NYRA's use, management and operation thereof, subject to the rights of the FOB pursuant to the Legislation, at the rate of One Dollar ($1.00) per year.

NOW, THEREFORE, IT IS HEREBY AGREED, by and among the undersigned, as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Recitals. The recitals set forth above are incorporated by reference and are explicitly made a part of this Agreement.

Section 1.2 Definitions. The following definitions shall apply to and constitute part of this Agreement and all schedules, exhibits and annexes hereto:

"***Adjusted Net Income***" shall mean the amount of New NYRA's audited net income as of December 31st of any calendar year during the Term, as defined below, plus (a) the amount of depreciation and amortization recognized for such calendar year, as set forth in New NYRA's statement of cash flows, minus (b) (i) the amount of monies received by New NYRA for capital expenditures in accordance with the Legislation, the Chapter Amendment and Section 2.9 hereof, as the case may be, and (ii) the amount of principal payments made by New NYRA for the repayment of indebtedness in the ordinary course of business, including, without limitation, payments made with respect to the Allowed IRS Claim pursuant to the Plan, all calculated in accordance with GAAP.

"***Ancillary Property***" shall mean the parcels of property described on Exhibit "A" hereto.

"***Aqueduct Facilities Ground Lease***" shall mean the agreement to be executed by New NYRA and the FOB, as agent for the State, relating to the lease of certain portions of the Racetrack Property located at Aqueduct, all improvements thereon and all physical assets appurtenant thereto, a copy of which is annexed hereto as Exhibit "B", as the same may be amended from time to time in accordance with its terms.

"***Aqueduct Land Ground Lease***" shall mean the agreement to be executed by New NYRA and the FOB, as agent for the State, relating to the lease of certain portions of the Racetrack Property located at Aqueduct, a copy of which is annexed hereto as Exhibit "C", as the same may be amended from time to time in accordance with its terms.

"***Aqueduct Sublease***" shall mean the agreement to be executed by New NYRA and the VLT Operator, relating to, among other things, the lease of certain portions of the Racetrack Property located at Aqueduct, including certain facilities located in the clubhouse and grandstand at Aqueduct, a copy of which is annexed hereto as Exhibit "D", as the same may be amended from time to time in accordance with its terms.

"***Assembly***" shall mean The Assembly of the State of New York.

"***Ballfield Properties***" shall mean (a) Lots 62, 118, 119, 127, 133, 135, 136 and 138 of Block 11535, (b) Lots 73, 110 and 113 of Block 11536, (c) Lots 5, 9, 10, 12, 14 and 110 of Block 11551 and (d) Lot 204 of Block 11652 of the Tax Map of the County of Queens in the State of New York.

"***Belmont Ground Lease***" shall mean the agreement to be executed by New NYRA and the FOB, as agent for the State, relating to the lease and/or license of Racetrack Property, all improvements thereon and all physical assets appurtenant thereto located at Belmont, a copy of which is annexed hereto as Exhibit "E", as the same may be amended from time to time in accordance with its terms.

"***Business Day***" shall mean any day of the week other than a Saturday, Sunday or other day on which banks in the State of New York are required or permitted to close.

"***Chapter Amendment***" shall mean the amendment to the Legislation which shall correct certain technical errors and clarify certain provisions of the Legislation, including, without limitation, the distribution mechanism associated with the VLT Revenues.

"***Deeds***" shall mean, collectively, the deeds provided by Old NYRA to the People of the State of New York pursuant to which Old NYRA conveyed all of its right, title and interest in, to and under the Racetrack Properties.

"***DIP Agreements***" shall mean, collectively, that certain (a) Debtor-in-Possession Credit Agreement, dated as of November 3, 2006, between Old NYRA and the State, (b) Amended and Restated Debtor-in-Possession Loan and Security Agreement, dated as of March 16, 2007, between Old NYRA and the State and (c) Amendment No. 1 to Amended and Restated Debtor-in-Possession Loan and Security Agreement, dated as of March 28, 2008, between Old NYRA and the State.

"***DIP Facility***" shall mean the financing facility entered into by Old NYRA and the State in accordance with the terms and provisions of the DIP Orders and DIP Agreements.

"***DIP Orders***" shall mean, collectively, that certain (a) Final Order Authorizing, Nunc Pro Tunc, Debtor in Possession to Enter into Post-Petition Credit Agreement and Obtain Post-Petition Financing Pursuant to Sections 363 and 364 of the Bankruptcy Code and Granting Liens, Security Interests and Superpriority Claims, dated February 22, 2007, and (b) Order Authorizing Debtor in Possession Pursuant to Sections 363 and 364 of the Bankruptcy Code to Obtain Supplemental Postpetition Financing From the State of New York and Granting Liens, Security Interests, Superpriority Claims and Related Relief, dated March 16, 2007.

"***Effective Date***" shall mean the first (1st) Business Day after the date on which all conditions to effectiveness set forth in Section 6.2 hereof shall have been satisfied or waived in writing by each of the Parties.

"***Franchise***" shall mean the authority to conduct racing and pari-mutuel wagering thereon with respect to thoroughbred racing at the Racetracks, as provided for in Chapter 18 of the Laws of 2008.

"***GAAP***" shall mean generally accepted accounting principles in the United States in effect from time to time.

"***Ground Leases***" shall mean the Aqueduct Land Ground Lease, the Aqueduct Facilities Ground Lease, the Belmont Ground Lease and the Saratoga Ground Lease.

"***Leases***" shall mean, collectively, the Aqueduct Land Ground Lease, the Aqueduct Facilities Ground Lease, the Belmont Ground Lease, the Saratoga Ground Lease and the Aqueduct Sublease.

"***Legislature***" shall mean, jointly, the Assembly and the Senate.

"***NYRA Entities***" shall mean, collectively, Old NYRA and New NYRA.

"***Operating Cash***" shall mean (a) New NYRA's cash, as available on December 31st of any calendar year during the Term, used exclusively for operations and expressly excluding (1) all restricted cash accounts, (2) all segregated accounts as per

audited financial statements and (3) all cash on hand necessary to fund on-track pari-mutuel operations through the vault, including, without limitation, all cash maintained in New NYRA's vault in connection therewith minus (b) forty-five (45) days of New NYRA's then current year's budgeted expenses, as calculated pursuant to GAAP, which amount shall be calculated by dividing New NYRA's then current year's budgeted annual expenses by the number of days in such calendar year and multiplying such average amount by forty-five (45).

"***Person***" shall mean an individual, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and any spouses, heirs, predecessors, successors, representatives or assignees of any of the foregoing.

"***Racing and Wagering Board***" shall mean The New York State Racing and Wagering Board.

"***Racing Premises***" shall mean the premises leased or licensed to New NYRA in accordance with the terms and provisions of the Ground Leases and, as applicable, the Aqueduct Sublease; provided, however, that, upon recapture by the FOB of all or any portion of the Real Estate Development Parcels, such recaptured portions shall be deemed excluded from the term "Racing Premises".

"***Racetrack Properties***" shall mean all of the real property associated with the Racetracks and the operation thereof, including, without limitation, the land underlying each of the Racetracks, but expressly excluding the Ancillary Property and the Ballfield Properties.

"***Real Estate Development Parcels***" shall mean those parcels of land located at Aqueduct and Belmont which are expressly designated in the Aqueduct Facilities Ground Lease and the Belmont Ground Lease, respectively, as "Real Estate Development Parcels".

"***Saratoga Ground Lease***" shall mean the agreement to be executed by New NYRA and the FOB, as agent of the State, relating to the lease of Racetrack Property, all improvements thereon and all physical assets appurtenant thereto located at Saratoga, a copy of which is annexed hereto as Exhibit "F", as the same may be amended from time to time in accordance with its terms.

"***Senate***" shall mean The Senate of the State of New York.

"***Speaker***" shall mean the Speaker of the Assembly.

"***State Claims***" shall mean any and all claims of the State of New York or proofs of claim filed by the State of New York against Old NYRA in Old NYRA's chapter 11 case, all as set forth in Recital L to the Settlement Agreement.

"***State Obligations***" shall mean the obligations of Old NYRA to revert or escheat funds to the State as a result of the non-tendering of pari-mutuel tickets relating to the period prior to the Effective Date.

"***State Parties***" shall mean, jointly, the State and the FOB.

