

RACETRACK GROUND LEASE AGREEMENT

by and between

NEW JERSEY SPORTS AND EXPOSITION AUTHORITY

and

NEW JERSEY THOROUGHBRED HORSEMEN'S ASSOCIATION, INC.

as of February 29, 2012

**Ground Lease of Certain Real Property
at
Monmouth Park Racetrack
Oceanport, New Jersey**

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EXHIBITS

Exhibit A	Land Parcel
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Exhibit E	Assignment and Assumption of Third Party Contracts and Leases
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RACETRACK GROUND LEASE AGREEMENT

This RACETRACK GROUND LEASE AGREEMENT (this “Agreement”) is made as of February 29, 2012, by and between the **NEW JERSEY SPORTS AND EXPOSITION AUTHORITY**, a public body corporate and politic with corporate succession, having an address at Meadowlands Sports Complex, 50 State Route 120, East Rutherford, New Jersey 07073 (the “Authority”), and **NEW JERSEY THOROUGHBRED HORSEMEN’S ASSOCIATION, INC.**, a not for profit corporation organized and existing under the laws of the State of New Jersey, having an address at 232A Norwood Avenue, West Long Branch, New Jersey 07764 (the “Tenant”).

PRELIMINARY STATEMENT

A. The Legislature of the State of New Jersey established the Authority, inter alia, to promote horse racing and to carry out projects as set forth in the Enabling Legislation (as defined in Section B of this Preliminary Statement).

B. The Authority owns fee simple title to certain real property located in the County of Monmouth, Borough of Oceanport (the “Borough”), New Jersey, as more particularly described on Exhibit A and as defined herein as the “Premises” on which the Authority has constructed and operates, inter alia, a thoroughbred racetrack (“Racetrack”) for thoroughbred horse racing and pari-mutuel wagering pursuant to Public Law 1971, Chapter 137 (codified at N.J.S.A. 5:10-1 et seq., the “Enabling Legislation”).

C. In furtherance of its mission under N.J.S.A. 5:10-6 of the Enabling Legislation and in the exercise of its statutory powers, the Authority has determined that it is desirable (i) to lease the Premises, including the Racetrack and the right to operate the same, (ii) to assign the right to operate an existing off-track wagering facility located in the County of Middlesex, Township of Woodbridge (the “Woodbridge OTW”) and the right to develop and operate four (4) additional off-track wagering facilities (the “Additional OTWs”) at locations to be agreed (and participate in the electronic wagering terminals pilot program established by N.J. Stat. §5:5-186) and (iii) to assign a 50% share of the Authority’s “Available Net Project Revenues” (as defined in the Account Wagering Participation and Project Operating Agreement).

D. The Authority and Tenant are entering into this Agreement in furtherance of the above public purposes, in order to set forth the terms and conditions governing the lease and operation of the Premises and certain other matters described herein.

In consideration of the foregoing, and other good and valuable consideration, the parties hereto, intending to be legally bound hereby, agree as follows:

ARTICLE 1

DEFINITIONS

Section 1.01 Definitions. Except as expressly provided herein to the contrary, capitalized terms used in this Agreement and its exhibits shall have the meaning specified in this Article.

“2012 Excess Expenses” is defined in Section 2.05(a) hereof.

“2012 Holdover Amount” is defined in Section 2.05(a) hereof.

“2013 Excess Expenses” is defined in Section 2.05(b) hereof.

“2013 Holdover Amount” is defined in Section 2.05(b) hereof.

“2014 Excess Expenses” is defined in Section 2.05(c) hereof.

“2012 Minimum Lease Payment” is defined in Section 2.05(a) hereof.

“2013 Minimum Lease Payment” is defined in Section 2.05(b) hereof.

“2014 Minimum Lease Payment” is defined in Section 2.05(c) hereof.

“AAA” is defined in Section 30.02(c) hereof.

“Accounts Receivable” means all Racetrack and Woodbridge OTW accounts receivable owing to the Authority from any and all third parties, as well as any interest, penalties, charges and all other income derived therefrom or relating thereto.

“Account Wagering Operation” means a form of parimutuel wagering in which an account holder may deposit money in an account with the Authority (as the account wagering licensee) and then use the account balance to pay for parimutuel wagers by the account holder through the www.4NJBETS.com website or through telephone betting, as operated and administered at the date hereof by the Authority.

“Account Wagering Participation and Project Operating Agreement” means that certain Account Wagering Participation and Project Operating Agreement, dated as of June 15, 2004, by and between the Authority and New Jersey Account Wagering, LLC.

“ADA” means the Americans with Disabilities Act of 1990, as amended.

“ADA Requirements” means requirements of the ADA.

“Additional OTWs” is defined in Section C of the Preliminary Statements hereof.

“Additional Rent” is defined in Section 2.03(c) hereof.

“Advertising” means, collectively, all advertising, sponsorship and promotional activity, signage, designations, messages and displays of every kind and nature whether now existing or developed in the future at the Premises.

“Advertising Rights” means the right to display, control, conduct, lease, permit, sell and enter into agreements regarding the display of all Advertising.

“Affiliate” means with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person.

“Approval,” “Approve” or “Approved” means the written consent, authorization, waiver or acknowledgement to be issued or granted by the Authority or Tenant, as and to the extent required under the terms of this Agreement, which written consent, authorization, waiver, or acknowledgment shall not be unreasonably withheld, conditioned or delayed unless expressly provided to the contrary herein.

“Arbitration” is defined in Section 30.01 hereof.

“Arbitration Claim” and “Arbitration Claims” are defined in Section 30.01 hereof.

“Arbitration Panel” is defined in Section 30.02(b) hereof.

“Arbitration Provision” is defined in Section 30.01 hereof.

“Arbitrator” is defined in Section 30.02(b) hereof.

“Authority” means the New Jersey Sports and Exposition Authority, and its successors and assigns.

“Authority Event of Default” is defined in Section 21.02 hereof.

“Authority Indemnified Parties” means the Authority and its officers, board members, agents, employees, contractors and consultants and their respective successors and assigns.

“Authority Personalty” means the artwork, library and other tangible property located on or in the Premises and owned or leased by Authority, including the works of art listed on Exhibit I-1 and the library of books listed on Exhibit I-2 and forming part of the Leased Equipment.

“Authority’s Environmental Remediation Contribution” means those sums required to be paid by the Authority to defray the costs of the Authority’s Environmental Responsibility up to an aggregate maximum amount of: (a) prior to Tenant incurring capital expenditures relating to Capital Improvements in aggregate exceeding Twenty Five Million Dollars (\$25 million), Two Million Dollars (\$2 million); (b) following Tenant incurring capital expenditures relating to Capital Improvements in aggregate exceeding Twenty Five Million Dollars (\$25 million) but no more than Fifty Million Dollars (\$50 million), Four Million Dollars (\$4 million); and (c) following Tenant incurring capital expenditures relating to Capital Improvements in aggregate exceeding Fifty Million Dollars (\$50 million), Six Million Dollars (\$6 million). Except as expressly provided in this Agreement, in no event shall the total costs of all matters constituting

Authority's Environmental Responsibility exceed Authority's Environmental Remediation Contribution.

"Authority's Environmental Responsibility" is defined in Section 16.01(a) hereof.

"Bankruptcy Code" means 11 U.S.C. §101 et seq. as the same may be amended and supplemented from time to time.

"Borough" is defined in Section B of the Preliminary Statement.

"Business Day" means Monday through Friday, excluding weekends and federal holidays, from the hours of 9:00 am to 5:00 pm, prevailing Eastern Time.

"CAFO Project" means all permits and approvals for and the completion of the design, engineering and construction by the Authority of improvements on the Premises providing for the retention and pumping of stormwater and runoff.

"Calendar Year" means each twelve (12) month period during the Term of this Agreement commencing on January 1 and ending on December 31.

"Capital Expenditures" means, with respect to any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities, including Capitalized Lease Obligations and amounts paid or accrued for Capital Improvements or Capital Repairs) by Tenant during such period that are required by GAAP to be included or reflected by the property, plant or equipment or similar fixed asset account (or in intangible accounts subject to amortization) in the balance sheet of Tenant.

"Capital Improvements" means all capital improvements or capital additions that Tenant elects to perform with regard to the Premises such as constructing new or additional amenities and facilities.

"Capitalized Leases Obligations" means obligations pursuant to any leases of any property by such Tenant, as lessee, which, in accordance with GAAP, is required to be accounted for as a capital lease on the balance sheet of Tenant.

"Capital Repair(s)" means all: (a) capital repairs, capital replacements or capital restoration and other work reasonably required to be performed in and about the Premises (including, but not limited to, the equipment, fixtures, furnishings, facilities, surfaces, structures or components therein and thereof), and that are necessary to (i) repair, restore or replace components of the Premises no longer suitable for their intended purposes necessitated by any damage, destruction, ordinary wear and tear, defects in construction or design, or any other cause; or (ii) prevent permanent damage to the roof; foundation and structural integrity of the Premises, (b) capital improvements, capital modifications and capital additions of or to the Premises required by Legal Requirements, or (c) capital improvements, capital modifications and capital additions of or to the Premises necessary to maintain and operate the Racetrack in a Comparable Manner.

"Casualty" is defined in Section 10.01 hereof.

“Casualty Termination Date” is defined in Section 10.03 hereof.

“CEA” is defined in the NJDEP Technical Regulations.

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.

“Claim” means any pending or threatened claim, demand, notice, allegation, order, directive, suit, action, cause of action, judgment, lien, demand for arbitration, proceeding, or investigation by any Person seeking or asserting Damages against the Authority or Tenant (or any Affiliate, predecessor or successor of same).

“Cleanup and Removal Costs” has the meaning attributed to it in N.J.S.A. 58:10-23.11b(d).

“Closing” is defined in Section 3.01 hereof.

“Closing Date” is defined in Section 3.01 hereof.

“Code” means the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.

“Comparable Manner” means, with respect to the operation of the Racetrack, operation and maintenance of the Racetrack in a manner that is substantially consistent with its operation under the direction of the Authority prior to the date hereof as a world-class thoroughbred racetrack, including without limitation that the quality of the races hosted, safety record, guest services, hospitality and upkeep and maintenance of the Racetrack as well as the installation and implementation from time to time of cutting edge technology and practices, befit a world-class thoroughbred racing facility.

“Concession” means food and beverages, alcoholic beverages (subject to procurement of all necessary approvals), and souvenirs, apparel, publications and merchandise (including, but not limited to, racing novelties and licensed items) or other items, goods, and wares.

“Concessionaire” is any person (including Tenant or any Affiliate of Tenant) performing any Concession Operations.

“Concession Operations” means the exercise and operation of any Concession Rights.

“Concession Rights” means the right to sell, display, distribute and store Concessions and to conduct catering and banquet sales and service.

“control” or “Control” (including the correlative meanings of the terms “controlling” “controlled by” and “under common control with” means with respect to any Person, including without limitation any Affiliate, the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through the ownership of voting securities, by contract or otherwise.

“DCA” means the New Jersey Department of Community Affairs.

“Damage” means any loss, cost, assessment, damage, debt, liability, deficiency, fine, penalty, judgment, lien or expense incurred or to be incurred by the Authority or Tenant, including, without limitation, fees and disbursements of attorneys, consultants, engineers and other professionals, damages from business interference or interruption, costs to avoid business interference or interruption, costs and expenses of any Remediation, Environmental Damages, and response costs (including, without limitation, response costs under CERCLA or any other Environmental Law).

“date of Taking” is defined in Section 23.02 hereof.

“Deficiency” is defined in Section 26.04(b)(iii) hereof.

“Designated Representatives” means those individuals designated by Tenant and the Authority, respectively, to receive and deliver notices and/or make decisions with regard to certain matters, as specifically provided in this Agreement.

“Emergency Repairs” means those items of Maintenance, Repairs or Capital Repairs which if not immediately made, would endanger the health or safety of Persons or would cause imminent injury to Persons present at the Premises or attending Racing Events or would cause imminent damage to any essential component of the Premises.

“Enabling Legislation” is defined in Section B of the Preliminary Statement hereof.

“Environment” means all air, land, and water, including, without limitation, the ambient air, ground (surface and subsurface), water (surface or groundwater), the ocean, natural resources (including flora and fauna), soil, sediments, sewer, stormwater system, subsurface strata, or any present or potential drinking water supply.

“Environment Claim” means any Claim relating to, or in connection with, the Premises, including any Claim for Damage, personal injury, real or personal property damage, or natural resource damage, arising directly or indirectly out of any violation or alleged violation of, or noncompliance or alleged noncompliance with, any Environmental Law or Remediation, or any pollution, nuisance, contamination, adverse effect upon the Environment or public health or safety, including the presence, Release, or threatened or suspected Release or any Hazardous Material either on, at, in, under, or from the Premises.

“Environmental Controls” means such engineering and/or institutional controls that may be necessary to Remediate and otherwise address Releases of Hazardous Materials on, at or under the Premises, including, without limitation: (a) deed notices; (b) caps and/or capping materials; (c) CEAs; (d) vapor mitigation systems and (e) other institutional and/or engineering controls that may be necessary to Remediate Releases of Hazardous Materials on, at or under the Premises, including, without limitation, the recording or filing of such controls with Governmental Authorities.

“Environmental Damages” means those categories of damages described in N.J.S.A. 58:10-23.11g.

“Environmental Law” means any applicable federal, state, local or other law, statute, ordinance, rule, regulation, the Authority permit, judgment, order, decree, license, or other binding requirement of, or binding agreement with, any Governmental Body, now or hereafter in effect and, in each case, as amended from time to time, relating to or governing the presence, Release, or threatened Release of Hazardous Material, the protection of natural resources, health, safety or the Environment, or the management, manufacture, use, processing, sale, generation, handling, labeling, distribution, transportation, treatment, storage, disposal, Remediation, disclosure, or notice of the presence, Release or threatened Release of Hazardous Material, including, without limitation, (a) the Atomic Energy Act, 42 U.S.C. § 2011 et seq., as amended (“AEA”), (b) the clean Air Act, 42 U.S.C. § 7401 et seq. as amended (“CAA”), (c) CERCLA, (d) the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq. as amended (“EPCRA”), (e) the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 et seq. as amended (“FIFRA”), (f) the federal Water Pollution control Act, 33 U.S.C. § 1251 et seq. as amended (“FWPCA”), (g) the Hazardous Material Transportation Act, 49 U.S.C. § 1801 et seq. as amended (“HMTA”), (h) the Low-Level Radioactive Waste Policy Act, 42 U.S.C. § 2021b et seq., as amended (“LLRWPA”), (i) the Nuclear Waste Policy Act of 1982, 42 U.S.C. § 10101 et seq., as amended (“NWPA”), (j) the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq., as amended (“OSHA”), (k) the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., as amended (“RCRA”), (l) the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., as amended (“SDWA”), (m) the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., as amended (“TSCA”), (n) the substantive equivalent of any of the foregoing in any state or foreign jurisdiction, (o) ISRA, (p) the Spill Act, (q) the NJDEP Technical Regulations, and (r) the SRRA.

“Escrow Agreement” means the Escrow Agreement attached hereto as Exhibit C pursuant to which Tenant places in escrow on the Closing Date, the amount of FOUR MILLION DOLLARS (\$4 million) as collateral for repayment of the Minimum Lease Payments.

“Event of Default” means, as the case may be, any reference to either or both an Authority Event of Default and/or a Tenant Event of Default.

“Expedited Arbitration Process” is defined in Section 30.07 hereof.

“Fee Estate” means all of the Authority’s right, title and interest in the Premises, including its reversionary interest in any Improvements upon the expiration or earlier termination of the Term.

“Force Majeure Event” means fire, extreme weather, catastrophe, strike, lockouts, civil commotion, acts of God, or the public enemy, government prohibitions or preemptions, embargoes, inability to obtain material or labor by reason of governmental regulations or prohibitions, or other events beyond the reasonable control of the Party claiming the right to delay or excuse performance on account of such occurrence. A Force Majeure Event shall not excuse the timely payment of money to either the Authority or Tenant hereunder.

“GAAP” means generally accepted accounting principles as employed in the United States of America, consistently applied.

“Gaming” is defined in Section 7.01 hereof.

“Gaming Law” is defined in Section 7.01 hereof.

“Governmental Approvals” means all permits, certificates (including certificates of occupancy), licenses, authorizations, variances, consents and approvals required by any Governmental Authority having jurisdiction.

“Governmental Body” or “Governmental Bodies” or “Governmental Authority” means any federal, state, county, regional or local agency, department, commission, authority, court, or tribunal and any successor thereto, of competent jurisdiction, exercising executive, legislative, judicial, or administrative functions of or pertaining to government; provided, however, that for purposes of this Agreement only, the Authority shall not constitute a Governmental Body or Governmental Authority.

“Ground Rent” is defined in Section 2.03(a) hereof.

“Gural” means Jeffrey Gural and New Meadowlands Racetrack, LLC, as the context may require.

“Harry M. Stevens Contract” means that certain Concession Agreement by and between the Authority and Harry M. Stevens Inc. of New Jersey, dated as of June 1, 2010, relating to the food and beverage services at Premises.

“Hazardous Material” means any material, substance, or waste that, because of its presence, quantity, concentration, or character, (a) is regulated under any Environmental Law, (b) may cause or pose a threat, hazard, or risk to human health or safety or the Environment, or (c) may result in the imposition of, or form the basis for, a Claim, damages, Environmental Claim, or Remediation, including, without limitation: (i) any hazardous substance, pollutant or contaminant as defined in CERCLA, RCRA, the New Jersey Spill Act, or New Jersey Water Pollution Control Act; (ii) any hazardous substance, element, compound, mixture, solution, or substance designated pursuant to Section 102 of CERCLA or otherwise regulated under CERCLA; (iii) any substance designated pursuant to Section 311(b)(2)(A) of FWPCA or otherwise regulated under FWPCA; (iv) any toxic pollutant listed pursuant to Section 307 of FWPCA; (v) any Hazardous Waste having the characteristics identified under or listed pursuant to Section 3001 of RCRA or otherwise regulated under RCRA; (vi) any substance containing petroleum or otherwise regulated under Section 9001 of RCRA; (vii) any hazardous air pollutant listed pursuant to Section 112 of CAA or otherwise regulated under CAA; (viii) any hazardous chemical substance or mixture designated pursuant to Section 4, 6 or 7 of TSCA; (ix) any radioactive material or waste identified or defined pursuant to Section 2 of LLRWPA or Section 2 of NWPA or otherwise regulated under LLRWPA or NWPA; (x) Hazardous Waste; and (xi) any petroleum product or byproducts, solvent, flammable or explosive material, radioactive material, asbestos, polychlorinated biphenyls (PCBs), dioxins, dibenzofurans, and heavy metals. However, a material, substance or waste below the concentrations requiring remediation under the Environmental Laws shall not be deemed a Hazardous Material.

“Hazardous Waste” shall have the meaning attributed to it in N.J.S.A. 13:1 E-51b or in HMTA.

“Historic Fill Material” means non-indigenous material, deposited to raise the topographic elevation of the Premises and which includes, without limitation, construction debris, dredge spoils, incinerator residue, demolition debris, fly ash, or non-hazardous solid waste.

“Impositions” is defined in Section 4.04(a)(iii) hereof.

“Improvements” means any and all buildings, structures, improvements, equipment comprising portions of building systems, fixtures and appurtenances (not owned by third parties) now existing or at any time hereafter erected, constructed, affixed or attached to or placed in or placed upon the Premises, including without limitation, Capital Improvements.

“Initial Term” is defined in Section 2.02(a) hereof.

“Insurance Requirements” means all requirements of insurance policies in effect with respect to the Premises or portions thereof maintained by Tenant pursuant to the terms of this Agreement or other Racetrack Agreement.

“Intellectual Property” means all of the Racetrack intangible property and related proprietary rights, interests and protections in existence on the Closing Date and set forth on Exhibit U attached hereto and the following Racetrack intangible property and related proprietary rights, interests and protections, however arising and in existence on the Closing Date, pursuant to the laws of any jurisdiction throughout the world: (a) trademarks, service marks, trade names, brand names, logos, trade dress and other proprietary indicia of goods and services, whether registered, unregistered or arising by law, and all registrations and applications for registration of such trademarks, including intent-to-use applications, and all issuances, extensions and renewals of such registrations and applications; (b) internet domain names, whether or not trademarks, registered in any generic top level domain by any authorized private registrar or Governmental Authority; (c) original works of authorship in any medium of expression, whether or not published, all copyrights (whether registered, unregistered or arising by law), all registrations and applications for registration of such copyrights, and all issuances, extensions and renewals of such registrations and applications; (d) confidential information, formulas, designs, devices, technology, know-how, research and development, inventions, methods, processes, compositions and other trade secrets, whether or not patentable; and (e) patented and patentable designs and inventions, all design, plant and utility patents, letters patent, utility models, pending patent applications and provisional applications and all issuances, divisions, continuations, continuations-in-part, reissues, extensions, reexaminations and renewals of such patents and applications.

“Interim Services Agreement” means an agreement between the Authority and Tenant regarding the continuation of certain services to the Premises by the Authority for a specified period of time following the Closing Date of this Agreement.

“ISRA” means the Industrial Site Recovery Act, N.J.S.A. 13:1k-6 et seq. as amended.

“Leased Equipment” means and includes, all of the equipment, machinery, appliances, computers, laptops, furniture and other items of furniture and equipment located at the Premises owned and/or leased by the Authority, including, but not be limited to, all of the equipment listed

on Exhibit J, and including the Authority Personalty. Authority leases the Leased Equipment and Authority Personalty on a strictly “AS IS” basis.

“Leasehold Estate” means all of Tenant’s right, title and interest in the Premises granted and conveyed hereunder.

“Legal Requirements” means all applicable laws, statutes, codes, ordinances, orders, regulations, permits, approvals and other requirements of any Governmental Body, now or hereafter in effect, and, in each case, as amended from time to time.

“Lien” means any mortgage, lien, pledge, charge or security interest.

“LSRP” means a Licensed Site Remediation Professional as defined in N.J.S.A. 58:10B-1.

“Maintain” and “Maintenance” means the provision of all labor, supplies, materials and equipment which are required to operate and maintain the Premises in a Comparable Manner, including, without limitation: (a) taking good care of and keeping and maintaining the Premises and the Leased Equipment, and all facilities, fixtures, systems, parts and equipment thereof or therein, and any and all personal property located therein, in good order, working condition and repair, (b) keeping the Premises in a clean, sanitary, safe and orderly condition, free from unlawful obstructions, (c) performing all preventative or routine maintenance and replacements and all regular and periodic procedures for all facilities, fixtures, systems, parts and equipment, (d) regularly maintaining any HVAC system, including, but not limited to, periodic cleaning, lubricating and changing of air filters, (e) performing routine landscaping and grounds keeping, including (to the extent applicable) mowing, seeding, fertilizing and re-sodding, and all other actions necessary to ready the Premises for horse racing and other events, (f) changing light bulbs, fuses and circuit breakers, (g) performing touch-up painting (both internally and externally) of the Premises, (h) keeping the Premises clean, (i) periodically testing the building systems, such as mechanical, security, fire alarm and sound systems, (j) perform ongoing snow, ice, trash and debris removal, (k) regularly maintaining the Premises in accordance with Tenant’s obligations referred to in Article 16 hereof, including without limitation, updating and implementing the Best Management Practices referred to in the Comprehensive Waste Management Plan attached hereto as Exhibit Q, and (m) performing any other work of a routine, regular or generally predictable nature that is reasonably necessary in order to keep the Premises and Leased Equipment in good condition based on its age and utility, in each case reasonable wear and tear, obsolescence and latent defects excepted.

“Major Facility” has the meaning attributed to it in N.J.S.A. 58:10-23.11b(1).

“Manage” or “Management” is defined in Section 6.05 hereof.

“Master Off Track Wagering Participation Agreement” means that certain agreement, dated as of September 8, 2003, by and among the Authority, Freehold Raceway Off Track, LLC and ACRA Turf Club, LLC, as amended from time to time.

“Meadowlands Racetrack” means the standardbred racetrack and related facilities located within the Meadowlands complex in East Rutherford, New Jersey and commonly referred to as the “Meadowlands Racetrack.”

“Minimum Lease Payments” is defined in Section 2.05(e) hereof.

“Net Operating Profits” means, with respect to any Calendar Year during any Tenant Renewal Term or the Mutual Renewal Term, the gross revenue collected by Tenant directly from the operations conducted at the Premises, including the Racetrack, less the sum of:

(a) any and all operating expenses incurred, any debt service (which shall not exceed 50% of the total capital), and Capital Expenditures made by the Tenant in connection with the Premises;

(b) any and all lease and other payments due to the Authority and/or any other division or instrumentality of the State of New Jersey and/or their respective successors and assigns pursuant to this Agreement or other Racetrack Agreement; and

(c) up to 8% return on capital, compounded annually (excluding any amortization of capital), and any and all interest payments and tax payments (including, without limitation, any special assessments and/or PILOT Payments).

“Net Operating Profits Certificate” means a certificate in substantially the form of Exhibit H, duly completed by Tenant’s auditors, setting forth the Tenant’s Net Operating Profits for the prior Calendar Year and the amount of Ground Rent due to the Authority for such Calendar Year.

“New OTW Facility” means an Off-Track Wagering Facility constructed by Tenant or an Affiliate of Tenant pursuant to the OTW Agreement.

“New OTW Milestones” means the financial, development and construction milestones agreed between the Authority and Tenant prior to the Closing Date. By way of example only, a milestone could be reached when Tenant has acquired a property, either by way of lease or purchase, secured sufficient committed funds to develop and construct the property, and made application for any permits that may be necessary to utilize same as a New OTW Facility.

