

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM784825

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	SECURITY INTEREST		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Tohono O'odham Gaming Enterprise		01/13/2023	Business Enterprise:
RECEIVING PARTY DATA			
Name:	Bank of America, N.A., as Collateral Agent		
Street Address:	900 West Trade St.		
Internal Address:	NC1-026-06-09		
City:	Charlotte		
State/Country:	NORTH CAROLINA		
Postal Code:	28255		
Entity Type:	National Banking Association: UNITED STATES		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	6091166	DESERT DIAMOND	
Registration Number:	6739540	DESERT DIAMOND SPORTSBOOK	
CORRESPONDENCE DATA			
Fax Number:	2134432926		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	213-617-5493		
Email:	jcravitz@sheppardmullin.com		
Correspondent Name:	SHEPPARD, MULLIN, RICHTER & HAMPTON LLP		
Address Line 1:	333 S. HOPE ST., 43RD FLOOR		
Address Line 2:	ATTN: J. CRAVITZ		
Address Line 4:	LOS ANGELES, CALIFORNIA 90071		
ATTORNEY DOCKET NUMBER:	0BN1-363933		
NAME OF SUBMITTER:	Julie Cravitz		
SIGNATURE:	/julie cravitz/		
DATE SIGNED:	02/06/2023		
Total Attachments: 47			
source=TOGE - Second A&R Security Agreement#page1.tif			

CH \$65.00 6091166

**SECOND AMENDED AND RESTATED
SECURITY AGREEMENT
TOHONO O'ODHAM GAMING ENTERPRISE**

This SECOND AMENDED AND RESTATED SECURITY AGREEMENT, dated as of January 13, 2023 (as it may be further as amended, restated, amended and restated, supplemented or otherwise modified from time to time, this "Agreement"), is made by (a) TOHONO O'ODHAM GAMING ENTERPRISE (the "Borrower"), an enterprise chartered by legislative act of the Tohono O'odham Nation, a federally recognized Indian tribe (the "Nation") and (b) EACH OF THE SUBSIDIARIES OF THE BORROWER that become party hereto as an Additional Grantor (those subsidiaries and the Borrower, each a "Grantor" and collectively the "Grantors") in favor of BANK OF AMERICA, N.A., in its capacity as administrative agent under the Credit Agreement (as defined below), and as collateral agent hereunder for the benefit of the Secured Parties (together with its successors and assigns in such capacity, the "Collateral Agent").

RECITALS

WHEREAS, reference is made to that certain Amended and Restated Credit Agreement, dated as of January 24, 2018 (as it existed immediately prior to the Second Restatement Effective Date (as defined below), the "Existing Credit Agreement");

WHEREAS, in connection with the Existing Credit Agreement, the Borrower entered into that certain Amended and Restated Security Agreement, dated as of January 24, 2018, in favor of the Administrative Agent (as it existed immediately prior to the date hereof, the "Existing Security Agreement");

WHEREAS, the Borrower has requested an increase in the senior credit facilities, extension of the maturity date and certain other amendments to the Existing Credit Agreement, and the parties to the Existing Credit Agreement are amending and restating the Existing Credit Agreement in its entirety by entering into that certain Second Amended and Restated Credit Agreement, dated as of January 13, 2023 (as it may be further amended, restated, amended and restated, extended, supplemented or otherwise modified, renewed, replaced or refinanced from time to time, the "Credit Agreement"), among the Borrower, each lender from time to time party thereto (collectively, the "Lenders" and individually, a "Lender"), Bank of America, N.A. as Administrative Agent and L/C Issuer (in such capacity the "Administrative Agent"), Bank of America, N.A., Wells Fargo Securities, LLC and PNC Capital Markets LLC, as joint lead arrangers (the "Joint Lead Arrangers," and each a "Joint Lead Arranger"), Bank of America, N.A., as Sole Bookrunner and Umpqua Bank and Comerica Bank as Co-Documentation Agents;

WHEREAS, in connection with the Credit Agreement, the parties hereto wish to amend and restate the Existing Security Agreement in its entirety as set forth herein; the parties do not intend for this Agreement to constitute a novation of the obligations and liabilities existing under the Existing Security Agreement, but intend that such obligations and liabilities shall continue and remain outstanding, as amended and restated in this Agreement, which

replaces in its entirety the Existing Security Agreement and re-evidences the obligations of the Grantors outstanding thereunder;

WHEREAS, subject to the terms and conditions of the Credit Agreement, certain Grantors may enter into (i) one or more Secured Hedge Agreements with one or more counterparties to a Secured Hedge Agreement, and (ii) one or more Secured Cash Management Agreements with one or more counterparties to a Secured Cash Management Agreement; and

WHEREAS, in consideration of the extensions of credit and other accommodations of the Secured Parties as set forth in the Credit Agreement, the Secured Hedge Agreements and the Secured Cash Management Agreements, respectively, each Grantor has agreed to secure such Grantor's obligations under the Loan Documents, the Secured Hedge Agreements and the Secured Cash Management Agreements as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the agreements, provisions and covenants herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, each Grantor and the Collateral Agent, for the benefit of the Secured Parties, hereby agree as follows:

1. Definitions. This Agreement is the "Security Agreement" referred to in the Credit Agreement. This Agreement is one of the Loan Documents referred to in the Credit Agreement. Terms defined in the Credit Agreement and not otherwise defined in this Agreement have the meanings set forth for those terms in the Credit Agreement. Terms defined in the Arizona Uniform Commercial Code and not otherwise defined in this Agreement or in the Credit Agreement have the meanings set forth for those terms in the Arizona Uniform Commercial Code (and, if defined in more than one Article of the Arizona Uniform Commercial Code, have the meanings given in Article 9 thereof). As used in this Agreement, the following terms have the meanings respectively set forth after each:

"Account Control Agreement" has the meaning set forth in the Credit Agreement.

"Administrative Agent" shall have the meaning given in the preamble.

"Agreement" means this Security Agreement, and any extensions, modifications, renewals, restatements, supplements or amendments hereof.

"Arizona Uniform Commercial Code" means the Uniform Commercial Code as in effect in the State of Arizona.

"Books and Records" means all present and future books and records, including, without limitation, all books of account and ledgers of every kind and nature, all electronically recorded data, all proprietary technical and business information, all know-how, show-how or other data or information, all software and databases and all embodiments or fixations thereof and related documentation, all registrations and franchises (in each case relating to the Grantors, the Gaming Operation or the Enterprise Facilities), all receptacles and containers for such records and all files and correspondence.

“Collateral” means all present and future right, title and interest of the Grantors in and to all their personal property interests in the Gaming Assets, whether now or hereafter acquired and wherever the same may from time to time be located, and all rights and powers of the Grantors to transfer any interest in or to any of the Gaming Assets, whether now or hereafter acquired and wherever the same may from time to time be located, including, without limitation, any and all of the following personal property (to the extent such personal property constitutes a part of the Gaming Assets):

(a) All present and future accounts, accounts receivable, agreements, contracts, leases, contract rights, payment intangibles, rights to payment, instruments, documents, chattel paper (whether tangible or electronic), promissory notes, security agreements, guaranties, letters of credit, letter-of-credit rights, undertakings, surety bonds, insurance policies (whether or not required by the terms of the Loan Documents), notes and drafts, rights from or through any federal or state government agency or program and forms of obligations owing to a Grantor or in which a Grantor may have any interest, however created or arising and whether or not earned by performance;

(b) All present and future general intangibles, all tax refunds of every kind and nature to which a Grantor now or hereafter may become entitled, however arising, all other refunds and all deposits, credits, reserves, loans, royalties, cost savings, deferred payments, goodwill, choses in action, liquidated damages, rights to indemnification, Trade Secrets, computer programs, software, computer printouts, tapes, disks and related data processing software and similar items, customer and supplier lists, blueprints, technical specifications, manuals and other documents, licenses, permits, copyrights, technology, processes, proprietary information, rights to or in employee or other pension, retirement or similar plans and the assets thereof, retained and unearned insurance premiums, rights and claims under insurance policies and all insurance proceeds of which a Grantor is a beneficiary;

(c) Whether characterized as accounts, general intangibles or otherwise, all rents (including, without limitation, prepaid rents and fixed, additional and contingent rents), issues, profits, receipts, earnings, revenue, income, security deposits, occupancy charges, hotel room charges, cabana charges, casino revenues, show ticket revenues, food and beverage revenues, room service revenues, merchandise sales revenues, parking, maintenance, common area, tax, insurance, utility and service charges and contributions, instruction fees, and membership charges;

(d) All IP Collateral;

(e) All present and future deposit accounts of a Grantor, including, without limitation, any demand, time, savings, passbook or like accounts maintained by a Grantor with any bank, savings and loan association, credit union or like organization, including all money and all deposit accounts listed on Schedule 8 hereto, and all cash and cash equivalents of a Grantor, whether or not deposited in any such deposit account;

(f) All Books and Records;

(g) All present and future goods, including, without limitation, all consumer goods, farm products, inventory, equipment, video lottery terminals, slot machines and other gaming devices and associated equipment, catalogs, machinery, tools, molds, dies, furniture, furnishings, trade fixtures, aircraft, documented and undocumented vessels, ships and other watercraft and all other goods used in connection with or in the conduct of the Gaming Operation and any other business of a Grantor;

(h) All present and future inventory and merchandise, including, without limitation, all present and future goods held for sale or lease or to be furnished under a contract of service, all raw materials, work in process and finished goods, all packing materials, supplies and containers relating to or used in connection with any of the foregoing and all bills of lading, warehouse receipts or documents of title relating to any of the foregoing;

(i) All present and future stocks, investment property, bonds, debentures, securities (whether certificated or uncertificated), security entitlements, securities accounts, commodity contracts, commodity accounts, subscription rights, options, warrants, puts, calls, certificates, partnership interests, limited liability company membership or other interests, joint venture interests, certificates of deposit, investments and/or brokerage accounts and all rights, preferences, privileges, dividends, distributions, redemption payments or liquidation payments with respect thereto, including, without limitation, the securities accounts listed on Schedule 8 hereto;

(j) All present and future accessions, appurtenances, components, repairs, repair parts, spare parts, replacements, substitutions, additions, issue and/or improvements to or of or with respect to any of the foregoing;

(k) All other present and future tangible and intangible personal property constituting a Gaming Asset;

(l) All of the Pledged Collateral;

(m) All present and future rights, remedies, powers and/or privileges of a Grantor with respect to any of the foregoing, including the right to make claims thereunder or with respect thereto;

(n) All Gaming Assets that are subject to, or comprise all or any portion of, a Distribution made in violation of the Credit Agreement;

(o) Any and all proceeds and products of any of the foregoing, including, without limitation, all money, accounts, payment intangibles, general intangibles, deposit accounts, promissory notes, documents, instruments, certificates of deposit, chattel paper, investment property, letter-of-credit-rights, goods, insurance proceeds, claims by a Grantor against third parties for past, present and future infringement of the IP Collateral or any license with respect thereto and any other tangible or intangible property received upon the sale or disposition of any of the foregoing;

provided that the term “Collateral,” as used in this Agreement, does not include any Excluded Assets or any real property interests in the Gaming Assets.