"***Supplemental DIP Loan***" shall mean the advance in the amount of Nine Million Dollars ($9,000,000.00) made by the State of New York to NYRA pursuant to the DIP Agreements.

"***Temporary President***" shall mean the Temporary President of the Senate.

"***VLT***" shall mean a video lottery terminal.

"***VLT Operations***" shall mean the operation of video lottery terminal gaming and related operations within the confines of the VLT Premises.

"***VLT Operator***" shall mean the entity selected by the State as the operator with respect the VLT Operations at Aqueduct, pursuant to a memorandum of understanding among the Governor, the Temporary President of the Senate, and the Speaker of the Assembly, upon prior consultation with Old NYRA or New NYRA, as the case may be.

"***VLT Premises***" shall mean that portion of Aqueduct designated for VLT Operations and referred to in the Aqueduct Sublease and which shall include (i) the gaming floor, (ii) the back-of-the-house area, (iii) gaming and non-gaming amenities related thereto and (iv) associated facilities and other portions of Aqueduct agreed upon by the State, the VLT Operator and New NYRA as necessary for the successful operation of video lottery gaming.

"***VLT Revenues***" shall mean the amount of total revenue wagered on VLTs at Aqueduct after payout for prizes won in accordance with Section 1612(b) of the New York State Tax Law.

Section 1.3 Other Terms. Other terms may be defined elsewhere in this Agreement and, unless otherwise indicated, shall have such meaning throughout this Agreement. As used in this Agreement, any reference to any federal, state, local, or foreign law, including any applicable law, will be deemed also to refer to such law as amended and all rules and regulations promulgated thereunder, unless the context requires otherwise. The words "***include***", "***includes***", and "***including***" will be deemed to be followed by "***without limitation***". Pronouns in masculine, feminine, or neuter genders will be construed to include any other gender, and words in the singular form will be

construed to include the plural and vice versa, unless the context otherwise requires. The words "***this Agreement***", "***herein***", "***hereof***", "***hereby***", "***hereunder***", and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited.

Section 1.4 Interpretation. The Parties have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties hereto and no presumption or burden of proof will arise favoring or disfavoring any party hereto because of the authorship of any provision of this Agreement.

ARTICLE II
FRANCHISE TERMS

Section 2.1 Term of Franchise. As of the Effective Date, New NYRA shall be granted the Franchise for the period from the date hereof up to and including the twenty-fifth (25th) anniversary hereof (the "***Term***"). Notwithstanding anything contained herein to the contrary, during the Term, New NYRA shall perform all of the functions as may be necessary or appropriate to conduct racing, racing operations, pari-mutuel and simulcast wagering at or with respect to the Racetracks. Without in any way limiting the foregoing, during the Term, New NYRA shall have the right and responsibility to manage and operate all functions at the Racing Premises, including, but not limited to, and subject to applicable Racing Law and regulations, (a) the hiring and management of racing secretaries, stewards, race officials, backstretch employees and other equine and racing related functions, (b) establishing the purses, the stakes program and owner's relations at the Racetracks, (c) maintenance of the Racing Premises and associated facilities, (d) the selection of vendors for food, beverage and other concessions on the Racing Premises, and (e) such other activities as may be approved by the FOB; provided, however, that New NYRA, in its discretion, may use or permit the use of the Real Estate Development Parcels or licensed premises at Belmont for business purposes unrelated to racing or racing operations; and, provided, further, that, in accordance with the Aqueduct Land Ground Lease and the Belmont Ground Lease, upon thirty (30) days' prior written notice from the FOB to New NYRA, New NYRA shall cease or cause the cessation of such non-racing activity on the Real Estate Development Parcels, and surrender possession thereof to the FOB in order to allow any FOB-approved development to proceed or such alternative use as may be approved by the FOB to be conducted on such property; and, provided, further, that, with the consent of the VLT Operator, which consent may be granted or withheld in the sole and absolute discretion of the VLT Operator, and subject to the requisite approvals, New NYRA may operate pari-mutuel and simulcast wagering on the VLT Premises.

Section 2.2 Performance Standards. From and after the Effective Date, New NYRA shall use its best efforts to satisfy the following performance standards (collectively, the "***Performance Standards***") with respect to racing operations against which Performance Standards New NYRA shall be evaluated by the FOB every four (4) years:

(a) Racing Dates. New NYRA shall apply to the Racing and Wagering Board to run racing a minimum of two hundred forty-six (246) total race days each calendar year, which racing days will include a minimum of (i) one hundred twenty (120) race days at Aqueduct, (ii) ninety (90) race days at Belmont and (iii) thirty-six (36) race days at Saratoga. Assignment of race days shall be subject to approval of the Racing and Wagering Board.

(b) New York Bred Races. New NYRA shall run a minimum of six hundred (600) New York bred races each year, subject to availability of a sufficient number of New York bred horses to run competitive races with customary field size. The number of New York bred races will be dependent on the State's foal crop and the continuation of State support of the State breeding industry substantially as currently operated.

(c) Stalls. New NYRA shall fill stalls at each of the Racetracks in a fair and equitable manner and subject to existing track customs so as to maximize field size and quality of horses on Racetrack grounds.

(d) Jockey and Equine Safety. New NYRA shall consider the advantages and disadvantages of installing synthetic surfaces at the Racetracks and training facilities with leading equine artificial surface experts from around the Nation to determine the advisability of such installation. Installation will be subject to FOB approval. New NYRA shall also consider other steps in consultation with industry experts to ensure jockey and equine safety.

(e) CAFO. New NYRA shall comply with the requirements of State Concentrated Animal Feeding Operation nutrient management plan and shall remediate and notify the FOB of any violation of such plan as soon as practicable.

(f) Backstretch. New NYRA shall develop and implement a plan, subject to approval of the FOB, to improve substantially over a five year period the condition of the housing and working environment for backstretch workers; provided, however, that compliance with this Performance Standard shall be conditioned on the State or the VLT Operator making required daily payments to New NYRA for track improvements and other capital expenditures in an amount equal to four percent (4%) of VLT Revenues.

(g) Saratoga Training. New NYRA shall maintain and operate the existing Saratoga training facility during the period from at least April 15 through November 1 of each year, subject to weather conditions.

(h) Handle and Attendance. New NYRA shall embrace objectives to encourage growth in on- and off-track handle through track and VLT Gaming marketing, simulcasting, and internet wagering. New NYRA shall use its reasonable best efforts to increase average daily handle at each of the Racetracks. New NYRA shall provide the FOB with such handle figures as the FOB may reasonably

request, at the conclusion of each meet, for consultation and discussion on patterns and trends that may necessarily be affecting this objective. The FOB and New NYRA shall work cooperatively to make any reasonable adjustments that may be necessary to meet the growth objectives. To the extent possible, similar objectives shall apply to on-track attendance. Recognizing patronage shifts between VLT Gaming, racing and simulcasting operations, and the long-term decline in racing attendance in the United States, New NYRA shall use its reasonable best efforts to maximize attendance at each of the Racetracks.

(i) Purses. New NYRA shall not commingle horsemen's bookkeeper funds with its other funds.

(j) Expenses. New NYRA shall operate its racing and wagering business so as to maintain (i) operating expense levels, (ii) levels of capital expenditures and the items on which such capital expenditures are spent and (iii) executive compensation at commercially reasonable levels and in accordance with racing and wagering industry standards and shall report to New NYRA and the FOB at least quarterly in each of such matters.

(k) Community. New NYRA shall use its reasonable best efforts to maintain its tracks and facilities such that their physical appearance and conditions do not detract from the community; provided, however, that the parties recognize that New NYRA's ability to make major track investments and other capital expenditures is subject to receipt of daily payments from the State or the VLT Operator in an amount equal to four percent (4%) of VLT Revenues.

In accordance with Sections 2.3(a) and 7.10 of this Agreement, New NYRA will be entitled to receive notice of failures to satisfy these Performance Standards and, where feasible, the opportunity to cure such failures and material and/or repeated breaches (which repeated breaches the FOB shall determine, in the aggregate, constitute a material breach) of the Performance Standards, which, following delivery of such notice in accordance with the provisions of Section 7.10 hereof and an opportunity to cure in accordance with the Racing Law, may constitute grounds to terminate the Franchise. Notwithstanding the foregoing, nothing contained in this Section 2.2 shall limit the FOB from exercising its rights, powers, duties and obligations in accordance with the terms and provisions of the Racing Law.