“NFA” means a No Further Action Letter as defined in ISRA and the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 et seq. and its implementing regulations, or, if the Remediation is under the supervision of any Governmental Body other than NJDEP, such comparable determination and document from such other Governmental Body as is available under applicable Environmental Law.

“NJABC” is defined in Section 14.01 hereof.

“NJDEP” means the New Jersey Department of Environmental Protection, or any successor regulatory agency to which the powers of NJDEP have been transferred.

“NJDEP Technical Regulations” means the NJDEP’s Technical Requirements for Site Remediation, N.J.A.C. 7:26E-1, et seq., as amended.

“NJRC” means the New Jersey Racing Commission, or any successor regulatory agency to which the powers of NJRC have been transferred.

“Notice” is defined in Section 22.01 hereof.

“Notice of Excess Expenses” is defined in Section 2.05(d) hereof.

“Operating and Maintenance Expenses” means all costs and expenses actually paid or incurred in the performance, conduct and discharge of Tenant’s obligations and responsibilities under this Agreement and the other Racetrack Agreements to provide Management, Maintenance, Repairs, Utilities and insurance to or with respect to and to otherwise manage and operate the Premises and the Racetrack. The term “Operating and Maintenance Expenses” shall not include the following: (i) any and all costs and expenses of Tenant not related to the operation or maintenance of the Premises and the Racetrack; (ii) wages, salaries, benefits or other compensation paid to any executive, supervisory, managerial or administrative personnel or employees of Tenant to the extent the same are for personnel or employees whose principal responsibilities are not related to the Management, Maintenance, Repair, Utilities, or insurance of the Premises and the Racetrack; and (iii) costs and expenses attributable to goods and services provided by Affiliates of Tenant to the extent such costs exceed the fair market value of such goods and services as reflected by costs for the same generally available from unaffiliated sources in the market area.

“OTW Agreement” means an agreement, substantially in the form of Exhibit D hereto, relating to the rights to operate and manage the Woodbridge OTW, to construct, develop, operate and manage the Additional OTWs, and the allocation of revenues from the OTWs.

“OTWs” means the Woodbridge OTW and the Additional OTWs.

“Overdue Rate” means a rate per annum equal to the prime rate of interest that is published in The Wall Street Journal from time-to-time (or in the event The Wall Street Journal ceases publication or, if published, ceases to publish the prime rate of interest such other reference rate to which the Authority and Tenant may mutually agree to achieve a substantially similar result) plus four percent (4%) per annum.

“Party” or “Parties” means the holders, from time to time, of the respective right, title and interest of the Authority and Tenant under this Agreement.

“Permittee” means the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, and concessionaires of Tenant insofar as their activities relate to the use and occupancy of the Premises in accordance with this Agreement.

“Person” means any individual, sole proprietorship, corporation, partnership, joint venture, limited liability company or corporation, trust, unincorporated association, institution, public or governmental body, or any other entity.

“PILOT Payments” is defined in Section 4.02(a) hereof.

“Pledge of Purse Revenues Agreement” means the Pledge of Purse Revenues Agreement attached hereto as Exhibit V pursuant to which Tenant pledges to the Authority purse revenue in excess of the statutory minimum purses, as collateral for repayment of the Minimum Lease Payments.

“Premises” means the land, buildings and Improvements, including the Racetrack (including the subsurface of such land and the airspace over such land), together with all easements appurtenant thereto as may presently exist or may be created in the future, including those easements set forth in Exhibit T attached hereto.

“Prohibited Uses” is defined in Section 6.02 hereof.

“Property Taxes” means any and all real estate, ad valorem and other property taxes and general or special assessments that in each case are imposed upon the Premises and/or the Racetrack, including, without limitation, (i) assessments made for “air” and/or “development” rights now or hereafter appurtenant to or affecting the Premises and/or the Racetrack, and (ii) any taxes or assessments levied, in whole or in part, for public benefits to the Premises and/or the Racetrack. If any other tax or assessment, however denominated, is imposed upon the Premises and/or the Racetrack, the owner thereof, and/or the Tenant’s leasehold interest or the occupancy or rents derived therefrom, in addition to or in substitution for any Property Taxes, then such other tax or assessment shall be included in the definition of “Property Taxes” for purposes hereof.

“Racetrack” is defined in Paragraph A of the Preliminary Statement.

“Racetrack Agreements” is defined collectively as this Agreement, and the other agreements relating to the Premises and the operation of the Racetrack set forth on Exhibit G attached hereto.

“Racing Events” means any and all horse racing cards which may be scheduled at the Racetrack during the Term hereof.

“Racetrack Information Systems” is defined in Section 6.11 hereof.

“RAO” means a Response Action Outcome as defined in N.J.S.A. 58:10C-2.

“RCRA” means the Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq., as amended.

“Recycling ACO” means the Administrative Consent Order, NJ Sports & Exposition Authority, EA ID# A080001-458394, March 18, 2009, a copy of which is attached hereto as Exhibit S.

“Referee Accountant” means the impartial nationally recognized or regional firm of independent certified public accountants selected by mutual agreement of the Authority and Tenant prior to the Closing Date.

“Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing, migration or placement into or contamination of, the Environment.

“Remediate”, “Remediation” and “Remediated” means any assessment, examination, analysis, test, monitoring, investigation, containment, cleanup, response or remedial action, removal, mitigation, restoration, storage, transportation, treatment, disposal, maintenance, RCRA closure activities or other activity to the extent required by a Governmental Authority pursuant to the Environmental Laws with respect to or in response to any Release or threatened Release of any Hazardous Material, including, without limitation, preparation of any reports and other documents, any disclosure or notice or any other administrative matter required thereunder or arising therefrom. The terms shall not include work beyond that necessary to meet nonresidential direct contact soil criteria and such work may be performed in the most cost effective manner possible (but in all cases consistent with applicable Environmental Laws), including, without limitation, through the use of Environmental Controls.

“Renewal Date” is defined in Section 2.03(e) hereof.

“Renewal Term” is defined in Section 2.03(d) hereof.

“Rent” is defined in Section 2.03(b) hereof.

“Repair” or “Repairs” means any work, including all labor, supplies, materials and equipment of every kind and nature, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, and whether or not the same can be said to be within the present contemplation of the parties hereto, reasonably necessary to repair, restore, replace or renew all or any part of the Premises or the Leased Equipment, including, but not limited to, any parts and equipment, plate glass, landscaping, plumbing, irrigation and sewage facilities, fixtures, ventilation, heating and air conditioning, gas and electric fittings and electrical systems and wiring, sprinkler systems and pipes, walls, floors, ceilings, seats and seating located within the Premises, utility lines and connections, doors, lighting and illumination systems, and Racetrack Information Systems (or any part thereof), in a Comparable Manner, and in accordance with the requirements of any insurance carriers issuing insurance with respect to the Premises and Leased Equipment.

“Restoration” (including the correlative meanings of the terms “Restore”, and “Restoring”) means the restoration, repair, replacement or rebuilding of the Premises or any portion thereof following any Casualty or Taking in accordance with the terms of this Agreement.

“Revenues” is defined in Section 6.06 hereof.

“Secondary Arbitrator” is defined in Section 30.07(a) hereof.

“Security Agreement” means the Security Agreement attached hereto as Exhibit W pursuant to which Tenant pledges all of its current and future assets, including cash from time to time in the money room, to the Authority as collateral for repayment of the Minimum Lease Payments.

“Special Concessionaire Agreement” is defined in Section 14.02 hereof.

“Special Concessionaire Permit” is defined in Section 14.01 hereof.

“Special Concessionaire Request” is defined in Section 14.02 hereof.

“Spill Act” means the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11, et seq. as amended.

“Soil” means the unconsolidated mineral and organic matter on the surface of the earth that has been subjected to and influenced by geologic and other environmental factors.

“Soils Media” means Soil, Historic Fill Material, landfilled materials, trash, debris and all other materials which are not groundwater, surface water, air and/or sediments in surface water bodies.

“SRRA” means the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq., as amended.

“Stormwater Permit” is the permit set forth in Exhibit P hereto and any renewals, amendments, transfers thereof and any other stormwater permit issued or required for the Premises.

“Taking” means a taking of any interest or right, as the result of, or in lieu of, or in anticipation of, the exercise of the right of condemnation or eminent domain pursuant to any law, general or special, or by reason of the temporary requisition by any Governmental Authority, civil or military, or any negotiated sale of all or a portion of the Premises in lieu of any such Taking.

“Tenant” is defined in the Preamble hereof and means New Jersey Thoroughbred Horsemen’s Association, Inc.

“Tenant Event of Default” means an Event of Default described in Section 21.01.

“Tenant Indemnified Parties” means Tenant and Tenant’s members and each of their respective officers, partners, members, shareholders, agents, employees, contractors and consultants and their respective successors and assigns.

“Tenant Renewal Term” is defined in Section 2.02(b)(i) hereof.

“Tenant’s Environmental Responsibility” is defined in Section 16.01(b) hereof.

“Tenant’s Estate” means all of Tenant’s right, title and interest in and to (i) the Leasehold Estate, (ii) the Premises, (iii) the Use Agreements, (iv) the Leased Equipment, (v) the Revenues, and (vi) all rights and interests relating to any of the foregoing.

“Tenant’s PILOT Payment” is defined in Section 4.02 hereof.

“Term” means, collectively, the Initial Term and, only if and to the extent Tenant and the Authority exercise their rights pursuant to Section 2.02 of this Agreement, each Renewal Term.

“Termination Date” means the last day of the Term.

“Third Party Contracts” is defined in Section 3.02(i) hereof.

“Third Party Leases” is defined in Section 3.02(i) hereof.

“Transfer” is defined in Section 11.01 hereof.

“Two Rivers Service Agreement” means the Service Agreement between Two Rivers Water Reclamation Authority and the Authority attached hereto as Exhibit N.

“TRWRA” means the Two Rivers Water Reclamation Authority.

“Use Agreement” means a use, lease, sublease, license, concession, advertising, service, maintenance, occupancy or other agreement for the conduct of any use that is not a Prohibited Use on the Premises or any part thereof.

“Use Default” is defined in Section 6.04 hereof.

“Utilities” means (a) all necessary utility services (such as water, sewer, gas, heat, chilled water, electricity and telephone and other utility and communication services); (b) cleaning and janitorial services and adequate dumpsters and trash removal; (c) system and facility maintenance services (including, but not limited to, elevators, escalator, boiler and air conditioning) and (d) such other services of a similar nature that Tenant may elect to obtain for the Premises in the discretion of Tenant and at the sole cost and expense of Tenant.

“Woodbridge OTW” is defined in Paragraph C of the Preliminary Statement.

“Woodbridge OTW Consent and Estoppel” means the consent to assignment and estoppel from the landlord of the Woodbridge OTW substantially in the form of Exhibit F hereto.

ARTICLE 2

DEMISE; TERM; GROUND RENT

Section 2.01 Demise; Condition

(a) Demise. The Authority does hereby demise and lease to Tenant effective as of the Closing Date, and Tenant does hereby lease and take from the Authority effective as of the Closing Date, the Premises and the Leased Equipment, subject to the conditions and limitations expressly provided in this Agreement and the other Racetrack Agreements.

(b) Condition of Premises and Leased Equipment. Tenant is fully familiar with the Premises and the Leased Equipment, the physical condition thereof, the title and other

matters of record as of the Closing Date. Tenant accepts the Premises and the Leased Equipment in its strictly “AS IS” existing condition and state of repair, and, acknowledges that, except as provided in Section 8.01 of this Agreement, no other representations, statements or warranties, express or implied, have been made by or on behalf of the Authority in respect of the Premises or the Leased Equipment, the status of title thereof, the physical condition thereof or the zoning or other laws, regulations, rules and orders applicable thereto. Tenant hereby acknowledges that it has relied and will rely solely upon Tenant’s own investigations, examinations, analyses and decisions in entering into this Agreement. Except as otherwise provided herein with respect to building systems, at the expiration of the Lease Tenant is not responsible for replacing any of the Leased Equipment that has become obsolete or otherwise outlived its useful life, e.g., vehicles. Tenant shall not sell or otherwise transfer possession or ownership of any Leased Equipment without the prior consent of the Authority. The Authority covenants and agrees that it will take all steps necessary to transfer title to the registered Leased Equipment to Tenant.

(c) Authority Personality. The Authority, in accordance with the State public property law, shall at any time on giving reasonable prior notice to Tenant have the right to enter and remove (temporarily or permanently) from the Premises, at its sole cost and expense, any or all of the Authority Personality for cleaning, repairing, maintaining, valuing, securing, exhibiting or any other bona fide purpose.

Section 2.02 Term of Agreement.

(a) Initial Term. The “Initial Term” of this Agreement shall (i) be deemed to have commenced as of the Closing Date and (ii) continue until December 31, 2016, unless sooner terminated in accordance with the terms and provisions of this Agreement or duly and properly renewed and extended in accordance with the terms of Section 2.02(d) hereof.

(b) Renewal Options.

(i) Provided no Tenant Event of Default has occurred and is continuing, Tenant shall have the right (but not the obligation) to extend the Term for an additional period of ten (10) years and, if Tenant exercises such right, an additional right (provided no Tenant Event of Default has occurred and is continuing) to extend the Term for up to two (2) additional consecutive renewal periods (i.e., an aggregate of three (3) renewal periods) of ten (10) years each (if exercised, each ten (10) year period being referred to as a “Tenant Renewal Term”).

(ii) Thereafter, subject to section 2.02(d), Tenant and the Authority shall have the mutual right (but neither shall have any obligation) to extend the Term for an additional period of ten (10) years (such ten (10) year period being referred to herein as the “Mutual Renewal Term” and, together with each Tenant Renewal Term, a “Renewal Term”).

(c) Exercise of Tenant Renewal Terms. Except as provided in Section 2.02(d), to extend the Term of this Agreement beyond the Initial Term or the Tenant Renewal Term then in effect, Tenant shall deliver written notice to the Authority not later than twelve (12) months prior to the expiration of the Initial Term or such Tenant Renewal Term, as the case may be (the “Renewal Date(s)”). In the event that Tenant fails to properly provide the aforesaid

notice on or before the Renewal Date, then the Tenant shall have a second opportunity to extend the Term by delivering written notice to the Authority not later than six (6) months prior to the expiration of the Renewal Date, and if Tenant fails to exercise the applicable extension option, then the applicable right to extend the Term for a Renewal Term and all subsequent rights to extend for any further Renewal Terms shall be void and no longer available to Tenant and at the end of the Initial Term or the applicable Tenant Renewal Term, as the case may be, the Term of this Agreement shall expire, absolutely and without need for notice from either party to the other.

(d) Exercise of Mutual Renewal Term. To request to extend the Term of this Agreement beyond the third and final Tenant Renewal Term, Tenant shall deliver written notice to the Authority not later than twelve (12) months prior to the expiration of the final Tenant Renewal Term (the "Final Renewal Date") of Tenant's desire to extend the Term of this Agreement for the Mutual Renewal Term. The Authority may, prior to the date that is one (1) calendar month from the Authority's receipt of Tenant's written notice, by written notice to Tenant, elect to extend or to not extend the Term of this Agreement for the Mutual Renewal Term; provided that if the Authority does not provide such notice the Authority shall be deemed to have elected to extend the Term of this Agreement. In the event that Tenant fails to properly provide such notice on or before the Final Renewal Date, then the applicable right to seek to extend the Term for the Mutual Renewal Term shall be void and no longer available to Tenant and at the end of the Renewal Term the Term of this Agreement shall expire, absolutely and without need for notice from either party to the other.

(e) Terms. The terms and provisions of this Agreement applicable during each Renewal Term shall be the same as set forth in this Agreement for the Initial Term, except for the number of renewal options remaining and for the amount of Ground Rent due.

(f) Confirmation. When the commencement dates of each of the Initial Term and any Renewal Term are established, the Authority and Tenant shall promptly execute a memorandum evidencing such commencement date and the termination date of the Initial Term or such Renewal Term, as applicable, provided, however, the failure to do so shall have no impact on the occurrence of such dates.

(g) End of Term. This Agreement shall expire at the end of the Term absolutely and without the need for notice from either party to the other or any other action.

Section 2.03 Ground Rent.

(a) In consideration of the Authority's execution of this Agreement and Tenant's rights to lease and utilize the Premises and the Leased Equipment for the purposes set forth in this Agreement, subject to the terms and conditions hereof:

(i) For each Calendar Year (or for 2012 part of such Calendar Year) during the Initial Term, Tenant shall pay ground rent to the Authority, in the annual amount of ONE DOLLAR (\$1.00) payable on the Closing Date (for the 2012 Calendar Year) and on each of the thirty-first (31st) day of December 2012, 2013, 2014 and 2015 during the Initial Term (the "Ground Rent");

(ii) thereafter, should there be a renewal of the Initial Term, for the next ten (10) years of the Term, i.e. the first Tenant Renewal Term, the Ground Rent shall be an annual amount equal to the greater of (i) TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) and (ii) 5% of Tenant's Net Operating Profits for such Calendar Year (determined in accordance with clause (b) below); with \$250,000.00 payable in advance on the thirty-first (31st) day of each December (commencing December 31, 2016 for the 2017 Calendar Year) during the first Tenant Renewal Term and with any Ground Rent due in excess of \$250,000.00 payable in arrears no later than the thirty-first (31st) day of each May (commencing May 31, 2018 in respect of the 2017 Calendar Year) during the first Tenant Renewal Term; and

(iii) thereafter, for the remainder of the Term, i.e. the second and third Tenant Renewal Terms and the Mutual Renewal Term, the Ground Rent shall be an annual amount equal to the greater of (i) FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) and (ii) 5% of Tenant's Net Operating Profits for such year (determined in accordance with clause (b) below); with \$500,000.00 payable in advance on the thirty-first (31st) day of each December (commencing December 31, 2026 for the 2027 Calendar Year) during the remaining Renewal Terms and with any Ground Rent due in excess of \$500,000.00 payable in arrears no later than the thirty-first (31st) day of each May (commencing May 31, 2028 in respect of the 2027 Calendar Year) during the remaining Renewal Terms.

(b) Determination of Net Operating Profits.

(i) As soon as available, but in any event not later than one hundred (120) days after the end of each Calendar Year, Tenant shall deliver to the Authority (i) a copy of the audited balance sheets of Tenant as at the end of such year and the related audited statements of income and of cash flows for such year, setting forth in each case in comparative form the figures for the previous year, prepared in accordance with GAAP and certified by an independent certified public accountants of reputable standing, (ii) a Net Operating Profits Certificate, and (iii) such other financial information relating to the Premises and Racetrack as shall be reasonably requested by the Authority.

(ii) Within thirty (30) days after delivery of the information referred to in subsection (i) above to the Authority, the Authority will, by written notice to Tenant, either accept the calculations set forth in the Net Operating Profit Certificate or object or propose adjustments thereto. If the Authority accepts the calculations set forth therein, or fails to provide a written objection or written proposal of adjustments within such thirty (30) day period, then such calculations shall be deemed final and binding on the parties. If the Authority objects or proposes adjustments to such calculations, the Authority shall specify, in reasonable detail, the amount of each proposed adjustment, the item to which such proposed adjustment relates, and the facts and circumstances supporting the adjustment. The Authority and Tenant shall then meet and use their best efforts to reconcile the proposed adjustments. If the proposed adjustments have not been reconciled within thirty (30) days of the Authority's notification to Tenant of the proposed adjustments, or such longer period upon which Authority and Tenant shall agree, they shall refer their differences to the Referee Accountant. Tenant and the Authority shall furnish to the Referee Accountant such calculations of Net Operating Profits, the adjustments proposed by the Authority, and such work papers, books, records and other information and documents as the Referee Accountant shall reasonably request. The Referee

Accountant shall have thirty (30) days to reconcile the parties' differences and in performing such reconciliation, the Referee Accountant shall consider only those items or amounts in such calculations of the Net Operating Profit as to which Tenant and the Authority have disagreed. The decision of the Referee Accountant shall be final and binding upon Tenant and the Authority. Each party shall pay the fees and expenses of their respective professionals, except that all fees and expenses of the Referee Accountant shall be paid by the non-prevailing party.

(c) Additional Payments. In addition to Ground Rent, Tenant shall also pay, when due, any other sums due and payable to the Authority pursuant to the terms of this Agreement, including without limitation, Tenant's PILOT Payments and Minimum Lease Payments (all of such sums shall collectively be referred to as "Additional Rent"). Ground Rent and Additional Rent and all other amounts payable by Tenant to the Authority pursuant to this Agreement shall constitute rent under this Agreement, and hereinafter are referred to collectively as "Rent." In the event of Tenant's failure to pay the Authority those sums which Tenant is obligated to pay to the Authority under this Agreement which continues beyond the expiration of any applicable notice and/or cure period, and except as otherwise provided by the terms of this Agreement, the Authority shall have (in addition to all rights and remedies expressly provided for herein with respect to any such default) all of the rights and remedies provided for by law in the case of nonpayment of rent.

(d) Account Wagering Revenue. In addition to Ground Rent, and notwithstanding Section 3.07 hereof, commencing January 1, 2013, Tenant shall also pay to the Authority as Additional Rent, an amount equal to five percent (5%) of the Available Net Project Revenues (as defined in the Account Wagering Participation and Project Operating Agreement) due to Tenant pursuant to the Account Wagering Participation and Project Operating Agreement. Such amount shall be paid to the Authority within five (5) Business Days after the Available Net Project Revenues are disbursed to Tenant pursuant to the Account Wagering Participation and Project Operating Agreement.

Section 2.04 Net Lease. Subject to the provisions of this Section 2.04, this Agreement shall be deemed and construed to be a "net lease", it being intended that from and after the Closing Date, the Rent provided for in Section 2.03 above shall be an absolutely net return to the Authority, and Tenant shall pay to the Authority the Rent without abatement, deduction or set-off of any nature whatsoever, including without deduction for the costs incurred by Tenant in connection with the operation, management, maintenance, repair, use or occupation of the Premises, all of which shall be paid by Tenant. From and after the Closing Date, except as expressly set forth otherwise in this Agreement (including without limitation, the Authority's obligations concerning the completion of construction of the CAFO Project and the ADA and DCA compliance requirements), Tenant shall pay all costs, charges, taxes, assessments and expenses of every character, foreseen or unforeseen, ordinary or extraordinary, for the payment of which the Authority or Tenant is or shall become liable by reason of its respective estate, right, title or interest in the Premises or any part thereof, or which are connected with or arise out of the possession, use, occupancy, maintenance, addition to, repair or rebuilding of the Premises, including, without limitation, those specifically referred to in this Agreement. For the avoidance of doubt, except as otherwise expressly provided in this Agreement (including without limitation, the Authority's obligations concerning the completion of construction of the CAFO Project and

the ADA and DCA compliance requirements), the Authority shall not be required to do any work, or provide any services or utilities to the Premises.

Section 2.05 Minimum Lease Payments.

(a) To the extent that, from the Closing Date through December 31, 2012, Operating and Maintenance Expenses exceed Revenues ("2012 Excess Expenses"), the Authority, at the written request of Tenant pursuant to a notice referred to in Section 2.05(d) below, agrees to cover such excess expenses up to an aggregate amount not to exceed NINE MILLION (\$9,000,000) DOLLARS, FIVE MILLION (\$5,000,000) DOLLARS of which is herein referred to as the "2012 Minimum Lease Payment." For the avoidance of doubt, Tenant is not obligated to repay the Authority for the first FOUR MILLION (\$4,000,000) of 2012 Excess Expenses. If 2012 Excess Expenses covered by the Authority are less than NINE MILLION DOLLARS (\$9,000,000), the difference between actual 2012 Excess Expenses covered by the Authority and NINE MILLION DOLLARS (\$9,000,000) ("2012 Holdover Amount") will be available to cover 2013 Excess Expenses.

(b) To the extent that, from January 1, 2013 through December 31, 2013, Operating and Maintenance Expenses exceed Revenues ("2013 Excess Expenses"), the Authority, at the written request of Tenant pursuant to a notice referred to in Section 2.05(d) below, agrees to cover such excess expenses up to an aggregate amount not to exceed TWO MILLION (\$2,000,000) DOLLARS plus the 2012 Holdover Amount ("2013 Minimum Lease Payment"). If 2013 Excess Expenses covered by the Authority are less than TWO MILLION DOLLARS (\$2,000,000) plus the 2012 Holdover Amount, the difference between actual 2013 Excess Expenses covered by the Authority and TWO MILLION DOLLARS (\$2,000,000) plus the 2012 Holdover Amount ("2013 Holdover Amount") will be available to cover 2014 Excess Expenses.

(c) To the extent that, from January 1, 2014 through December 31, 2014, Operating and Maintenance Expenses exceed Revenues ("2014 Excess Expenses"), the Authority, at the written request of Tenant pursuant to a notice referred to in Section 2.05(d) below, agrees to cover such excess expenses up to an aggregate amount not to exceed TWO MILLION (\$2,000,000) DOLLARS plus the 2013 Holdover Amount ("2014 Minimum Lease Payment").

(d) Tenant shall give the Authority written notice substantially in the form of Exhibit M or in such other form as the Authority may deem appropriate (a "Notice of Excess Expenses") prior to noon (Eastern Standard Time) on the 15th day of each calendar month commencing with the calendar month that immediately follows the month during which the Closing occurred. Each Notice of Expenses shall specify the Operating and Maintenance Expenses and Revenues from the Premises, the Racetrack, the Woodbridge OTW and the Account Wagering Operations for the prior calendar month (or, in the case of the first Notice of Excess Expenses, since the Closing Date), the amount it requests the Authority to cover, and the aggregate total amount at the date of the Notice of Excess Expenses of 2012 Excess Expenses, 2013 Excess Expenses and 2014 Excess Expenses (as applicable). Any funds received from the Authority pursuant to this Section 2.05 may be used by Tenant solely to pay the excess expenses identified in the Notice of Excess Expenses.