“Collateral Agent” shall have the meaning given in the preamble.

“Commercial Tort Claims” means all commercial tort claims asserted by a Grantor, or on its behalf, in writing to which it has any right, title or interest and of which it is aware, in each case to the extent such commercial tort claim constitutes a Gaming Asset, including, but not limited to, those listed on Schedule 5.

“Communication” means this Agreement, any Loan Document and any document, any amendment, approval, consent, information, notice, certificate, statement, disclosure or authorization related to any Loan Document.

“Copyright Collateral” means all Copyrights and the right to sue for past, present and future infringements of rights in Copyrights, all goodwill of a Grantor related to Copyrights and any and all proceeds of any of the foregoing Collateral including, but not limited to, any and all proceeds of licensing thereof.

“Copyrights” means all present and future copyrights, rights and interests in copyrights, works protectable by copyright, copyright rights in any work subject to the copyright laws of the United States of America or any other country, whether as author, assignee, transferee or otherwise, copyright registrations and copyright applications, including, without limitation, registrations, recordings, supplemental registrations and pending applications for registration, in each case whether foreign or domestic and United States, state and international registrations of the foregoing, and all reissues, extensions and renewals of the foregoing, including, without limitation, those listed on Schedule 4 hereto.

“Debtor Relief Laws” has the meaning set forth in the Credit Agreement.

“Excluded Assets” means:

(a) any Gaming License and any other license, permit or authorization issued by any Governmental Authority;

(b) those assets in which the granting or the taking of a security interest is prohibited under any applicable Law or under the terms of any license, permit or authorization issued by any Governmental Authority, but only to the extent of the prohibitions;

(c) all assets of a Gaming Agency reasonably required to be owned or otherwise in the possession of such Gaming Agency for the proper discharge of the Gaming Agency’s regulatory responsibilities;

(d) those assets for which the granting or taking of a security interest would first require a finding of suitability or other similar approval by any of the federal or state Gaming Agencies or any other federal or state Governmental Authority, unless the required finding or approval has been obtained;

(e) any lease, license, contract or agreement if the taking or granting of a security interest therein would constitute or result in (i) a violation of federal or state law; (ii) a breach or default under, or a termination of, the lease, license, contract or agreement in

accordance with its terms (unless such terms are superseded and rendered ineffective by applicable Law, including Sections 9-406 through 9-409 of the Arizona Uniform Commercial Code, the Secured Transactions Ordinance or the UCC) or (iii) the abandonment, invalidation or unenforceability of any right, title or interest in the lease, license, contract or agreement, but only to the extent and for so long as (i), (ii) or (iii) is the case and except that the proceeds from any such lease, license, contract or agreement will not constitute Excluded Assets unless they independently constituted Excluded Assets;

(f) all Payroll Accounts, Fiduciary Accounts and any other accounts consisting solely of payroll withholding taxes, 401(k) or pension withholdings, trust fund taxes or other funds held in a fiduciary capacity;

(g) any asset subject to a purchase money Lien permitted under Section 7.1 of the Credit Agreement or Capitalized Lease, if the terms of the financing documents or lease prohibit the attachment of a Lien to the asset or require the consent of a person other than the Nation or an Affiliate of the Nation, unless such consent has been obtained;

(h) any “intent to use” trademark applications for which a statement of use has not been filed, until the statement is filed;

(i) any funds collected or held by a Grantor representing payments of Sales and Excise Taxes that have not yet been paid to the Nation, and any funds collected or held by a Grantor representing payments of sales, use, room occupancy, leisure or related excise taxes that have not yet been paid to any other jurisdiction for which the taxes were collected; and

(j) without duplication, any Protected Assets.

The term “Excluded Assets” does not include any Pledged Revenues, except to the extent described in subsection (f) above.

“Facility” and “Facilities” have the meaning set forth in the Credit Agreement.

“Gaming Agency” means, collectively, (a) the NIGC, (b) the Gaming Office, (c) the Arizona Department of Gaming and (d) any other Governmental Authority holding or exercising licensing, permit authority or other jurisdiction over gambling or casino gaming activities conducted within the Nation’s jurisdiction.

“Gaming Assets” means all tangible or intangible real or personal property of any nature (including intellectual property) now or hereafter owned by or on behalf of a Grantor or which are used in connection with, derived from or should be accounted for as an asset of the Gaming Operation, including the Pledged Revenues, cash, instruments and accounts, deposit accounts, securities accounts, including any deposit account established with a Cash Management Bank, property arising from the disposition of any of the foregoing and all proceeds, income and profits of the foregoing and as more fully described in this Agreement and referred to herein as the Collateral; provided, however, that “Gaming Assets” excludes (A) funds or other assets actually distributed to the Nation in compliance with the Credit Agreement, including the restrictions on Distributions in Section 7.6 of the Credit Agreement and (B) any Excluded Assets. Gaming Assets distributed or transferred in violation of the Loan Documents

will be deemed to retain their status as Gaming Assets for purposes of the Loan Documents notwithstanding the distribution.

“Gaming Office” means the Tohono O’odham Gaming Office, the governmental agency established and authorized by the Nation to regulate the Nation’s gaming activities.

“Gaming Operation” consists of the operations of the Enterprise Facilities.

“Grantee” means the Collateral Agent, the Bank Indemnitees and any other Person to whom the Obligations secured by the Collateral may be owed, any participant or assignee as described in Section 10.6(b) of the Credit Agreement and any of their respective successors in interest or assigns.

“Investment Collateral” means Collateral consisting of securities, capital stock, partnership or limited liability company interests, joint venture interests, investments or the like, but excluding any such Collateral associated with the operation or management of any portion of the Gaming Operation.

“IP Collateral” means, collectively, the Licenses, the Trademark Collateral, the Patents, the Copyright Collateral, the Trade Secrets and all income, fees, royalties, damages, claims and payments now and hereafter due and/or payable with respect to thereto.

“Licenses” means all of a Grantor’s right, title and interest in and to (a) any and all licensing agreements or similar arrangements in and to its Patents, Copyrights, Trade Secrets or Trademarks, and (b) all rights to sue for past, present and future breaches thereof, in each case to the extent the same is a Gaming Asset.

“Loan Documents” has the meaning set forth in the Credit Agreement.

“Management Activities” has the meaning specified in Section 32.

“Nation” means the Tohono O’odham Nation, a federally recognized Indian tribe.

“Non-Impairment and Estoppel Agreement” has the meaning set forth in the Credit Agreement.

“NIGC” means the National Indian Gaming Commission or any successor agency.

“Non-Management Obligation” means any obligation of any Person, other than an obligation to perform an act, or refrain from performing an act, in a manner that would render such performance or non-performance a Management Activity.

“Patents” means all present and future patents, letters patent, inventions and improvements described and claimed therein, including, without limitation, the right to make, use and/or sell the inventions disclosed or claimed therein, in each case whether foreign or domestic, applications, registrations and recordings relating to such patents in the USPTO or in any similar office or agency of the United States of America, any state thereof or any political

subdivision thereof, or in any other countries, and all reissues, extensions and renewals thereof, including, without limitation, those patents and applications, registrations and recordings described in Schedule 2 attached hereto and made a part hereof.

“Pledged Collateral” means any and all property of a Grantor now or hereafter pledged and delivered to the Collateral Agent pursuant to this Agreement, and including, without limitation (a) the Pledged Debt, (b) Investment Collateral, (c) Commercial Tort Claims, (d) all proceeds and products of the foregoing, (e) any and all collections, distributions, cash, instruments, interest or premiums with respect to any of the foregoing and (f) any and all rights, titles, interests, privileges, benefits and preferences appertaining or incidental to any of the foregoing.

“Pledged Debt” means all debt owed or owing to a Grantor and not held in a securities account or otherwise through a securities intermediary, including all such debt described on Schedule 3, all instruments, chattel paper or other documents, if any, representing or evidencing such debt, and all interest, cash, instruments and other property or proceeds from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such debt, in each case to the extent such debt constitutes a Gaming Asset.

“Pledged Revenues” has the meaning set forth in the Credit Agreement.

“Protected Assets” has the meaning set forth in the Credit Agreement.

“Second Restatement Effective Date” has the meaning set forth in the Credit Agreement.

“Secured Cash Management Agreement” has the meaning set forth in the Credit Agreement.

“Secured Hedge Agreement” has the meaning set forth in the Credit Agreement.

“Secured Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Grantor arising under any Loan Document (or otherwise with respect to any Loan or Letter of Credit) or under any Secured Cash Management Agreement or Secured Hedge Agreement, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Grantor or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding, provided that the Secured Obligations shall exclude any Excluded Swap Obligations.

“Secured Transactions Ordinance” means the Arizona Uniform Commercial Code, made applicable to the Loan Documents and all security interests granted in the Loan Documents under the sovereign authority of the Nation through the Nation’s Authorizing Resolution.

“Securities Account Control Agreement” has the meaning set forth in the Credit Agreement.

“Trade Secrets” means (a) all trade secrets and all other confidential or proprietary information and know-how now or hereafter owned or used in, or contemplated at any time for use in, the business of the Gaming Operation, whether or not such trade secret, other confidential or proprietary information or know-how has been reduced to a writing or other tangible form, including all documents and things embodying, incorporating or referring in any way to such trade secret, other confidential or proprietary information or know-how, (b) the right to sue for any past, present and future infringement of any trade secret, other confidential or proprietary information or know-how, and (c) all proceeds of the foregoing, including licenses, royalties, income, payments, claims, damages and proceeds of suit.

“Trademark Collateral” means all Trademarks and the goodwill of the business symbolized by each of the Trademarks, including, without limitation, all customer lists and other records relating to the distribution of products or services bearing the Trademarks.

“Trademarks” means present and future trademarks, service marks, trade names, corporate names, company names, business names, fictitious business names, trade styles, trade dress, logos, other source or business identifiers, uniform resource locations (“URLs”), domain names, designs and general intangibles of like nature, now existing or hereafter adopted or acquired, all prints and labels on which said trademarks, service marks, trade names, corporate names, company names, business names, fictitious business names, trade styles, trade dress, logos, other source or business identifiers, URLs, domain names, designs and general intangibles of like nature, now existing or hereafter adopted or acquired, appear, have appeared or will appear, and all designs and general intangibles of a like nature, all applications, registrations and recordings relating to the foregoing in the USPTO or in any similar office or agency of the United States of America, any state thereof or any political subdivision thereof, or in any other countries, and all reissues, extensions and renewals thereof, including, without limitation, those registered and applied-for trademarks, terms, designs and applications described in Schedule 1 attached hereto and made a part hereof.

“UCC” means, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of Arizona, the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

“USCO” means the United States Copyright Office.

“USPTO” means the United States Patent and Trademark Office.