Section 2.3 Revocation of the Franchise.

(a) Alleged Non-Compliance with Standards. During the Term, the FOB shall notify New NYRA, in writing, of any alleged material breach of the Performance Standards or alleged repeated non-material breaches of the Performance Standards which the FOB has determined, when viewed in the aggregate, constitute an alleged material breach of such Performance Standards. Prior to the commencement of any action by the FOB with respect to such alleged material breach or determined material breach, the FOB shall provide written notice to New NYRA and New NYRA

shall have a reasonable opportunity to cure any such alleged material breach of the Performance Standards or alleged repeated non-material breaches of the Performance Standards which the FOB has determined, when viewed in the aggregate, constitute a material breach of such Performance Standards. Upon a written finding by the FOB that (a) a material breach of the Performance Standards or repeated non-material breaches of the Performance Standards which, when viewed in the aggregate, constitute a material breach of the Performance Standards has occurred and (b) such material breach or determined material breach has not been cured by New NYRA after a reasonable opportunity to cure has been provided, the FOB may recommend to the Racing and Wagering Board that the Franchise be revoked and this Agreement be terminated. If so referred, the Racing and Wagering Board shall conduct a hearing in accordance with Section 245 of the Racing Law.

(b) Hearing and Review. Any hearing which may be held for the purpose of revoking the Franchise and terminating this Agreement shall be conducted in accordance with the terms and provisions of Section 245 of the Racing Law. In the event that, upon conclusion of any such hearing, the Racing and Wagering Board determines to revoke the Franchise and terminate this Agreement, the Racing and Wagering Board shall make an order and cause such order to be entered in the minutes of the Racing and Wagering Board and a copy thereof to be served upon New NYRA. Notwithstanding the foregoing, any action of the Racing and Wagering Board to revoke the Franchise and terminate this Agreement shall be reviewable by the Supreme Court of the State of New York, in the manner provided by and subject to the provisions of Article 78 of the New York Civil Practice Law and Rules.

Section 2.4 Franchise Fee. In consideration for the grant and use of the Franchise pursuant to the Legislation and this Agreement, during the Term, and on an annual basis, but in no event later than April 5th of any calendar year, New NYRA shall remit to the State a franchise fee to conduct pari-mutuel wagering at the Racetracks equal to the lesser of (a) Adjusted Net Income and (b) Operating Cash. New NYRA's failure to remit the franchise fee as required pursuant to this Section 2.4 and the Racing Law shall constitute a breach of this Agreement and Section 208 of the Racing Law and give rise to the right of the Racing and Wagering Board to seek the revocation of the Franchise and the termination of this Agreement in accordance with the terms and provisions of Sections 244 and 245 of the Racing Law.

Section 2.5 Governance

(a) Articles/Charter/By-Laws. On or prior to the Effective Date, the NYRA Entities shall (1) have filed such documents with the State as are necessary to create New NYRA as a Type "C" New York State not-for-profit corporation, under the general supervision of the Office of the Attorney General, and transfer such assets as are necessary, and consistent with the terms and provisions of the Legislation, the Plan, the Settlement Agreement and herein, to New NYRA, (2) have filed with the Secretary of State articles of incorporation (the "***Articles***"), substantially in

form annexed hereto as Exhibit "G", and (3) have adopted by-laws (the "***By-Laws***"), substantially in the form annexed hereto as Exhibit "H".

(b) Trustees. From and after the Effective Date, New NYRA's Board of Directors shall be comprised of twenty-five (25) members: (1) fourteen (14) of whom shall be selected by Old NYRA's existing Board of Directors or, with respect to the period following the Effective Date, by New NYRA's designated directors and not by the directors appointed by the Governor, the Speaker and the Temporary President, as the case may be, (2) seven (7) of whom shall be appointed by the Governor (of whom (i) one (1) shall be a current or former officer or director of a New York State Off-Track Betting Corporation, (ii) one (1) shall be appointed upon the recommendation of New York Thoroughbred Breeder's Inc., (iii) one (1) shall be appointed upon the recommendation of the New York Thoroughbred Horsemen's Association, or such other entity as is certified and approved pursuant to Section 228 of the Racing Law, and (iv) one (1) of whom shall be appointed upon the recommendation of the New York State American Federation of Labor and Congress of Industrial Organizations), (3) two (2) of whom shall be selected by the Speaker and (4) two (2) of whom shall be selected by the Temporary President; provided, however, that, in the event that, during the Term, the Legislature amends the Racing Law, or a rule, regulation or provision is promulgated, or otherwise, to modify the aggregate number of members of New NYRA's Board of Directors, the State and the FOB agree that, under all circumstances, the number of members appointed, and to be appointed, to New NYRA's Board of Directors in accordance with the provisions of Section 2.5(b)(1) above shall be equal to or greater than that set forth above in order to maintain or increase the percentage of members selected pursuant to Section 2.5(b)(1) above to those selected pursuant to the other subsections of this Section 2.5 and, to the extent required, New NYRA shall modify the Articles and By-Laws consistent therewith.

(c) Executive Committee/Committees. The existence and powers and responsibilities of an executive committee and such other committees as are appointed by a majority of the Board of Directors shall be consistent with those set forth in the By-laws of New NYRA. Without limiting the foregoing, including, without limitation, the number of committees that may be appointed, the Board of Directors shall establish (1) a compensation committee to fix salary guidelines, such guidelines to be consistent with the operation of other first class thoroughbred racing operations in the United States, (2) a finance committee to review annual operating budgets for New NYRA and capital budgets for each of the Racetracks, (3) a nominating committee to nominate any new directors to be designated by New NYRA to replace the existing directors designated by New NYRA and (4) an executive committee (the "***Executive Committee***"); provided, however, that (i) each of the aforementioned committees shall include at least one of the directors designated by the Governor and (ii) the Executive Committee shall also include (a) at least one of the directors designated by the Speaker and (b) at least one of the directors designated by the Temporary President.

(d) Officers. New NYRA shall determine all officers of the corporation.

(e) Code of Conduct. On the Effective Date, New NYRA shall adopt, and during the Term be governed by, a Code of Conduct substantially in the form annexed hereto as Exhibit "I".

Section 2.6 Lease of Real Property. On the Effective Date, (a) (1) New NYRA and the FOB, on behalf of the State of New York, shall enter into the Ground Leases and (2) pursuant to an escrow agreement, New NYRA shall execute and deliver into escrow the Aqueduct Sublease, as sublessee, which Aqueduct Sublease shall be held in escrow and not become effective until such time as the VLT Operator is selected by the State and subject to binding and effective documentation in connection with the VLT Operations, and (b) as of the date that the VLT Operator is selected by the State and subject to binding and effective documentation in connection with the VLT Operations, which documentation shall include the execution of the Aqueduct Sublease by the VLT Operator, as sublessor, (1) all rights of New NYRA in, to and under the Aqueduct Facilities Ground Lease shall be assigned to the VLT Operator, (2) New NYRA shall be relieved from any and all obligations and liabilities under the Aqueduct Facilities Ground Lease thereafter arising, (3) the Aqueduct Facilities Ground Lease shall be amended and restated between and among the FOB, on behalf of the State of New York, as lessor, and the VLT Operator, as lessee, and (4) the Aqueduct Sublease shall be deemed released from escrow and become binding on the parties thereto.

Section 2.7 Totalizator Services/Internet Wagering Platform. New NYRA (a) shall have the right to select one or more vendors to provide New NYRA with totalizator services, subject to the review and approval by the FOB of any contract or agreement in connection therewith, and (b) subject to New NYRA's unilateral right to opt out, directly or indirectly, shall have the right to integrate its internet wagering platform with any such platform of an authorized off-track betting corporation; provided, however, that, in reviewing and approving any agreement referred to in clause (a) above, the FOB shall consider a proposed vendor's ability to reduce totalizator expenses and the general development and production costs of any internet wagering platform of New NYRA and any authorized off-track betting corporation.