(e) Tenant shall be obligated to repay the 2012 Minimum Lease Payment, the 2013 Minimum Lease Payment and the 2014 Minimum Lease Payment amounts, referred to in subsections (a), (b) and (c) above (herein collectively referred to as “Minimum Lease Payments”) as Additional Rent as hereinafter described.

(f) The repayment of the Minimum Lease Payments shall be secured by the Escrow Account, the Security Agreement, the Pledge of Purse Revenues and such other security or collateral reasonably acceptable to the Authority.

(g) The Authority shall not be obligated whatsoever to cover all or any part of a request to cover 2013 Excess Expenses or 2014 Excess Expenses made pursuant to Section 2.05(d), unless at the time of such request the Authority is (i) satisfied that the value of collateral it holds is sufficient to repay in full such amount, or (ii) satisfied that the Tenant has achieved the New OTW Milestones required to be achieved as of such date and there is no fact or circumstance to reasonably suggest that the future New OTW Milestones will not be achieved in a timely fashion.

(h) Tenant shall repay the Minimum Lease Payments as follows:

(i) the amount of the 2012 Minimum Lease Payment (i.e., up to \$5,000,000) in equal monthly installments over a period of 60 months beginning June 1, 2015, plus interest (which shall accrue from June 1, 2014) at the rate of 3% per annum;

(ii) the amount of the 2013 Minimum Lease Payment in equal monthly installments over a period of 60 months beginning June 1, 2016, plus interest (which shall accrue from June 1, 2015) at the rate of 3% per annum;

(iii) the amount of the 2014 Minimum Lease in equal monthly installments over a period of 60 months beginning June 1, 2017, plus interest (which shall accrue from June 1, 2016) at the rate of 3% per annum.

(i) Anything to the contrary herein notwithstanding, any unpaid Minimum Lease Payment shall be payable immediately on demand upon the termination of this Agreement.

(j) If the Tenant shall default in its obligation to repay the Minimum Lease Payments the Authority shall be entitled, without any notice or demand to Tenant, to enforce against any and all security or collateral held by the Authority.

(k) The Minimum Lease Payments shall constitute and be deemed to be Additional Rent for all purposes of this Agreement.

Section 2.06 Tenant’s Obligation; No Release. Except as otherwise expressly provided in this Agreement, Tenant’s obligations hereunder shall in no way be released, discharged or otherwise affected by reason of (A) any defect in the condition, quality or fitness for use of the Premises, the Leased Equipment or any part thereof; (B) any damage to, or destruction of, the Premises or the Leased Equipment; or (C) any title matter, defect or encumbrance of record; (D) in relation to Tenant’s obligations referred to pay Rent in Sections 2.03, 2.04 and 2.05, any change, waiver, extension, indulgence or failure to perform or comply with, or any other action

or omission in respect of any obligation or liability of the Authority, contained in this Agreement or in any of the other Racetrack Agreements.

ARTICLE 3

CLOSING

Section 3.01 Closing Date. Subject to the satisfaction or waiver of all contingencies set forth in Section 3.02 hereof, the consummation of the transactions contemplated by this Agreement (the “Closing”) shall take place at the offices of Gibbons P.C., One Riverfront Plaza, Newark, New Jersey, 07102-5497 at 10:00 a.m. local time on May 1, 2012, or at such other time and place as may be mutually agreed upon by the parties (the “Closing Date”). All proceedings to take place on the Closing Date shall be deemed to take place simultaneously and no delivery shall be deemed to have been made until all such proceedings have been completed.

Section 3.02 Conditions Precedent to the Authority’s and Tenant’s Obligation to Close. The Authority’s obligation to complete the Closing hereunder is conditioned and contingent upon the delivery by the Tenant to Authority of all of the Tenant’s deliveries as set forth in Section 3.03 hereof, provided, however, that the Authority may waive any of the Tenant’s deliveries. The Tenant’s obligation to complete the Closing hereunder is conditioned and contingent upon the delivery by the Authority to Tenant of all of Authority’s deliveries as set forth in Section 3.04 hereof, provided, however, that Tenant may waive any of the Authority’s deliveries. In addition to the foregoing, each party’s obligation to complete the Closing hereunder is conditioned and contingent upon the satisfaction or waiver by both parties of the following contingencies at or before Closing:

- (i) Tenant shall enter into a five (5) year agreement with the Authority, that is satisfactory to the Authority, which agreement shall commence on the expiry or early termination of this Agreement, and shall include, but not be limited to: (i) an agreement by Tenant that on expiry or early termination of this Agreement the Authority is permitted (but not obligated) to run only the statutory minimum number of race dates (currently 71-days); (ii) consent to distribute the thoroughbred race signal from the Premises, and (iii) consent to the Authority lowering overnight purses from the customary amount paid to the statutory minimum amount to the extent necessary to offset operating expenses at the Premises.
- (ii) Tenant shall have entered into an agreement with Jeffrey Gural and/or the operator of the Meadowlands Racetrack, that is satisfactory to the Authority that supplements or supercedes the Term Sheet between the Authority and the Meadowlands Operator dated as of December 19, 2011, including such matters as the proposed joint venture between the Meadowlands Operator and Tenant and thoroughbred racing at the Meadowlands Racetrack.
- (iii) Notwithstanding the provisions of Section 3.05 hereof, the Authority shall have assigned to the Tenant the lease relating to the Woodbridge OTW and shall have

received consent to such assignment from the landlord of the Woodbridge OTW in a form substantially similar to the form attached hereto as Exhibit F.

- (iv) Tenant has become a party to the Master Off Track Wagering Participation Agreement, dated as of September 8, 2003 by executing and delivering the Participation Agreement Assumption and Joinder Agreement attached hereto as Exhibit R.
- (v) This Agreement and the ancillary agreements attached hereto, have, to the extent required, been approved by the NJRC, New Jersey Attorney General's Office, and any other necessary governmental entity, including the issuance by the NJRC of a racing permit to conduct horse racing at the Racetrack and a racing permit to conduct thoroughbred horse racing at the Meadowlands Racetrack;
- (vi) Expiry of the notices issued by the Authority pursuant to the Worker Adjustment and Retraining Notification Act and its implementing regulations; and
- (vii) This Agreement and the ancillary agreements attached hereto have not been vetoed by the Governor of the State of New Jersey ("Governor's Veto").

Section 3.03 Documents to be Delivered at Closing by the Tenant. At the Closing, the Tenant shall deliver to the Authority the following documents:

(a) A copy of the agreement referred to in Section 3.02(i) hereof, and any amendments thereto, together with written confirmation from an officer of Tenant that such agreement continues to be in full force and effect and has not been amended in any manner unless the Authority shall have consented thereto;

(b) A copy of the agreement referred to in Section 3.02(ii) hereof, and any amendments thereto, relating to, among other things, the development of the currently-permitted off track wagering facilities, together with written confirmation from an officer of Tenant that such agreement continues to be in full force and effect and has not been further amended in any manner unless the Authority shall have consented thereto;

(c) A duly executed and delivered Woodbridge OTW Consent and Estoppel and the OTW Agreement duly executed and delivered by Tenant;

(d) Evidence that the Tenant has obtained its licenses to operate the Premises as a Racetrack, become a party to the Master Off Track Wagering Participation Agreement, and participate in the Account Wagering Operation;

(e) The Interim Services Agreement, if applicable, duly executed and delivered by Tenant;

(f) A duly executed assignment and assumption agreement in the form of Exhibit E attached hereto, pursuant to which Tenant shall have assumed the third-party equipment leases set forth on Exhibit K ("Third Party Leases") and third party contracts set forth on Exhibit L ("Third Party Contracts");

(g) A certificate, dated the Closing Date and executed by an officer of the Tenant, which shall (i) attach a certified copy of the resolutions of the members of the Tenant authorizing and approving this Agreement and the consummation of the transactions contemplated by this Agreement; (ii) identify by name and title and bear the signature of its officer authorized to execute any document to be executed and delivered on behalf of the Tenant, as the case may be, pursuant to the terms of this Agreement; and (iii) confirm that Tenant is capable of operating the Racetrack independently of the Authority except for those services provided pursuant to the Interim Services Agreement;

(h) The Escrow Agreement, Pledge of Purse Revenues Agreement and Security Agreement, each duly executed and delivered by Tenant ;

(i) A Management and Development Agreement between the Tenant and Darby Development LLC in a form reasonably satisfactory to the Authority; and

(j) All other material documents, instruments or writings required to be delivered to the Authority at or prior to the Closing pursuant to the terms of this Agreement or the other Racetrack Agreements.

Section 3.04 Documents to be Delivered at Closing by the Authority. At the Closing, the Authority shall deliver to the Tenant the following documents:

(a) The Authority's consent to the agreements referred to in Section 3.02(ii) hereof;

(b) The Woodbridge OTW Consent and Estoppel and the OTW Agreement duly executed and delivered by the Authority;

(c) The Interim Services Agreement (if applicable) duly executed and delivered by the Authority;

(d) An assignment of all Third Party Leases and Third Party Contracts duly executed by the Authority in the form of Exhibit E attached;

(e) A certificate, dated the Closing Date and executed by an officer of the Authority, which shall (i) attach a certified copy of the resolutions of the board of the Authority authorizing and approving this Agreement and the consummation of the transactions contemplated by this Agreement; and (ii) identify by name and title and bear the signature of its officer authorized to execute any document to be executed and delivered on behalf of the Authority pursuant to the terms of this Agreement;

(f) Evidence reasonably satisfactory to the Tenant that there has been no Governor's Veto;

(g) Evidence that the Authority has satisfied all of its obligations under the Master Off Track Wagering Participation Agreement to enable the Tenant to become a party to such agreement; and

(h) All other material documents, instruments or writings required to be delivered to the Tenant at or prior to the Closing pursuant to the terms of this Agreement or the other Racetrack Agreements.

Section 3.05 Assignment of Contracts, Rights and Obligations. This Agreement reflects the Authority's intent to assign all of the Third Party Contracts and Third Party Leases to the extent that they relate to the Racetrack and/or the Woodbridge OTW to the Tenant on the Closing Date hereof. However, at the Authority's sole option, if an assignment thereof, without the consent of a third party thereto or the expiration of a notice period to a third party thereto, would constitute a breach or default thereof, cause or permit the acceleration or termination thereof or in any way materially and adversely affect the rights of the Authority or the Tenant thereunder or the right of the Tenant to conduct all or any part of the business and operation of the Racetrack in the manner and on the terms presently enjoyed by the Authority, the parties shall arrange an equitable assignment by the Authority to the Tenant of all of the Authority's right, title and interest in and to, and obligations under, such Third Party Contract or Third Party Lease. If a third party consent is not obtained or notice period expired with respect to any such Third Party Contract or Third Party Lease as of the Closing Date (i) the parties shall cooperate in any reasonable arrangement designed to provide the Tenant the benefits under any such Third Party Contract or Third Party Lease, including, without limitation, compliance by the Authority on the Tenant's behalf with any such Third Party Contract or Third Party Lease and enforcement for the benefit of the Tenant of any and all rights of the Authority against a third party thereto arising out of the breach or cancellation by such third party or otherwise, and (ii) the Tenant shall cooperate with the Authority in any reasonable arrangement designed to protect the Authority against the obligations owed by it under such Third Party Contracts or Third Party Leases. The Authority and the Tenant covenant to proceed promptly to complete and satisfy any such third party actions as soon as possible after the date hereof. Upon a third party consent being obtained or sufficient notice having expired with respect to any such Third Party Contract or Third Party Lease, the Authority shall assign to the Tenant and the Tenant shall assume from the Authority, in each case effective as of the Closing Date, by supplemental instrument of conveyance if requested by the Authority or the Tenant, all of the Authority's right, title and interest in and to, and obligations under, such Third Party Contract or Third Party Lease insofar as they relate to the Racetrack and/or the Woodbridge OTW, without further payment of consideration.

Section 3.06 Accounts Receivable. For the avoidance of doubt the Authority retains sole ownership of all Accounts Receivable representing sales, collections and transactions prior to the Closing Date. The Parties agreed that the collection of such Accounts Receivable shall be the sole responsibility of the Authority. From and after the Closing Date, if Tenant or any of its Affiliates receives or collects any funds relating to any such Accounts Receivable or any casino special fund money relating to the period prior to the Closing Date, Tenant or its Affiliate shall remit such funds to the Authority within five (5) Business Days after its receipt thereof.

Section 3.07 Account Wagering Operations.

(a) Tenant acknowledges that prior to the assignment and assumption referred to in Section 3.07(d), the Authority shall continue to operate and control the Account Wagering Operations. The Authority agrees to conduct the Account Wagering Operations in accordance

with the Account Wagering Participation and Project Operating Agreement and otherwise in accordance with applicable law.

(b) Subject to Section 3.07(e), during the term of this Agreement, the Authority agrees that fifty percent (50%) of the Available Net Project Revenues (as defined in the Account Wagering Participation and Project Operating Agreement) due to the Authority pursuant to the Account Wagering Participation and Project Operating Agreement shall be for the account of Tenant and shall be paid to Tenant within five (5) Business Days after the Available Net Project Revenues are disbursed pursuant to the Account Wagering Participation and Project Operating Agreement.

(c) Tenant agrees that until to the assignment and assumption referred to in Section 3.07(d) the Authority may deduct for its own account five percent (5%) from the payment due to Tenant in Section 3.07(b).

(d) Subject to and in accordance with the provisions of applicable law and the Account Wagering Participation and Project Operating Agreement, following the written notice of Tenant and the operator of the Meadowlands Racetrack, the Authority agrees to transfer the operation and control of the Account Wagering Operation, including its rights and obligations under the Account Wagering Participation and Project Operating Agreement, and to the extent permitted by applicable law, the permit to operate the Account Wagering Operation, to the Tenant, the operator of the Meadowlands Racetrack or an entity designated in such notice. The foregoing transfer, assignment and assumption shall be memorialized in a separate document reasonably acceptable to the Parties.

(e) The Parties agree that the intention is to effect the transfer of the Account Wagering Operation as soon as practicable following the Closing Date. However, the Authority acknowledges that Tenant may need time to finalize the future Account Wagering Operations arrangements with the operator of the Meadowlands Racetrack. Accordingly, and in order to continue to comply with its obligations under the Account Wagering Participation and Project Operating Agreement, the Authority agrees to retain the operation and control of the Account Wagering Operations until such time as such transfer takes place. The Parties shall cooperate in all reasonable arrangements designed to facilitate the transfer of the Account Wagering Operations pursuant to this Section 3.07.

Section 3.08 Closing Conditions.

(a) On or before April 30, 2012 (or such later date as may be agreed between the Parties), the Parties shall use all good faith and commercially reasonable efforts to satisfy the conditions referred to in Section 3.02 above. Until the Closing Date, the Authority shall continue operations at the Racetrack in a Comparable Manner.

(b) Notwithstanding anything to the contrary, the Parties acknowledge and agree that in the event that the conditions referred to in Section 3.02 above have not been satisfied on or before 5:00 p.m. (EST) on April 30, 2012 (or such later date as may be agreed between the Parties) this Agreement shall terminate and the provisions of Section 3.08(c) shall apply, provided, however, that if Tenant has used all good faith and commercially reasonable

efforts to obtain its racing permit from NJRC and thereby satisfy the condition referred to in Section 3.02(v), but such condition remains unsatisfied as at 5:00 p.m. (EST) on April 30, 2012, Tenant shall be entitled to request an automatic extension of time to satisfy such condition of up to one hundred eighty (180) days after April 30, 2012.

(c) In the event that this Agreement is terminated pursuant to this Section 3.08, then this Agreement and for the avoidance of doubt each of the other Racetrack Agreements shall, on the effective date of such termination, terminate with respect to all future rights and obligations of performance by the Parties and their respective Affiliates (except for the rights and obligations that expressly are to survive termination). This Section 3.08(c) shall survive any termination of this Agreement pursuant to this Section 3.08.

(d) If Tenant requests an automatic extension of time to satisfy the NJRC racing permit condition referred to in Section 3.08(b) above, and as a result the Authority continues to operate the Racetrack at the commencement of the 2012 racing season, Tenant agrees that the Authority is permitted to run only the statutory minimum number of race dates in 2012 (currently 71-days); (ii) Tenant consents to distribute the thoroughbred race signal from the Premises for 2012, and (iii) Tenant consents to the Authority funding overnight purses solely from earned purses in 2012. This Section 3.08(d) shall survive any termination of this Agreement pursuant to this Section 3.08(c).

ARTICLE 4

PILOT PAYMENTS; PROPERTY TAXES; IMPOSITIONS; UTILITIES

Section 4.01 Property Taxes. The Parties acknowledge that the transaction contemplated hereunder and the covenant by Tenant in Section 4.02 hereof to make Tenant's PILOT Payments assumes that the Premises shall remain fully exempt from all Property Taxes. Tenant acknowledges that, pursuant to the Enabling Legislation payments in lieu of real property taxes ("PILOT Payments") are payable to the Borough by the Authority in connection with facilities located within the Premises.

Section 4.02 Tenant's PILOT Payment.

(a) Tenant hereby covenants and agrees that, commencing on the Closing Date and continuing throughout the Initial Term and each Renewal Term that hereafter becomes effective, Tenant shall pay to the Authority, as Additional Rent, an amount equal to the PILOT Payments (and/or Property Taxes payable in addition to or in lieu of PILOT Payments) to be paid by the Authority to any Governmental Authority, at least ten (10) Business Days in advance of the equal quarterly installments payments due from the Authority on January 20, April 20, July 20 and October 20 (except that the first and last quarterly installments shall be pro-rated based on the number of days during the related quarterly period that is included in the Term).

Section 4.03 Utilities and Impositions.

(a) Tenant covenants and agrees that, commencing upon the Closing Date and continuing throughout the Initial Term and each Renewal Term that hereafter becomes effective, Tenant shall pay, before any fine, penalty, interest or cost may be added for non-payment thereof

and before same become delinquent, any and all governmental charges which are imposed upon the Premises, including, without limitation, the following:

(i) generally applicable and uniformly imposed general and special taxes imposed by the State or the federal government, or authorized instrumentalities thereof (A) on any personal property, equipment or fixtures owned or leased by Tenant and used in the operation of the Premises, or (B) on any transaction to which Tenant is a party creating or transferring an interest or estate in the Premises, or (C) in connection with any activity carried out on or at the Premises or otherwise connected to the Racetrack;

(ii) charges for public and private utilities (including, without limitation, all sewer-related fees, gas, electricity, power and telephone and other communication services) with respect to the Premises or the Racetrack (the items described in clauses (i) and (ii) which Tenant is obligated to pay being collectively referred to herein as “Impositions”); and

(iii) fines, penalties and any interest or costs resulting from non payment by Tenant of any of the items described in clauses (i) or (ii) above.

(b) Except for Impositions which by law, regulation or agreement become liens upon real property prior to the due date thereof, Tenant shall not permit any Imposition payable by Tenant hereunder to become a lien on the Fee Estate. Tenant shall pay all Impositions prior to delinquency, including in installments as permitted by the entity charging the Imposition. If Tenant fails to pay an Imposition as required or permitted by the entity charging the Imposition and such failure, under applicable Legal Requirements, results in a lien upon the Fee Estate and Tenant fails to cause the discharge of such lien, by payment, bonding or otherwise, within twenty (20) days of notice thereof from the Authority to Tenant, the Authority at its sole and absolute option may pay such Imposition and Tenant shall reimburse the Authority for same, together with interest thereon at the Overdue Rate from the date Tenant receives notice from the Authority that such Impositions have been paid by the Authority, as Additional Rent, within fifteen (15) days after receipt of notice from the Authority that it has paid such amount, together with a paid receipt or other reasonable evidence that the Authority has expended such sums.

Section 4.04 Evidence. Any certificate, advice or bills of nonpayment issued by the appropriate official designated by law to make or issue or to receive payment of any Imposition, shall be prima facie evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice or bill.

Section 4.05 Refund/Rebate of Imposition. The Authority covenants and agrees that if there shall be any refund or rebate on account of any Imposition paid by Tenant, such refund or rebate shall belong to Tenant. Any refund or rebate received by the Authority shall be deemed trust funds and as such are to be received by the Authority in trust and promptly paid to Tenant. The Tenant covenants and agrees that if there shall be any refund or rebate on account of any Imposition paid by the Authority, such refund or rebate shall belong to Authority, unless already reimbursed to the Authority by Tenant. Any such refund or rebate received by the Tenant shall be deemed trust funds and as such are to be received by the Tenant in trust and promptly paid to the Authority.

Section 4.06 Apportionment of Impositions. All Impositions relating to a fiscal period, a part of which is included within the Initial Term or a Renewal Term that hereafter becomes effective and a part of which is for a period of time before or after the Initial Term and, if applicable, such Renewal Term, shall (whether or not such Imposition shall be assessed, levied, confirmed, imposed upon or in respect of or become a lien upon the Premises, or shall become payable, during the Initial Term or a Renewal Term that hereafter becomes effective) be apportioned between the Authority and Tenant so that Tenant shall pay that portion of such Imposition related to the period of time during the Initial Term or a Renewal Term that hereafter becomes effective, and the Authority shall pay the remainder thereof. The provisions of this Section 4.06 shall survive the expiration or earlier termination hereof.

ARTICLE 5

LATE CHARGES

In the event that (i) payment of any installment of Ground Rent, Minimum Lease Payment or any Tenant's PILOT Payment required to be paid by Tenant to the Authority under this Agreement shall not be paid within five (5) days after the date on which said payment was due and payable as in this Agreement provided, or (ii) any other Rent payment required to be paid by Tenant to the Authority under this Agreement shall not be paid within five (5) days after the date on which said payment was due and payable as in this Agreement provided, or, if not so provided, within fifteen (15) days after Tenant's receipt of Notice from the Authority that said payment is due and payable, a late charge accruing at the Overdue Rate on the amount overdue shall become immediately due and payable to the Authority as liquidated damages for Tenant's failure to make prompt payment. In the event any late charge is not paid to the Authority within thirty (30) days following same becoming due or the commencement of the interest accrual thereon, the Authority shall have all of the rights and remedies provided for under Article 21 herein with respect to such default. No failure by the Authority to insist upon the strict performance by Tenant of Tenant's obligations to pay late charges shall constitute a waiver by the Authority of its rights to enforce the provisions of this section in any instance thereafter occurring. The provisions of this Article 5 shall not be construed in any way to extend the grace periods or notice periods provided for in this Agreement.

ARTICLE 6

PERMITTED USES: NO UNLAWFUL OCCUPANCY: CERTAIN REMEDIES

Section 6.01 Permitted Uses.

(a) Permitted Uses. Tenant shall have the exclusive right to use, occupy and operate (and permit its agents, representatives, contractors, licensees, guests, invitees, Concessionaires and subtenants, if any, to use, occupy and operate) the Premises at all times for (i) the purpose of operating the Premises as a thoroughbred racetrack in a Comparable Manner inclusive of all ancillary activities and forms of gaming associated with such operation, including simulcast wagering; and (ii) in addition to, but not in lieu of (i), any lawful purpose approved by the Authority, which shall not be unreasonable withheld, delayed or conditioned. The Authority acknowledges that the Tenant may seek to further develop the Premises and any future

development request by Tenant is subject to the Approval of the Authority, such consent not to be unreasonably withheld, delayed or conditioned.

(b) No Adverse Possession or Implied Dedication. Tenant shall not knowingly suffer or permit use of the Premises or any portion thereof in a manner which would result in a claim of adverse usage, adverse possession or implied dedication thereof.

Section 6.02 No Unlawful Use; Prohibited Uses. Subject to the provisions of Section 6.04, and without in any way expanding the exclusive Permitted Uses as set forth in Section 6.01(a), Tenant shall not use or occupy, nor authorize any third party to use or occupy, nor fail to take all commercially reasonable measures necessary to prevent any third party from using or occupying, the Premises or any part thereof for any of the following uses or purposes:

- (a) any use which violates any Legal Requirements;
- (b) any use or purpose which would create hazards to the health or safety of the general public or the public welfare;
- (c) any use or purpose which would violate the Enabling Legislation; and
- (d) engaging in any activity which would constitute “Substantial Lobbying” or “Political Activities” within the meaning of Section 504 of the Code.:

all of the foregoing, collectively, the “Prohibited Uses.”

Section 6.03 Compliance with Laws. Tenant shall at all times during the Term of this Agreement, at Tenant’s sole cost and expense, perform its obligations under and comply with all Legal Requirements now or hereafter enacted or promulgated, of every Governmental Body having jurisdiction over the Premises, or the facilities or equipment therein, or the parking areas, streets, sidewalks, vaults, vault spaces, curbs, and gutters located in or on the Premises, whether or not such Legal Requirements shall necessitate structural changes, improvements, replacements or repairs, extraordinary as well as ordinary, and whether or not such Legal Requirements shall now exist or shall hereafter be enacted or promulgated, and whether or not such Legal Requirements can be said to be within the present contemplation of the parties hereto. For the avoidance of doubt, Tenant is not required to comply with any provision of this Agreement, any other Racetrack Agreement, the Master Off Track Wagering Participation Agreement, or the Account Wagering Participation and Project Operating Agreement to the extent that such provision violates any Legal Requirement, including federal or state statute or regulation. Tenant shall obtain and maintain, at its expense, and shall cause all Concessionaires, licensees and independent contractors to obtain and maintain, all Governmental Approvals required in connection with the use, occupation and operation of all or any part of the Premises by Tenant (including, but not limited to, those relating to or necessary for the sale or service of alcoholic beverages), provided, however, that at all times such use, occupation and operation shall be for the Permitted Uses only. Tenant shall not authorize and shall use diligent and good faith efforts not to permit any act to be done or any condition to exist in, on or about the Premises or any part thereof or any article to be brought thereon, which may constitute a nuisance, public or private, under applicable law. Notwithstanding the foregoing, Tenant shall not be responsible to pay any expenses in connection with DCA and ADA compliance requirements that exist prior to the

Closing Date. The Authority shall comply with all Legal Requirements in connection with the DCA and ADA compliance requirements that exist prior to the Closing Date and shall indemnify and hold harmless Tenant for any damage or loss sustained as a result of the Authority's failure to complete the required work.