2. Further Assurances. At any time and from time to time at the request of the Collateral Agent, each Grantor will execute and/or deliver all financing statements, instruments and documents, and will do all such further acts and things as may be deemed necessary or desirable by the Collateral Agent to create and perfect, and to continue and preserve, an indefeasible security interest in the Collateral in favor of the Collateral Agent, or the priority

thereof. At any time and from time to time, the Collateral Agent will be entitled to file and/or record any or all such financing statements, instruments and documents held by it, and any or all such further financing statements, documents and instruments, and to take all such other actions, as the Collateral Agent may deem appropriate, to perfect and to maintain perfected the security interest granted in Section 3. Each Grantor further authorizes the Collateral Agent to have this or any other similar agreement recorded or filed with the USCO, USPTO, or any other appropriate federal, state or foreign government office. If any Pledged Debt is at any time not evidenced by an instrument or other document, then (a) each Grantor will cause the issuer thereof to execute and deliver to the Collateral Agent an acknowledgment of the pledge made by the Grantor under this Agreement, and (b) if necessary to perfect a security interest in such Pledged Debt, each Grantor will execute any customary pledge forms or other documents necessary or appropriate to complete the pledge and give the Collateral Agent the right to transfer such Pledged Debt pursuant to the terms of this Agreement. With respect to any Collateral consisting of certificated securities, instruments, documents, certificates of title or other Collateral as to which the Collateral Agent's security interest needs to be perfected by, or the priority thereof needs to be assured by, possession of such Collateral, each Grantor will, upon demand of the Collateral Agent, deliver possession of same in pledge to the Collateral Agent. With respect to any Collateral described in the previous sentence, each Grantor hereby consents and agrees (x) to notify any securities intermediary, depository institution or other bailee therefor, and any issuer thereof, obligor thereon, registrar, transfer agent or trustee thereof, of the security interest of the Collateral Agent therein, (y) to require any such party to execute and deliver to the Collateral Agent such acknowledgments, instruments, Account Control Agreements, Securities Account Control Agreements or other agreements as may be necessary for the Collateral Agent to maintain the perfection of such security interest, and (z) that any such party shall be entitled to accept the provisions of this Agreement as conclusive evidence of the right of the Collateral Agent to effect any transfer or exercise any right hereunder or with respect to any such Collateral, notwithstanding any other notice or direction to the contrary heretofore or hereafter given by a Grantor or any other Person to any such party.

3. Security Agreement. For valuable consideration, each Grantor hereby assigns and pledges to the Collateral Agent (for the benefit of the Secured Parties) and grants to the Collateral Agent (for the benefit of the Secured Parties) a security interest in, all present and future right, title and interest of the Grantor in the Collateral, as security for the timely payment and performance of the Secured Obligations and each of them. This Agreement is a continuing and irrevocable agreement and all the rights, powers, privileges and remedies hereunder will apply to any and all Secured Obligations, including those arising under successive transactions that will either continue the Secured Obligations, increase or decrease them or from time to time create new Secured Obligations (whether or not all or any prior Secured Obligations have been satisfied), and notwithstanding the bankruptcy of a Grantor or any other Person or any other event or proceeding affecting any Person. Notwithstanding any provision of this Agreement or any other Loan Document to the contrary, as to each Grantor, in no event will the Secured Obligations include any Excluded Swap Obligations of such Grantor.

4. Delivery of Pledged Debt. On or before the Second Restatement Effective Date, each Grantor will cause to be pledged and delivered to the Collateral Agent any existing instrument or other document evidencing or constituting Pledged Debt, each of which has been listed on Schedule 3 hereto. Following the Second Restatement Effective Date, each Grantor

will promptly notify the Collateral Agent of the creation of any instrument or other document evidencing or constituting Pledged Debt, and each Grantor will deliver such Pledged Debt (including, without limitation, any instruments or other documents evidencing or constituting the same) to the Collateral Agent within ten (10) Banking Days of the Grantor's receipt of such instrument or other document evidencing or constituting Pledged Debt. All Pledged Debt (including, without limitation, any instruments or other documents evidencing or constituting the same) at any time delivered to the Collateral Agent will be in suitable form for transfer by delivery, or will be accompanied by duly executed instruments of transfer or assignment in blank, all in form and substance satisfactory to the Collateral Agent.

5. The Grantors' Representations, Warranties and Agreements. Each Grantor represents, warrants and agrees that:

(a) the Grantor owns the sole, full and clear title to all of the existing Collateral and the Grantor has the right and power to grant the security interest granted hereunder in the Collateral;

(b) the Grantor owns the Collateral free and clear of any Lien except as expressly permitted by the Credit Agreement;

(c) the Grantor has the right and power to pledge the Collateral and grant a security interest in the Collateral to the Collateral Agent without the consent, approval or authorization of, or notice to, any Person (other than such consents, approvals, authorization or notices that have been obtained or given prior to the date hereof) and such pledge and security interest constitutes the valid, binding and enforceable obligation of the Grantor, enforceable against the Grantor in accordance with the terms hereof and the other Loan Documents, except as enforcement may be limited by Debtor Relief Laws or equitable principles relating to the granting of specific performance and other equitable remedies as a matter of judicial discretion;

(d) as of the date hereof, the Grantor has no Trademarks that constitute part of the Collateral that are registered, or subject to pending applications, in the USPTO, or to the best knowledge of the Grantor, any similar office or agency in the United States of America, other than those described in Schedule 1 attached hereto;

(e) as of the date hereof, the Grantor has no Patents that constitute part of the Collateral that are registered, or subject to pending applications, in the USPTO, or to the best knowledge of the Grantor, any similar office or agency in the United States of America, other than those described in Schedule 2 attached hereto;

(f) as of the date hereof, Schedule 3 attached hereto sets forth all of the Pledged Debt owned or held by or on behalf of the Grantor;

(g) as of the date hereof, the Grantor does not have any Copyrights that constitute part of the Collateral that are registered, or subject to pending applications, with the USCO, or any similar office or agency in the United States of America or elsewhere, other than those described in Schedule 4 attached hereto;

(h) as of the date hereof, the Grantor has no Commercial Tort Claims other than those described in Schedule 5 attached hereto and the Grantor hereby covenants and agrees that it will provide the Collateral Agent with prompt written notice of each Commercial Tort Claim, and any judgment, settlement or other disposition thereof and will take such action as the Collateral Agent may request to grant and perfect a security interest therein in favor of the Collateral Agent;

(i) as of the date hereof, Schedule 6 attached hereto sets forth each of the material Licenses owned or held by or on behalf of the Grantor other than the intellectual property otherwise set forth in the other Schedules hereto;

(j) as of the date hereof, Schedule 7 attached hereto sets forth each letter of credit giving rise to a letter-of-credit right included in the Collateral owned or held by or on behalf of the Grantor;

(k) as of the date hereof, Schedule 8 attached hereto sets forth each deposit account and each securities account owned or held by or on behalf of the Grantor and that is a Gaming Asset or that contains any Gaming Asset;

(l) there are no actions, suits, proceedings or investigations pending or threatened in writing against the Grantor before any governmental authority that could be expected to cause any portion of the IP Collateral to be adjudged invalid or unenforceable, in whole or in part, as of the date hereof, and the Grantor has received no written notice of any of the foregoing;

(m) the Grantor has not abandoned any Patents, Trademarks or Copyrights, and the Grantor will not do any act, or omit to do any act, whereby any Patents, Trademarks or Copyrights may become abandoned, canceled, invalidated, unenforceable, avoided or avoidable unless permitted by the Credit Agreement;

(n) the Grantor will not (i) sell, assign, exchange, transfer or otherwise dispose of, or contract to sell, assign, exchange, transfer or otherwise dispose of, or grant any option with respect to, any of the Collateral, except as specifically permitted under the Credit Agreement, (ii) create or permit to exist any Lien upon or with respect to any of the Collateral, except for Liens permitted pursuant to the Credit Agreement or (iii) take any action with respect to the Collateral that is inconsistent with the provisions or purposes of this Agreement or any of the other Loan Documents;

(o) the Grantor will pay, prior to delinquency, all taxes, charges, Liens and assessments against the Collateral, except as specifically permitted under the Credit Agreement;

(p) the Collateral will not be knowingly used for any unlawful purpose or in violation of any Law, nor used in any way that will void or impair any insurance required to be carried in accordance with the Credit Agreement;

(q) the Grantor will, to the extent consistent with good business practice, keep the Collateral in good repair, working order and condition, ordinary wear and tear excepted, and from time to time make all needful and proper repairs, renewals, replacements, additions and

improvements thereto and, as appropriate and applicable, will otherwise deal with the Collateral in all such ways as are considered good practice by owners of like property;

(r) the Grantor will, consistent with good business practice, take all steps to preserve and protect the Collateral, including, with respect to the IP Collateral, the filing of any renewal affidavits and applications;

(s) promptly, but in any event no later than thirty (30) days after taking such action, the Grantor will notify the Collateral Agent of any application for the registration of a Patent, Trademark or Copyright with the USPTO, USCO or any similar office or agency in the United States of America or any State therein;

(t) the Grantor assumes all responsibility and liability arising from the use of the IP Collateral, and the Grantor hereby indemnifies and holds the Collateral Agent harmless from and against any claim, suit, loss, damage or expense (including attorneys' fees) arising out of any alleged defect in any product manufactured, promoted or sold by the Grantor (or any Affiliate of the Grantor) in connection with any IP Collateral or out of the manufacture, promotion, labeling, sale or advertisement of any such product by the Grantor or any Affiliate of the Grantor;

(u) the Grantor will maintain, with responsible insurance companies, insurance covering the Collateral against such insurable losses as is required by the Credit Agreement and will cause the Collateral Agent to be designated as an additional insured and loss payee with respect to such insurance, will obtain the written agreement of the insurers that such insurance will not be cancelled, terminated or modified to the detriment of the Collateral Agent without at least thirty (30) days prior written notice to the Collateral Agent and will provide copies of policies and certificates evidencing such insurance to the Collateral Agent promptly upon request therefor;

(v) the Grantor will promptly notify the Collateral Agent in writing in the event of any substantial or material damage to the Collateral from any source whatsoever and, except for the disposition of collections and other proceeds of the Collateral permitted by Section 8 or by the Credit Agreement, the Grantor will not remove or permit to be removed any substantial or material part of the Collateral from its places of business unless it is commercially reasonable to do so and the Grantor has provided at least ten (10) Banking Days' prior written notice of such removal to the Collateral Agent, except for such items of the Collateral as are removed in the ordinary course of business or in connection with any transaction or disposition otherwise permitted by the Credit Agreement;

(w) the Grantor will maintain Books and Records pertaining to the Collateral in such detail, form and scope as is consistent with sound industry practices;

(x) the Grantor will at any time at the Collateral Agent's request mark the Collateral and/or the Grantor's ledger cards, books of account and other records relating to the Collateral with appropriate notations satisfactory to the Collateral Agent disclosing that they are subject to the Collateral Agent's security interest;

(y) in the event the Grantor changes its name or its address as either are set forth herein or in the Credit Agreement, the Grantor will notify the Collateral Agent of such name and/or address change promptly, but, in any event, within five (5) Banking Days after such change; and

(z) the Grantor authorizes the Collateral Agent to modify this Agreement by amending the Schedules hereto to include any new IP Collateral, any renewal thereof or any IP Collateral applied for and obtained hereafter; and the Grantor shall, upon request of the Collateral Agent, from time to time execute and deliver to the Collateral Agent any and all assignments, agreements, instruments, documents and such other papers as may be requested by the Collateral Agent to evidence the Collateral Agent's security interest in each such IP Collateral.