Section 2.8 Operational Support Payments. New NYRA and the State agree that, in the event that VLT Operations are not scheduled to commence at Aqueduct on or prior to March 31, 2009, the State and New NYRA shall negotiate in good faith to provide New NYRA with payments necessary to support racing operations and satisfaction of New NYRA's operating expenses, including, without limitation, the payment of New NYRA's pension plan obligations, until the commencement of VLT Operations at Aqueduct. Upon the commencement of VLT Operations at Aqueduct, on a daily basis, and for the term of the license to operate VLTs at Aqueduct, an amount equal to three percent (3%) of total VLT Revenues derived from VLT Operations at Aqueduct shall be deposited by the VLT Operator, or distributed by the VLT Operator for the purpose of being deposited, into a New NYRA account to be used by New NYRA for the support of New NYRA's racing operations and satisfaction of New NYRA's operating expenses, including, without limitation, the payment of New NYRA's pension plan obligations (the "***Support Fee***"); provided, however, that, in the event that legislation is

passed providing for the installation of VLTs and the commencement of VLT Operations at a location at which New NYRA operates racing and pari-mutuel wagering other than Aqueduct, prior to the installation thereof, the State and New NYRA shall negotiate in good faith to adjust the amount of the Support Fee for the benefit of New NYRA.

Section 2.9 Capital Expenditures. New NYRA and the State agree that, in the event that VLT Operations are not scheduled to commence at Aqueduct on or prior to March 31, 2009, the State and New NYRA shall negotiate in good faith to provide New NYRA with payments necessary to support New NYRA's capital expenditures in maintaining and upgrading the Racetracks. Upon commencement of VLT Operations at Aqueduct, on a daily basis, and for the term of the license to operate VLTs at Aqueduct, an amount equal to four percent (4%) (the "***CAPEX Amount***") of VLT Revenues shall be deposited by the VLT Operator, or distributed by the VLT Operator for the purpose of being deposited, into a New NYRA account designated by New NYRA (the "***CAPEX Account***") to be used by New NYRA for capital expenditures in maintaining and upgrading the Racetracks; provided, however, that, in the event that legislation is passed providing for the installation of VLTs and the commencement of VLT Operations at a location at which New NYRA operates racing and pari-mutuel wagering other than Aqueduct, prior to the installation thereof, the State and New NYRA shall negotiate in good faith to adjust the amount of the CAPEX Amount for the benefit of New NYRA; and, provided, further, that, New NYRA may use the funds in the CAPEX Account for the payment of (1) taxes associated with the receipt of the CAPEX Amount or deposit thereof in the CAPEX Account and (2) debt service associated with borrowings or other indebtedness incurred in connection with maintaining and upgrading the Racetracks.

Section 2.10 Purse Support. From and after the Effective Date, on a daily basis, and upon commencement of VLT Operations at Aqueduct and thereafter for the term of the license to operate VLTs at Aqueduct, during the Term, an amount equal to (a) six and one-half percent (6.5%) of VLT Revenues for the first (1st) year of VLT Operations at Aqueduct, (b) seven percent (7%) of VLT Revenues for the second (2nd) year of VLT Operations at Aqueduct and (c) seven and one-half percent (7.5%) of VLT Revenues for the third (3rd) year of VLT Operations at Aqueduct and thereafter, shall be deposited by the VLT Operator, or distributed by the VLT Operator for the purpose of being deposited, into a New NYRA account to be used by New NYRA solely for the enhancement and funding of purses for races run at the Racetracks.

Section 2.11 Breeder Support. From and after the Effective Date, on a daily basis, and upon commencement of VLT Operations at Aqueduct and thereafter for the term of the license to operate VLTs at Aqueduct, during the Term, an amount equal to (a) one percent (1%) of VLT Revenues for the first (1st) year of VLT Operations at Aqueduct, (b) one and one-quarter percent (1.25%) for the second (2nd) year of VLT Operations at Aqueduct and (c) one and one-half percent (1.5%) for the third (3rd) year of VLT Operations at Aqueduct and thereafter, shall be deposited by the VLT Operator, or distributed by the VLT Operator for the purpose of being deposited, into a New NYRA account to be used by New NYRA solely for the enhancement and funding of breeding for the manner of racing conducted at the Racetracks.

Section 2.12 Financing.

(a) New NYRA Financing. Nothing contained herein shall limit New NYRA's ability to incur indebtedness, including, without limitation, the issuance of non-convertible securities in connection therewith, and grant liens on and security interests in New NYRA's assets and interests, including, without limitation, the revenue streams set forth herein; provided, however, that the incurrence of indebtedness or the granting of liens or security interests, other than those arising in the ordinary course of business, including, without limitation, materialmen's and mechanics' liens, shall require the prior approval of the FOB; and, provided, further, that, unless the prior approval of the FOB, or such other entity as may be required, is obtained, New NYRA shall not create any lien or security interest in any asset that is leased or licensed to New NYRA by the FOB or otherwise runs with the Franchise, the repayment with respect to which would extend beyond the Term.

(b) State Financing. The State, through the Urban Development Corporation, may borrow to fund capital improvements at the Racetracks and borrow, on behalf of New NYRA, pursuant to FOB approval, secured against New NYRA's right to receive payments for capital improvements in accordance with Section 2.9 hereof; provided, however, that, the indenture or other instrument or agreement executed in connection with any such borrowing shall restrict the use of net proceeds to capital expenditures at the Racetracks; and, provided, further that any such borrowing shall be secured only by such future stream of capital improvement payments payable to New NYRA pursuant to Section 2.9 hereof. The Urban Development Corporation shall initially borrow funds necessary for approved capital expenditures in years one through five of the Franchise and, then, at appropriate times as determined by the FOB, for years six through ten, years eleven through fifteen, years sixteen through twenty and years twenty-one through twenty-five. The amount of borrowing for approved capital expenditures shall not exceed the amount that would have been paid out for facility improvements in the event the full payment pursuant to subdivision "F" of Section Sixteen Hundred Twelve of the Tax Law for that purpose was made.

Section 2.13 Racetrack Operations.

(a) Aqueduct. The State and New NYRA agree that the thoroughbred racing schedule at Aqueduct shall be substantially similar to the current racing schedule. The State reserves the right to develop, or select a third party to develop, retail, hotel and entertainment facilities (or such other uses or facilities as may be approved by the FOB) at Aqueduct on the Real Estate Development Parcels and/or the VLT Premises in conjunction with (i) the VLT Operations or (ii) otherwise; provided, however, that, any such real estate development shall prohibit the conduct of pari-mutuel and simulcast wagering at Aqueduct by any party other than New NYRA; and, provided, further, that, any such real estate development shall only be undertaken (i) if by a third party, pursuant to a competitive bidding process approved by the FOB, (ii) after consultation with the local advisory board referred to in Section 212 of the Racing Law and consideration of local zoning and planning regulation, and (iii) in a manner that will

not adversely impact any historic structure that is included in or eligible for inclusion in the National or State Register of Historic Places, and shall be subject to the unanimous approval of the FOB and all applicable statutory and regulatory requirements and permitted waivers thereof. The State shall not seek to develop any such retail, hotel entertainment facilities on the portions of Aqueduct that constitute the Racing Premises; and, provided, further, that the State or a lessee other than New NYRA may develop the shared parking area at Aqueduct if adequate substitute parking is provided to New NYRA.

(b) Belmont. The State and New NYRA agree that the thoroughbred racing schedule at Belmont shall be substantially similar to the current racing schedule. The State reserves the right to develop, or select a third party to develop, facilities at Belmont on the Real Estate Development Parcels in the manner and subject to the limitations set forth in Section 10.1 of the Belmont Ground Lease; provided, however, that, any such real estate development shall only be undertaken (i) if by a third party, pursuant to a competitive bidding process approved by the FOB, (ii) after consultation with the local advisory board referred to in Section 212 of the Racing Law, if any, and (iii) in a manner that will not adversely impact any historic structure that is included in or eligible for inclusion in the National or State Register of Historic Places, and shall be subject to the unanimous approval of the FOB and all applicable statutory and regulatory requirements and permitted waivers thereof.

(c) Saratoga. The parties hereto agree that the thoroughbred racing schedule at Saratoga shall be substantially similar to the current racing schedule. The State acknowledges that no VLT facilities will be installed at Saratoga and that the historic and unique character of Saratoga will be preserved.

Section 2.14 Real Estate Taxes. During the Term, and consistent with the provisions set forth in the Legislation, New NYRA shall not be taxable and shall have no obligation to pay real estate taxes or payments in lieu of such taxes associated with the ownership, lease or use of the Racetrack Properties, including, without limitation, the Racing Premises, any and all such obligations being the sole and exclusive obligation and responsibility of the State.