Section 6.04 Use Default. Tenant shall, upon notice from the Authority of any Use Default, use best efforts, legal and equitable, necessary to compel the discontinuance of any such Use Default. In addition to all other rights and remedies provided herein, upon the occurrence and during the continuance of a Use Default, the Authority shall have the right, if it reasonably believes that Tenant has failed to use best efforts to compel discontinuance of such Use Default within a reasonable period after notice from the Authority of a Use Default, to seek immediate injunctive or other equitable relief to cause the party using the Premises in the manner which resulted in the Use Default to cease and desist such use. If the Authority incurs any costs or expenses in connection with exercising its remedies hereunder by reason of any Use Default, the Tenant shall be liable for such costs and expenses, all of which shall be payable to the Authority upon demand. For purposes hereof, the term "Use Default" means the occurrence of any event or the taking of any action by Tenant or any Permittee, assignee, licensee, concessionaire or other party whose use and occupancy rights derive directly or indirectly from this Agreement (in each case specifically excluding the Authority and any of its assignees, licensees or invitees) that constitutes a Prohibited Use. Except to the extent expressly provided to the contrary in this Agreement, the Authority shall have no liability of any kind and nature for Claims asserted against Tenant, any Permittee, or other parties arising from any Use Default.

Section 6.05 Management and Operations. Tenant shall have the exclusive right and have the sole responsibility to perform, manage, coordinate, control and supervise the ordinary and usual business and affairs pertaining to or necessary for the proper operation, maintenance and management of the Premises (including, but not limited to, all "building systems" and other systems and facilities) on a 365-day, year-round basis, including, but not limited to, for all Racing Events, all in accordance with the terms and provisions of this Agreement (collectively, "Manage" or "Management"). Tenant shall have such Management rights and responsibilities, and shall provide, perform and take or cause to be provided, performed or taken, all such applicable Management services and actions customarily performed or taken by managers or operators of comparable facilities, taken as a whole, as may be reasonably necessary or advisable to operate and maintain the Premises as a high-quality racetrack in a Comparable Manner, in accordance with the terms and provisions of this Agreement, including, but not limited to:

- (a) Scheduling and contracting for the exhibition of any Permitted Uses;
- (b) Preparation of the Premises for all Racing Events;
- (c) Operating and maintaining the totalizator services in accordance with all third party contractual arrangements;
- (d) Performing or causing to be performed, all Maintenance, Repairs and Capital Repairs in accordance with and subject to the terms and provisions of this Agreement, including the regular scheduled inspection, cleaning, maintenance and repair of the improvements contemplated by the CAFO Project and Tenant's maintenance obligations set

forth in Article 16, including without limitation, implementing and complying with the Best Management Practices set forth in the Comprehensive Waste Management Plan attached hereto as Exhibit Q, as it may be amended from time to time.

(e) Set-up and operation of press boxes;

(f) Employment (as agents, employees or independent contractors), termination, supervision and control of reasonable and customary personnel for the proper function and operation of the Premises for all Racing Events, for the Maintenance and operation of the Premises in the condition required by this Agreement and for the discharge of Tenant's responsibilities with respect to the Premises under this Agreement, including, but not limited to, all staff, mutuel clerks, ticket sellers, ticket takers, ushers, attendants, security, crowd control and traffic control personnel, trained medical emergency personnel, maintenance crews and technical staff;

(g) Selling, marketing and establishing the price of any rates, "take-out", rentals, fees or other charges for goods, services or rights, available at or with respect to the Premises, including, but not limited to, premium and regular seats for all Racing Events;

(h) Purchasing and supplying all materials and supplies regularly used and consumed in the Maintenance and operation of the Premises;

(i) Identifying and contracting with all contractors, Concessionaires and vendors in connection with, and managing, coordinating and supervising, all Maintenance, Repair and Racetrack operations, provided, however, that Tenant shall cause all agreements entered into with any contractor, Concessionaire or vendor to contain a recognition and acknowledgement of the applicable terms and provisions of this Agreement and that the Authority shall have the right (but not the obligation) to terminate the agreement with the contractor, Concessionaire or vendor in the event that the Authority terminates this Agreement; and

(j) Providing and entering into contracts for the furnishing to the Premises of all Utilities. Tenant acknowledges that the Authority makes no representation or warranty as to the availability of Utility services from any specific service provider.

Notwithstanding the foregoing, Tenant shall be entitled to determine in its sole business judgment, but subject to Legal Requirements, the particular services and businesses to be offered or operated at the Premises, the means and methods by which they will be delivered or operated, and the rules and regulations to be observed by third parties entering or using the Premises, provided, however, such discretion is exercised at all times to ensure the Premises are operated and maintained as a high-quality racetrack in a Comparable Manner.

Section 6.06 Revenue(s). Tenant shall have the sole and exclusive right to receive and retain all revenues of every kind and description, whether now existing or developed in the future, and whether or not in the current contemplation of the parties, arising from or relating to the use, occupancy, and operation of (i) the Premises and the Racetrack (collectively, "Revenues"), (ii) the Woodbridge OTW and any New OTW Facility or (iii) due to Tenant pursuant to this Agreement from the Account Wagering Operation.

Section 6.07 Authority Office; Authority Parterre.

(a) During the Term, Tenant shall provide the Authority with permanent office space at the Premises in location and size acceptable to the Authority. The Tenant will be solely responsible for all costs relating to the finishing, equipping, furnishing, operation, maintenance, repair and capital repair of the Authority's office space, including, but not limited to all Utilities. The Authority shall not pay rent to Tenant for the Authority's office space. The Authority shall not be permitted to make structural changes to the Authority's office space without Tenant's prior approval. Tenant shall provide the Authority with continued access during normal business hours to the engineering/construction office located on the balcony level of the Racetrack until completion of the CAFO Project.

(b) During the Term, the Authority shall be entitled to the exclusive use of one (1) Parterre Box (the "Authority Parterre") in a location and size acceptable to the Authority. The Authority shall not be obligated to pay any license or lease fee in consideration of its right to use the Authority Parterre, but (i) the Authority's use of the Authority Parterre shall otherwise be subject to the same rules, regulations and restrictions as are applicable to the use of boxes licensed or leased to the general public and (ii) the Authority shall hold Tenant harmless to the same extent as other suite holders for such other events or occurrences with respect to the Authority Parterre and the conduct of Authority's invitees to the Authority Parterre.

Section 6.08 Advertising. Subject to existing third party rights, Tenant shall have the sole and exclusive right during the Term of this Agreement to exercise all Advertising Rights. The exercise of such Advertising Rights: (a) shall at all times be conducted in accordance with all Legal Requirements; (b) shall be subject to Tenant's procurement of any Governmental Approvals necessary or required therefore; (c) shall be subject to the condition that any sign erected shall not adversely affect the structure of the Premises; and (d) shall not advertise alcohol (as to Racetrack naming rights), tobacco, firearms or be otherwise offensive to general community standards.

Section 6.09 Public Announcements. Upon the reasonable request of the Authority, Tenant shall, not more than ten (10) times during each Racing Event and at no cost to the Authority, disseminate public service community announcements that do not conflict with any Advertising or display announcements concerning matters of public interest on the visual components of the Racetrack Information Systems.

Section 6.10 Concessions.

(a) Tenant's Rights. During the Term of this Agreement, Tenant shall have the sole and exclusive right and responsibility to exercise, and the right to receive and retain all revenues from the exercise of, Concession Rights and the sole and exclusive right and responsibility to effect the Concession Operations within the Premises, including, without limitation, the right and responsibility to (i) from time-to-time select and contract with one or more Concessionaires (or itself act as such Concessionaire) and to operate and be responsible for all Concession Operations within the Premises (it being understood that Tenant shall cause all agreements entered into with any Concessionaire to contain a recognition and acknowledgement of the applicable terms and provisions of this Agreement and that the Authority shall have the

right (but not the obligation) to terminate the concession agreement in the event that the Authority terminates this Agreement, and require the Concessionaire to observe the restrictions, if any, on Concession Operations contained in this Agreement); (ii) administer any such concession agreements, and to retain all associated revenue; (iii) determine the types, brands and marketing of all products sold within the Premises, and the prices to be charged for such items; and (iv) determine the location of Concession facilities within the Premises. Any concession agreements entered into by Tenant and any Concessionaire shall be for such duration as Tenant shall determine (but shall terminate not later than the termination of this Agreement). Tenant shall include in such agreements a requirement that such Concessionaires conduct themselves in a professional and courteous manner. Tenant and the Concessionaire(s) shall at all times comply with all Legal Requirements and Insurance Requirements, and shall procure any and all Governmental Approvals, relating to the Concession Rights and Concession Operations. Tenant shall make available to the Authority copies of all concession agreements prior to the commencement of such Concession Operations.

(b) Concession Operation Services. Tenant, either on its own behalf or through any Concessionaire or other Person, shall be responsible for the preparation, operation, maintenance and repair of, and the payment of any Utility costs arising from or attributable to, Concession Operations in all or any part of the Premises.

Section 6.11 Totalizator, Video Screen, Sound System and Public Address System. Tenant shall, during the Term of this Agreement, have the sole and exclusive control of and over the public address system, scoreboards, video boards, totalizator and message boards, clocks and other electronic signage and similar systems (and all control rooms and equipment rooms for the same) at the Premises (collectively, the 'Racetrack Information Systems') and the sole and exclusive right to receive and, as against the Authority, retain all revenues therefrom. Tenant shall be solely responsible for the Maintenance and Repair of the Racetrack Information Systems in accordance with the provisions of Article 12 of this Agreement.

Section 6.12 Aramark Contract. At the request of Tenant, the Authority agrees to terminate the Harry M. Stevens Contract with effect from the Closing Date. Tenant agrees to reimburse the Authority for any and all costs the Authority expends for inventory and for the unamortized value of any equipment purchased by the Authority in connection with the termination of the Harry M. Stevens Contract. Tenant acknowledges that the Authority will incur a substantial termination fee as a result of the early termination of the Harry M. Stevens Contract. Accordingly, Tenant agrees to reimburse the Authority for such early termination fee in the event that Tenant enters into a new contract with Harry M. Stevens Inc. of New Jersey (or its Affiliates) to provide food and beverage services at the Premises within two years of the date of this Agreement.

Section 6.13 Union Matters.

(a) Tenant shall not assume any contracts between the Authority and any Racetrack-related labor union or be subject to any successor provision contained therein. Tenant shall not assume any liabilities relating to violations by the Authority of any collective bargaining agreement(s) with labor unions representing employees or any claims by employees not represented by labor unions, in each case to the extent arising prior to the Closing Date, and

the Authority shall hold Tenant harmless from any such claims, including, but not limited to, claims by employees pertaining to wages, compensation, benefits, or fringe benefits, including, but not limited to, accrued vacation leave, personal leave, sick leave, or “comp time,” existing unfunded pension liability, retiree health liability, and workers’ compensation liability, in each case that accrued prior to the Closing Date. Additionally, Tenant shall not assume any and all obligations relating to any and all withdrawal liability from any multi-employer pension plan and/or any amortization payments for previous withdrawals by the Authority from any multi-employer pension plan in which the Authority participates or previously participated.

(b) Mutuels and Jockey Room Contracts.

(i) The collective negotiations agreement between the Authority and the Sports Arena Employees Union, Local 137 as to the covered employees in the Pari-Mutuel Department (“Mutuels Contract”) requires in Article XXIV(4) that “Should the Employer lease any property to a lessee for the purpose of conducting its racing meet, provision shall be made in said lease for the observance by the lessee of the terms of this agreement.” Further, in Article XXIV(8) it provides that “The Authority agrees that the terms and conditions of employment provided for the employees shall be included as substantive criteria to be provided for and met in any Requests for Proposal or any Contract, Lease or other arrangement providing for another entity to manage, control, direct or provide for any of the work of the Bargaining Unit covered under this Agreement.”

(ii) The collective negotiations agreement between the Authority and Local 137 as to the covered employees in the Jockey’s Room (“Jockey’s Room Contract”) requires in Article XXVI that “Should the Employer lease or sale any property to a Lessee or successor for the purpose of conducting its racing meet, provisions shall be made in said lease or sale for the observance by the Lessee of the terms of this Agreement.”

(iii) Neither the Mutuels Contract nor the Jockey’s Room Contract preclude the parties from entering into this Agreement as the Authority has an inherent governmental power to contract and to manage a significant public asset. Article XXIV (4) and (8) of the Mutuels Contract and Article XXVI of the Jockey’s Room Contract, significantly interferes with the Authority’s exercise of inherent management prerogatives in a manner that is contrary to the dictates of In re IFPTE Local 195 v. State, 88 N.J. 393 (1982) and its progeny and, thus, cannot impede the Authority’s right to privatize or lease the Racetrack and/or manage a significant public asset.

Section 6.14 State and Federal Programs. The Authority and Tenant agree to cooperate in good faith and to use their commercially reasonable efforts in order to assist Tenant to secure any grants, loans or other sources of funding made available by the Board of Public Utilities of the State of New Jersey, the New Jersey Economic Development Authority or other state or federal sources that Tenant has reasonably determined it would be in Tenant’s and the Racetrack’s best interests to pursue.

Section 6.15 Intellectual Property.

(a) As between the Parties, all worldwide right, title and interest in and to all Intellectual Property is and shall be owned by the Authority.

(b) Subject to Section 6.15(d), the Authority hereby grants to Tenant, a royalty-free, exclusive license to use the Intellectual Property as it deems advisable in its absolute and sole discretion during the term of this Agreement, including entering into sublicense agreements. The Authority agrees to provide Tenant or its sublicensee with such additional information or documentation as may be reasonably requested relating to the Intellectual Property or any sublicense thereof.

(c) At the expiry or termination of this Agreement, neither Tenant or any sublicensee shall have any further rights in or to the Intellectual Property and Tenant shall promptly return (and ensure its sublicensee returns) to the Authority all Intellectual Property in its or their possession.

(d) The Authority retains the right to use or license the Intellectual Property in its absolute and sole discretion for any purpose relating to the exercise of its right to carry on Gaming at the Premises referred to in Section 7.03(b).

ARTICLE 7

EXPANSION OF GAMING

Section 7.01 General Terms. This Article 7 sets forth the terms and conditions of this Agreement that shall apply, to the extent permitted by then applicable State and federal law, should any laws be enacted in the State of New Jersey, whether by the approval of stand alone legislation or by amendment to the State Constitution with companion legislation to be approved by the State Legislature or by any other lawful means, which provides for the authorization of one or more of the following: casino gaming, video lottery terminals, slot machines, table games, sports betting, or similar games of betting or chance, excluding On-Line-Gaming which is permitted at any location within the State of New Jersey (collectively "Gaming"), at or on the Premises during the Term ("Gaming Law"). To the extent the Authority has any input in the Gaming Law legislation and to the extent permitted by law, the Authority shall use its commercially reasonable efforts to treat the Tenant and the operator of the Meadowlands Racetrack equally in all respects, including in allocating the type of Gaming permitted at each location to ensure that both locations may conduct the same Gaming activities at each location. The Parties hereto expressly acknowledge that while there can be no expectation that any Gaming Law will be enacted in any form, it is prudent to set forth terms and conditions herein to address such a contingency.

Section 7.02 Permitted Use; Rental Adjustments. Upon the enactment and effectiveness of a Gaming Law, and consistent therewith, and subject to the provisions of Section 7.03, and Section 7.05 below, the Tenant shall be entitled to use the Premises for any type of Gaming permitted by any Gaming Law for the duration of the Term. For the avoidance of doubt, such extended use does not diminish Tenant's obligation to operate and maintain a high-quality

racetrack in a Comparable Manner. If the Gaming Law permits gaming not related to horse racing such permission is conditioned on an increased Ground Rent schedule to be determined pursuant to this Article 7. In addition to negotiating an increased Ground Rent, if the Gaming Law permits gaming not related to horse racing such permission is conditioned on the Parties agreeing to negotiate to alter their rights, duties and obligations under this Agreement with respect to the increase in value of the Premises, as well as any additional or changed responsibilities, as a result of or related to such Gaming Law. Such negotiations shall be commenced as soon as practicable and shall conclude within 90 days of the effective date of any such Gaming Law. The Parties shall determine the adjusted Ground Rent based upon the following factors:

- (a) the existing market value of the right to the use permitted by the Gaming Law;
- (b) competitive conditions for Gaming in surrounding markets, such as neighboring states serving comparable population densities, taking into account such factors as the types of Gaming permitted by the Gaming Law and in neighboring states;
- (c) any conditions on the Authority or the Tenant imposed by the Gaming Law;
- (d) other potential revenue sources that may be presented due to the Gaming Law, whether directly Gaming related, or more generally entertainment related or otherwise;
- (e) tax rates and other operating expenses related to the Gaming Law;
- (f) allocation and costs of additional or changed responsibilities as a result of or related to the new Gaming Law; and
- (g) such other factors as the Parties determine to be relevant, including, but not limited to, Tenant's capital investments at the Premises.

Section 7.03 No Automatic Entitlement.

(a) Nothing in this Article 7 shall be construed to create an automatic entitlement in Tenant to use the Premises for any type of Gaming permitted by law for the duration of the Term. If any Gaming Laws are enacted, and Tenant desires to use the Premises for any type of Gaming, the Tenant must satisfy the requirements of all federal, State and local laws, rules and regulations concerning the conduct of such Gaming including but not limited to obtaining all required permits, licenses and approvals from any and all relevant federal, State and local agencies, and applying for and receiving the appropriate designation or other permission, regardless of terminology, required by the Gaming Law or any other law, rule or regulation.

(b) If Gaming Laws are enacted and Tenant elects not to use the Premises for Gaming or seek the approval, designation, license, permit, certificate or other permission required by law, for whatever reason, Tenant as a means of preventing or supplementing any projected loss of State revenue as a result of Tenant's election, hereby irrevocably grants the Authority (or a third party nominated by the Authority) the right and license to establish, conduct

and operate Gaming (to the extent it does not relate to horse racing) from and at the Premises. Tenant agrees to diligently and in good faith cooperate (including working-out additional details and agreements requested by the Authority) with the Authority (or its nominee) to establish of such Gaming operations as soon as reasonably practicable. This Section 7.03(b) sets forth the Parties basic agreements as to the Authority's rights to conduct Gaming at the Premises. The Authority and Tenant agree to take such actions, including the execution and delivery of such agreements, documents and instruments as may be requested by the Authority to carry out the terms, provisions and intent of this Section 7.03(b), including without limitation, the use of and access to the Premises and the Utilities for the purpose of establishing, conducting and operating Gaming at the Premises. The costs and expenses associated with the Authority establishing, conducting and operating Gaming at the Premises shall be paid by the Authority (or its nominee).

Section 7.04 Inability to Agree; Arbitration. Should the Authority and the Tenant be unable to agree on an adjusted Ground Rent schedule within the time period set forth in Section 7.02, which may be extended by mutual consent of the parties, an arbitrator, mutually acceptable to the Parties and experienced in the commercial aspects of the Gaming to be conducted at or on the Premises, shall conduct an arbitration in New Jersey to determine such Ground Rent schedule in accordance with the provisions set forth in Section 7.02. The arbitrator's determination shall be binding upon the Parties. If the Parties are unable to agree upon an arbitrator, such arbitration shall be conducted before an arbitrator selected by the American Arbitration Association. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association and the cost of the arbitration shall be borne equally by the Parties.

Section 7.05 Compliance with Laws. Nothing contained in this Article 7 shall be construed to permit the Tenant to conduct Gaming at or on the Premises in contravention of any applicable federal, State and local laws, rules and regulations concerning public contracting or public bidding. In addition, nothing contained in this Article shall be construed to permit the Authority to allow Gaming to be conducted at the Premises in contravention of any applicable federal, State and local laws, rules and regulations concerning public contracting or public bidding. If the entitlement to conduct Gaming at or on the Premises is subject to public bidding or public contracting laws, the Authority and the Tenant shall adhere to such laws.

ARTICLE 8

REPRESENTATIONS AND WARRANTIES

Section 8.01 Authority Representations. The Authority represents and warrants to Tenant as of the date hereof as follows:

(a) It was created and exists as a public body corporate and politic constituting an instrumentality of the State of New Jersey under Chapter 137 of the Laws of New Jersey of 1971.

(b) It has the right, power and authority to execute and deliver this Agreement and to perform all the terms, covenants, provisions and conditions herein to be performed by the Authority.

(c) This Agreement has been duly and validly executed and delivered by the Authority.

(d) This Agreement constitutes a legal, valid and binding agreement of the Authority enforceable against it in accordance with its terms, except as such enforcement is limited by bankruptcy, insolvency and other similar laws affecting the enforcement of creditors' rights generally and for limitations imposed by general principles of equity.

(e) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms of this Agreement, do not conflict with or result in a breach of the terms, conditions or provisions of any agreement or instrument to which the Authority is now a party or by which it is bound, or constitute a default under any of the foregoing, or result in the creation or imposition of any lease, charge or encumbrance whatsoever upon any of the property or assets of the Authority under the terms of any instrument or agreement or require the approval of any third party.

(f) Authority has (i) fee simple title to the Premises free of all liens, claims and encumbrances, except those existing and reflected in the public records of Monmouth County; (ii) title to the Leased Equipment free of all liens, claims and encumbrances; (iii) possesses full power and authority to deal with the Premises and the Leased Equipment in all respects; and (iv) no other party has any right or option in the Premises or the Leased Equipment.

(g) There are no pending or threatened actions or legal proceedings (including condemnation) affecting the Premises, the Racetrack, the Leased Equipment or Authority's interest in the foregoing, except (i) NJDEP v. NJSEA, Superior Court of New Jersey, Chancery Division, Monmouth County, MON-C-77-08, which remains pending because the Court in that matter has retained jurisdiction to enforce the terms of the CAFO Project Consent Order, and (ii) counsel for Sandy Hook Watermans Alliance, Inc. has indicated his client may initiate litigation, including as set forth in the letter dated June 29, 2011 to Governor Christie's office, copies of which correspondence have been provided to Tenant prior to the date of this Agreement.

(h) There are no unpaid or pending special assessments for sewer, sidewalk, water, paving, electrical or power improvements or other capital expenditures or improvements, matured or unmatured.

(i) Except as disclosed to Tenant regarding the CAFO Project, and DCA and ADA compliance projects, to the Authority's knowledge (i) the Premises are in compliance with all material Legal Requirements, and (ii) the Authority has not received notice of, and is not committing, any violation of any material Legal Requirement affecting the Premises.

Section 8.02 Tenant's Representations. Tenant represents and warrants to the Authority as of the date hereof as follows:

(a) It is duly organized, validly existing and in good standing under the laws of the State of New Jersey.

(b) It has the right, power and authority to execute and deliver this Agreement and to perform all the terms, covenants, provisions and conditions herein to be performed by Tenant.

(c) This Agreement has been duly and validly executed and delivered by Tenant.

(d) This Agreement constitutes a legal, valid and binding agreement of Tenant enforceable against it in accordance with its terms, except as such enforcement is limited by bankruptcy, insolvency and other similar laws affecting the enforcement of creditors' rights generally and for limitations imposed by general principles of equity.

(e) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms of this Agreement, do not conflict with or result in a breach of the terms, conditions or provisions of any agreement or instrument to which Tenant is now a party or by which it is bound, or constitute a default under any of the foregoing, or result in the creation or imposition of any lease, charge or encumbrance whatsoever upon any of the property or assets of Tenant under the terms of any instrument or agreement or require the approval of any third party (other than all parties that must issue permits or licenses).

ARTICLE 9

INSURANCE

Section 9.01 Authority's Responsibility for Insurance.

(a) From the date of this Agreement through and including the Closing Date, the Authority shall at all times maintain such insurance (i) as is reasonably available on commercially reasonable terms (ii) against such risks as are customarily insured against by businesses of like size and character, paying as the same become due all premiums in respect thereof, including, without limitation, public liability insurance and commercial property insurance, with respect to the Premises; provided that Tenant acknowledges that the Authority shall be under no obligation to maintain insurance in excess of the insurance as in effect as of the date hereof.

(b) The Authority shall cause, from the date hereof, its insurers to name Tenant as an additional named insured under such insurance policies.

Section 9.02 Tenant's Insurance Obligations.

(a) From and after the Closing Date until the expiration of the Term, Tenant shall at all times, at its sole expense, maintain such insurance (i) as is reasonably available on commercially reasonable terms (ii) against such risks as are customarily insured against by businesses of like size and character, paying as the same become due all premiums in respect thereof, including, without limitation, public liability insurance and commercial property insurance, with respect to the Premises.

(b) Anything to the contrary herein notwithstanding:

(i) in no event shall the insurance carried by Tenant in accordance with the preceding clause (a), either in respect of liability insurance or commercial property insurance, provide less coverage than that maintained by the Authority in accordance with Section 9.01 above;

(ii) all insurance shall be taken out and maintained with generally recognized responsible insurance companies qualified to do business in the State of New Jersey and shall be written with deductible amounts comparable to those on similar policies by other businesses of like size and character (and in any event not greater than the deductibles under the policies maintained by the Authority in accordance with Section 9.01 above); and

(iii) each insurance policy with respect to the Premises shall name the Authority as an additional insured. Tenant shall not permit any condition to exist with respect to the Premises which would wholly or partially invalidate the insurance thereon. Unless a policy with such an undertaking is unavailable or is available only at a cost which Tenant reasonably determines to be unreasonable, each policy shall contain an undertaking by the insurer that such policy shall not be modified adversely to the interest of the Authority or cancelled without at least thirty (30) days' prior notice to the Authority.