6. Deposit and Securities Accounts. Except as otherwise noted on Schedule 8, for each deposit account and securities account that contains any Gaming Asset (and is not otherwise in an account with the Collateral Agent), each Grantor will cause the depository bank or applicable financial institution to agree to comply at any time with instructions from the Collateral Agent to such depository bank or applicable financial institution directing the disposition of funds or other Collateral from time to time credited to such deposit account or securities account, as applicable, without further consent of the Grantor, pursuant to an Account Control Agreement or Securities Account Control Agreement. Without limiting the foregoing, the Collateral Agent will also have the right at any time, whether or not an Event of Default will have occurred or be continuing, to make inquiry of each applicable depository institution or applicable financial institution at which any such deposit account or securities account is maintained to verify the account balance of such account.

7. The Collateral Agent's Rights Regarding Collateral. At any time and at the expense of the applicable Grantor, the Collateral Agent may, to the extent it may be necessary or desirable to protect the Collateral, but the Collateral Agent will not be obligated to, (a) enter upon any premises on which Collateral is situated and examine the same and (b) perform any Non-Management Obligation of the Grantor under this Agreement or the other Loan Documents. At any time and from time to time when any Event of Default has occurred and remains continuing, at the expense of the applicable Grantor, the Collateral Agent may, to the extent it may be necessary or desirable to protect the Collateral, but the Collateral Agent will not be obligated to, (i) notify obligors on the Collateral that the Collateral has been assigned to the Collateral Agent and (ii) request from obligors on the Collateral, in the name of the Grantor or in the name of the Collateral Agent, information concerning the Collateral and the amounts owing thereon. Upon prior notice and subject to applicable Gaming Laws, the Collateral Agent will at all times have full access to and the right to audit any and all of the Grantors' Books and Records pertaining to the Collateral, and to confirm and verify the value of the Collateral and to do whatever else the Collateral Agent may deem necessary or desirable to protect its interests in the Collateral (other than to engage in a Management Activity); provided, however, that any such action that involves communicating with customers of a Grantor will be carried out by the Collateral Agent through the Grantor's independent auditors unless the Collateral Agent will then have the right directly to notify obligors on the Collateral as provided in Section 10. The Collateral Agent shall be under no duty or obligation whatsoever to take any action to preserve any rights of or against any prior or other parties in connection with the Collateral, whether or

not an Event of Default will have occurred, or to make or give any presentments, demands for performance, notices of non-performance, protests, notices of protests, notices of dishonor or notices of any other nature whatsoever in connection with the Collateral or the Secured Obligations. The Collateral Agent and any Secured Party will be under no duty or obligation whatsoever to take any action to protect or preserve the Collateral or any rights of a Grantor therein, or to make collections or enforce payment thereon, or to participate in any foreclosure or other proceeding in connection therewith. If any Grantor fails to perform any agreement contained herein, the Collateral Agent may itself perform, or cause performance of, such agreement, and the expenses of the Collateral Agent incurred in connection therewith shall be payable by each Grantor under Section 10.4 of the Credit Agreement.

8. Collections on the Collateral. Except as otherwise provided in the Credit Agreement, a Grantor will have the right to use and to continue to make collections on and receive dividends and other proceeds of all of the Collateral in the ordinary course of business so long as no Event of Default will have occurred and be continuing. Upon the occurrence and during the continuation of an Event of Default, at the option of the Collateral Agent, except as prohibited by applicable federal or state Law and subject to Section 32, the Grantors' right to make collections on and receive dividends and other proceeds of the Collateral and to use or dispose of such collections, dividends and proceeds will terminate, and any and all proceeds, dividends and collections, including all partial or total prepayments, then held or thereafter received on or on account of the Collateral will be held or received by any Grantor in trust for the Administrative Agent and immediately delivered in kind to the Collateral Agent. Upon the occurrence and during the continuation of an Event of Default, the Administrative Agent will have the right at all times to receive, receipt for, endorse, assign, deposit and deliver, in the name of the Collateral Agent or in the name of any Grantor, any and all checks, notes, drafts and other instruments for the payment of money constituting Collateral or proceeds of Collateral; and each Grantor hereby authorizes the Administrative Agent to affix, by facsimile signature or otherwise, the general or special endorsement of such Grantor, in such manner as the Administrative Agent deems advisable, to any such instrument in the event the same has been delivered to or obtained by the Administrative Agent without appropriate endorsement, and the Administrative Agent and any collecting bank are hereby authorized to consider such endorsement to be a sufficient, valid and effective endorsement by such Grantor, to the same extent as though it were manually executed by the duly authorized officer of such Grantor, regardless of by whom, under what circumstances or by what authority such facsimile signature or other endorsement actually is affixed, without duty of inquiry or responsibility as to such matters, and such Grantor hereby expressly waives demand, presentment, protest and notice of protest or dishonor, and all other notices of every kind and nature with respect to any such instrument.

9. Possession of Collateral by the Collateral Agent. To the extent that any of the Collateral is at any time physically delivered to the Collateral Agent or deposited into any deposit, brokerage or other similar account located with or maintained by the Collateral Agent, such Collateral will be deemed to be subject to the "control" of the Collateral Agent (as the term "control" is used in Article 9 of the Arizona Uniform Commercial Code). Nothing herein will obligate the Collateral Agent to invest any Collateral or obtain any particular return thereon. Subject to Section 32, upon the occurrence and during the continuation of an Event of Default, whenever any of the Collateral is in the Collateral Agent's possession, custody or control, the Collateral Agent may exercise all rights of a secured party under the Arizona Uniform

Commercial Code, whether for the purpose of preserving and/or protecting the Collateral, or for the purpose of performing any of the Grantors' Non-Management Obligations with respect thereto or otherwise; provided that nothing contained herein will be deemed to grant any right to the Collateral Agent to operate any portion of the Collateral on the premises of the Grantors, whether as a gaming business, casino or other similar business. The Collateral Agent may at any time deliver or redeliver the Collateral or any part thereof to a Grantor, and the receipt of any of the same by the Grantor will be complete and full acquittance for the Collateral so delivered and the Collateral Agent thereafter will be discharged from any liability or responsibility therefor. So long as the Collateral Agent exercises reasonable care with respect to any Collateral in its possession, custody or control, the Collateral Agent will have no liability for any loss of or damage to such Collateral, and in no event will the Collateral Agent have liability for any diminution in value of Collateral occasioned by economic or market conditions or events. The Collateral Agent will be deemed to have exercised reasonable care within the meaning of the preceding sentence if the Collateral in the possession, custody or control of the Collateral Agent is accorded treatment substantially equal to that which the Collateral Agent accords its own property, it being understood that the Collateral Agent will not have any responsibility for (a) ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relating to any Collateral, whether or not the Collateral Agent has or is deemed to have knowledge of such matters, or (b) taking any necessary steps to preserve rights against any Person with respect to any Collateral.

10. Rights Upon Event of Default. Subject to Section 32, upon the occurrence and during the continuation of an Event of Default, the Collateral Agent, as collateral agent for and representative of the Secured Parties, will have, in any jurisdiction where enforcement hereof is sought, in addition to all other rights and remedies that the Collateral Agent may have under applicable Law or in equity or under this Agreement (including, without limitation, all rights set forth in Sections 8 and 13) or under any of the other Loan Documents, all rights and remedies of a secured party under the Arizona Uniform Commercial Code, the Secured Transactions Ordinance and the UCC, and, in addition, the following rights and remedies, all of which may be exercised with or without notice to the Grantors and without affecting the obligations of the Grantors hereunder or under any of the other Loan Documents, or the enforceability of the Lien and security interest created hereby:

(a) to foreclose the Lien and security interest created hereunder or under any other agreement relating to any Collateral by any available judicial procedure or without judicial process;

(b) to enter any premises where any Collateral may be located for the purpose of securing, protecting, inventorying, appraising, inspecting, repairing, preserving, storing, preparing, processing, taking possession of or removing the same;

(c) to sell, assign, lease or otherwise dispose of any Collateral or any part thereof, either at public or private sale or at any broker's board, in lot or in bulk, for cash, on credit or otherwise, with or without representations or warranties, and upon such terms as will be acceptable to the Collateral Agent;

(d) to notify obligors on the Collateral that the Collateral has been assigned to the Collateral Agent and that all payments thereon are to be made directly and exclusively to the Collateral Agent;

(e) to collect by legal proceedings or otherwise all dividends, distributions, interest, principal or other sums now or hereafter payable upon or on account of the Collateral;

(f) to enter into any extension, reorganization, deposit, merger or consolidation agreement, or any other agreement relating to or affecting the Collateral, and in connection therewith the Collateral Agent may deposit or surrender control of the Collateral and/or accept other property in exchange for the Collateral;

(g) to settle, compromise or release, on terms acceptable to the Collateral Agent, in whole or in part, any amounts owing on the Collateral and/or any disputes with respect thereto;

(h) to extend the time of payment, to make allowances and adjustments and to issue credits in connection with the Collateral in the name of the Collateral Agent or in the name of a Grantor or any other Person;

(i) to enforce payment and prosecute any action or proceeding with respect to any or all of the Collateral and take or bring, in the name of the Collateral Agent or in the name of a Grantor, any and all steps, actions, suits or proceedings deemed by the Collateral Agent necessary or desirable to effect collection of or to realize upon the Collateral, including any judicial or nonjudicial foreclosure thereof or thereon, and each Grantor hereby (i) specifically consents to any nonjudicial foreclosure of any or all of the Collateral or any other action taken by the Collateral Agent that may release any obligor from personal liability on any of the Collateral, and (ii) waives any right not expressly provided for in this Agreement to receive notice of any public or private judicial or nonjudicial sale or foreclosure of any security or any of the Collateral;

(j) to process and preserve the Collateral and, if a Grantor fails to procure and deliver any required insurance, at the Collateral Agent's option and at the Grantor's expense, procure such insurance on any insurable interest in the Collateral of the Collateral Agent;

(k) to exercise all rights, remedies, powers or privileges provided under any of the Loan Documents;

(l) to remove, from any premises where the same may be located, the Collateral and any and all documents, instruments, files and records relating to the Collateral, and any receptacles and cabinets containing the same, and the Collateral Agent may, at the cost and expense of a Grantor, use such of the Grantor's supplies, equipment, facilities and space at the Grantor's places of business as the Collateral Agent deems necessary or appropriate to properly administer, process, store, control, prepare for sale or disposition and/or sell or dispose of the Collateral or to properly administer and control the handling of collections and realizations thereon, and the Collateral Agent will be deemed to have an irrevocable license to use, without cost to the Collateral Agent, any premises of the Grantors or at the Enterprise Facilities for such purposes and for such periods of time as reasonably required by the Collateral Agent;