ARTICLE III
VLT OPERATIONS

Section 3.1 Aqueduct. The State, in consultation with New NYRA (but not subject to New NYRA's approval) shall select an entity to develop VLTs and serve as the VLT Operator to operate VLTs on the VLT Premises. The State, the FOB, the VLT Operator and New NYRA shall use their commercially reasonable best efforts to coordinate issues associated with the VLT Operations and New NYRA's racing operations, and the lease and such other agreement between the State (acting through the FOB) and the VLT Operator shall contain appropriate terms and conditions to address the joint use and occupancy of Aqueduct by the VLT Operator and New NYRA and the interests and the requirements of New NYRA with respect to its racing and pari-mutuel

operations. Without in any way limiting the foregoing, the VLT Operations at Aqueduct shall be guided by the following principles:

(a) New NYRA and the VLT Operator shall cooperate with each other on the design and construction of the VLT Premises.

(b) The VLT Premises shall be constructed by, and at the sole cost and expense of, the State, its agencies and authorities, the VLT Operator, and other public and private investors, and such construction shall be performed in accordance with the terms and provisions of Section 5.2(c) of the Aqueduct Sublease.

(c) From and after the commencement of VLT Operations at Aqueduct, no admission price shall be paid by customers for entry into Aqueduct, the Racing Premises or the VLT Premises, except for admission to movies, night clubs, gymnasiums, boxing and wrestling matches and other live performances or other leisure and entertainment activities, and, upon entry to Aqueduct, customers shall have the ability to access either the VLT Premises or the Racing Premises without any undue restrictions.

(d) The VLT Operator and New NYRA may enter into an operating agreement and form a joint operating committee to ensure that the facilities are operated in a first-class, customer-friendly, manner consistent with maximizing returns to each of the parties. Subject to government requirements, the operating agreement may address hours of operation, maintenance issues, capital improvements, etc. The parties may agree on a cost sharing agreement for common costs, which agreement may include provisions for shared services and staffing, where appropriate.

(e) The VLT Operator and New NYRA may enter into agreements that provide for an appropriate marketing plan and budget to support attendance at Aqueduct and the VLT Premises. Each entity may supplement the marketing plan with its own targeted marketing plan, provided that such supplemental plan shall not be prejudicial to the marketing efforts of the other.

(f) Any agreements between the VLT Operator and New NYRA will provide for the resolution of any disputes between the VLT Operator and New NYRA; provided, however, that, in the event that such parties are unable to resolve any particular dispute, any operating agreement shall provide for binding arbitration under the rules of the American Arbitration Association or such other appropriate organization

(g) With the consent of the VLT Operator, which consent may be granted or withheld in the sole and absolute discretion of the VLT Operator, and subject to the requisite approvals, New NYRA may conduct pari-mutuel and simulcast wagering on the VLT Premises.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES

Section 4.1 Representation and Warranties of the FOB. The FOB hereby represents and warrants that: (a) it is duly organized and validly existing under the Legislation, which constitutes the articles of organization of the FOB, with all requisite power and authority to execute this Agreement and to consummate the transactions contemplated hereby; (b) it has full requisite power and authority to execute and deliver and to perform its obligations under this Agreement, and the execution, delivery and performance hereof, and the instruments and documents required to be executed by it in connection herewith (i) have been duly and validly authorized by it and (ii) are not in contravention of its articles of organization or any agreements specifically applicable to it; and (c) no proceeding, litigation or adversary proceeding before any court, arbitrator or administrative or governmental body is pending against it which would adversely affect its ability to enter into this Agreement or to perform its obligations hereunder.

Section 4.2 Representations and Warranties of the State. The State hereby represents and warrants that: (a) it has full requisite power and authority to execute and deliver and to perform its obligations under this Agreement, and the execution, delivery and performance hereof, and the instruments and documents required to be executed by it in connection herewith (i) have been duly and validly authorized by it and (ii) are not in contravention of any agreements specifically applicable to it, including, without limitation, the Constitution of the State of New York, which constitutes the State's articles of organization, or any existing New York State law, court or administrative regulation, decree or order, to which the State is subject or by which it is bound; (b) no proceeding, litigation or adversary proceeding before any court, arbitrator or administrative or governmental body is pending against it which would adversely affect its ability to enter into this Agreement or to perform its obligations hereunder; and (c) it, or one of its affiliated State Parties, directly or indirectly, has the power and authority to bind each other State Entity to the terms of this Agreement or otherwise has been duly authorized by such other State Entity to execute and deliver this Agreement on its behalf.

Section 4.3 Representation and Warranties of New NYRA. New NYRA hereby represents and warrants that: (a) subject to entry of the Approval Order, it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization with all requisite power and authority to carry on the business in which it is engaged, to own the properties it owns, to execute this Agreement and to consummate the transactions contemplated hereby; (b) subject to entry of the Approval Order, it has full requisite power and authority to execute and deliver and to perform its obligations under this Agreement, and the execution, delivery and performance hereof, and the instruments and documents required to be executed by it in connection herewith (i) have been duly and validly authorized by it and (ii) are not in contravention of its organization documents or any material agreement specifically applicable to it; and (c) no proceeding, litigation or adversary proceeding before any court, arbitrator or

administrative or governmental body is pending against it which would adversely affect its ability to enter into this Agreement or to perform its obligations hereunder.

ARTICLE V
COVENANTS

Section 5.1 Covenants of the FOB. The FOB hereby covenants and agrees as follows:

(a) On the Effective Date, the FOB shall provide New NYRA with a certificate to the effect that each of the representations and warranties set forth in Section 4.1 of this Agreement is true and correct as of the Effective Date.

Section 5.2 Covenants of New NYRA. New NYRA hereby covenants and agrees as follows:

(a) On the Effective Date, New NYRA shall provide the FOB with a certificate to the effect that each of the representations and warranties set forth in Section 4.2 of this Agreement is true and correct as of the Effective Date.

(b) From and after the Effective Date, New NYRA shall operate its business and conduct racing operations at the Racetracks, including, without limitation, running races, steeplechases and race meetings and conducting pari-mutuel and simulcast wagering thereon, in accordance with the applicable provisions of this Agreement, the Legislation, the Chapter Amendment and the Racing Law and the applicable rules and regulations of the Racing and Wagering Board.

(c) Unless otherwise agreed to by the FOB and New NYRA, during the period from and after the Effective Date, New NYRA shall fund purses for races run at the Racetracks in an amount, calculated in the aggregate on an annual basis for the preceding year as of December 31 of each year, not greater than (1) such amount as may be required by the Laws of New York State plus (2) such additional amount as may be required to reduce Old NYRA's "purse cushion" pursuant to the terms and conditions of the Racing Law and any order of the Bankruptcy Court.

ARTICLE VI
EFFECTIVENESS AND TERMINATION OF AGREEMENT

Section 6.1 Closing. The consummation of the transactions contemplated hereby shall take place at a closing to be held at 10:00 am., New York time, on the Effective Date at the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, or such other date or place as is mutually agreed upon in writing by the Parties hereto.

Section 6.2 Conditions to Effective Date. The effectiveness of the terms and provisions of this Agreement are expressly subject to the following conditions unless and to the extent waived in writing by the Parties:

(a) The execution and delivery of this Agreement by each of the entities identified on the signature pages of this Agreement.

(b) The effectiveness of the Approval Order and the consummation of the Modified Plan have not been enjoined or otherwise stayed.

(c) The filing of the Articles with the Secretary of State of the State of New York and confirmation of acceptance of such filing has been filed with the Racing and Wagering Board and the FOB.

(d) The execution and delivery of such documents as necessary to convey all of Old NYRA's right, title and interest in the Racetrack Properties and such other Transferred Property to the People of the State of New York.

(e) The execution and delivery of the Leases.

(f) The contemporaneous substantial consummation of the transactions contemplated by the Plan.

(g) The payment of funds and the waiver of obligations required pursuant to Section 2.4 of the Settlement Agreement.

(h) The execution and delivery of the License Agreement.

(i) The entry by the Bankruptcy Court of an order in aid of consummation of the Modified Plan and approving the form and substance of this Agreement and the Settlement Agreement, in form and substance reasonably satisfactory to the State and the FOB.