ARTICLE 10

DAMAGE AND DESTRUCTION OF PREMISES

Section 10.01 Partial Destruction of Premises. If less than substantially all of the Premises shall be damaged or destroyed by fire or other casualty or cause (a "Casualty"), then Tenant shall give prompt written notice thereof to the Authority, and this Agreement shall continue in full force and effect, and Tenant shall proceed at Tenant's own cost and expense, with reasonable diligence and promptness, to carry out any necessary demolition and, in accordance with this Article 10, to restore, repair, replace, and/or rebuild the Premises in order to restore the Premises as nearly as practicable to substantially the same condition, design and construction as that which existed immediately prior to such Casualty in accordance with applicable Legal Requirement. Rent (including, without limitation, Tenant's PILOT Payments) shall not abate hereunder by reason of any such Casualty and, to the extent reasonably practicable given the effects of such Casualty, Tenant shall continue to perform and fulfill all of Tenant's obligations, covenants and agreements hereunder notwithstanding such damage or destruction.

Section 10.02 Total Destruction of Premises. If, at any time during the Term of this Agreement, Tenant shall reasonably determine that all or substantially all of the Premises have been damaged or destroyed by Casualty, Tenant shall notify the Authority of such event in writing not later than fifteen (15) days following the occurrence of such Casualty. As soon as reasonably practicable following such Casualty, and notwithstanding any rights to terminate this Agreement arising from such Casualty, Tenant shall take all actions necessary to make the Premises safe and secure, including, to the extent necessary to make the Premises safe and secure, cleaning and removing all rubble, debris and similar materials from the Premises. In

such event, Tenant shall, at its option (such option to be exercised within thirty (30) days of such Casualty) elect to restore, repair, replace, and/or rebuild the Premises, at Tenant's own cost and expense and in accordance with applicable Legal Requirements, as nearly as practicable to substantially the same condition, design and construction as that which existed immediately prior to such Casualty. Provided such Casualty was not the result of any act or omission of the Authority, in no event shall the Authority be called upon to Restore the Premises or any portion thereof or to pay any of the costs or expenses thereof. For purposes of this Agreement, all or substantially all of the Premises shall be deemed to have been damaged or destroyed by Casualty if, as to any one occurrence (or the aggregate of multiple occurrences prior to the Restoration thereof), (i) fifty percent (50%) or more of the gross area of the Premises shall be damaged or destroyed by Casualty, or (ii) fifty percent (50%) or more of the grandstand areas of the Premises shall be damaged or destroyed by Casualty, or (iii) the time reasonably required to Restore the damage or destruction caused by Casualty shall exceed eighteen (18) months and usual and customary Racing Events cannot be held either due to Legal Requirements or the inability to practically utilize the Racetrack and the Premises.

Section 10.03 Termination Right; Right to Insurance Proceeds. Notwithstanding any term of this Agreement to the contrary, if Tenant shall reasonably determine after any Casualty that if such damage or destruction were Restored, that the cost and/or time necessary to Restore such damage or destruction is such that, in light of the period remaining in the Term (without regard to any unexercised Renewal Term) and/or the Revenue to be received for such period, such Restoration of the damaged or destroyed Premises is economically impractical or unreasonable, then the Tenant shall have the right to terminate this Agreement by giving written notice of termination to the Authority at any time after the occurrence of such damage or destruction (but prior to the completion of the Restoration if Tenant elects to Restore). Such notice to elect to terminate this Agreement shall (i) contain a brief description of the relevant Casualty, (ii) specify a date as of which the Term shall be deemed to have expired with the same force and effect as if said day had been originally fixed herein as the expiration date of the Term of this Agreement (the 'Casualty Termination Date') and, except as set forth in the following sentence, neither the Authority nor Tenant shall have any further rights or liabilities hereunder except for such liabilities as have accrued prior to the time of such termination. In the event the Tenant elects to terminate this Agreement due to such Casualty, the Authority shall be entitled to retain all insurance proceeds payable under policies of commercial property insurance maintained by Tenant hereunder. In the event Tenant is obligated or opts to restore the Premises, the Tenant shall be entitled to receive all of the insurance proceeds payable under policies of commercial property insurance maintained by Tenant to Restore the Premises.

Section 10.04 Restoration Standards. Any and all Restoration by Tenant hereunder shall be performed in accordance with all applicable Legal Requirements. If not theretofore delivered to the Authority, Tenant shall deliver to the Authority, within one hundred twenty (120) days of the completion of such Restoration, a complete set of "as built" exterior plans thereof, together with a statement in writing from a registered architect or licensed professional engineer that such plans are complete and correct.

Section 10.05 No Effect on Lease. Except to the extent expressly provided to the contrary in this Article 10 hereof, this Agreement shall not terminate or be forfeited by reason of damage to or total, substantial or partial destruction of the Premises or any part thereof or by

reason of the untenability of the same or any part thereof resulting from fire or other casualty. Tenant agrees that, except (a) to the extent otherwise expressly provided in this Article 10, or (b) with respect to any covenants or obligations which, given their nature, cannot be performed due to any damage or destruction, Tenant's obligations hereunder, including the payment of Rent, and any other sums of money and charges hereunder, shall continue as though said damage or destruction had not occurred and without abatement, suspension, diminution or reduction of any kind.

ARTICLE 11

TRANSFERS AND ASSIGNMENT

Section 11.01 No Transfer. This Agreement, Tenant's Estate or Tenant's interest in the Premises, Racetrack or any Racetrack Agreement, shall not be assigned, mortgaged, pledged, encumbered or otherwise transferred, directly or indirectly, by operation of law or otherwise (each of the foregoing, a "Transfer"), without the prior Approval of the Authority, which Approval shall not be unreasonably withheld, delayed or conditioned.

Section 11.02 Void Transfers. Any attempted Transfer in violation of this Article 11 shall be void and of no force or effect.

Section 11.03 No Waiver. An Approval by the Authority of any Transfer under this Article 11 shall apply only to the specific transaction thereby authorized and shall not relieve Tenant from the requirement of obtaining the prior written consent of the Authority to any future Transfer.

ARTICLE 12

MAINTENANCE, REPAIR AND ALTERATIONS

Section 12.01 Maintenance and Repairs of Premises.

(a) Tenant's Obligations. Tenant shall undertake and perform or cause to be undertaken or performed, and shall obtain or provide all labor, personnel, services, materials, supplies and equipment needed to perform, all required Maintenance and Repairs involving or relating to all or any part of the Premises and the Lease Equipment.

(b) No Physical Waste. Tenant shall not cause or permit or suffer to be caused any physical waste to the Premises.

(c) Conduct of Maintenance, Repairs, Capital Repairs and Capital Improvements. Tenant shall cause all Maintenance, Repairs, Capital Repairs and, to the extent Tenant elects to do so, Capital Improvements performed by Tenant hereunder to be performed in a good and workmanlike manner in compliance with all Legal Requirements (and, to the extent applicable to Repairs and Capital Repairs, at least equal in quality to the original work, less reasonable wear and tear).

Section 12.02 Operating and Maintenance Expenses.

(a) Payment of Operating and Maintenance Expenses. Subject to the provisions of Section 2.04 hereof and Closing occurring, Tenant shall be solely responsible for the payment of all Operating and Maintenance Expenses beginning on the Closing Date, except that Tenant shall not be responsible for the payment of the annual NJRC cost allocated to the Racetrack, the OTWs or the Account Wagering Operation other than license and application fees.

(b) No Obligation of Authority. Except as expressly set forth in this Agreement to the contrary, it is expressly understood and agreed that, subsequent to the Closing Date, (1) the Authority shall not have any responsibility, financial or otherwise with respect to, nor shall the Authority be required to, maintain, alter, repair, build, rebuild, restore or replace all or any portion of the Premises (whether such work be interior or exterior, structural or nonstructural, ordinary or extraordinary, foreseen or unforeseen, capital or routine), other than the completion of construction of the improvements contemplated by the CAFO Project, and the DCA and ADA compliance projects, and (2) Tenant expressly waives any and all rights to make repairs to the Premises or any part thereof at the expense of the Authority.

(c) No Liability of Authority. Except as may result from the Authority's completion of construction of the improvements contemplated by the CAFO Project and the DCA and ADA compliance projects and as expressly set forth in this Agreement to the contrary, the Authority shall not in any event be liable or responsible for any injury or damage to any property or to any person happening on, in or about the Premises subsequent to the Closing Date, nor for any injury or damage to the Premises or to any property subsequent to the Closing Date, whether belonging to Tenant or any other person, caused by any fire, breakage, leakage, defect or bad condition in any part of the Premises, or from water, rain or snow that may lead into, issue or flow from any part of the Premises from the drains, pipes, or plumbing work of the same, or due to the use, misuse or abuse of all or any of the openings or installations of any kind whatsoever that may hereafter be erected or constructed in or on the Premises, or from any kind of injury or damage which may arise from any other cause whatsoever on the Premises subsequent to the Closing Date, in each case, except to the extent arising from or caused by any act or omission of the Authority.

Section 12.03 Capital Repairs and Capital Improvements. Except for any matter (i) within the Authority's Environmental Responsibility, or (ii) relating to the completion of construction of the improvements contemplated by the CAFO Project, and the DCA and ADA compliance projects, Tenant is solely and exclusively responsible for, and hereby agrees, covenants and undertakes to perform, all Capital Repairs at, on, upon or with respect to the Premises during the Term of this Agreement and to obtain or provide all labor, personnel, services, materials, supplies and equipment necessary to perform such Capital Repairs. Tenant shall have the sole and exclusive right, but not the obligation, subject to Section 12.04(a) and Section 16.05(l), to undertake such Capital Improvements to the Premises as Tenant shall deem appropriate in its sole discretion. Except for Emergency Repairs, the completion of construction of the improvement contemplated by the CAFO Project, and the DCA and ADA compliance projects, the Authority shall have no right or obligation to make Repairs, Capital Repairs or Capital Improvements with respect to the Premises during the Term of this Agreement.

Section 12.04 Alterations and Additions.

(a) No Alterations Without Authority Consent. Except for Maintenance, Repairs, Emergency Repairs or Capital Repairs, Tenant shall not, without on each occasion first obtaining the prior written consent of the Authority, which consent shall not be unreasonably withheld, delayed or conditioned, make or permit to be made any Capital Improvements, to all or any part of the Premises, provided, however, that Tenant shall be permitted to make Capital Improvements to the Premises without consent if the total cost of all Capital Improvements for that Fiscal Year does not exceed \$100,000, and prior to commencing such Capital Improvements Tenant notifies the Authority of the nature of such Capital Improvements.

(b) Performance Standards. Tenant shall perform all changes, alterations, improvements or additions in and to all or any part of the Premises that require the consent of the Authority under Section 12.04(a) in accordance with the following guidelines and standards:

(i) Tenant shall prepare (at Tenant's sole cost and expense and under the supervision of a licensed architect or engineer, to the extent such changes require such supervision) and submit to the Authority in advance for the Authority's approval, comprehensive plans and specifications for such work;

(ii) After receipt of the Authority's approval to make such Capital Improvement(s), Tenant shall secure and deliver to the Authority copies of all necessary Governmental Approvals from the appropriate Governmental Authorities for such alterations, improvements, changes or additions, prior to implementing or undertaking such Capital Improvement(s);

(iii) All such approved changes, alterations, improvements or additions shall be made in compliance with all Legal Requirements;

(iv) All such approved changes, alterations, improvements or additions shall be performed by qualified and reputable contractor(s), in a good and workmanlike manner, free of defects, liens and encumbrances (including, but not limited to, mechanics' liens), in accordance with sound construction, engineering and architectural practices and procedures; and

(v) All such approved changes, alterations, improvements or additions shall be performed in compliance with the requirements of any insurance policy required to be maintained by Tenant hereunder.

(c) Title to Alterations. All alterations, improvements, changes and additions made to or with respect to the Premises by Tenant in accordance with this Agreement, including this Section 12.04 (whether with or without the prior written consent of the Authority), shall be considered the property of Tenant during the Term and shall remain upon and be deemed to constitute a part of the Premises upon expiration of the Term of this Agreement, in which event title will automatically transfer to the Authority in accordance with Article 25.

(d) Alterations Made Without Authority's Consent. Notwithstanding anything contained herein to the contrary, if Tenant shall make or permit to be made any alterations, additions, changes or improvements of or to the Premises without the Authority's

prior written approval, and the Authority reasonably determines that such alterations, improvements, changes or additions shall be removed, then Tenant, at its sole cost and expense, shall cause their prompt removal, and shall restore the affected portion of the Premises to their original condition, ordinary wear and tear excepted.

Section 12.05 Damage by Casualty. Notwithstanding anything contained in this Agreement to the contrary, Tenant's obligations to repair, replace or restore damage to all or any part of the Premises caused by arising out of Casualty shall be governed solely by the provisions of Article 10 of this Agreement

ARTICLE 13

COMPLIANCE WITH REQUIREMENTS

Section 13.01 Compliance with Requirements. Subject to the provisions of Section 6.03, Tenant shall, at its own cost and expense, during the Term, promptly comply with all Legal Requirements, Insurance Requirements and Governmental Approvals with respect to the Premises, whether or not the same involve or require any structural change or additions in or to the Premises, and irrespective of whether or not such changes or additions be required on account of any particular use to which the Premises, or any part thereof, may be put, without regard to the nature or cost of the work required to be done, extraordinary or ordinary, and without regard to the fact that Tenant is not the fee owner of the Premises. The Authority covenants and agrees, at its own cost and expense, to complete construction of (i) improvements contemplated by the CAFO Project and (ii) the DCA and ADA compliance requirements that exist as of the Closing Date. Such work shall be completed in accordance with all Legal Requirements and shall not materially interfere with the operations of the Racetrack. Prior to entering the Premises to perform any work, the Authority shall furnish to the Tenant evidence of its workmen's compensation insurance in statutory limits, and such other insurance coverage as are customarily carried in respect of work to be performed. Tenant agrees to cooperate with the Authority in performing its obligations under this Section 13.01. For the avoidance of doubt, Tenant is not required to comply with any provision of this Agreement, any other Racetrack Agreement, the Master Off Track Wagering Participation Agreement, or the Account Wagering Participation and Project Operating Agreement to the extent that such provision violates any Legal Requirement, including federal or state statute or regulation.

ARTICLE 14

ALCOHOLIC BEVERAGES; SPECIAL CONCESSIONAIRE STATUS

Section 14.01 Acknowledgements. The Authority acknowledges and agrees that Tenant may lease or otherwise allow the occupancy of portions of the Premises to Permittees who shall engage in the sale of alcoholic beverages to the general public for consumption on the Premises. Tenant acknowledges that because the Premises are owned by a public agency, each of the Permittees that intends to engage in the sale of alcoholic beverages to the general public for consumption on the Premises shall be required to obtain a Special Concessionaire Permit (a "Special Concessionaire Permit" from the New Jersey Division of Alcoholic Beverage Control ("NJABC")). Tenant acknowledges, however, that the Authority neither makes nor has made any

representation or warranty, express or implied with regard to the availability of a Special Concessionaire Permit for a particular Permittee, and that any consent or agreement to enter into a Special Concessionaire Agreement (as defined below) pursuant to the terms of this Article shall not constitute a waiver of the conditions or requirements provided herein in connection with the request for any future Special Concessionaire Agreement. Tenant will need to make arrangements to secure its own liquor license if the Harry M. Stevens Contract is terminated.

Section 14.02 Special Concessionaire Agreement: Certain Conditions. (a) Pursuant to N.J.A.C. 13:2-5.2, issuance of a Special Concessionaire Permit to a Permittee, is conditioned upon such Permittee entering into an agreement with the Authority authorizing the sale of alcoholic beverages. Accordingly, from time to time during the Term hereof, the Authority agrees that Tenant may submit to the Authority a written request for a Special Concessionaire Agreement (a “Special Concessionaire Request”). Each Special Concessionaire Request shall include the following:

(i) identification of the Permittee and the portion of the Premises to be leased or otherwise occupied by the applicant;

(ii) a copy of the information required to be provided to NJABC pursuant to N.J.A.C. 13:2-5.2(c)2-4, inclusive;

(iii) reasonable and customary banking and credit information relating to the proposed Permittee of a type and detail consistent with that customarily requested by Tenant under Concessions or other Use Agreements with similar operators at the Premises;

(iv) a form of letter of authorization and copy of Special Concessionaire Agreement in a form acceptable to the Authority (collectively, “Special Concessionaire Agreement”); and

(v) a check made payable to NJABC for the applicable permit fee.

(b) Provided that the information described in the Special Concessionaire Request is consistent with the nature and type of Concessions that are customary at horse racing or permitted special events, the Authority shall process the Special Concessionaire Request not later than fifteen (15) days after the delivery of a completed Special Concessionaire Request and enter into a Special Concessionaire Agreement with the Permittee. The Authority’s delivery of the Special Concessionaire Agreement shall be expressly conditioned upon the following:

(i) the concession shall be annual, with a right to automatic renewal so long as the lease or other Use Agreement pursuant to which the subject Permittee occupies the Premises remains in effect and there has been no revocation or unresolved suspension of the Special Concessionaire Permit;

(ii) the Authority may terminate or, subject to applicable law, agree to an assignment of the Special Concessionaire Agreement upon revocation or suspension of the Special Concessionaire Permit;

(iii) the subject Permittee shall provide to the Authority prior to occupancy a certificate evidencing insurance in amounts reasonably required by the Authority, including, without limitation, dram shop liability with a minimum limit of One Million Dollars (\$1,000,000) per occurrence;

(iv) the subject Permittee shall indemnify defend and hold harmless the Authority from any all Claims, judgments or causes of action arising from the operations of the subject Permittee, including, without limitation, Claims arising from the vending and consumption of alcoholic beverages on the Premises; and

(v) the subject Permittee shall keep in force and effect all applicable licenses related to the Special Concessionaire Permit and comply with applicable Legal Requirements and Insurance Requirements.

Section 14.03 Authority Cooperation. Subject to the terms of this Article 14 following the approval of a Permittee for a Special Concessionaire Agreement, the Authority shall cooperate in procuring the Special Concessionaire Permit from NJABC, including, without limitation, the delivery of a letter of authorization in accordance with N.J.A.C. 13:2-52(c)1. Tenant shall pay all reasonable and customary third party out-of-pocket costs incurred by the Authority in connection with the Special Concessionaire Agreement and cooperating with Tenant to procure the Special Concessionaire Permit.

ARTICLE 15

DISCHARGE OF LIENS

Section 15.01 No Lien on Fee. Tenant shall not create or permit to be created or suffer any lien, encumbrance or charge upon the Fee Estate or the reversionary interest of the Authority in the Improvements, and Tenant shall not suffer any other matter or thing whereby the Fee Estate or such reversionary interest of the Authority is encumbered or impaired.

Section 15.02 Discharge of Liens. If any construction, mechanic's, laborer's or materialmen's lien shall at any time be filed against the Fee Estate or any part thereof arising by, through, under or on behalf of Tenant, Tenant within thirty (30) days after notice of the filing thereof, shall cause the same to be discharged by paying the amount claimed to be due, by procuring the discharge of such lien by deposit or by bonding proceedings. If Tenant shall fail to take any of the foregoing required actions, within the period aforesaid, then, in addition to any other right or remedy, the Authority may, but shall not be obligated to, discharge or protect itself or the Fee Estate from same by bonding, payment or otherwise. The amount so paid by the Authority together with those third party costs and expenses incurred by the Authority directly in connection with discharging such lien, including reasonable attorney's fees and disbursements, together with interest thereon at the Overdue Rate from the respective dates of the Authority's making of the payment or incurring of such costs and expenses, shall constitute Additional Rent payable by Tenant under this Agreement and shall be paid by Tenant to the Authority on demand.

Section 15.03 No Implied Action By Authority; Liability. Nothing contained in this Agreement shall be deemed or construed in any way as constituting the consent or request of the Authority, express or implied to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to or repair of the Premises or the Leased Equipment or any part thereof, nor as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of materials that would give rise to the filing of any lien against the Authority's Fee Estate and notice is hereby given that the Authority shall not be liable for any work performed or to be performed at the Premises for Tenant and/or any Permittee or licensee, or for any materials furnished or to be furnished at the Premises for Tenant and/or any Permittee or licensee, and that no construction, mechanic's or other lien for such work or materials shall attach to or affect the Fee Estate of the Authority.

ARTICLE 16

ENVIRONMENTAL MATTERS

Section 16.01 Acknowledgements; Allocation of Responsibility; Waiver.

(a) Authority's Environmental Responsibility. Subject to the terms and conditions of this Article, the Authority and the Tenant acknowledge and agree that the Authority shall be responsible, at its sole cost and expense, for the Remediation (and otherwise complying with Environmental Laws) and any and all liabilities, claims, obligations, losses, costs, expenses, fines and penalties (including, without limitation attorneys', consultants' and other third party costs and expenses) relating to, resulting from or arising out of: (i) the design, engineering and construction of improvements contemplated by the CAFO Project, and the inspection, cleaning, repair, maintenance or replacement of the Pump House/Treatment Building, Elkwood Basin and pipes from the Pump House/Treatment Building to the TRWRA facility and associated equipment; (ii) the presence or Release or threatened Release of any Hazardous Material existing or occurring on, in or under or migrating into or onto or originating from the Premises prior to the Closing Date, whether known or unknown as of the Closing Date; (iii) violations of Environmental Laws resulting from contamination or conditions that existed or occurred on or at the Premises prior to the Closing Date, whether known or unknown as of the Closing Date, it being understood that the mere presence of Hazardous Materials above cleanup standards without more does not constitute a violation; (iv) Releases or threatened Releases of Hazardous Materials resulting from conditions created on or at the Premises after the Closing Date by the Authority or any Person acting for, by, through or under the Authority (except Tenant or any Affiliates of Tenant) and (v) natural resource damage claims asserted by any Person or Governmental Body in connection with (i), (ii), (iii) and (iv) ((i), (ii), (iii), (iv) and (v) being collectively referred to as the "Authority's Environmental Responsibility"); provided, however, that the Authority's Environmental Responsibility is subject to, and limited by, Tenant's Environmental Responsibility, Tenant's Environmental Covenants, Authority's Environmental Remediation Contribution, Section 16.05(h) and other applicable provisions of this Agreement.

(b) Tenant's Environmental Responsibility. Subject to the terms and conditions of this Article, the Authority and the Tenant acknowledge and agree that Tenant shall

be responsible, at its sole cost and expense, for the Remediation (and otherwise complying with Environmental Laws), for obtaining, updating and complying with all permits, licenses and plans, and any and all liabilities, claims, obligations, losses, costs, expenses, fines and penalties (including, without limitation attorneys', consultants' and other third party costs and expenses) relating to, resulting from or arising out of: (i) a Release of Hazardous Materials on or at the Premises that results from such materials being brought onto the Premises by Tenant or any subtenant or other Person acting for, by, through or under Tenant and its Affiliates, (ii) the discovery by Tenant, including in connection with Maintenance, Repair, Emergency Repair, Capital Repair and/or Capital Improvement, of Soils Media which are contaminated by Hazardous Materials at levels that require Remediation, but only to the extent needed in order to delineate the area of Remediation, and (iii) the discovery, in connection with any and all new structures investigated, designed, planned, developed, and/or constructed by Tenant for subsurface occupancy (e.g. parking garages, basements) of Soils Media, air, sediment, surface water and/or groundwater which are contaminated by Hazardous Materials at levels that require Remediation, but only to the extent needed in order to delineate the area of Remediation ((i), (ii) and (iii) being collectively referred to hereinafter as the "Tenant's Environmental Responsibility"); provided, however, that Tenant's Environmental Responsibility shall not include the Authority's Environmental Responsibility.

(c) The Authority and Tenant shall cooperate and consult with each other at all relevant times and in a timely and cost-effective manner so that the Authority or Tenant may perform any and all Remediation required pursuant to the terms of this Agreement, but without intentionally causing violation of any obligation of the Authority or Tenant under any Environmental Law. The Authority and Tenant shall make commercially reasonable efforts to eliminate and/or minimize the Authority's Environmental Responsibility costs and Tenant's Environmental Responsibility costs.

(d) In the event that a Party becomes obligated to conduct Remediation, then such Party shall engage an LSRP if required by law and/or regulation and perform such Remediation pursuant to the requirements of the SRRA and all other applicable laws and regulations; such Party shall (i) be allowed to perform such Remediation consistent with nonresidential direct contact soil cleanup criteria or other applicable standard that does not materially adversely affect the continued use of the Premises for purposes consistent with the current uses, uses permitted hereunder and uses permitted under applicable zoning and planning regulations; and (ii) shall be entitled to perform such Remediation in the most cost effective manner possible (but in all cases consistent with applicable Environmental Laws), including, without limitation, through the use of Environmental Controls. Use and/or implementation of Environmental Controls by a Party shall be limited to those which are reasonable and which do not materially adversely affect the use of the Property for the current uses, uses permitted hereunder, or uses permitted under applicable zoning and planning regulations.

(e) This Article 16 together with the indemnities provided herein and in Article 18 are intended by the Parties as the exclusive repository of the Parties' respective rights and obligations, as between the Parties, with respect to any Environmental Claim or Remediation required under any Environmental Law. Except as to the right to enforce the terms and conditions of this Agreement, the Authority and Tenant each waives, relinquishes, and agrees to forbear from exercising any rights, claims, or causes of action for any loss, contribution,

indemnity, damages, or other harm with respect to the Premises, either Party may have or that may hereafter accrue against the other under any Environmental Law, known and unknown, including without limitation the SRRA, Spill Act, ISRA, CERCLA, RCRA and the common law.