(m) to exercise all other rights, powers, privileges and remedies of an owner of the Collateral (except to engage in Management Activities) and to perform any Non-Management Obligation of a Grantor under this Agreement or any of the other Loan Documents, all at the Collateral Agent's sole option and as the Collateral Agent in its sole discretion may deem advisable;

(n) to apply any money or other property received by the Collateral Agent in exchange for or on account of the Collateral, whether representing collections or proceeds of Collateral, and whether resulting from voluntary payments, foreclosure proceedings or other legal action taken by the Collateral Agent or the Grantor or any other Person, without notice to the Grantor or any other Person, to the Secured Obligations in such order and manner as the Collateral Agent in its sole discretion determines;

(o) to require each Grantor to, and each Grantor will at its expense and upon request of the Collateral Agent immediately: (i) assemble the Collateral (or any part thereof, as requested) and make it available to the Collateral Agent at places that the Collateral Agent may designate, whether at the premises of the Grantor or elsewhere; and (ii) make available to the Collateral Agent, free of cost, all premises, equipment and facilities of the Grantor or of the Enterprise Facilities for the purpose of the Collateral Agent's taking possession of such Collateral, or storing the same, or removing or putting such Collateral in salable form, or selling or disposing of same; and

(p) subject to Section 32, without notice or demand, either in person or by agent (but not by any receiver), and without regard to the adequacy of any security for the Secured Obligations, to take possession of the Collateral or any part thereof and to collect and receive the rents, issues, profits, income and proceeds thereof, with the understanding that taking possession of the Collateral will not cure or waive any Event of Default or notice thereof or invalidate any act done pursuant to such notice.

Notwithstanding any provision in this Section 10, nothing contained herein will be deemed to authorize the Collateral Agent to apply or control the application of the Collateral to pay or discharge any obligations of a Grantor related to the Gaming Operation owing to anyone other than the Collateral Agent or Persons with a Lien or other claim against the Collateral.

Notwithstanding anything in this Agreement or in any Account Control Agreement or Securities Account Control Agreement to the contrary, the Collateral Agent agrees that (i) it will not deliver a notice of control, notice of exclusive control, shifting control notice, activation notice, instructions or entitlement orders as to the disposition of any property subject to an Account Control Agreement or Securities Account Control Agreement or any similar notice (each a "Control Notice") under any Account Control Agreement or Securities Account Control Agreement unless an Event of Default has occurred and is continuing as of the date such Control Notice is sent to the applicable party and (ii) promptly upon the cure or waiver of an Event of Default, it will deliver a supplemental written notice expressly terminating such Control Notice and restoring the Grantor's access to the accounts subject to such Account Control Agreement or Securities Account Control Agreement as such access existed prior to the delivery of such Control Notice. The foregoing agreement is between the Collateral Agent (on behalf of the Secured Parties) and the Grantors, and each depository or other party under an Account Control

Agreement or Securities Account Control Agreement at all times shall comply with instructions originated by Collateral Agent directing disposition of the funds in the relevant accounts without further consent by the Grantors.

11. Sale of the Collateral.

(a) Any public or private sale or other disposition of the Collateral may be held at any office of the Collateral Agent, at any Enterprise Facility, at any of the Grantors' places of business or at any other place permitted by applicable Law, and without the necessity of the Collateral being within the view of prospective purchasers. The Collateral Agent may, as collateral agent for and representative of the Secured Parties, direct the order and manner of sale of the Collateral, or portions thereof, as the Collateral Agent in its sole and absolute discretion may determine, and each Grantor expressly waives any right to direct the order and manner of sale of any Collateral. Subject to applicable Law, the Collateral Agent or any Person on the Collateral Agent's behalf may bid and purchase at any such sale or other disposition. The net cash proceeds resulting from the collection, liquidation, sale, lease or other disposition of the Collateral will be applied, first, to the expenses (including attorneys' fees and costs) of retaking, holding, storing, processing and preparing for sale or lease, selling, leasing, collecting and liquidating the Collateral, and then to the satisfaction of the Secured Obligations with application as to any particular Secured Obligations to be in the order determined by the Collateral Agent in its sole and absolute discretion. Each Grantor and any other Person then obligated to pay the Secured Obligations will pay to the Collateral Agent on demand any deficiency with regard thereto which may remain after such sale, disposition, collection or liquidation of the Collateral. After all the Secured Obligations have been indefeasibly paid, the balance after such sale, disposition, collection or liquidation of the Collateral will be reassigned and redelivered to the Grantors or to the Person or Persons otherwise legally entitled thereto.

(b) Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Collateral Agent will send or otherwise make available to the Grantors such notice as may be required by the Arizona Uniform Commercial Code of the time and place of any public sale thereof or of the time on or after which any private sale thereof is to be made. The requirement of sending reasonable notice conclusively will be met if such notice is given to a Grantor in accordance with the Credit Agreement at least ten (10) days before the date of the sale. Each Grantor expressly waives any right to receive notice of any public or private sale of any Collateral or other security for the Secured Obligations except as expressly provided for in this paragraph.

(c) Upon the occurrence and during the continuation of an Event of Default, the Collateral Agent may use any of the IP Collateral for the sale of goods, completion of work in process, or rendering of services in connection with enforcing any security interest granted to the Collateral Agent by a Grantor. The Collateral Agent may grant such a license or licenses relating to the IP Collateral for such term or terms, on such conditions and in such manner as the Collateral Agent, in its sole discretion, deems appropriate. Such license or licenses may be general, special or otherwise, and may be granted on an exclusive or nonexclusive basis throughout all or part of the United States of America, its territories and possessions and all foreign countries. In connection with any such license or any sale or other disposition of the IP Collateral (or any part thereof), each Grantor will supply to the Collateral Agent, or the

Collateral Agent's designee, to the extent the Grantor is able to do so, the Grantor's knowledge and expertise relating to the manufacture and sale of the products and services bearing the IP Collateral and the Grantor's customer lists and other records relating to the IP Collateral and the distribution thereof.

(d) With respect to any Collateral consisting of securities, partnership or limited liability company interests, joint venture interests, investments or the like, and whether or not any of such Collateral has been effectively registered under the Securities Act of 1933, as amended, or other applicable Law, the Collateral Agent may, in its sole and absolute discretion, sell all or any part of such Collateral at private sale in such manner and under such circumstances as the Collateral Agent may deem necessary or advisable in order that the sale may be lawfully conducted. Without limiting the foregoing, the Collateral Agent may (i) approach and negotiate with a limited number of potential purchasers, and (ii) restrict the prospective bidders or purchasers to Persons who will represent and agree that they are purchasing such Collateral for their own account for investment and not with a view to the distribution or resale thereof. In the event that any such Collateral is sold at private sale, each Grantor agrees that if such Collateral is sold for a price that the Collateral Agent in good faith believes to be reasonable under the circumstances then existing, then (iii) the sale will be deemed to be commercially reasonable in all respects, (iv) the Grantor will not be entitled to a credit against the Secured Obligations in an amount in excess of the purchase price and (v) the Collateral Agent will not incur any liability or responsibility to the Grantor in connection therewith, notwithstanding the possibility that a substantially higher price might have been realized at a public sale. Each Grantor recognizes that a ready market may not exist for such Collateral if it is not regularly traded on a recognized securities exchange, and that a sale by the Collateral Agent of any such Collateral for an amount substantially less than a pro rata share of the fair market value of the applicable issuer's assets minus liabilities may be commercially reasonable in view of the difficulties that may be encountered in attempting to sell a large amount of such Collateral or Collateral that is privately traded.

(e) Upon consummation of any sale of the Collateral hereunder, the Collateral Agent will have the right to assign, transfer and deliver to the purchaser or purchasers thereof the Collateral so sold. Each such purchaser at any such sale will hold the Collateral so sold absolutely free from any claim or right upon the part of each Grantor or any other Person, and each Grantor hereby waives (to the extent permitted by applicable Law) all rights of redemption, stay and appraisal that it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. If the sale of all or any part of the Collateral is made on credit or for future delivery, the Collateral Agent will not be required to apply any portion of the sale price to the Secured Obligations until such amount actually is received by the Collateral Agent, and any Collateral so sold may be retained by the Collateral Agent until the sale price is paid in full by the purchaser or purchasers thereof. The Collateral Agent will not incur any liability in case any such purchaser or purchasers will fail to pay for the Collateral so sold, and, in case of any such failure, the Collateral may be sold again.

12. Voting Rights; Dividends; etc. With respect to any Investment Collateral, so long as no Event of Default occurs and remains continuing:

(a) Voting Rights. Each Grantor will be entitled to exercise any and all voting and other consensual rights pertaining to the Investment Collateral, or any part thereof, for any purpose not inconsistent with the terms of this Agreement, the Credit Agreement or the other Loan Documents; provided, however, that the Grantor will not exercise, and will refrain from exercising, any such right if it would result in a Default.

(b) Dividend and Distribution Rights. Except as otherwise provided in any of the Loan Documents, each Grantor will be entitled to receive, retain and use any and all dividends or distributions paid in respect of the Investment Collateral. If a Grantor receives any dividends or distributions in the form of capital stock, certificated securities, warrants, options or rights to acquire capital stock or certificated securities, the Grantor will forthwith deliver the same to the Collateral Agent in the same form as so received (with any necessary endorsements) to hold as Pledged Collateral. Until the Grantor delivers the same to the Collateral Agent, the Grantor will hold the same in trust for the benefit of the Collateral Agent, segregated from the other property of the Grantor.

13. Rights Regarding Investment Collateral During Event of Default. With respect to any Investment Collateral, so long as an Event of Default has occurred and is continuing:

(a) Voting, Dividend and Distribution Rights. At the option of the Collateral Agent, all rights of a Grantor to exercise the voting and other consensual rights that it would otherwise be entitled to exercise pursuant to Section 12(a) above, and to receive the dividends and distributions that it would otherwise be authorized to receive and retain pursuant to Section 12(b) above, will cease and all such rights thereupon will become vested in the Collateral Agent which thereupon shall have the sole right to exercise such voting and other consensual rights and to receive and to hold as Pledged Collateral such dividends and distributions.

(b) Dividends and Distributions Held in Trust. All dividends and distributions that are received by a Grantor contrary to the provisions of this Agreement will be received in trust for the benefit of the Collateral Agent, will be segregated from other funds of the Grantor and forthwith will be paid over to the Collateral Agent as Pledged Collateral in the same form as so received (with any necessary endorsements).