Section 6.3 Termination of Agreement. In the event that the Franchise (i) shall be duly revoked by a Final Order, (ii) shall expire and the Term not be otherwise renewed or extended, or (iii) shall otherwise terminate in accordance with the provisions of the Racing Law, then (a) this Agreement, the License Agreement and the Leases shall be deemed, automatically, without further notice or legal action, terminated as of such date, and, except as provided herein, neither New NYRA nor the FOB shall have any further obligations to the other party under this Agreement, the License Agreement or the Leases to the extent arising from and after the date thereof, and (b) all property of New NYRA shall be deemed irrevocably relinquished to the State, including, without limitation, any then-present or future rights that New NYRA may have, or might claim with respect to thoroughbred racing facilities and associated assets located, or subsequently located, at the Racetracks, including (i) the land underlying the Racetracks, (ii) all improvements thereon and all physical assets thereon, including, without

limitation, all capital improvements made by New NYRA to the Racetracks during the Term and (iii) all assets associated with the Franchise and the operation of the Racetracks, including, without limitation, all rights to Intellectual Property now existing or hereafter created, and any and all Franchise rights or interests in such assets, including, but not limited to, leasehold improvements and interests, contracts and contractual rights, works of art, and all other personalty then in New NYRA's possession or control.

ARTICLE VII
MISCELLANEOUS

Section 7.1 Amendments. This Agreement may not be modified, amended or supplemented except by a written agreement executed by each Party to be affected by such modification, amendment or supplement; provided, however, that (a) the agreement to pay, or cause the payment of, the Support Fee and the CAPEX Amount to New NYRA in accordance with Sections 2.8 and 2.9 hereof, respectively, (upon which payments and levels Old NYRA relied upon in connection with the proposal, confirmation and consummation of the Modified Plan) is not intended, nor shall it be construed, to limit the rights and authority of the Legislature to take such actions, including, without limitation, the passage of legislation during the Term, as the Legislature deems appropriate, necessary and in the best interests of racing, racing operations, the racing industry or otherwise and (b) in the event that any of the levels of consideration set forth in Sections 2.8 and 2.9 of this Agreement are increased or decreased pursuant to legislation passed by the Senate and the Assembly and enacted into law, the terms and provisions of Sections 2.8 and 2.9 hereof shall be deemed modified, amended or supplemented, without action necessary by any Party hereto, solely to reflect such increased or decreased levels of consideration; provided, however, that, in the event that such levels of consideration are decreased pursuant to legislation passed by the Senate and Assembly and enacted into law, (i) nothing contained herein or in any other agreement, instrument or document executed and delivered in connection herewith is intended, nor should it be construed, to limit or otherwise waive the rights, claims or causes of action of the NYRA Entities to recover from, among others, the State (but not the VLT Operator) the amounts of VLT Revenues to be paid to New NYRA in accordance with the provisions of Section 1612, Subdivisions (f)(1) and (2) of the New York State Tax Law as in existence as of the enactment of the Legislation and (ii) New NYRA shall have the right to commence an action against, among others, the State (but not the VLT Operator) for damages based upon the amount of such decreased levels of consideration.

Section 7.2 Good Faith Negotiations. The Parties further recognize and acknowledge that each of the Parties hereto is represented by counsel, and such Party received independent legal advice with respect to the advisability of entering into this Agreement. Each of the Parties acknowledges that the negotiations leading up to this Agreement were conducted regularly and at arm's length; this Agreement is made and executed by and of each Party's own free will; that each knows all of the relevant facts and his or its rights in connection therewith, and that he or it has not been improperly influenced or induced to make this settlement as a result of any act or action on the part

of any party or employee, agent, attorney or representative of any party to this Agreement.

Section 7.3 Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon, or to give to, any Person other than the Parties hereto and their respective successors and assigns, any right, remedy or claim under or by reason of this Agreement or any covenant, condition or stipulation thereof; and the covenants, stipulations and agreements contained in this Agreement are and shall be for the sole and exclusive benefit of the Parties hereto and their respective successors and assigns.

Section 7.4 Governing Law and Service of Process. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York, without giving effect to any principles of conflicts of law. Any legal action, suit or proceeding between New NYRA and either of the FOB or the State with respect to any matter under or arising out of or in connection with this Agreement or for recognition or enforcement of any judgment rendered in any such action, suit or proceeding, shall be brought in any court of competent jurisdiction within the State of New York. The Parties hereby agree and consent that service of process therein may be made, and personal jurisdiction over any Party hereto in any such action, suit or proceeding may be obtained, by service of a copy of the summons, complaint and other pleadings required to commence such action, suit or proceeding upon the Party at the address of such Party set forth in Section 7.10 hereof, unless another address has been designated by such Party in a notice given to the other Parties in accordance with Section 7.10 hereof.

Section 7.5 Specific Performance. It is understood and agreed by the Parties that money damages may not be a sufficient remedy for any breach of this Agreement by any Party and each non-breaching Party may be entitled to specific performance and injunctive or other equitable relief as a remedy of any such breach; provided, however, that the Parties agree that New NYRA shall be entitled to specific performance and injunctive or other equitable relief in order to enforce the provisions of Section 2.5 hereof regarding the composition of New NYRA's Board of Directors.

Section 7.6 Headings. The headings of the sections, paragraphs and subsections of this Agreement are inserted for convenience only and are not part of this Agreement and do not in any way limit or modify the terms or provisions of this Agreement and shall not affect the interpretation hereof.

Section 7.7 Binding Agreement Successors and Assigns; Joint and Several Obligations. This Agreement shall be binding upon New NYRA, the State and the FOB only upon the execution and delivery of this Agreement by the Parties listed on the signature pages hereto. This Agreement is intended to bind and inure to the benefit of the State, the FOB and New NYRA and their respective successors, assigns, administrators, constituents and representatives; provided, however, that this Agreement shall not be assignable by New NYRA without the prior written consent of the State and the FOB; and, provided, further, that any assignment of this Agreement and the rights and

obligations set forth herein by the State or the FOB shall not impair any of the rights provided to New NYRA hereunder or pursuant to the Laws of New York State.

Section 7.8 Entire Agreement. This Agreement, together with all documents and agreements entered into pursuant to this Agreement, including, but not limited to, the Approval Order, the Modified Plan, the Legislation, the Chapter Amendment and the State Settlement Agreement, constitute the full and entire agreement between the Parties with regard to the subject hereof, and supersedes all prior negotiations, representations, promises or warranties (oral or otherwise) made by any Party with respect to the subject matter hereof. No Party has entered into this Agreement in reliance on any other Party's prior representation, promise or warranty (oral or otherwise) except for those that are expressly set forth in this Agreement.

Section 7.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original copy of this Agreement and all of which, when taken together, shall constitute one and the same Agreement. Copies of executed counterparts transmitted by telecopy or other electronic transmission service shall be considered original executed counterparts, provided receipt of copies of such counterparts is confirmed.

Section 7.10 Notices. All demands, notices, requests, consents, and other communications hereunder shall be in writing and shall be deemed to have been duly given (i) when personally delivered by courier service or messenger, (ii) upon actual receipt (as established by confirmation of receipt or otherwise) during normal business hours, otherwise on the first business day thereafter if transmitted by facsimile, electronic mail or telecopier with confirmation of receipt, or (iii) three (3) Business Days after being duly deposited in the mail, by certified or registered mail, postage prepaid-return receipt requested, to the following addresses, or such other addresses as may be furnished hereafter by notice in writing, to the following Parties:

If to New NYRA, to:

The New York Racing Association, Inc.
Aqueduct Racetrack
110-00 Rockaway Boulevard
South Ozone Park, New York 11417
Attention: General Counsel
Telecopy: (718) 835-2432

with a copy to:

WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Attention: Brian S. Rosen, Esq.
Telecopy: (212) 310-8007

If to the State or the FOB, to:

Franchise Oversight Board
c/o Executive Chamber
The Capitol
Albany, New York 12224
Attention: Counsel
Telecopy: (518) 486-9652

with a copy to:

Empire State Development Corporation
633 Third Avenue
New York, New York 10017
Attention: President
Telecopy: (212) 803-3715

-and-

New York State Office of the Attorney General
Litigation Bureau (Bankruptcy Section)
The Capitol
Albany, New York 12224
Attention: Counsel
Telecopy: (518) 473-1572

-and-

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
1285 Avenue of the Americas
New York, New York 10019
Attention: Alan W. Kornberg, Esq.
Telecopy: (212) 757-3990

Section 7.11 Further Assurances. Each of the Parties hereto agrees to execute and deliver, or to cause to be executed and delivered, all such instruments, and to take all such action as the other Parties may reasonably request in order to effectuate the intent and purposes of, and to carry out the terms of, this Agreement.