(f) Without limiting the obligations of the Authority set forth in this Article 16 or Article 18, the Authority covenants and agrees, at its sole expense, to indemnify, defend and hold the Tenant Indemnified Parties harmless from and against all direct and actual (but not arising out of the proven gross negligence or misconduct of any Tenant Indemnified Party, as the case may be), liability, losses, damages (including, but not limited to, damages arising from the death of any person or any accident, injury, loss and any damage whatsoever caused to any person or to the property of any person), demands, costs, claims, actions or expenses (including reasonable attorneys' fees and court costs) arising out of or directly resulting from: (i) the Authority's Environmental Responsibility and (ii) the actions or inactions (but only if the Authority was otherwise obligated to act) with respect to the Authority's failure to perform any of its obligations under this Article 16. The foregoing shall survive the Closing Date.

(g) Without limiting the obligations of Tenant set forth in this Article 16 or Article 18, Tenant covenants and agrees, at its sole expense, to indemnify, defend and hold the Authority Indemnified Parties harmless from and against all direct and actual (but not arising out of the proven gross negligence or misconduct of any Authority Indemnified Party, as the case may be), liability, losses, damages (including, but not limited to, damages arising from the death of any person or any accident, injury, loss and any damage whatsoever caused to any person or to the property of any person), demands, costs, claims, actions or expenses (including reasonable attorneys' fees and court costs) arising out of or directly resulting from: (i) the Tenant's Environmental Responsibility and (ii) the actions or inactions (but only if the Tenant was otherwise obligated to act) with respect to the Tenant's failure to perform any of its obligations under this Article 16. The foregoing shall survive the Closing Date.

(h) Nothing in this Lease shall obligate the Authority or Tenant to more than the least stringent remedial action or other resolution necessary to comply with Environmental Laws which does not unreasonably disrupt or restrict Tenant's business and does not materially adversely affect the use of the Property for the current uses, uses permitted hereunder, or uses permitted under applicable zoning and planning regulations.

(i) Nothing in this Lease obligates the Authority or Tenant to investigate or remediate any environmental condition for which neither the Authority nor the Tenant are obligated to investigate or remediate under the applicable Environmental Laws.

Section 16.02 No Third Party Rights. Nothing in this Article 16 shall be deemed to create any rights of contribution or subrogation by any insurer or third party, or any third party beneficiary rights, provided, however, that such rights shall inure to Affiliates, as applicable.

Section 16.03 Intentionally Omitted.

Section 16.04 Authority's Environmental Covenants.

(a) The Authority shall promptly notify Tenant if any lien described in this Article 16 is attached to the Premises or any portion thereof, any revenues or personal property

owned by the Authority and located in or on the Premises, as a result of the chief executive of the New Jersey Spill Compensation Fund expending monies from said fund to pay for Environmental Damages and/or Cleanup and Removal Costs, arising from an intentional or unintentional action or omission of the Authority or any previous owner and/or operator of said real property, including, but not limited to, the Premises, resulting in the Release of Hazardous Material, into the waters of the State or onto the lands of the State and into waters outside the jurisdiction of the State when damage may result to the lands, water, fish, shellfish, wildlife, biota, air and other natural resources owned, managed, held in trust or otherwise controlled by and within the jurisdiction of the State.

(b) The Authority shall promptly notify Tenant if the Authority receives a summons, notice of violation, citation, directive, letter, complaint or other communication, written or oral, from the NJDEP or any other party concerning any intentional or unintentional action on the Authority's part on or after the date hereof resulting in a Release of Hazardous Materials, from or on the Premises into the waters or onto the lands of the State, or into the waters outside the jurisdiction of the State resulting in damage to the lands, waters, fish, shellfish, wildlife, biota, air and other natural resources owned, managed, held in trust or otherwise controlled by and within the jurisdiction of the State.

(c) The Authority shall inform Tenant of, and provide Tenant with a reasonable opportunity to participate in, any discussions, proposals, proceedings, negotiations or requests (whether or not initiated by the Authority) to amend, modify or otherwise alter any permit, approval, consent order or other agreement involving the environmental conditions at or around the Premises or operations on the Premises.

(d) The Authority shall maintain in full force and effect any and all permits and approvals relating to the Premises not expressly assigned to Tenant or expressly identified herein as within Tenant's responsibilities.

(e) Landlord shall not cause on, in or under the Premises, whether as a result of Landlord's intentional or unintentional action, a Release of a Hazardous Material into waters of the State or onto the lands from which it might flow or drain into said waters, or into waters outside the jurisdiction of the State, where damage may result to the lands, waters, fish, shell fish, wildlife, biota, air and other resources owned, managed, held in trust or otherwise controlled by the State, unless said Release is not in violation of law or is pursuant to and in compliance with the conditions of a permit issued by all appropriate Governmental Authorities. If any of the foregoing is caused or permitted by Landlord in violation of law, Landlord shall promptly rectify the same by Remediation in accordance with the terms of Section 16.01(d).

Section 16.05 Tenant's Environmental Covenants. Notwithstanding anything to the contrary contained in this Agreement:

(a) Tenant will not use the Premises, nor will Tenant permit the Premises to be used, for the purpose of refining, producing, storing, handling, transferring, processing, transporting, generating, manufacturing, treating or disposing of Hazardous Materials and/or Hazardous Wastes, except in conformance with all applicable Environmental Laws.

(b) Tenant shall furnish the NJDEP with all the information required by N.J.S.A. 58:10-23.11d if the Premises are ever used as a Major Facility after the date hereof.

(c) Tenant shall not cause on, in or under the Premises, whether as a result of Tenant's intentional or unintentional action, a Release of a Hazardous Material into waters of the State or onto the lands from which it might flow or drain into said waters, or into waters outside the jurisdiction of the State, where damage may result to the lands, waters, fish, shell fish, wildlife, biota, air and other resources owned, managed, held in trust or otherwise controlled by the State, unless said Release is not in violation of law or is pursuant to and in compliance with the conditions of a permit issued by all appropriate Governmental Authorities. If any of the foregoing is caused or permitted by Tenant in violation of law, Tenant shall promptly rectify the same by Remediation in accordance with the terms of Section 16.01(d).

(d) If the Premises are used by Tenant as a Major Facility, Tenant, shall duly file or cause to be duly filed with the Director of the Division of Taxation in the New Jersey Department of the Treasury, a tax report or return and shall pay or make provision for the payment of all taxes due therewith, all in accordance with and pursuant to N.J.S.A. 58:10-23.11h.

(e) In the event that there shall be filed a lien against the Premises or any portion thereof by the NJDEP (other than a lien arising in connection with the Authority's Environmental Responsibility) pursuant to and in accordance with the provisions of N.J.S.A. 58:10-23.11 g as a result of the chief executive of the New Jersey Spill Compensation Fund having expended monies from said fund to pay for Environmental Damages and/or Cleanup and Removal Costs or by any federal agency pursuant to federal law, arising from an intentional or unintentional action of Tenant, on or after the date hereof, resulting in a Release of Hazardous Materials by Tenant into the waters of the State or onto lands from which it might flow or drain into said waters, then Tenant shall, within sixty (60) days from the date that Tenant is given notice that the lien has been placed against the Premises or within such shorter period of time in the event that the State has commenced steps to cause the Premises or any portion thereof to be sold pursuant to the lien, either (i) pay the claim and remove the lien from the Premises or any portion thereof or (ii) furnish (x) a bond reasonably satisfactory to the Authority in the amount of the claim out of which the lien arises, (y) a cash deposit in the amount of the claim out of which the lien arises, or (z) other security reasonably satisfactory to the Authority in an amount sufficient to discharge the claim out of which the lien arises. The posting of a bond, cash deposit or other security shall not limit the right of Tenant to contest the lien claim to the extent permitted by law.

(f) Tenant shall promptly notify the Authority if any lien described in this Article 16 is attached to the Premises (other than a lien arising in connection with the Authority's Environmental Responsibility), any revenues generated by the Premises or personal property owned by Tenant and located in or on the Premises, as a result of the chief executive of the New Jersey Spill Compensation Fund expending monies from said fund to pay for Environmental Damages and/or Cleanup and Removal Costs, arising from an intentional or unintentional action of Tenant, resulting in a Release of Hazardous Materials into the waters of the State or onto the lands of the State or into waters outside the jurisdiction of the State when damage may result to

the lands, water, fish, shellfish, wildlife, biota, air and other natural resources owned, managed, held in trust or otherwise controlled by and within the jurisdiction of the State.

(g) Tenant shall promptly notify the Authority if Tenant receives a summons, citation, directive, notice of violation, written complaint, letter or other communication, written or oral, in any way regarding Hazardous Materials, from or on the Premises into the waters or onto the lands of the State, or into the waters outside the jurisdiction of the State resulting in damage to the lands, waters, fish, shellfish, wildlife, biota, air and other natural resources owned, managed, held in trust or otherwise controlled by and within the jurisdiction of the State and Tenant shall promptly provide copies of all related documents to the Authority.

(h) Tenant shall not voluntarily collect and/or analyze samples of air, soil, sediment, groundwater and/or other media unless and to the extent required in connection with a bona fide Maintenance, Repair, Emergency Repair, Capital Repair, and/or Capital Improvement of the Premises by Tenant or with permission of the Authority. In the case of Capital Improvements, Tenant shall provide the Authority with ten (10) working days written notice prior to sampling and shall not collect any samples if Authority reasonably objects to such samples being taken within such ten (10) working day period. Upon request by the Authority, Tenant shall promptly provide the Authority copies of all sampling data and direct Tenant's consultants and laboratories to provide results directly to the Authority.

(i) If Tenant collects samples and/or obtains other information as required in connection with a bona fide Maintenance, Repair, Capital Repair, and/or Emergency Repair of the Premises, the Authority shall be responsible for costs of all Remediation, if any, which are required due to said sampling and/or other information except to the extent costs are Tenant's Environmental Responsibility (i.e. Tenant's Release; Soils Media; and/or new structures for subsurface occupancy).

(j) If Tenant collects samples and/or obtains other information as required in connection with a Capital Improvement not directly related to a bona fide Maintenance, Repair, Capital Repair, and/or Emergency Repair, then the Authority shall be responsible for costs of all Remediation, if any, required due to said sampling and/or other information except to the extent costs are Tenant's Environmental Responsibility (i.e. Tenant's Release; Soils Media; and/or new structures for subsurface occupancy) and subject to, and limited by, the Authority's Environmental Remediation Contribution. Accordingly, in relation to such Remediation discovered in the context of Capital Improvements, if the costs of such Remediation are in the Authority's reasonable opinion likely to total more than the maximum available under the Authority's Environmental Remediation Contribution (i.e. \$2 million, \$4 million or \$6 million depending on the amount Tenant has incurred in Capital Improvements), the Authority shall notify Tenant of the fact and ask Tenant if Tenant is prepared to pay such costs to the extent these exceed the Authority's Environmental Remediation Contribution. Within 30-days of receiving such notice, Tenant may confirm in writing that it agrees to pay such excess costs, in which case this Agreement remains in full force and effect. If Tenant, within such 30-day period, does not confirm in writing that it agrees to pay such excess costs, the Authority has a further period of thirty (30) days (to commence immediately following the expiry of the prior 30-day period) to provide written notice to tenant of its decision to either pay such excess costs (in which case this Agreement remains in full force and effect except that the Authority's

Environmental Remediation Contribution shall be zero), or terminate this Agreement. If the Authority elects to terminate this Agreement, such termination shall be effective on the date of such notice without any further action on the part of any Party and there shall be no further liability or obligation of either Party hereunder except as expressly set forth in this Agreement.

(k) Without limiting any other provisions of this Agreement, Tenant represents, covenants and agrees that it will not enter into, any lease, contract, agreement or other arrangement, written or oral, with or without consideration, of whatever sort and however denominated for the use and/or occupancy of any portion of the Premises which does not provide that the use and occupancy thereunder shall not involve, directly or indirectly, in whole or in part, the generation, manufacture, refining, transportation, treatment, storage, handling or disposal of Hazardous Materials or Hazardous Wastes on-site, above ground or below ground, except in compliance with all applicable Environmental Laws.

(l) In relation to the CAFO Project, and subject to Authority's Environmental Responsibility, Tenant covenants and agrees as follows:

(i) Tenant shall implement the Best Management Practices listed in the Comprehensive Waste Management Plan attached hereto as Exhibit Q as the same may be amended from time to time;

(ii) Tenant shall be responsible for stormwater drain management, including hand raking material from under the Racetrack safety rail back onto the course as necessary, working the material by machine to the outside of the Racetrack main track so it does not collect at the rail, periodically vacuuming out the storm water drains and system around the Racetrack and to Branchport Creek and all other outfalls designed to prevent the silt from going to the Branchport Creek and/or other outfalls (silt screens over the drains may be used when the track is closed for the winter and in the summer if necessary);

(iii) Tenant shall take "whatever additional actions are necessary" as defined in paragraph 57 of the CAFO Project Consent Order and "all reasonable steps" as defined in paragraph 69.b of the CAFO Project Consent Order to the extent such actions and steps are Maintenance, Repairs, Emergency Repairs and/or Capital Repairs of the CAFO area, Racetrack, and/or Infield Lagoon, including drains, pipes, screens, and catch basins for runoff to and/or from those areas;

(iv) Tenant shall cooperate with, and provide access to, the Authority and the Authority's representatives to conduct and complete all Water Quality Monitoring Requirements in paragraphs 58 through 60 of the CAFO Project Consent Order and as otherwise requested by any regulatory agency;

(v) Tenant shall timely provide information regarding Maintenance of the CAFO area, Racetrack, and/or Infield Lagoon, including drains, pipes, screens, and catch basins for runoff from those areas, in order to allow the Authority to timely submit the information in Quarterly Progress Reports in paragraphs 63 and 63 of the CAFO Project Consent Order and as otherwise requested by any regulatory agency;

(vi) Tenant shall be responsible for paying the costs described in paragraph 2 of the Two Rivers Service Agreement (\$200,000 per annum due January 1, 2013 through January 1, 2019 and \$100,000 per annum due January 1, 2020 through January 1, 2029). Provided no Tenant Event of Default has occurred and is continuing, the Authority agrees to pay such costs on behalf of Tenant provided, however, that Tenant shall reimburse the Authority for all such payments from Net Operating Profits (to the extent available) within five (5) Business Days of the Net Operating Profits being determined each year in accordance with Section 2.03(b), and Tenant shall make no distributions or other payments to its members or their Affiliates until the Authority has been reimbursed in full for all such payments.

(vii) Tenant shall at its sole cost timely pay the first THREE HUNDRED THOUSAND DOLLARS (\$300,000) described in paragraph 4 of the Two Rivers Service Agreement which are due and payable to TRWRA during each Calendar Year throughout the Term. The Authority shall at its sole cost timely pay the next TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) described in paragraph 4 of the Two Rivers Service Agreement which are due and payable to TRWRA during each Calendar Year throughout the Term. Tenant and the Authority agree to share equally (\$1 for \$1) any amount described in paragraph 4 of the Two Rivers Services Agreement which are due and payable each Calendar Year in excess of FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$550,000). Tenant shall provide TRWRA access to the Premises for all activities authorized by the Two Rivers Service Agreement including paragraph 5 thereof. Tenant shall be responsible for all costs, fees and other damages associated with continued proper operation and maintenance of the Premises at any and all times TRWRA discontinues flow pursuant to paragraph 5 of the Two Rivers Service Agreement and the Authority shall have no obligation or liability to Tenant in the event that TRWRA discontinues flow.

(viii) Tenant shall defend and indemnify Authority with respect to all legal and/or regulatory actions, including pursuant to the Stormwater Permit and CAFO Project Consent Order, to the extent they relate to Maintenance, Repairs, Emergency Repairs and/or Capital Repairs of the CAFO area, Racetrack, and/or Infield Lagoon, including drains, pipes, screens, and catch basins for runoff to and/or from those areas.

Except as otherwise set forth above, the Authority retains responsibility for the design, installation and operation of the CAFO wastewater collection system. To compensate the Authority for assuming such obligations, Tenant agrees to pay the Authority eighty five thousand dollars (\$85,000) per annum (as adjusted below) as Additional Rent, such amount to be paid to the Authority on or prior to January 1st each year commencing with a pro rata amount to be paid by Tenant on Closing for the 2012 calendar year. The Parties acknowledge that the Authority's obligations referred to in this sub-paragraph involve certain risks of changing prices. Therefore, Tenant agrees that a minimum annual price increase shall be implemented using the Consumer Price Index for All Urban Consumers - Other Goods and Services as published by the U.S. Department of Labor, Bureau of Labor Statistics.

(m) Notwithstanding anything in this Agreement to the contrary, in the event that the NJDEP determines that all or portions of the Premises disturbed by Tenant, including in connection with any Capital Improvement, contains Soils Media and that an engineering control in the form of a cap (a "Cap") is an appropriate Remediation for such material as a consequence

of any Hazardous Materials contained therein or as otherwise required by any Environmental Law, the costs for construction of such Cap shall be solely the Tenant's and shall not constitute part of the Authority's Environmental Responsibility. Further, in the event that NJDEP determines that maintenance and monitoring activities are necessary in order to ensure protectiveness of the engineering controls, then such activities shall be undertaken and paid for by Tenant. Furthermore, if Tenant elects to excavate and to relocate on the Premises or send for disposal outside of the Premises any Soils Media that under applicable Environmental Laws can remain in its existing location on the Premises under a Cap, Tenant shall perform and pay the full costs of such excavation and, relocation or offsite disposal and/or reuse, including, without limitation, sampling, testing, excavation, storage, loading, transportation, insurance, unloading and tipping fees to the disposal facility, it being understood and agreed that such activities shall in no event constitute Authority's Environmental Responsibility for any purpose hereunder. The Authority shall have the right, and shall provide the Authority with the opportunity, to approve and/or disapprove of any and all locations of disposal and/or reuse of Soils Media from the Premises, the Authority's approval not be unreasonably withheld. Upon the request of Tenant, Authority shall make commercially reasonable efforts to accommodate the re-use of Soils Media from the Premises on the Premises at no cost or expense to the Authority, but Authority shall have no liability whatsoever in the event that such Soils Media cannot reasonably be re-used at the Premises and all costs of off-site disposal of Soils Media shall in all events be paid in full by Tenant.

(n) Tenant shall not make any Capital Improvements in those areas of the Premises highlighted on the map attached hereto as Exhibit B.

(o) Tenant shall not investigate, design, plan, develop and/or construct structures on the Premises for subsurface occupancy (e.g. parking garages, basements), unless and except to the extent such structures exist on the Premises on the Closing Date.

(p) Tenant shall at its sole cost arrange to create and display advertisements as set forth in, and in compliance with, Recycling ACO, as it may be amended and to the extent it pertains to the Premises, including arranging to create and display advertisements at and about the Premises (paragraph 4), provide clearly marked recycling and trash receptacles in parking areas of the Premises (paragraph 5) and purchasing and distributing 100 recycling containers throughout the Premises (paragraph 6). Tenant shall at its sole cost and expense provide bi-annual Progress Reports to the Authority as described in Recycling ACO paragraph 19 regarding activities relating to the Premises. Tenant's Progress Reports are due to the NJDEP as per Recycling ACO paragraph 19. Tenant shall defend any enforcement action citing the Recycling ACO to the extent arising out of the Premises and promptly pay all penalties to the extent arising out of the Premises.

(q) Tenant shall cause any Permittee or any other Person or entity using and/or occupying all or any part of the Premises to comply with the representations, warranties and covenants contained in this Article 16, including, without limitation, by including them in the applicable sublease or other use and/or Use Agreement and taking reasonable actions to enforce such sublease or agreement.

ARTICLE 17

AUTHORITY NOT LIABLE FOR INJURY OR DAMAGE

Section 17.01 Injury or Damage to Person or Property. The Authority shall not in any event whatsoever be liable for any injury or damage to any property or to any Person (including Tenant) happening on the Premises and its appurtenances, nor for any injury or damage to the Premises and its appurtenances or to any property belonging to Tenant or any other Person which may be caused by any fire, breakage, leakage or defect or by water, rain or snow that may leak into, issue or flow from any part of the Premises or by the use, misuse or abuse of the Premises, including any of the elevators, hatches, openings, installations, stairways or hallways, or which may arise from any other cause on the Premises, except to the extent caused by the negligence or wrongful act or omission to act (where there is a duty to act under this Agreement) of the Authority, its officers, agents, servants, employees, lessees, licensees or contractors.

Section 17.02 No Liability. Except as otherwise provided in this Agreement, the Authority shall not be liable to Tenant or to any other Person for any failure of water supply, gas or electric current, nor for any injury or damage to any property of Tenant or of any other Person or to the Premises caused by or resulting from gasoline, oil, steam, gas, electricity, or hurricane, tornado, flood, wind or similar storms or disturbances, or water, rain or snow which may leak or flow from the street, sewer, mains, or subsurface area or from any part of the Premises, or leakage of gasoline or oil from pipes, appliances, sewer or plumbing works therein, of from any other place, or caused by any public or quasi-public work (other than the Authority), except to the extent any of the foregoing shall have resulted from the negligence or wrongful act or omission to act (where there is a duty to act under this Agreement) of the Authority, its officers, agents, servants, employees, lessees, licensees or contractors.

Section 17.03 Risk of Loss. In addition to the provisions of Section 17.01 and 17.02 hereof, in no event shall the Authority be liable to Tenant or to any other Person for any injury or damage to any property of Tenant or of any other Person or to the Premises, arising out of any sinking, shifting, movement, subsidence, failure in load-bearing capacity of, or other matter of difficulty related to, the soil, or other surface or subsurface material, on the Premises, except to the extent any of the foregoing shall result from the negligence or wrongful act or omission to act (where there is a duty to act under this Agreement) of the Authority or its officers, agents, servants, employees, lessees, licensees or contractors, it being expressly understood and agreed that Tenant shall assume and bear all risk of loss with respect thereto.

ARTICLE 18

INDEMNIFICATION

Section 18.01 Tenant Indemnification

(a) Indemnification by Tenant. Subject to any applicable provisions of this Agreement or any other Racetrack Agreement to the contrary, Tenant covenants and agrees, at its sole cost and expense, to indemnify, protect, defend and hold the Authority Indemnified Parties harmless from and against all direct and actual (but not arising out of the proven gross

negligence or misconduct of any of the Authority Indemnified Parties), liability, losses, damages (including, but not limited to, damages arising from the death of any person or any accident, injury, loss, and any damage whatsoever caused to any person or to the property of any person that shall occur on the Premises, demands, costs, claims, actions, or expenses (including reasonable attorneys' fees and court costs) arising out of, or directly resulting from Tenant's actions or inactions with respect to (i) the use, non-use, possession, occupancy, conduct, management, planning, design, construction, repair, maintenance, installation, financing, or rebuilding of the Premises; (ii) Tenant's failure to perform its obligations under the terms of this Agreement or the failure of any Permittee (other than an Authority Indemnified Party) to perform its obligations under any agreements governing the Permittee's use, occupancy or activities on the Premises; (iii) any activities of Permittees (other than an Authority Indemnified Party) on the Premises not expressly permitted under this Agreement or the other Racetrack Agreements or expressly approved in writing by the Authority; (iv) the condition of the Premises; (v) any breach of warranty or misrepresentation by Tenant in this Agreement, or (vi) Tenant's failure to comply with the terms or conditions of any Racetrack Agreement; provided, however, that Tenant shall not under any circumstances be liable to the Authority for any damages excluded under Section 30.06.

(b) Implementation of Tenant Indemnification Obligations; Recapture. In any situation in which the Authority Indemnified Parties are entitled to receive and desire defense and/or indemnification by Tenant, the Authority Indemnified Parties shall give prompt notice of such situation to Tenant. Failure to give prompt notice to Tenant shall not relieve Tenant of any obligation to indemnify the Authority Indemnified Parties. Upon receipt of such notice, Tenant (i) shall resist and defend any Claim, action or proceeding requiring indemnification on behalf of the Authority Indemnified Parties, including the employment of counsel selected by Tenant and reasonably acceptable to the affected Authority Indemnified Parties, (ii) shall pay all reasonable expenses incurred in connection with such defense, and (iii) shall have the right to negotiate and consent to settlement of such Claim, subject to the Approval of the Authority, which approval shall not be withheld or delayed if (x) the settlement does not include or require any admission of liability or culpability by the Authority Indemnified Parties, (y) an effective written release of liability for the Authority Indemnified Parties from the party to the Claim with whom such settlement is being made is obtained; and (z) an effective written dismissal with prejudice with respect to all Claims made by such settling party against the Authority Indemnified Parties in connection with such Claim is obtained. Each of the Authority Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such separate counsel shall be at the expense of the Authority Indemnified Party so electing, unless the employment of such counsel is approved by Tenant, which approval may be withheld in Tenant's sole discretion. Tenant shall not be liable for any settlement of any such action effected without its approval, but if there is a settlement approved by Tenant, or if there is a final judgment against Tenant in any such action, Tenant agrees to defend, indemnify and hold harmless the Authority Indemnified Parties from and against any loss or liability by reason of such settlement or judgment of a Claim for which the Authority Indemnified Parties are entitled to indemnification hereunder. If Tenant indemnifies or holds any Authority Indemnified Party harmless from any matter later determined to have arisen from the gross negligence or willful misconduct of any of the Authority Indemnified Parties, such Authority Indemnified Party shall promptly pay to Tenant upon demand all amounts incurred by Tenant in connection with such indemnification and/or hold harmless obligation.

(c) Survival. This indemnity by Tenant shall survive the expiration or termination of this Agreement.