(c) Irrevocable Proxy. Each Grantor hereby revokes all previous proxies with regard to the Investment Collateral and hereby appoints the Collateral Agent as its proxyholder to attend and vote at any and all meetings of the shareholders or other equity holders of the Persons that issued the Investment Collateral and any adjournments thereof held on or after the date of the giving of this proxy and prior to the termination of this proxy, and to execute any and all written consents of shareholders or other equity holders of such Persons executed on or after the date of the giving of this proxy and prior to the termination of this proxy, with the same effect as if the Grantor had personally attended the meetings or had personally voted its shares or other interests or had personally signed the written consents; provided, however, that the proxyholder will have rights hereunder only upon the occurrence and during the continuation of an Event of Default. Each Grantor hereby authorizes the Collateral Agent to substitute another Person as the proxyholder and, upon the occurrence and during the continuation of any Event of Default, hereby authorizes the proxyholder to file this proxy and any substitution instrument with the secretary or other appropriate official of the appropriate Person. This proxy is coupled with

an interest and is irrevocable until such time as all Secured Obligations have been indefeasibly paid in full in cash and performed in full and all commitments to provide credit under the Credit Agreement have been terminated.

14. Attorney-in-Fact.

(a) Each Grantor hereby irrevocably nominates and appoints the Collateral Agent as its attorney-in-fact for the following purposes, subject to Section 32: (a) to do all acts and things that the Collateral Agent may deem necessary or advisable to perfect and continue perfected the security interest created by this Agreement and, upon the occurrence and during the continuation of an Event of Default, to preserve, process, develop, maintain and protect the Collateral and the security interest of the Collateral Agent therein; (b) upon the occurrence and during the continuation of an Event of Default, to do any and every act which the Grantor is obligated to do under this Agreement, at the expense of the Grantor and without any obligation to do so; (c) to prepare, sign, file and/or record for the Grantor, in the name of the Grantor, any financing statement, application for registration or like paper and to take any other action deemed by the Collateral Agent to be necessary or desirable in order to perfect or maintain perfected the security interest granted hereby; (d) upon the occurrence and during the continuation of an Event of Default, to execute any and all papers and instruments and do all other things necessary or desirable to preserve and protect the Collateral and to protect the Collateral Agent's security interest therein; and (e) upon the occurrence and during the continuation of an Event of Default, to endorse and transfer the Pledged Collateral to any transferee or designee; provided, however, that the Collateral Agent will be under no obligation whatsoever to take any of the foregoing actions, and the Collateral Agent will have no liability or responsibility for any act taken or omission with respect thereto, except to the extent that such liability is determined to have resulted from the gross negligence or willful misconduct of the Collateral Agent in a final and nonappealable arbitration award or in a final and nonappealable judgment. The foregoing power of attorney is coupled with an interest and is irrevocable until such time as all Secured Obligations have been indefeasibly paid and performed in full and when no commitment of the Lenders or Facility provided by the Lenders under the Credit Agreement remains outstanding.

(b) The powers conferred on the Collateral Agent hereunder are solely to protect the interests of the Secured Parties in the Collateral and shall not impose any duty upon the Collateral Agent or any Secured Party to exercise any such powers. The Collateral Agent and the Secured Parties shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct.

15. Collateral Agent. The Collateral Agent has been appointed to act as Collateral Agent hereunder by the Secured Parties. The Collateral Agent shall be obligated, and shall have the right hereunder, to make demands, to give notices, to exercise or refrain from exercising any rights or remedies, and to take or refrain from taking any action (including, without limitation, the release or substitution of Collateral), solely in accordance with this Agreement and the Loan Documents. In furtherance of the foregoing provisions of this Section 15, each Secured Party, by its acceptance of the benefits hereof, agrees that, except as set forth in Section 10.8 of the Credit

Agreement, it shall have no right individually to realize upon any of the Collateral hereunder, it being understood and agreed by such Secured Party that, except as set forth in Section 10.3 of the Credit Agreement, all rights and remedies hereunder may be exercised solely by the Collateral Agent for the benefit of the Secured Parties in accordance with the terms of this Section 15. The Collateral Agent may resign or be removed in accordance with Section 9.6 of the Credit Agreement. After the Collateral Agent's resignation or removal thereunder as the Collateral Agent, the provisions of this Agreement shall inure to its benefit as to any actions taken or omitted to be taken by it under this Agreement while it was the Collateral Agent hereunder.

16. Continuing Security Interest; Transfer of Loans. This Agreement shall create a continuing security interest in the Collateral and shall remain in full force and effect until the payment in full of all Secured Obligations (other than contingent indemnification obligations and obligations under Secured Hedge Agreements or Secured Cash Management Agreements not then due and payable and that do not become due and payable as a result of the payment in full of the other Secured Obligations) and be binding upon each Grantor and its successors and assigns, and inure, together with the rights and remedies of the Collateral Agent hereunder, to the benefit of the Collateral Agent and its successors, transferees and assigns. Without limiting the generality of the foregoing, but subject to the terms of the Credit Agreement and the other Loan Documents, any Lender may assign or otherwise transfer any Loans held by it to any other Person, and such other Person shall thereupon become vested with all the benefits in respect thereof granted to the Lenders herein or otherwise. Upon the payment in full of all Secured Obligations (other than contingent indemnification obligations and obligations under Secured Hedge Agreements and Secured Cash Management Agreements not then due and payable and that do not become due and payable as a result of the payment in full of the other Secured Obligations), the security interest granted hereby shall automatically terminate hereunder and of record and all rights to the Collateral shall revert to the applicable Grantors. Upon any such termination, the Collateral Agent shall, at the Grantors' expense, execute and deliver to any Grantor such documents as such Grantor shall reasonably request to evidence such termination and promptly release any possessory Collateral to the applicable Grantors.

17. Costs and Expenses. Each Grantor will pay to the Collateral Agent all costs and expenses (including, without limitation, attorneys' fees and costs) incurred by the Collateral Agent in the enforcement or attempted enforcement of this Agreement (including in connection with any workout, restructuring, bankruptcy, insolvency or other similar proceeding), whether or not an action is filed in connection therewith, and in connection with any waiver, supplementation, extension, renewal or amendment of any term or provision hereof. All advances, charges, costs and expenses, including attorneys' fees and costs, incurred or paid by the Collateral Agent in exercising any right, privilege, power or remedy conferred by this Agreement (including, without limitation, the right to perform any Non-Management Obligation of a Grantor under the Loan Documents), or in the enforcement or attempted enforcement thereof (including in connection with any workout, restructuring, bankruptcy, insolvency or other similar proceeding), will be secured hereby and will become a part of the Secured Obligations and will be paid to the Collateral Agent by the Grantors, immediately upon demand, together with interest thereon at the default rate provided for under the Credit Agreement.

18. Statute of Limitations and Other Laws. All rights, privileges, powers and remedies granted to the Collateral Agent hereunder will continue to exist and may be exercised by the Collateral Agent at any time and from time to time irrespective of the fact that any of the Secured Obligations may have become barred by any statute of limitations. Each Grantor expressly waives the benefit of any and all statutes of limitation, and any and all Laws providing for exemption of property from execution or for valuation and appraisal upon foreclosure, to the maximum extent permitted by applicable Law.

19. Other Agreements. Nothing herein will in any way modify or limit the effect of terms or conditions set forth in any other security or other agreement executed by the Grantors or in connection with the Secured Obligations, but each and every term and condition hereof will be in addition thereto. All provisions contained in the Credit Agreement or any of the other Loan Documents that apply to Loan Documents generally are fully applicable to this Agreement and are incorporated herein by this reference.

20. Understandings with Respect to Waivers and Consents. Each Grantor warrants and agrees that each of the waivers and consents set forth herein is made after consultation with legal counsel and with full knowledge of its significance and consequences, with the understanding that events giving rise to any defense or right waived may diminish, destroy or otherwise adversely affect rights that the Grantor otherwise may have against the Collateral Agent or others, or against the Collateral, and that, under the circumstances, the waivers and consents herein given are reasonable and not contrary to public policy or Law. If any of the waivers or consents herein are determined to be contrary to any applicable Law or public policy, such waivers and consents will be effective to the maximum extent permitted by Law.

21. Continuing Effect. This Agreement will remain in full force and effect and continue to be effective should any petition be filed by or against any Grantor for liquidation or reorganization or should any Grantor become insolvent or make an assignment for the benefit of creditors, and will continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Secured Obligations, or any part thereof, is, pursuant to applicable Law, rescinded or reduced in amount or must otherwise be restored or returned by the Collateral Agent, whether as an "avoidable preference," a "fraudulent conveyance" or otherwise, all as though such payment or performance had not been made. In the event that any payment or any part thereof is rescinded, reduced, restored or returned, the Secured Obligations will be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

22. Additional Powers and Authorization of the Collateral Agent; Appointment and Authority of Collateral Agent.

(a) Notwithstanding anything contained herein to the contrary, the Collateral Agent may employ agents, trustees or attorneys-in-fact and may vest any of them with any property (including, without limitation, any Collateral pledged hereunder), title, right or power deemed necessary for the purposes of such appointment.

(b) By accepting the benefits of this Agreement, each Affiliate of Bank of America, N.A., and each successor and each assign of Bank of America, N.A., and its Affiliates,

acknowledges and agrees that any right, remedy, privilege or power of the Collateral Agent under this Agreement will be exercised solely by Bank of America, N.A. (unless Bank of America, N.A. otherwise consents in writing), and any notices, documents or items to be delivered to the Collateral Agent under this Agreement will be delivered to Bank of America, N.A., for the benefit of the Collateral Agent.

(c) Each Affiliate of Bank of America, N.A., and each successor and each assign of Bank of America, N.A., and its Affiliates, hereby irrevocably appoints Bank of America, N.A. to act on its behalf hereunder and authorizes Bank of America, N.A. to take such actions on its behalf and to exercise such powers as are delegated to the Bank by the terms hereof, together with such actions and powers as are reasonably incidental thereto. Furthermore, each Affiliate of Bank of America, N.A., and each successor and each assign of Bank of America, N.A., and its Affiliates, hereby irrevocably appoints and authorizes Bank of America, N.A. to act as its agent for purposes of acquiring, holding, perfecting and enforcing any and all Liens on the Collateral granted by the Grantors to the Collateral Agent to secure any of the Secured Obligations, together with such powers and discretion as are reasonably incidental thereto, and Bank of America, N.A. accepts such appointment and authority.

(d) The provisions of this Section are solely for the benefit of the Collateral Agent, and the Grantors will not have rights as a third party beneficiary of any of such provisions.

23. Amendment, Waiver, etc. This Agreement may be amended or modified only in a writing signed by each party hereto.

24. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable (a) the legality, validity and enforceability of the remaining provisions of this Agreement will not be affected or impaired thereby and (b) the parties will endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction will not invalidate or render unenforceable such provision in any other jurisdiction.