Section 7.12 State Appendix. New York State Appendix A, a copy of which is annexed hereto as Exhibit "J", is incorporated herein and made a part of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date set forth above.

THE NEW YORK RACING ASSOCIATION, INC.

By: _____
Name: C. Steven Duncker
Title: Chairman

THE NEW YORK STATE FRANCHISE OVERSIGHT BOARD

By: _____
Name: Laura L. Anglin
Title: Chairperson

THE STATE OF NEW YORK

By: _____
Name:
Title:

Approved as to form by:

THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF NEW YORK

By: _____
Name:
Title:

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date set forth above.

THE NEW YORK RACING ASSOCIATION, INC.

By: _____
Name: C. Steven Duncker
Title: Chairman

THE NEW YORK STATE FRANCHISE OVERSIGHT BOARD

By: _____
Name:
Title:

THE STATE OF NEW YORK

By: David A. Paterson
Name: David A. Paterson
Title: Governor

Approved as to form by:

THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF NEW YORK

By: _____
Name:
Title:

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date set forth above.

THE NEW YORK RACING ASSOCIATION, INC.

By: _____
Name: C. Steven Duncker
Title: Chairman

THE NEW YORK STATE FRANCHISE OVERSIGHT BOARD

By: _____
Name: Laura L. Anglin
Title: Chairperson

THE STATE OF NEW YORK

By: _____
Name:
Title:

Approved as to form by:

THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF NEW YORK

By: _____
Name:
Title:

APPROVED AS TO FORM
NYS ATTORNEY GENERAL
SEP 12 2008
PETER FAVRETTO
ASSOCIATE ATTORNEY

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date set forth above.

THE NEW YORK RACING ASSOCIATION, INC.

By: _____
Name: C. Steven Duncker
Title: Chairman

THE NEW YORK STATE FRANCHISE OVERSIGHT BOARD

By: _____
Name:
Title:

THE STATE OF NEW YORK

By: David A. Paterson
Name:
Title:

Approved as to form by:

THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF NEW YORK

By: _____
Name:
Title:

APPROVED AS TO FORM
NYS ATTORNEY GENERAL
SEP 12 2008
PETER FAVRETTO
ASSOCIATE ATTORNEY

EXHIBIT C

LIST OF ART WORK

WORKS OF ART

1.	HENRY STULL	THE START	signed *Henry Stull*, inscribed *copyright*, and dated *1902* (lower left) oil on canvas 28 by 44 in 71 1 by 111 7 cm
2.	HENRY STULL	THE 1902 SUBURBAN HANDICAP	signed *Henry Stull*, inscribed *copyright*, and dated *1902* (lower right) oil on canvas 24 by 36 in 60 9 by 91 4 cm
3.	HENRY STULL	THE 1902 BELMONT STAKES	signed *Henry Stull,* inscribed *copyright,* and dated *1903* (lower right) oil on canvas 24 x 36 in 60 9 by 91 4 cm
4.	HENRY STULL	POTOMAC AND MASHER OWNED BY THE HON AUGUST BELMONT	signed *Henry Stull* and dated *1890* (lower right) oil on canvas 36¼ by 48¼ in 92 1 by 122 5 cm
5.	HENRY STULL	THE START	signed *Henry Stull*, inscribed *copyright*, and dated *1898* (lower left) oil on canvas 22¼ by 44¼ in 56 5 by 112 4 cm
6.	HENRY STULL	NEARING THE FINISH	signed *Henry Stull*, inscribed *copyright*, and dated *1909* (lower right) oil on canvas 24 by 44 in 60 9 by 111 7 cm
7.	HENRY STULL	CANTERING TO THE STARTING POST	signed *Henry Stull*, inscribed *copyright*, and dated *1904* (lower left) oil on canvas 22 by 36 in 55 9 by 91 44 cm

8.	HENRY STULL	LADY AMELIA AT THE FINISH LINE	signed *Henry Stull* and dated *1906* (lower right) oil on canvas 24 by 29¼ in 60 9 by 74 3 cm
9.	HENRY STULL	CHESTNUT HORSE WITH JOCKEY UP	signed *Henry Stull* and dated *1889* (lower left) oil on canvas 30¼ by 40 in 76 8 by 101 6 cm
10.	JOHN FREDERICK HERRING, SNR	THE FLYING DUTCHMAN	signed *JF. Herring* Senior and inscribed *The Flying Dutchman at 3 yrs old won 1849 the Derby & Doncaster Leger ridden by Chas Marlow* (lower center) oil on canvas 42¼ by 72½ in 107.3 by 184 1 cm
11.	JOHN HOLLAND JNR	NOTTINGHAM RACECOURSE - THE QUEEN S PLATE	signed with initials *J.H.* and dated *1885* (lower left) and signed *J Holland* (center left) oil on canvas 17 x 27½ in 43 2 by 69 8 cm
12.	JOHN FREDERICK HERRING SNR	BLUE BONNET IN A STALL	signed *J F. Herring Senr.* (center right) titled *Blue Bonnet* and dated *1842* (upper left) oil on canvas 15 by 20 in 38 1 by 50 8 cm
13.	ATTRIBUTED TO JOHN FERNELEY SNR	A BAY HUNTER IN A LANDSCAPE	oil on canvas 25 by 30 in 63 5 by 76 2 cm
14.	JAMES LYNWOOD PALMER	THE INSPECTION	signed *Lynwood Palmer NY* (lower left) oil on canvas 30½ by 40 in 77.5 by 101 6 cm
15.	HARRY HALL	THE RACEHORSE SHANNON WITH F. WEBB UP	signed *Harry Hall* and dated *1878* (lower right) oil on canvas 28 by 36 in 71 1 by 91 4 cm

16.	KAREL-FREDERIK BOMBLED	THE RACETRACK AT CHANTILLY	signed *Ch Bombled* and dated *1866* (lower left) oil on canvas 36¼ by 72 in 92 1 by 182 9 cm
17.	HARRY HALL	BLAIR ATHOL. WINNER OF THE DERBY AND ST LEGER, 1864. WITH J. SNOWDEN UP	signed *H. Hall* and dated *1865* (lower right) oil on canvas 28 by 36 in 71 1 by 91 4 cm
18.	EMILIO GRAU SALA	COURSE À CLAIREFONTAINE	signed *Grau Sala* (lower right); signed *Grau Sala* dated *1960* and titled *Courses à Clairefontaine* (on reverse) oil on canvas 21¼ by 25½ in 54 by 64 7 cm
19.	EMILIO GRAU SALA	COURSE À DEAUVILLE	signed *Grau Sala* (lower left); signed *Grau Sala* dated *1959,* and titled *Course à Deauville* (on reverse) oil on canvas 25¾ by 32 in 65 4 by 81.3 cm

EXHIBIT D

INSURANCE

Lease Insurance Requirements

Prior to the date on which possession of the Leased Premises is delivered to the Lessee, the Lessee shall file with The People of the State of New York, Office of General Services (together with Lessor collectively referred to hereinafter as "OGS"), Certificates of Insurance executed by a duly authorized representative of each insurer evidencing compliance with all requirements contained in this Lease. Such Certificates shall be of form and substance acceptable to OGS.

Acceptance and/or approval by the OGS does not and shall not be construed to relieve Lessee of any obligations, responsibilities or liabilities under the Lease or represent adequacy of the insurance or limits.

All insurance required by the Contract shall be obtained at the sole cost and expense of the Lessee, shall be maintained with insurance carriers licensed to do business in New York State, and acceptable to OGS; shall be primary and non-contributing to any insurance or self insurance maintained by OGS; shall be endorsed to provide written notice be given to OGS, at least thirty (30) days prior to the cancellation, non-renewal, or material alteration of such policies, which notice Lessee shall request of the insurance company, be sent by return receipt of United States Certified Mail, shall be sent to Lessor. All such insurance shall name The People of the State of New York, NY State Urban Development Corp. dba Empire State Development Corp., The Franchise Oversight Board and their respective officers, agents, trustees, directors and employees as additional insureds thereunder. (General Liability Additional Insured Endorsement shall be on Insurance Service Office's (ISO) form number **CG 20 26 11 85**). The additional insured requirement does not apply to Workers Compensation or Disability coverage.