(d) Limitation. Notwithstanding the foregoing, the duty of Tenant to pay any indemnified Claim shall be reduced by the amount any Authority Indemnified Party recovers from any other party regarding the indemnified Claim (or, if recovered after payment by Tenant, such amount promptly shall be paid to Tenant).

Section 18.02 Authority Indemnification

(a) Indemnification by Authority. Subject to any applicable provisions of this Agreement or any other Racetrack Agreement to the contrary, the Authority covenants and agrees, at its sole expense, to indemnify, protect and hold the Tenant Indemnified Parties harmless from and against all direct and actual (but not arising out of the proven gross negligence or misconduct of any Tenant Indemnified Party, as the case may be), liability, losses, damages (including, but not limited to, damages arising from the death of any person or any accident, injury, loss and any damage whatsoever caused to any person or to the property of any person), demands, costs, claims, actions or expenses (including reasonable attorneys' fees and court costs) arising out of or directly resulting from the Authority's actions or inactions (but only if the Authority was otherwise obligated to act) with respect to (i) its ownership, operation or management of the Premises (except to the extent arising out of or resulting from Tenant's failure to perform its obligations under the terms of this Agreement or any other Racetrack Agreement), (ii) the failure to perform any of the Authority's obligations under this Agreement or any other Racetrack Agreement; or (iii) any breach of warranty or misrepresentation by Authority in this Agreement; provided, however, that the Authority shall not under any circumstances be liable to Tenant for any damages excluded under Section 30.06.

(b) Implementation of Authority Indemnification Obligations; Recapture. In any situation in which any of the Tenant Indemnified Parties are entitled to receive and desire defense and/or indemnification by the Authority, the Tenant Indemnified Parties so indemnified shall give prompt notice of such situation to the Authority. Failure to give prompt notice to the Authority shall not relieve the Authority of any obligation to indemnify the Tenant Indemnified Parties, unless such failure to give prompt notice materially impairs the Authority's ability to defend or materially increases the cost thereof due to such delay. Upon receipt of such notice, the Authority (i) shall resist and defend any Claim, action or proceeding requiring indemnification on behalf of the Tenant Indemnified Parties, including the employment of one counsel reasonably acceptable to the Tenant Indemnified Parties, (ii) shall pay all reasonable expenses incurred in connection with such defense and (iii) shall have the right to negotiate and consent to settlement of an indemnified Claim, subject to the reasonable approval of Tenant (except that no such approval shall be required with respect to a settlement that relieves Tenant of all liability with respect to the related Claim). Each of the Tenant Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such separate counsel shall be at the expense of the Tenant Indemnified Party electing same, unless the employment of such counsel is approved by the Authority, which approval may be withheld in the Authority's sole discretion. The Authority shall not be liable for any settlement of any such action effected without its consent, but if settled with the consent of the Authority or if there is a final judgment against the Authority in any such

action, the Authority agrees to defend, indemnify and hold harmless the Tenant Indemnified Parties from and against any loss or liability by reason of such settlement or judgment for which the Tenant Indemnified Parties are entitled to indemnification hereunder. If the Authority indemnifies or holds any Tenant Indemnified Party harmless from any matter later determined to have arisen from the gross negligence or misconduct of any of the Tenant Indemnified Parties, such Tenant Indemnified Party shall promptly pay to the Authority upon demand all amounts incurred by Authority in connection with such indemnification and/or hold harmless obligation.

(c) Survival. This indemnity by the Authority shall survive the expiration or termination of this Agreement.

(d) Limitation. Notwithstanding the foregoing, the duty of the Authority to pay any indemnified Claim shall be reduced by the amount any Tenant Indemnified Party recovers from any other party regarding the indemnified Claim or, if recovered after payment by the Authority, such amount promptly shall be paid to the Authority.

ARTICLE 19

AUTHORITY'S RIGHT OF ACCESS AND INSPECTION

Section 19.01 No Interference. In addition to any rights granted to the Authority under the Racetrack Agreements, the Authority (and its Permittees) may at any time, without interfering with the uses and businesses conducted on the Premises, and upon reasonable advance notice, enter onto the Premises on a twenty-four (24) hours per day, year-round basis, to the extent necessary to permit Authority to exercise its rights and to perform its obligations under this Agreement and the Racetrack Agreements on a twenty-four (24) hours per day, year-round basis. Except in the event of an emergency, if the Authority exercises its right to access the Premises, the Authority will comply with reasonable security requirements of Tenant in connection with such access including without limitation being accompanied by a representative of Tenant when entering the Premises.

Section 19.02 Release of the Authority. Nothing in this Article 19 or elsewhere in this Agreement shall imply any duty upon the part of the Authority to do any work required to be performed by Tenant hereunder and performance of such work by the Authority shall not constitute a waiver of Tenant's default in failing to perform same.

ARTICLE 20

AUTHORITY'S RIGHT TO PERFORM CERTAIN TENANT'S COVENANTS

Section 20.01 Right Following Event of Default. If any Tenant Event of Default arising from a failure of Tenant to comply with the requirements of this Agreement shall exist and be continuing under Article 8 (Insurance) or Article 12 (Maintenance, Repair and Alterations), the Authority, upon giving the Tenant 30-days' prior written notice, without waiving or releasing Tenant from any obligation of Tenant contained therein, may (but shall be under no obligation to) perform such obligation on Tenant's behalf.

Section 20.02 Right to Reimbursement. All sums paid by the Authority and all costs and expenses directly incurred by the Authority in connection with the exercise of the Authority's right under Section 20.01 above (together with interest thereon accruing at the Overdue Rate from the respective dates of the Authority's making of each such payment or incurring of each such cost and expense until the date of repayment to the Authority), shall be paid by Tenant to the Authority on written demand and delivery of a breakdown of the payment(s) made and costs and expenses incurred and reasonable support therefor. Any payment or performance by the Authority pursuant to the foregoing provisions of this Article shall not be nor be deemed to be a waiver or release of any rights of the Authority under this Agreement or pursuant to law.

ARTICLE 21

EVENTS OF DEFAULT CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 21.01 Tenant Events of Default. Each of the following events shall be a "Tenant Event of Default" hereunder:

(a) if Tenant shall fail to pay any item of Rent or any part thereof, other than Tenant's PILOT Payments, when the same shall become due and payable and such failure shall continue for fifteen (15) days after written notice thereof from the Authority to Tenant;

(b) if Tenant shall fail to pay any of Tenant's PILOT Payments when the same shall become due and payable and such failure shall continue for five (5) days after written notice thereof from the Authority to Tenant;

(c) if Tenant shall fail to observe or perform one or more of the other terms, covenants or agreements contained in this Agreement to be observed or performed by Tenant (other than those expressly subject to clauses (a), (b), (d) and (e) of this Section 21.01) and such failure shall continue for a period of thirty (30) days after written notice thereof by the Authority to Tenant specifying such failure unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature be performed, done or removed, as the case may be, within such thirty (30) day period, in which case no Tenant Event of Default shall be deemed to exist so long as Tenant shall have commenced curing the same within such thirty (30) day period and shall diligently, continuously and in good faith prosecute the same to completion;

(d) if there shall be a Transfer without compliance with the provisions of this Agreement applicable thereto;

(e) Tenant shall cease to continue the operation and management of Monmouth Park as a high-class thoroughbred racetrack and such default continues for a period of fifteen (15) days after written notice thereof by the Authority to the Tenant; or

(f) Tenant shall fail to observe or perform one or more of the other terms, covenants or agreements contained in any Racetrack Agreement to be observed or performed by Tenant and such failure shall continue after any applicable notice or grace period provided for in the applicable Racetrack Agreement has tolled.

Section 21.02 Authority Events of Default. Each of the following events shall be an “Authority Event of Default” hereunder:

(a) if the Authority shall fail to advance any of the sums required to be advanced by the Authority under Section 2.05 hereof;

(b) if the Authority shall fail to complete construction of improvements contemplated by the CAFO Project on or before August 31, 2012, subject to any lawful extension;

(c) if the Authority shall fail to pay any portion of the Authority’s Environmental Remediation Contribution when the same shall become due and payable and such failure shall continue for thirty (30) days after notice thereof from Tenant to the Authority;

(d) if the Authority shall fail to observe or perform one or more of the other terms, covenants or agreements contained in this Agreement to be observed or performed by the Authority (other than those expressly subject to clause (a) and (b) of this Section 21.02) and such failure shall continue for a period of thirty (30) days after written notice by Tenant to the Authority specifying such failure unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature reasonably be performed, done or removed, as the case may be, within such thirty (30) day period, in which case no Authority Event of Default shall be deemed to exist so long as (i) the Authority shall have commenced curing the same within such thirty (30) day period and shall diligently, continuously and in good faith prosecute the same to completion and (ii) such failure to cure shall not materially impair the Tenant’s operations at the Racetrack.

Section 21.03 Authority Termination Rights. (a) Upon the occurrence and during the continuance of a Tenant Event of Default, the Authority shall have the right to terminate this Agreement by written notice to Tenant.

(b) If an order for relief is entered or if a stay of proceeding or other act becomes effective in favor of Tenant or Tenant’s interest in this Agreement in any proceeding which is commenced by or against Tenant under the present or any future federal Bankruptcy Code or any other present or future applicable federal, state or other insolvency statute or law, the Authority shall be entitled to invoke any and all rights and remedies available to it under such Bankruptcy Code, statute, law or this Agreement, including, without limitation, such rights and remedies as may be necessary to adequately assure the complete and continuous future performance of Tenant’s obligations under this Agreement. Following the expiration of a stay in any of the insolvency proceedings described hereinabove, or if any trustee appointed in any such proceedings, Tenant or Tenant as debtor-in-possession shall fail to assume Tenant’s obligations under this Agreement within the period prescribed therefor by law or the court, or if the court determines that said trustee, Tenant or Tenant as debtor-in-possession has failed to provide adequate protection of the Authority’s right, title and interest in and to the Premises or adequate assurance of the complete and continuous future performance of Tenant’s obligations under this Agreement, the Authority, to the extent permitted by order of the court having jurisdiction over such proceeding, shall have the right, at its election, to terminate this Agreement on ten (10) Business Days’ prior written notice to Tenant, Tenant as debtor-in-possession or said trustee and

upon the expiration of said ten (10) Business Day period this Agreement shall cease and expire as aforesaid and Tenant, Tenant as debtor-in-possession and/or trustee shall immediately quit and surrender the Premises as aforesaid.

Section 21.04 Remedies Upon Termination

(a) If this Agreement shall be terminated by the Authority as provided in Section 21.03, the Authority, without notice, may re-enter and repossess the Premises using such force for that purpose as may be available under then existing laws.

(b) If this Agreement shall be terminated by the Authority as provided in Section 21.03, then:

(i) Tenant shall pay to the Authority all Rent (including, without limitation, all Tenant's PILOT Payments and Minimum Lease Payments) payable by Tenant under this Agreement to the date upon which this Agreement and the Term shall have expired and come to an end or to the date of re-entry upon the Premises by the Authority, as the case may be;

(ii) if the Authority shall have terminated this Agreement pursuant to Section 21.03, the Authority may elect to declare due and payable a sum equal to the amount by which the Rent reserved in this Agreement for the period which otherwise would have constituted the unexpired portion of the Term exceeds the fair and reasonable Rent value of the Premises for the same period, both discounted to present worth at the rate of six (6%) percent per annum, such sum shall be due and payable ten (10) Business Days after notice by the Authority to Tenant of such election. The Authority may also elect to proceed by appropriate judicial proceedings, either at law or in equity, to enforce performance or observance by Tenant of the applicable provisions of this Agreement and/or to recover damages for breach thereof if in excess of the amounts recovered under this clause (ii);

(iii) without relieving Tenant of any liability under this Agreement or otherwise affecting any such liability, if the Authority shall not have declared all Rent due and payable pursuant to Section 21.04(b)(ii) and shall have let or relet the Premises or any parts thereof for the whole or any part of the remainder of the Term or for a longer period, in the Authority's name or as agent of Tenant, the Authority shall, out of any rent and other sums collected or received as a result of such reletting: (A) first, pay to itself the reasonable cost and expense of terminating this Agreement, re-entering, retaking, repossessing, completing construction and repairing or altering the Premises, or any part thereof, and the cost and expense of removing all persons and property there from, including in such costs brokerage commissions, legal expenses and reasonable attorneys' fees and disbursements; (B) second, pay to itself the reasonable cost and expenses sustained in securing any new tenants and other occupants, including in such costs brokerage commissions, legal expense and reasonable attorneys' fees and disbursements and other expense of preparing the Premises for reletting, and, if the Authority shall maintain and operation the Premises, the reasonable cost and expense of operating and maintaining the Premises; and (C) third, pay to itself any balance remaining on account of the liability of Tenant to the Authority, in the event that the Authority elects to relet the Premises, Tenant shall be liable for and shall pay to the Authority, as damages, any deficiency (referred to

as “Deficiency”) between the Rent reserved in this Agreement for the period which otherwise would have constituted the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of this Section for any part of such period (first deducting from the rents collected under any such reletting all of the payments to the Authority described in this Section) plus the rents actually received by the Authority from Permittees under Subleases; any such Deficiency shall be paid in installments by Tenant on the days specified in this Agreement for payment of installments of Rent, and the Authority shall be entitled to recover from Tenant each Deficiency installment as the same shall arise, and no suit to collect the amount of the Deficiency for any installment period shall prejudice the Authority’s right to collect the Deficiency for any subsequent installment period by a similar proceeding;

(iv) if the Authority shall not have declared all Rent due and payable pursuant to Section 21.04(b)(ii) and whether or not the Authority shall have collected any Deficiency installments as aforesaid, the Authority shall be entitled to recover from Tenant, and Tenant shall pay to the Authority, on demand, in lieu of any further Deficiencies or damages, as and for liquidated and agreed final damages (it being agreed that it would be impracticable or extremely difficult to fix the actual damage), a sum equal to the amount by which the Rent reserved in this Agreement for the period which otherwise would have constituted the unexpired portion of the Term exceeds the fair and reasonable Rent value of the Premises for the same period, both discounted to present worth at the rate of six percent (6%) per annum less the aggregate amount of Deficiencies theretofore collected by the Authority pursuant to the provisions of Section 21.04(b)(iii) for the same period.

Section 21.05 Liability Upon Termination. If the Authority or Tenant elects to terminate this Agreement in accordance with its terms, this Agreement and each of the other Racetrack Agreements shall, on the effective date of such termination, terminate with respect to all future rights and obligations of performance by the Parties and their respective Affiliates (except for the rights and obligations that expressly are to survive termination). Termination of this Agreement and each of such other Racetrack Agreements shall not alter the claims, if any, of either Party for breaches of this Agreement occurring prior to such termination, and the obligations of the Parties with respect to such breaches shall survive termination (including those giving rise to such termination).

Section 21.06 Authority’s/Tenant’s Election. Subject to Article 30 and any applicable cure periods, a suit or suits for the recovery of damages, or for a sum equal to any installment or installments of Rent payable hereunder or any Deficiencies or other sums payable by Tenant or the Authority pursuant to this Agreement, may be brought by Tenant or the Authority from time to time at such Party’s election, and nothing herein contained shall be deemed to require Tenant or the Authority to await the date whereon this Agreement or the Term would have expired had there been no Event of Default and termination.

Section 21.07 No Limitation.

(a) Nothing contained in this Article 21 shall limit or prejudice the right of the Authority to prove and obtain as liquidated damages in any bankruptcy, insolvency, receivership, reorganization or dissolution proceeding an amount equal to the maximum allowed by statute or rule of law governing such proceeding and in effect at the time when such damages are to be

proved, whether or not such amount shall be greater than, equal to or less than the amount of the damages referred to in any of the preceding Sections of this Article 21.

(b) Nothing contained in this Article 21 shall limit or prejudice the right of Tenant to prove and obtain as liquidated damages in any bankruptcy, insolvency, receivership, reorganization or dissolution proceeding an amount equal to the maximum allowed by statute or rule of law governing such proceeding and in effect at the time when such damages are to be proved, whether or not such amount shall be greater than, equal to or less than the amount of the damages referred to in any of the preceding Sections of this Article 21.

Section 21.08 Waivers. No receipt of moneys by the Authority from Tenant after the termination of this Agreement pursuant to Section 21.03 shall reinstate, continue or extend the Term or affect any notice theretofore given to Tenant, or operate as a waiver of the right of the Authority to enforce the payment of Rent payable by Tenant hereunder or thereafter falling due, or operate as a waiver of the right of the Authority to recover possession of the Premises by proper remedy, except as herein otherwise expressly provided, it being agreed that after the service of notice to terminate this Agreement or the commencement of any suit or summary proceedings, or after a final order or judgment for the possession of the Premises, the Authority may demand, receive and collect any moneys due or thereafter falling due without in any manner affecting such notice, proceeding, order, suit or judgment, all such moneys collected being deemed payments on account of the use and operation of the Premises or, at the election of the Authority, on account of Tenant's liability hereunder.

Section 21.09 Injunction. In the event of any breach or threatened breach of any of the covenants, agreements or terms contained in this Agreement, the non-defaulting Party shall be entitled to seek to enjoin such breach or threatened breach and shall have the right, subject to Article 30, to invoke any rights and remedies allowed at law or in equity, subject to any limitations expressly set forth in this Agreement. To the extent permitted by law, each party waives any requirements for the posting of bonds or other security in any such action.

Section 21.10 General Rights and Remedies for Events of Default. If any Authority Event of Default shall occur, at any time thereafter, but prior to the cure of such Event of Default, Tenant shall not have the right to terminate this Agreement as a result thereof; provided, however, Tenant, as to any Authority Event of Default (and as to which Tenant is the non-defaulting Party herein), may elect to proceed by appropriate proceedings, either at law or in equity but subject to complying with Article 30 with respect to matters that must be resolved by Arbitration, to enforce the performance or observance by the Authority of the applicable provisions of this Agreement or to recover the actual damages sustained by the applicable non-defaulting Party arising out of such Event of Default, but in no event shall a non-defaulting Party be entitled to recover any amounts in the nature of damages excluded under Section 30.06 purportedly arising from or sustained by it as a result of said Event of Default.

Section 21.11 Jury Trial Waiver. Each of the Authority and Tenant waives and shall waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matter whatsoever arising out of or in any way connected with this Agreement, including, but not limited to, the relationship of the Authority and Tenant under

this Agreement, Tenant's use or occupancy of the Premises, or any claim for injury or damage relating to this Agreement or the Premises.

Section 21.12 Strict Performance: Severability. No failure by a non-defaulting Party to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise any right or remedy upon a breach thereof, and no acceptance of full or partial payment during the continuance of any such breach, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No covenant, agreement, term or condition of this Agreement to be performed or complied with, and no breach thereof shall be waived, altered or modified except by a written instrument executed by the waiving party or the party bound by such alteration or modification. No waiver of any breach shall affect or alter this Agreement except with respect to such waiver, but each and every other covenant, agreement, term and condition of this Agreement shall continue in full force and effect.

Section 21.13 Remedies Cumulative. Each express right and remedy of the Authority and Tenant provided for in this Agreement shall be cumulative and shall be in addition to every other right or remedy provided for in this Agreement and the exercise of any one or more of the rights or remedies provided for in this Agreement shall not preclude the simultaneous or later exercise by a non-defaulting Party of any or all other rights or remedies provided for in this Agreement, except as expressly set forth in this Agreement.

Section 21.14 Exclusive Remedies. The rights and remedies conferred upon or reserved to the Parties in this Article 21 are intended to be the exclusive remedies available to each Party upon a breach or an Event of Default by the other Party, except as may be otherwise expressly set, forth in this Agreement.

Section 21.15 Mitigation of Damages. The Authority and Tenant shall each use commercially reasonable efforts to mitigate any damages for which the other party may be liable upon an Event of Default by the other party.

Section 21.16 Minimum Lease Payment Default. Notwithstanding anything to the contrary in this Agreement or any other Racetrack Agreement, in the event that the Tenant is in default of its obligation to pay the Minimum Lease Payments in accordance with Section 2.05(h), the Authority may exercise its rights to enforce under all available security and collateral, including without limitation, the Escrow Agreement, the Security Agreement and the Pledge of Purse Revenue Agreement.

Section 21.17 Transfer of Registered Titles. If the Authority or Tenant elects to terminate this Agreement in accordance with its terms, Tenant covenants and agrees that it will take all steps necessary to transfer title to the registered Leased Equipment (subject to the provisions of Section 2.01(b) hereof) to the Authority (or its nominee) and, at the request of the Authority, to execute and deliver further instruments of transfer and take such other actions as the Authority may reasonably request to more effectively transfer and vest in the Authority (or its nominee) title to the registered Leased Equipment. Without limiting the foregoing, on termination of this Agreement Tenant hereby constitutes and appoints the Authority as the true and lawful agent and attorney in fact of Tenant, with full power of substitution and resubstitution, in whole or in part, in the name and stead of Tenant but on behalf of and for the

benefit of the Authority to do all things legally permissible, required or reasonably deemed by the Authority to be required to transfer title to the registered Leased Equipment to the Authority (or its nominee).

ARTICLE 22

NOTICES

Section 22.01 Notices. Whenever it is provided herein that notice, demand, request, consent, Approval or other communication (“Notice”) shall or may be given to or served upon either of the Parties by the other, and whenever either of the Parties shall desire to give or serve upon the other any Notice with respect thereto or the Premises, each such Notice shall be in writing and, any law or statute to the contrary notwithstanding, shall be effective for any purpose if given or served as follows:

(a) If by the Authority, by mailing the same to Tenant by registered or certified mail postage prepaid, return receipt requested, by hand delivery, or by overnight United States Express Mail, or other national-recognized overnight carrier for delivery on the next Business Day, addressed to:

New Jersey Thoroughbred Horsemen’s Association, Inc. 232A Norwood Avenue West Long Branch, New Jersey 07764 Attention: John H. Forbes, President

With a copy to:

Sills Cummis & Gross The Legal Center One Riverfront Plaza Newark, New Jersey 07102-5400 Attention: Jerold L. Zaro
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or at such other address as Tenant may from time to time designate by Notice given to the Authority.

(b) If by Tenant, by mailing the same to the Authority by registered or certified mail, postage prepaid, return receipt requested, by hand delivery, or by overnight United States Express Mall or recognized overnight carrier for delivery on the next Business Day, addressed to:

New Jersey Sports and Exposition Authority Meadowlands Sports Complex 50 East State Highway Route 120 East Rutherford, NJ 07073 Attention: President & CEO
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With a copy to:

New Jersey Sports and Exposition Authority Meadowlands Sports Complex 50 East State Highway Route 120 East Rutherford, NJ 07073 Attention: Ralph R. Marra, Esq.

or such other address as the Authority may from time to time designate by Notice given to Tenant.

(c) Every Notice hereunder shall be deemed to have been given or served three (3) Business Days after the same shall be deposited in the United States mails, postage prepaid, in the manner aforesaid or one (1) Business Day after deposit with a nationally recognized overnight courier for delivery on the next Business Day (except that a notice designating the name and address of a person to whom any notice or other communication or copy thereof, shall be sent shall be deemed to have been given when same is received).

ARTICLE 23

CONDEMNATION

Section 23.01 Effect of Taking.

(a) If there shall be a Taking of (i) the whole or substantially all of the Premises (excluding a Taking of the Fee Estate, if after such Taking, Tenant's rights under this Agreement are not affected) or (ii) any other portions of the Premises (including roadways, access rights, parking rights and easements and appurtenances benefiting the Premises) and, as a result of such Taking, the Tenant shall determine in the exercise of its reasonable discretion that the continued use of the Premises for the Permitted Uses is not economically feasible, then, upon notice to the Authority, (A) the Tenant's covenants and obligations to pay Rent and perform any other obligations under this Agreement shall terminate and expire on the date of such Taking, (B) the Rent payable by Tenant hereunder shall be equitably apportioned as of the date of such Taking, and (C) the Tenant and the Authority shall, be entitled to pursue all claims and awards arising out of such Taking as set forth below.

(b) If there shall be a Taking that does not result in a termination notice under Section 23.01(a), the Term shall not be reduced, the Parties' rights and obligations shall remain unmodified (except to the extent affected by the Taking) and any awards shall be payable in accordance with Section 23.01(c) below.

(c) If there is a Taking, the award, awards or damages in respect thereof shall be apportioned as follows (it being recognized that if, under Legal Requirements, the Governmental Authority initiating the Taking is not required to provide for separate awards in recognition of the interests of the Authority and the Tenant in the Fee Estate and Premises, respectively, each of the Authority and the Tenant may pursue a share of such award in a separate proceeding subject to the priority of interests set forth below): (i) as to Tenant, so much

of the award attributable to the value of Tenant's Estate (or in the case of a Taking that does not result in a termination notice under Section 23.01(a), the value of that part of the Tenant's Estate the subject of the Taking) and (ii) the balance to the Authority.

(d) Each of the Parties shall execute any and all documents that may be reasonably required in order to facilitate collection by them of such awards.

Section 23.02 Date of Taking. For purposes of this Article 23 the "date of Taking" shall be deemed to be the earlier of (a) the date of which actual possession of the whole or substantially all, of the Premises, or a part thereof, as the case may be, is acquired by any lawful power or authority pursuant to the provisions of the applicable federal or State law or (b) the date on which title to the Premises or the aforesaid portion thereof shall have vested in any lawful power or authority pursuant to the provisions of the applicable federal or State law.