25. Electronic Signatures, Counterparts. This Agreement, any Loan Document and any other Communication, including Communications required to be in writing, may be in the form of an Electronic Record and may be executed using Electronic Signatures. Each of the Grantors and the Collateral Agent agrees that any Electronic Signature on or associated with any Communication shall be valid and binding on such Person to the same extent as a manual, original signature, and that any Communication entered into by Electronic Signature, will constitute the legal, valid and binding obligation of such Person enforceable against such Person in accordance with the terms thereof to the same extent as if a manually executed original signature was delivered. Any Communication may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same Communication. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for

transmission, delivery and/or retention. The Collateral Agent may, at its option, create one or more copies of any Communication in the form of an imaged Electronic Record (“Electronic Copy”), which shall be deemed created in the ordinary course of such Person’s business, and destroy the original paper document. All Communications in the form of an Electronic Record, including an Electronic Copy, shall be considered an original for all purposes, and shall have the same legal effect, validity and enforceability as a paper record. Notwithstanding anything contained herein to the contrary, the Collateral Agent is under no obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by such Person pursuant to procedures approved by it; provided, further, without limiting the foregoing, (a) to the extent the Collateral Agent has agreed to accept such Electronic Signature, the Collateral Agent shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of any Grantor and/or any Secured Party without further verification and (b) upon the request of the Collateral Agent, any Electronic Signature shall be promptly followed by such manually executed counterpart. For purposes hereof, “Electronic Record” and “Electronic Signature” shall have the meanings assigned to them, respectively, by 15 U.S.C. § 7006, as it may be amended from time to time.

The Collateral Agent shall not be responsible for or have any duty to ascertain or inquire into the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document (including, for the avoidance of doubt, in connection with the Collateral Agent’s reliance on any Electronic Signature transmitted by telecopy, emailed .pdf or any other electronic means). The Collateral Agent shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon, any Communication (which writing may be a fax, any electronic message, Internet or intranet website posting or other distribution or signed using an Electronic Signature) or any statement made to it orally or by telephone and believed by it to be genuine and signed or sent or otherwise authenticated (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof).

Each of the Grantors and Collateral Agent hereby waives (i) any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement, any other Loan Document based solely on the lack of paper original copies of this Agreement, such other Loan Document and (ii) waives any claim against the Collateral Agent, each Secured Party and each Related Party for any liabilities arising solely from the Collateral Agent’s and/or any Secured Party’s reliance on or use of Electronic Signatures, including any liabilities arising as a result of the failure of the Grantors to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature.

This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which, taken together, will constitute one and the same agreement. Delivery of an executed counterpart of this Agreement (or of any other agreement or document required by this Agreement and any amendment to this Agreement) by telecopy or other electronic imaging means (e.g., “pdf” or “tif”) will be as effective as delivery of a manually executed counterpart of this Agreement.

26. Financing Statement Property Description. To perfect the security interest granted under this Agreement, each Grantor expressly authorizes the Collateral Agent to file

financing statements naming the Grantor as debtor with the Collateral description “all assets of the debtor,” “all personal property of the debtor” or other words to that effect. Such financing statements will not be deemed to grant any security interest in any items of property otherwise excluded as Collateral pursuant to provisions hereof.

27. Governing Law. EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY PROVIDED THEREIN, EACH LOAN DOCUMENT, INCLUDING THIS AGREEMENT, AND ANY CLAIM, CONTROVERSY, DISPUTE OR CAUSE OF ACTION BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, (a) THE LAWS OF THE STATE OF ARIZONA (WITHOUT REGARD TO THE CONFLICTS OF LAW PROVISIONS OF THE LAWS OF THE STATE OF ARIZONA); (b) THE SECURED TRANSACTIONS ORDINANCE, IF THE CREATION, ATTACHMENT OR PERFECTION OF ANY SECURITY INTEREST IN ANY ITEM OF COLLATERAL IS EXCLUDED FROM THE COVERAGE OF THE ARIZONA UNIFORM COMMERCIAL CODE OR THE SECURITY INTEREST IN ANY ITEM OF COLLATERAL CANNOT BE CREATED, ATTACHED OR PERFECTED UNDER THE ARIZONA UNIFORM COMMERCIAL CODE; (c) THE ARBITRATION PROVISIONS FOR ARBITRATION-RELATED ACTIONS BROUGHT IN THE NATION’S COURTS; AND (d) APPLICABLE FEDERAL LAW.

28. Arbitration.

(a) Invocation of Arbitration. Any controversy or claim between or among any Grantor and any Grantee (each a “Party”), whether arising in contract, tort or statute, including controversies and claims that arise out of or relate to this Agreement (including any renewals, extensions or modifications) or any other Loan Document will be resolved by binding arbitration. For the avoidance of doubt, any Grantor’s waiver of sovereign immunity extends to and includes such arbitration. The arbitration will be conducted in accordance with the Federal Arbitration Act (Title 9, U.S. Code) and the regulations promulgated thereunder, notwithstanding any choice of law provision in this Agreement or any other Loan Document, and under the rules and procedures for the arbitration of financial services disputes of the American Arbitration Association or any successor thereof (“AAA”); provided, however, that the arbitration will be heard and determined by a panel of three independent and impartial arbitrators. The Grantor(s) will choose one independent and impartial arbitrator and the Grantee(s) will choose the second independent and impartial arbitrator, which two arbitrators will choose the third independent and impartial arbitrator. If the arbitrators cannot agree, the third arbitrator shall be selected pursuant to the AAA “Arbitrator Select: List and Appointment” process, to be initiated by a Grantee.

(b) Arbitration Proceedings.

(i) Unless the arbitrators have a dispositive motion under advisement or other good cause is shown (as determined by the arbitrators), all arbitration hearings shall commence within one hundred fifty (150) days of the appointment of the arbitrators, and under any circumstances the award of the arbitrators shall be issued within two hundred twenty (220) days of the appointment of the arbitrators.

(ii) A Party shall be entitled to take no more than five (5) fact depositions, one or more of which may be taken in accordance with Fed. R. Civ. P. 30(b)(6), plus depositions of any experts designated by the other Party, each of seven (7) hours or less, during pre-hearing discovery. There shall be no written discovery requests except a Party may serve document requests on the other Party not to exceed thirty (30) in number, including subparts. The requests shall be served within forty-five (45) days of the appointment of the arbitrators and shall be responded to within twenty-one (21) days of service.

(iii) Where a Party intends to rely upon the testimony of an expert on an issue for which such Party bears the burden of proof, the expert(s) must be disclosed within sixty (60) days following the appointment of the arbitrators, including a written report in accordance with Fed. R. Civ. P. 26(a)(2)(B). The other Party shall have the right within forty-five (45) days thereafter to take the deposition of the expert(s) (upon payment of the expert's reasonable fees for the in-deposition time), and to identify rebuttal expert(s), including a written report in accordance with Fed. R. Civ. P. 26(a)(2)(B). The arbitrators shall exclude any expert not disclosed strictly in accordance herewith, unless good cause is shown (as determined by the arbitrators).

(iv) The arbitrators shall consider and rule on motions by the parties to dismiss for failure to state a claim, to compel and for summary judgment, in a manner substantively consistent with the corresponding Federal Rules of Civil Procedure. The arbitrators shall enforce the "Apex" doctrine with regard to requested depositions of high-ranking executives of both parties. The arbitrators shall exclude any claim not asserted within thirty (30) days following the demand for arbitration, unless good cause is shown (as determined by the arbitrators). This shall not prevent a Party from revising the calculation of damages on any existing theory. All discovery shall close at least one (1) week before any scheduled hearing date, and all hearing exhibits shall have been exchanged by the same deadline or they shall not be given weight by the arbitrators.

(v) The arbitrators will give effect to applicable statutes of limitation in determining any claim and shall dismiss the claim if it is barred by the statutes of limitation. For purposes of the application of any statutes of limitation, the service of a written demand for arbitration or counterclaim pursuant to Section 10.2 of the Credit Agreement is the equivalent of the filing of a lawsuit.

(vi) The arbitrators shall have the power to award legal fees and costs relating to the arbitration proceeding and any related litigation or arbitration, pursuant to the terms of this Agreement. The arbitrators shall provide a written statement of reasons for the award. No arbitrator will have the power to award punitive damages. Any Party claiming the neglect or refusal of the other Party to proceed with an arbitration hereunder may make application to any of the Consented Courts (as defined below) for an order directing the parties to proceed with the arbitration, but only in conformity with Section 29(c).

(c) Confirmation and Enforcement of Arbitration Award. At any time within one (1) year after an arbitration award has been rendered and the parties thereto notified thereof, any Party to the arbitration may make application to any Consented Court for an order confirming the award, but only in conformity with Section 29(c). An arbitration award will not

be subject to review or modification by a court for any reason other than in the circumstances described in 9 U.S.C. §§ 10 and 11 and, in the event the arbitration award is enforced in the Nation's Courts, the circumstances described in the Arbitration Provisions. The judgment confirming an award will have the same force and effect in all respects as, and be subject to all the provisions of law relating to, a judgment in a civil action and it may be enforced as if it has been rendered in a civil action in a Consented Court in conformity with Section 29(c). When the award requires the performance of any other act than the payment of money, the court will direct the enforcement thereof in the manner provided by law.

(d) Location of Arbitration. The arbitration will take place at a location in the City of Phoenix, Arizona, or such other place as the parties may jointly agree.

(e) Provisional Remedies. No provision of this Section 28 will limit the right any Grantee to (i) exercise self-help remedies, (ii) initiate judicial or non-judicial foreclosure against any Collateral, (iii) exercise any judicial or power of sale rights or (iv) act in a Consented Court in conformity with Section 29 to obtain an interim remedy, such as, but not limited to, injunctive relief, writ of possession or additional or supplemental remedies, in each case before, after or during the pendency of any arbitration or other proceeding. The exercise of an interim remedy does not waive the right of either Party to resort to arbitration.

(f) The arbitration proceedings shall be private. All documents, transcripts and filings received by any Party shall not be disclosed by the recipient to any third parties other than attorneys, accountants, auditors and financial advisors acting in the course of their representation, or as otherwise ordered by a court of competent jurisdiction. Any award also shall be kept confidential, although this specific requirement shall be void once the award must be submitted to a court for enforcement. The parties agree that injunctive relief, including a temporary restraining order, from a trial court is the appropriate relief for breach of this paragraph, and they waive any security or the posting of a bond as a requirement for obtaining such relief.

29. Waiver of Sovereign Immunity.

(a) Waiver of Sovereign Immunity. Each Grantor hereby expressly and unequivocally waives its sovereign immunity (and any defense based thereon) from any suit, action, arbitration or other legal proceedings or from any legal process, in each case of any nature whether such action be brought in or arise under law or equity, contract, tort or statute (inclusive of claims and counterclaims, actions for equitable or provisional relief and to compel arbitration and whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution, exercise of contempt powers or otherwise) arising under this Agreement or any Loan Document or any Grantor's obligations hereunder or in connection with the transactions contemplated hereby or thereby or to adjudicate any claim under the Indian Civil Rights Act, 25 U.S.C. §§ 1301 et seq. or to adjudicate any claim by a Grantee arising under the Laws of the Nation (an "Action"), and further waives any sovereign immunity from any judgment or order related thereto. This limited waiver of sovereign immunity is granted in favor of any Grantee.