Lessee shall require any subcontractors hired, to carry insurance with the same provisions provided herein . Contractors involved in the construction, maintenance, renovation or repair of the Leased Premises will maintain Commercial General Liability limits of not less than $5,000,000 each occurrence or in the case of major construction, additions or renovations limits agreed to by OGS and General Liability Additional Insured Endorsement shall be on Insurance Service Office's (ISO) form number **CG 20 10 11 85**. Notwithstanding the foregoing, all contractors shall have such insurance coverage (i) as is commercially reasonable with respect to the form and amounts of coverage, taking into account the size and cost of any construction, maintenance, renovation or repair of the Leased Premises, or (ii) as otherwise required by the OGS, using the same standard.

Lessee shall be solely responsible for the payment of all deductibles and self insured retentions to which such policies are subject. Deductibles and self insured retentions must be approved by OGS. Such approval shall not be unreasonably withheld.

Each insurance carrier must be rated at least "A-" Class "VIII" in the most recently published Best's Insurance Report. If, during the term of the policy, a carrier's rating falls below "A-" Class "VII", the insurance must be replaced no later than the renewal

date of the policy with an insurer acceptable to the OGS and rated at least "A-" Class "VII" in the most recently published Best's Insurance Report.

Lessee shall cause all insurance to be in full force and effect as of the commencement date of this Lease and to remain in full force and effect throughout the term of this Lease and as further required by this Lease. Lessee shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect.

Not less than thirty (30) days prior to the expiration date or renewal date, Lessee shall supply OGS updated replacement Certificates of Insurance, and amendatory endorsements.

Lessee, throughout the term of this Lease, or as otherwise required by this Lease, shall obtain and maintain in full force and effect, the following insurance with limits not less than those described below and as required by the terms of this Lease, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies):

(a) Commercial General Liability Insurance with a limit of not less than $50,000,000 each occurrence. Such liability shall be written on the Insurance Service Office's (ISO) occurrence form CG 00 01, or a substitute form providing equivalent coverages and shall cover liability arising from premises operations, independent contractors, products-completed operations, broad form property damage including completed operations, personal & advertising injury, cross liability coverage, liability assumed in a contract including the tort liability of another and explosion, collapse and underground. The limit for Fire Damage Legal shall not be less than $100,000.

(b) Workers Compensation, Employers Liability, and Disability Benefits as required by New York State. If employees will be working on, near or over navigable waters, US Longshore and Harbor Workers Compensation Act endorsement must be included.

(c) Comprehensive Business Automobile Liability Insurance with a limit of not less than $10,000,000 each accident. Such insurance shall cover liability arising out of any automobile including owned, leased, hired and non owned automobiles.

(d) Commercial Property Insurance on the Leased Premises covering at a minimum, the perils insured under the ISO Special Causes of Loss Form (CP 10 30), or a substitute form providing equivalent coverages, including debris removal, demolition and increased cost of construction that are caused by legal requirements regulating the construction or repair of damaged facilities, including an ordinance and law endorsement, in an

amount of not less than the Full Insurable Value of the Leased Premises including completed additions. Full Insurable Value shall mean actual replacement cost (exclusive of the cost of non insurable portions thereof, such as excavation, foundations and footings). OGS is to be named as an insured.

(e) Commercial Property Insurance covering at a minimum, the perils insured under the ISO Special Causes of Loss Form (CP 10 30), or a substitute form providing equivalent coverages, for loss or damage to any owned, borrowed, leased or rented personal property, equipment, tools, including tools of their agents and employees, and property of OGS held in their care, custody and/or control.

(f) Rental Value Insurance providing coverage for fair rental value of any portion of the Leased Premises occupied by Lessee.

(g) Equipment Breakdown Insurance covering all of the boilers, fired or unfired pressure vessels, heating, ventilating and air-conditioning units or any other mechanical equipment which services the premises exclusively and which may malfunction or cause damage to property or injury to persons for the Full Insurable Value of the Leased Premises. Lessee shall be responsible for the regular inspection of the Boiler. A joint loss agreement endorsement should be attached to the Equipment Breakdown and Commercial Property Insurance policies if with different insurance carriers. OGS is to be named as an insured.

(h) Bailees insurance with limits of not less than $10,000,000 covering liability arising from loss or damage to the property of others while being transported, in storage or otherwise in the care, custody or control of Lessee.

(i) Garage Keepers Legal Liability Coverage with a limit of not less than $1,000,000 at each location for Comprehensive and Collision Coverage for damage to a customer's automobile or automobile equipment in Lessee's care, custody or control.

(j) If Lessee uses, stores, handles, processes or disposes of Hazardous Materials, then Lessee shall maintain in full force and effect through the term, Environmental Impairment Liability insurance with limits of not less than $5,000,000, providing coverage for bodily injury, property damage or loss of use of damaged property or of property that has not been physically injured. Such policy shall provide coverage for actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of pollutants, including any loss, cost or expense incurred as a result of any cleanup of pollutants or in the investigation, settlement or defense of any claim, suit, or proceedings against The People of the State of New York,

arising from Lessee's use, storage, handling, processing or disposal of Hazardous Materials

(k) If Lessee sells, distributes, serves or furnishes alcoholic beverages, then tenant shall maintain in full force and effect through the term, Liquor Liability Insurance with limits of not less than $5,000,000.

(l) During the performance of any Construction Work, Restoration or Alteration, Lessee will maintain or require the contractors to maintain Builder's risk coverage on a completed value form covering the perils insured under the ISO special causes of loss form, including collapse, water damage, and transit and theft of building materials, with deductible reasonably approved by the OGS, in non reporting form, covering the total value of work performed and equipment, supplies and materials at the location of the job as well as at any off-site storage location used with respect to such work. The policy shall cover the cost of removing debris, including demolition as may be legally necessary by the operation of any law, ordinance or regulation. Such policy shall name as insureds, The People of the State of New York, Lessee, Contractor and Subcontractors. Consent of the carrier must be included to allow for the occupancy or use of the Leased Premises by Lessee and OGS.

(m) If any Construction Work, Restoration or Alteration involves abatement, removal, repair, replacement, enclosure, encapsulation and/or disposal of any hazardous material or substance, petroleum or petroleum product, Lessee will require the Contractor to maintain in full force and effect throughout the term hereof, Pollution Legal Liability insurance with limits of not less than $10,000,000, providing coverage for bodily injury and property damage, including loss of use of damaged property or of property that has not been physically injured. Such policy shall provide coverage for actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of pollutants, including any loss, cost or expense incurred as a result of any cleanup of pollutants or in the investigation, settlement or defense of any claim, suit, or proceedings against OGS arising from Contractor's work.

1. Coverage should be written on an occurrence basis. If not available and subject to the approval of OGS, coverage is written on a claims-made policy, Lessee shall require the Contractor to warrant that any applicable retroactive date precedes the effective date of the Contractor's contract (the "Contract"); and that continuous coverage will be maintained, or an extended discovery period exercised, for a period of not less than 2 years from the time work under the Contract is completed.

2. If the Contract includes disposal of materials from the job site, the Contractor must furnish to OGS, evidence of pollution legal liability insurance with a limit of not less than $5,000,000 maintained by the disposal site operator for losses arising from the disposal site accepting waste under the Contract.

3. If autos are to used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered autos (endorsement CA 99 48) as well as proof of MCS 90.

Waiver of Subrogation. Lessee shall cause to be included in each of its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurer's right of subrogation against OGS, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if Lessee waives or has waived before the casualty, the right of recovery against OGS or (ii) any other form of permission for the release of OGS.

EXHIBIT E

PERMITTED SUBLEASES

Permitted Subleases

1. Lease Agreement dated November 26, 2003 between The New York Racing Association, Inc., as landlord, and MMNY Land Company, Inc., as tenant.

EXHIBIT F

NEW YORK STATE APPENDIX A

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

**PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.**

June, 2006

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STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds $50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed $85,000 (State Finance Law Section 163.6.a).

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of $50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds $5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor

within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. (a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER. All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.
(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of $25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over $25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
30 South Pearl St -- 7th Floor
Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
http://www.empire.state.ny.us

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
30 South Pearl St -- 2nd Floor
Albany, New York 12245
Telephone: 518-292-5250
Fax: 518-292-5803
http://www.empire.state.ny.us

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than $1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. PURCHASES OF APPAREL. In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder.

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