Section 23.03 Temporary Taking. If the temporary use (i.e., for a period of less than twelve months) of the whole or any part of the Premises shall be taken for any public or quasi-public purpose by any Governmental Body or by agreement between Tenant and those authorized to exercise such right, Tenant shall give prompt notice thereof to the Authority and the Term shall not be reduced or affected in any way and Tenant shall continue to pay in full the Rent payable by Tenant hereunder, provided that Tenant shall be entitled to receive for itself any award or payment for such use; except that if the Taking is for a period extending beyond the Term, the Authority shall be entitled to such award or payment attributable to periods, after the expiration of the Term.

Section 23.04 Other Compensation. In case of any governmental action not resulting in the Taking of any portion of the Premises but creating a right to compensation therefor, such as the changing of the grade of any street upon which the Premises abut, this Agreement shall continue in full force and effect without reduction or abatement of Rent and the award shall be paid to Tenant.

Section 23.05 Negotiated Sale. In the event of a negotiated sale of all or a portion of the Premises in lieu of a Taking, the proceeds shall be distributed as provided in cases of Taking.

Section 23.06 Participation; Tenant Consent. The Authority and the Tenant shall be entitled to file a claim and otherwise participate in any condemnation or similar proceeding and all hearings, trials and appeals in respect thereof. So long as no Tenant Event of Default has occurred and is continuing that would entitle the Authority to exercise its termination rights under Section 21, the Authority shall not settle or compromise any Taking or other governmental action creating a right of compensation in Tenant with respect to the Premises prior to the expiration of the Term or enter into a sale of all or a portion of the Premises to occur prior to the expiration of the Term in lieu of condemnation without the consent of Tenant, which consent shall not be unreasonably withheld, conditioned or delayed if and to the extent such settlement, compromise or sale does not adversely affect or prejudice Tenant's right to compensation with respect to such taking or governmental action.

Section 23.07 Tenant Rights. Notwithstanding anything to the contrary contained in this Article 23 in the event of any permanent or temporary Taking of all, or any part of the Premises,

Tenant shall have the exclusive right to assert claims for the value of Capital Improvements made at the Premises by Tenant, the personalty of Tenant taken or damaged as a result of the Taking, any damage to, or relocation costs of Tenant's business and the businesses of its Permittees incurred as a result of the Taking and any other damages to which Tenant may be entitled under Legal Requirements.

Section 23.08 Notice. If the Authority or the Tenant shall receive any notice of any proposed or pending condemnation proceeding affecting the Premises, the party receiving such notice shall promptly furnish a copy thereof to the other party.

ARTICLE 24

EASEMENTS

Section 24.01 Grant of Future Easements. With the prior written consent of the Authority, Tenant shall have the right to enter into reasonable agreements with Governmental Authorities and utility companies creating such easements as are reasonably required in order to service the Premises, including ingress, egress, and access easements and the Authority covenants and agrees to execute any and all such reasonable documents, agreements and instruments, and to take all other reasonable actions, in order to effect the same, all at no monetary expense or liability to the Authority.

ARTICLE 25

SURRENDER AT END OF TERM

Section 25.01 Title to Improvements. Any Improvements now or hereafter erected upon the Premises, and any Leased Equipment replaced by Tenant, shall become property of the Authority upon the expiration or sooner termination of this Agreement without the payment of any consideration therefor.

Section 25.02 Surrender of Premises. (a) Upon the expiration or earlier termination of this Agreement, Tenant shall peaceably and quietly surrender, vacate and deliver up possession of the Premises and the Leased Equipment to the Authority in good condition as required by this Agreement, subject to normal wear and tear, Casualty and Taking that Tenant is not required to repair, restore or replace under this Agreement, and free and clear of all occupancies, lettings, liens and encumbrances. Upon such surrender, Tenant shall deliver to the Authority all keys to any locked or secured areas of the Premises and make known to the Authority the combination of all locks, safes and vaults then remaining in the Premises. In the event Tenant does not so surrender the Premises, the Authority, upon or at any time after any such expiration or termination, may (in addition to any other rights or remedies provided in this Agreement) without further notice, enter upon and re-enter upon the Premises and possess and repossess itself thereof, by any legal means then available, may dispossess Tenant and, subject to Section 25.02(b) of this Agreement, remove Tenant and all other persons and moveable personal property of Tenant or others from the Premises and may have, hold and enjoy the Premises, may (at the Authority's option) consider any property of Tenant or others remaining in the Premises (or any part thereof whether or not owned by Tenant) to have been abandoned, and the Authority

may keep, sell, discard, destroy, remove, retain, gift or dispose of the aforesaid abandoned items, or any part thereof; without any liability, obligation or responsibility to Tenant or to any other person whatsoever. Tenant hereby releases, holds harmless and indemnifies the Authority and its agents, employees, representatives, contractors, subcontractors, auctioneers, and vendees of, from and for all losses, damages, injuries, obligations, liabilities, judgments, awards, fines, penalties, costs and expenses including attorneys' fees and related costs and disbursements, arising out of or relating to Tenant's failure to timely vacate and surrender of the Premises upon the expiration or termination of this Agreement, or the Authority's retention, disposition or sale of any item of property left in, at or upon the Premises at the expiration or sooner termination of this Agreement in violation of this Agreement.

(b) Trade Fixtures and Personal Property. Tenant shall remove Tenant's furniture and other items of movable personal property (excluding the Leased Equipment and Authority Personalty) of every kind and description from the Premises and restore any damage to the Premises caused thereby, such removal and restoration to be performed prior to the end of the Term or thirty (30) days following termination of this Agreement and Tenant's right of possession, whichever might be earlier. If Tenant fails to remove such items, the Authority may do so and thereupon the provisions of Section 25.02(a) above of this Agreement shall apply, and Tenant shall pay to the Authority upon demand the cost of such removal and restoration of the Premises.

(c) Survival. All obligations of Tenant under this Article shall survive the expiration of the Term or sooner termination of this Agreement.

ARTICLE 26

CERTIFICATES BY AUTHORITY AND TENANT

Section 26.01 By Tenant. Tenant agrees, at any time, and from time to time, upon not less than ten (10) Business Days' prior notice from the Authority, to execute, acknowledge and deliver to the Authority or any other party specified by the Authority a statement in writing certifying that this Agreement is unmodified and in full force and effect (or, if there have been modifications, that this Agreement is in full force and effect as modified and identifying the modifications) and stating whether or not, to the best knowledge of Tenant, the Authority is in breach or default in the performance of any covenant, agreement or condition contained in this Agreement on the Authority's part to be performed, and, if so, specifying each such default of which Tenant may have knowledge.

Section 26.02 By the Authority. The Authority agrees at any time and from time to time upon not less than ten (10) Business Days' prior notice from Tenant to execute, acknowledge and deliver to Tenant a statement in writing certifying that this Agreement is unmodified and in full force and effect (or, if there have been modifications, that this Agreement is in full force and effect as modified and identifying the modifications) and the dates to which the Rents have been paid, and stating whether or not to the best knowledge of the Authority, Tenant is in breach or default in the performance of any covenant, agreement or condition contained in this Agreement on Tenant's part to be performed, and, if so, specifying each such default of which the Authority may have knowledge.

ARTICLE 27

CONSENTS

Section 27.01 No Waiver. It is understood and agreed that the granting of any consent by the Authority or Tenant to the other to perform any act of the other requiring consent under the terms of this Agreement, or the failure on the part of a party to object to any such action taken by the other without consent, shall not be deemed a waiver by the party of its rights to require such consent for any further similar act, and the parties hereby expressly covenant and warrant that as to all matters requiring consent under the terms of this Agreement, each party shall secure such consent for each and every happening of the event requiring such consent, and shall not claim any waiver of the requirement to secure such consent. All consents and Approvals required to be delivered under this Agreement must be in writing to be effective.

Section 27.02 Cooperation Covenant. Each party hereby covenants and agrees to execute, acknowledge and deliver any instrument(s) required of it to effectuate the provisions of this Agreement, promptly after that Party receives such instrument(s). In addition to any other rights that a Party has to pursue as a result of the other Party's default, if a Party fails or refuses to execute, acknowledge and/or deliver any instrument(s) hereinabove required, then upon an additional five (5) days notice to that Party, the other Party may apply to a court of competent jurisdiction for injunctive relief. All costs and expenses, including reasonable attorney fees, shall be paid by the Party that failed or refused to execute, acknowledge and/or deliver the instrument(s) in question.

Section 27.03 No Fees. Except as specifically provided in this Agreement, no fees or charges of any kind or amount shall be required by either Party hereto as a condition of the grant of any consent or Approval which may be required under this Agreement.

ARTICLE 28

ENTIRE AGREEMENT

This Agreement, its schedules, its exhibits contain all the promises, agreements, conditions, inducements and understandings between the Authority and Tenant relative to the Premises and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, expressed or implied, between them other than as herein set forth.

ARTICLE 29

QUIET ENJOYMENT

The Authority covenants that Tenant shall and may (subject, however, to the exceptions, reservations, terms and conditions of this Agreement) peaceably and quietly have, hold and enjoy the Premises for the Term, without molestation or disturbance directly or indirectly by or from the Authority or any party claiming by, through or under the Authority and free of any

encumbrance created or suffered by the Authority, except those to which this Agreement is subject and except those encumbrances, liens or defects of title created or suffered by Tenant.

ARTICLE 30

ARBITRATION

Section 30.01 Scope. Notwithstanding anything to the contrary elsewhere in this Agreement, the alternative dispute resolution processes provided for in this Article 30 (“Arbitration”) shall be the exclusive means for resolution of disputes between the Parties arising under or relating to this Agreement, any other Racetrack Agreement solely between the Parties and, to the extent applicable, any other Racetrack Agreements that contain this, or a similar, arbitration provision (“Arbitration Provision”) the interpretation thereof or the performance or breach by any party thereto, including but not limited to, original disputes as well as all disputes asserted as cross-claims, counterclaims, third party claims, or claims for indemnity or subrogation, if such disputes involve parties and claims that are subject to an Arbitration Provision (collectively “Arbitration Claims” individually an “Arbitration Claim”); provided, however, that these Arbitration processes shall not apply to, and the term Arbitration Claim shall exclude any claim arising or relating to any matter asserted as an issue in any litigation brought by a third party that was not brought in violation of the exclusivity of an Arbitration Provision. In such event, the Parties shall be free to pursue all available actions at law or in equity, subject to the restrictions and limitations provided herein and to the provisions of Section 30.08.

Section 30.02 Arbitration Procedures. The following provisions shall apply to Arbitration Claims that are not Construction Disputes:

(a) Demand for Arbitration. Notice of a demand for arbitration of any Arbitration Claim by one party shall be delivered in writing to the other party in accordance with Section 22.01.

(b) Selection of Arbitrator. The arbitration shall be conducted by a panel (the “Arbitration Panel”) consisting of three (3) persons (each an “Arbitrator”), who shall be selected in accordance with the AAA’s Commercial Arbitration Rules. The Parties will request that the AAA take into account the Parties’ desire to obtain potential Arbitrators with experience in the construction’ or operation of comparable sports or entertainment facilities or in the sports or entertainment business generally. None of the candidates shall be a current or former employee, officer, director, trustee, owner, Affiliate, attorney or agent of any Party or of the State.

(c) Rules. Except as set forth below, the Arbitration shall be administered by the American Arbitration Association (“AAA”) under its Commercial Arbitration Rules and conducted pursuant to such rules, as such rules are in effect as of the time the dispute is submitted to the AAA for Arbitration. Neither the AAA’s Expedited Procedures, nor the AAA’s Optional Procedures for Large, Complex, Commercial Disputes, nor the AAA’s Optional Rules for Emergency Measures of Protection will be applicable to any such Arbitration unless each of the parties involved in the Arbitration agrees in writing to utilize such rules for the particular Arbitration. Unless the affected Parties otherwise agree, the Arbitration shall take place in

Newark, New Jersey. Each Party irrevocably consents to the delivery of service of process with respect to any Arbitration in any manner permitted for the giving of notices under Section 22.01.

(d) Discovery. The Arbitration Panel shall determine the nature and scope of discovery, if any. No discovery may be had of privileged materials or information, unless an exception exists under applicable law. The Arbitration Panel, upon proper application, shall issue such orders as may be necessary and permissible under law to protect confidential, proprietary or sensitive materials or information from public disclosure or other misuse. Either party may make application to the Superior Court of the State of New Jersey to have a protective order entered as may be appropriate to confirm such order of the Arbitration Panel.

(e) Hearing. The Parties have structured this procedure with the goal of providing for the prompt and efficient resolution of all disputes falling within the purview of this Article. To that end, either Party can petition the Arbitration Panel for an expedited hearing if circumstances justify it. In any event, the hearing of any dispute not expedited will commence as soon as practicable, but in no event later than thirty (30) days after selection of the Arbitration Panel. This deadline can be extended only with the consent of the parties to the dispute, or by decision of the Arbitration Panel upon a showing of emergency circumstances. The hearing, once commenced, will proceed from Business Day to Business Day until concluded.

(f) Award. The Arbitration Panel shall, within fifteen (15) days from the conclusion of any hearing, issue its award. Any award providing for deferred payment shall include interest at a reasonable rate. The award is to be rendered in accordance with this Agreement (or, to the extent applicable, the other Racetrack Agreements) and applicable law.

(g) Scope of Award. The Arbitration Panel shall be without authority to award punitive damages or any other form of damages expressly disclaimed in Section 30.06 below, and any such damage award shall be void. If an award is made against any Party in excess of \$200,000, exclusive of interest, arbitration fees, costs and attorneys' fees, it must be supported by written findings of fact, conclusions of law and a statement as to how damages were calculated.

(h) No Modification. The Arbitration Panel shall not have the authority to alter, change, amend, modify, waive, add to or delete from any provision of this Agreement. All provisions of this Agreement applicable to disputes generally, including limitations on damages, shall apply to the Arbitration.

(i) Entry of Judgment. Either party can make application to the Superior Court of the State of New Jersey or any other state or federal court of competent jurisdiction for confirmation of an award, and for entry of judgment on it. Payment of such judgment shall be made following receipt of a final non-appealable decision or order of the Court.

(j) Severance and Joinder. To reduce the possibility of inconsistent adjudication, (i) an identical or substantially similar Arbitration Provision must be included in all other Racetrack Agreements, except that if third-parties are also party to any other Racetrack Agreement, the Parties shall be obligated only to use commercially reasonable efforts to include similar Arbitration Provisions, (ii) at the request of either Party (but subject to the right of the

other Party to object and have the matter decided by the Arbitration Panel), the Arbitration Panel may join and/or sever any party or parties, and consolidate or sever claims arising under other contracts containing this Arbitration Provision and (iii) the Arbitration Panel may, on its own authority, join or sever parties and claims subject to the Arbitration process as it deems necessary for a just resolution of the dispute, consistent with the Parties' goal of the prompt and efficient resolution of disputes. Nothing herein shall create the right by either party to assert claims against another party not recognized under the substantive law applicable to the dispute. The Arbitration Panel is not authorized to join in the proceeding parties not in privity with the Authority or Tenant unless such parties, the Authority and Tenant consent.

(k) Appeal. Any award rendered in any Arbitration pursuant to this Article 30 shall be final and binding upon the parties and non-appealable, and a judgment of any court having jurisdiction may be entered on any such award.

(l) Statutory Arbitration Provisions. Except as otherwise provided herein, arbitration pursued under this provision shall be governed by N.J.S.A. 2A:24-1 f

Section 30.03 Emergency Relief. Notwithstanding any provision of this Agreement to the contrary, each Party may seek temporary or preliminary injunctive relief at any time from a court of competent jurisdiction, including with respect to any Arbitration Claim, and each Party hereby waives any requirement that the other Party post a bond or other security in connection with such temporary or preliminary injunctive relief. If an Arbitration Claim (including a Construction Dispute) requires temporary or preliminary injunctive relief before the matter may be resolved by Arbitration, the procedures set forth in Section 30.02 or Section 30.07, as the case may be, shall still govern the ultimate resolution of the Arbitration Claim notwithstanding the fact that a court of competent jurisdiction may have entered an order providing for temporary or preliminary injunctive relief.

Section 30.04 Fees and Costs. All fees and costs associated with any Arbitration pursuant to Section 30.02, and any marginal fees and costs associated with any Arbitration under Section 30.07, including without limitation the Arbitration Panel's fees, and the prevailing party's reasonable attorneys' fees, expert witness fees and costs, will be paid by the non-prevailing party. The determination of prevailing party and non-prevailing party, and the appropriate allocation of fees and costs, will be included in the award by the Arbitration Panel (or the Construction Arbitrator or Secondary Arbitrator, as the case may be).

Section 30.05 Confidentiality. Any proceeding initiated under this Article 30 shall be deemed confidential to the maximum extent allowed by New Jersey law and no party shall make any disclosure related to the disputed matter or the outcome of any proceeding except to the extent required to seek interim equitable relief or to enforce an agreement reached or award made hereunder.

Section 30.06 No Indirect Damages. IN NO EVENT SHALL ANY PARTY BE LIABLE UNDER ANY PROVISION OF THIS AGREEMENT, WHETHER IN ARBITRATION, A JUDICIAL PROCEEDING OR OTHERWISE, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, TREBLE OR PUNITIVE DAMAGES, IN CONTRACT, TORT OR OTHERWISE, WHETHER OR NOT CAUSED BY

OR RESULTING FROM THE SOLE OR CONCURRENT NEGLIGENCE OF SUCH PARTY OR ANY OF ITS AFFILIATES (AS DEFINED HEREIN) OR RELATED PARTIES, NOTWITHSTANDING THE FOREGOING, THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO ANY INDEMNIFICATION FOR CLAIMS ASSERTED BY PERSONS OTHER THAN THE PARTIES AND THEIR RESPECTIVE AFFILIATES (AS DEFINED HEREIN). THE PRECEDING LIMITATION SHALL NOT BE A BASIS FOR ANY CLAIM OR ARGUMENT THAT AN ARBITRATION CLAIM SHOULD NOT BE ARBITRATED.

Section 30.07 Court Proceedings. Any claim or dispute that is not an Arbitration Claim shall only be brought in the Courts of the State of New Jersey or the Federal District Court for the District of New Jersey. By execution and delivery of this Agreement, the Authority and Tenant each hereby irrevocably accepts and submits generally and unconditionally for itself and with respect to its properties, to the jurisdiction of any such court in any such action or proceeding, and hereby waives in the case of any such action or proceeding brought in the courts of the State of New Jersey; or Federal District Court for the District of New Jersey, any defenses based on jurisdiction, venue or forum non conveniens. In furtherance of the foregoing, Tenant hereby agrees that its address for notices given by the Authority and service of process for in personam jurisdiction under this Lease shall be the Premises. Notwithstanding the foregoing, any matter that seeks confirmation of any award rendered in any Arbitration Claim, may be brought by suit, action or proceeding at law or in equity before any federal or state court of competent jurisdiction.

ARTICLE 31

INVALIDITY OF CERTAIN PROVISIONS

If any term or provision of this Agreement or the application thereof to any Person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

ARTICLE 32

RECORDING OF MEMORANDUM

On or at any time after the date hereof, the Parties will, at the request of either one, promptly execute duplicate originals of an instrument, in recordable form, which will constitute a short form or memorandum of lease, setting forth a description of the Premises, the Term of this Agreement, and any other portions thereof, excepting the Rent provisions, as Tenant may request. Any such instrument shall provide that it expires on the earlier of the termination of this Agreement, or a date certain, which shall reflect the Term as then extended. If the Term is thereafter extended an amendment of the instrument reflecting the extension shall thereafter be filed.

ARTICLE 33

MISCELLANEOUS

Section 33.01 Limitation of Liability.

(a) Authority's Liability. The liability of the Authority hereunder for damages or otherwise shall be limited to the Authority's interest in the Premises and it is specifically understood and agreed that there shall be absolutely no personal liability on the part of the Authority or its successors in interest (or any members or partners of the Authority) beyond its interest in the Premises.

(b) No Personal Liability. All costs, obligations and liabilities under this Agreement on the part of the Authority or Tenant are solely the responsibility of the respective entity, and no partner, stockholder, member, director, officer, official, employee or agent of any Party to this Agreement shall be personally or individually liable for any costs, obligations or liabilities of such Party under this Agreement. Except as any Party to this Agreement may otherwise agree in writing with regard to its liability, all Persons extending credit to, contracting with or having any claim against any Party to this Agreement may look only to the funds and property of such Party for payment of any such suit, contract or claim to the extent such Party is liable therefor, or for the payment of any costs that may become due or payable to them from any Party to this Agreement.

Section 33.02 Headings. The captions of this Agreement are for convenience of reference only and in no way define, limit or describe the scope or intent of this Agreement or in any way affect this Agreement.

Section 33.03 Table of Contents. The table of contents preceding this Agreement is for the purpose of convenience of reference only and is not to be deemed or construed in any way as part of this Agreement or as supplemental thereto or amendatory thereof.

Section 33.04 No Joint Venture. Nothing in this Agreement shall be construed to create a joint venture, partnership, or joint employer relationship between the Authority and Tenant.

Section 33.05 Interpretation. The use herein of the words "successors and assigns" or "successors or assigns" of the Authority or Tenant shall be deemed to include the heirs, legal representatives and assigns of any individual landlord or tenant. The words "include," "includes" and "including" shall be deemed to be followed by "without limitation" whether or not they are in fact followed by such words or words of like import. Pronouns of any gender shall include natural Persons, corporations, limited liability companies, partnerships and associations of every kind and character. References to any gender include, unless the context otherwise requires, references to all genders. The words "shall" and "will" have equal force and effect. Unless specified to the contrary, any reference to a party having a "right" shall not create an obligation on the part of such Party to exploit such right.

Section 33.06 Authority Sponsorship. The Authority and Tenant acknowledge and agree that this Agreement constitutes a project of the Authority under the Enabling Legislation and Tenant's use and operation of the Premises for Racing Events, is in furtherance of and

substantially related to the Authority's interests and responsibilities under, and the specific legislative purpose of, the Enabling Legislation and as such, Tenant's use and operation thereof shall be deemed to be sponsored by the Authority.

Section 33.07 Amendment. This Agreement cannot be changed or terminated orally, but only by an instrument in writing executed by the Party against whom enforcement of any waiver, change, modification or discharge is sought. This agreement shall not be modified or cancelled except by a writing executed and delivered by the Authority and Tenant.

Section 33.08 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey, without regard to the principles of conflict of laws.

Section 33.09 Successors and Assigns. The agreements, terms, covenants and conditions herein shall bind and inure to the benefit of the Authority and Tenant and their respective heirs, personal representatives, successors and (except as otherwise provided herein) assigns.

Section 33.10 Third Party Benefit. The Authority and Tenant hereby agree and acknowledge that the covenants, undertakings and agreements set forth in this Agreement are not intended as benefiting, or as enforceable in any way or manner by, any Person not a party to this Agreement and nothing in this Agreement shall be construed to constitute, create or confer rights, remedies or claims in or upon any Person (as alleged third party beneficiary or otherwise) not a party hereto, or to create obligations or responsibilities of the Parties to such Persons. The parties hereto agree that they shall not assist, foster or promote or cause to be assisted, fostered or promoted any Claims by any Person not a party to this Agreement against the Authority or Tenant arising out of the terms and provisions of this Agreement and performance by the Authority or Tenant of their rights and obligations set forth in this Agreement.

Section 33.11 Expenses. Unless otherwise provided in any of the Racetrack Agreements, each Party shall bear its own expenses in connection with the negotiation and preparation of this Agreement, the other Racetrack Agreements, and the performance of all of its obligations under this Agreement and the other Racetrack Agreements.

Section 33.12 Incorporation of Schedules and Exhibits. All Schedules and Exhibits attached to this Agreement are hereby incorporated into and made a part of this Agreement in their entirety.

Section 33.13 Counterparts. This Agreement may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one Agreement. All signatures need not be on the same counterpart.

Section 33.14 Purse Supplements.

(a) Each of the Parties acknowledges and agrees that it is expected there will be no "purse money" distributed pursuant to P.L. 2011, C. 18.

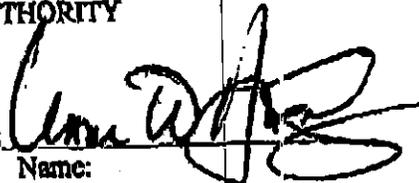
(b) In the event that, notwithstanding the foregoing clause (a), the State of New Jersey or any of its agencies or authorities appropriate funds for "purse enhancement" at either the Racetrack or at the Meadowlands Racetrack, the Parties agree to negotiate in good faith with each other and with Gural in order to determine a fair and reasonable allocation of any such appropriation.

Section 33.15 Authority's Waiver. If requested by Tenant, Authority agrees to waive its distraint of rent rights against any and all Tenant's personalty in connection with any of Tenant's purchase money financing related to equipment purchases by Tenant.

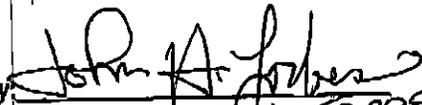
Section 33.16 Force Majeure. If a Force Majeure Event prohibits, prevents or delays a Party, whether directly or indirectly, from performing any of its obligations under this Agreement, then (whether or not Force Majeure Events are expressly referred to in any provision of this Agreement relating to such obligation) such Party shall be excused from performance to the extent, but only to the extent necessary by the Force Majeure Event and only until such time as the Force Majeure Event terminates or is removed or resolved. During such period of prevention, prohibition or delay, the Parties shall at all times act diligently and in good faith to bring about the termination or removal of the Force Majeure Event as promptly as reasonably possible.

IN WITNESS WHEREOF, the Authority and Tenant have executed this Agreement as of the day and year first above written.

AUTHORITY:
NEW JERSEY SPORTS AND EXPOSITION
AUTHORITY

By: 
Name:
Title:
President + CEO

TENANT:
NEW JERSEY THOROUGHBRED
HORSEMEN'S ASSOCIATION, INC.

By: 
Name: JOHN A. FORBES
Title: PRESIDENT