(b) Recourse to the Grantors. No recourse under this limited waiver of sovereign immunity may be made against Excluded Assets.

(c) Consent to Jurisdiction. Each Grantor hereby expressly and unconditionally submits, for itself and its property, to the exclusive jurisdictions of the United States District Courts located in the State of Arizona and any appellate court to which any appeals therefrom are available (collectively, the “Arizona Federal Courts”), the courts of the State of Arizona and any appellate court to which any appeals therefrom are available (collectively the “Arizona State Courts”) and the Nation’s Courts (collectively the “Consented Courts”), and each Grantor unconditionally agrees that all claims in respect of any Action will be heard and determined in any such Consented Court as set forth herein and agrees to be bound by the decisions of any such court. Notwithstanding the foregoing, each Grantor agrees that any final judgment, arbitration award or order in any such Action or proceeding will be conclusive and may be enforced by any court of any other jurisdiction. Each Grantor agrees that any government or other governmental authorities who have the right and duty under applicable law may take any and all action authorized or ordered by any such court, including, without limitation, entering the real property of the Grantor in giving effect to any judgment entered. In addition, with respect to any Collateral, each Grantor agrees that each of the Grantees and their agents also may enforce its respective rights and remedies with respect to the Collateral (whether judicially or non-judicially) in any jurisdiction in which such Collateral or the Grantor is located.

(d) Waiver of Venue; Provisional Remedies; Recognition of Foreign Judgments. Each Grantor hereby unconditionally waives, to the fullest extent it may legally and effectively do so: (i) any objection which it may now or hereafter have to the laying of venue of any Action arising out of or relating to this Agreement or the transactions contemplated hereunder in any Arizona Federal Court or Arizona State Court; and (ii) any right to seek provisional remedies as described in Section 28(e) against a Grantee in the Nation’s Courts. Notwithstanding any provision of tribal Law to the contrary, including, without limitation, any rules of Section 9 of the Tohono O’odham Rules of Court, each Grantor agrees that in any action in the Nation’s Courts seeking recognition of a foreign judgment, the Grantor must file any objection to a petition for recognition of such foreign judgment within five (5) days of service of a petition that has been filed with the Nation’s Courts or the Grantor will forfeit its right to object to such petition. Each Grantor waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of any such Action in any such court.

(e) Tribal Exhaustion/Actions in the Nation’s Courts. Each Grantor hereby expressly and unconditionally waives, to the fullest extent it may legally and effectively do so, any right the Grantor may otherwise have to require that any Action be considered or heard first in the Nation’s Courts or any other forum of the Nation now or hereafter existing, whether because of the doctrine of exhaustion of tribal remedies or as a matter of comity or abstention and agrees any action in any of the Nation’s Courts or other forum of the Nation may only proceed with the written consent of the other parties to such action.

(f) Service of Process. Each Grantor hereby consents to service of process in the manner provided for notices in this Agreement, provided that nothing in this Agreement will affect the right of any Party to serve process in any other manner permitted by law. In addition to and without limiting the generality of the foregoing, each Grantor consents and agrees that,

notwithstanding any provisions of the Nation's Laws to the contrary, process against the Grantor also will be effective if served (i) on the chairperson of the Grantor, or (ii) by sending two copies of the process by registered or certified mail addressed to the Grantor at the address set forth for the Grantor in this Agreement.

(g) Grantees/Indemnitees. The waivers and consents described in Sections 27 through 30 will inure to the benefit of the Grantees. The Grantees will have and be entitled to all available legal and equitable remedies, including the right to specific performance, money damages and injunctive or declaratory relief (other than punitive or consequential damages).

(h) Tribal Recognition of Foreign Judgments. Each Grantor expressly acknowledges that, if the Nation's laws or courts authorize a police officer, law enforcement official or other licensed peace officer (each a "Tribal Officer") acting pursuant to the Nation's laws to execute any judgments, decrees, orders, warrants, subpoenas, records or other judicial acts resulting from any Action authorized hereunder, including, without limitation, a foreclosure judgment, the Tribal Officer will be authorized to execute such judgments, decrees, orders, warrants, subpoenas, records or other judicial acts against the Grantor and its assets. In the case of any foreign judgment, if the judgment is recognized by the Nation's Courts in accordance with Section 9 of the Tohono O'odham Rules of Court, each Grantor expressly acknowledges that the Tribal Officer will be authorized to execute the judgment against the Grantor and its assets in accordance with the Nation's laws.

(i) Duration. Each Grantor's limited waiver of sovereign immunity granted herein extends to any Action commenced on or after the Second Restatement Effective Date and prior to the date which is the later of (i) the seventh (7th) anniversary of the Maturity Date and (ii) the date on which all Obligations are satisfied and discharged; provided, however, that notwithstanding anything to the contrary, such waiver will remain effective for any proceeding then pending, all appeals therefrom and during the enforcement of any judgments resulting therefrom.

(j) Irrevocability. Each Grantor's limited waiver of sovereign immunity, consents to the jurisdiction of the Consented Courts, waiver of right to the exhaustion of tribal remedies and all other waivers and consents granted and made in Sections 27 through 30 are irrevocable. Each Grantor agrees not to revoke or further limit, in whole or in part, or in any way attempt to revoke or further limit, in whole or in part, its limited waiver of sovereign immunity, consents to the jurisdiction of the Consented Courts, waiver of the right to the exhaustion of tribal remedies and the other waivers and consents granted in Sections 27 through 30. Each Grantor hereby consents to the entry of appropriate injunctive relief in any Action by the Grantees to enforce the irrevocability of the Grantor's limited waiver of sovereign immunity, consents to the jurisdiction of courts specified in Section 29(c), waiver of the right to the exhaustion of tribal remedies and all other waivers and consents granted and agreed in Sections 27 through 30.

(k) Waiver Extends to Arbitration Actions. Notwithstanding any of the foregoing, nothing in this Agreement will limit the ability of the Grantees to move to compel arbitration or move to stay or dismiss a lawsuit in favor of arbitration and each Grantor's waiver of sovereign immunity expressly extends to such Actions.

30. Waiver of Jury Trial; Class Action Waiver. EACH GRANTOR HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH GRANTOR (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 30. ANY ARBITRATION OR TRIAL BY A JUDGE OF ANY ACTION WILL TAKE PLACE ON AN INDIVIDUAL BASIS WITHOUT RESORT TO ANY FORM OF CLASS OR REPRESENTATIVE ACTION (THE “CLASS ACTION WAIVER”). REGARDLESS OF ANYTHING ELSE IN SECTIONS 27 THROUGH 30, THE VALIDITY AND EFFECT OF THE CLASS ACTION WAIVER MAY BE DETERMINED ONLY BY A COURT AND NOT BY AN ARBITRATOR. THE PARTIES TO THIS AGREEMENT ACKNOWLEDGE THAT THE CLASS ACTION WAIVER IS MATERIAL AND ESSENTIAL TO THE ARBITRATION OF ANY DISPUTES BETWEEN THE PARTIES AND IS NON-SEVERABLE FROM THE AGREEMENT TO ARBITRATE CLAIMS. IF THE CLASS ACTION WAIVER IS LIMITED, VOIDED OR FOUND UNENFORCEABLE, THEN THE PARTIES’ AGREEMENT TO ARBITRATE WILL BE NULL AND VOID WITH RESPECT TO SUCH PROCEEDING, SUBJECT TO THE RIGHT TO APPEAL THE LIMITATION OR INVALIDATION OF THE CLASS ACTION WAIVER. THE PARTIES ACKNOWLEDGE AND AGREE THAT UNDER NO CIRCUMSTANCES WILL A CLASS ACTION BE ARBITRATED.

31. No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Grantor acknowledges and agrees that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Arrangers and the Lenders are arm’s-length commercial transactions between the Grantors, on the one hand, and the Collateral Agent, the Arrangers and the Lenders, on the other hand, (B) each of the Grantors has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each of the Grantors is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) each of (A) the Collateral Agent, the Arrangers and the Lenders is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Nation, the Grantors or any of their Affiliates, or any other Person and (B) neither the Collateral Agent nor the Arrangers nor any Lender has any obligation to the Grantors with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Collateral Agent, the Arrangers, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Grantors, and neither the Collateral Agent nor the Arrangers nor the Lenders has any obligation to disclose any of such interests to the Grantors. To the fullest extent permitted by law, each of the Grantors hereby

waives and releases any claims that it may have against the Collateral Agent, the Arrangers and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

32. IGRA Compliance. Notwithstanding any provision in any Loan Document, or any other right to enforce the provisions of any Loan Document, none of the Arrangers, the Administrative Agent, the L/C Issuer, the Lenders nor the other Secured Parties shall engage in any of the following: planning, organizing, directing, coordinating or controlling all or any portion of the Gaming Operation (collectively, "Management Activities"), including, but not limited to:

- (a) the training, supervision, direction, hiring, firing, retention or compensation (including benefits) of any employee (whether or not a management employee) or contractor;
- (b) any working or employment policies or practices;
- (c) the hours or days of operation;
- (d) any accounting systems or procedures;
- (e) any advertising, promotions or other marketing activities;
- (f) the purchase, lease, or substitution of any gaming device or related equipment or software, including player tracking equipment;
- (g) the vendor, type, theme, percentage of pay-out, display or placement of any gaming device or equipment; or
- (h) budgeting, allocating, or conditioning payments of the Borrower's operating expenses;

provided, however, that upon the occurrence of a Default or Event of Default, a Secured Party will not be in violation of the foregoing restriction solely because it: (i) enforces compliance with any term in any Loan Document that does not require the Gaming Operation to be subject to any third-party decision-making as to any Management Activities; (ii) requires that all or any portion of the revenues securing the Secured Obligations be applied to satisfy valid terms of the Loan Documents; or (iii) otherwise forecloses on all or any portion of the Collateral securing the Secured Obligations.

NOTWITHSTANDING ANY OTHER POSSIBLE CONSTRUCTION OF ANY PROVISION(S) CONTAINED IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT, IT IS AGREED THAT, WITHIN THE MEANING OF IGRA: (A) THE LOAN DOCUMENTS, INDIVIDUALLY AND COLLECTIVELY, DO NOT AND SHALL NOT PROVIDE FOR THE MANAGEMENT OF ALL OR ANY PART OF THE GAMING OPERATION BY ANY PERSON OTHER THAN THE BORROWER OR THE NATION NOR DEPRIVE THE BORROWER OR THE NATION OF THE SOLE PROPRIETARY INTEREST AND RESPONSIBILITY FOR THE CONDUCT OF THE GAMING OPERATION; AND (B)

NONE OF THE SECURED PARTIES (OR ANY OF THEIR SUCCESSORS, ASSIGNS OR AGENTS) WILL EXERCISE ANY REMEDY OR OTHERWISE TAKE ANY ACTION UNDER OR IN CONNECTION WITH ANY LOAN DOCUMENT IN A MANNER THAT WOULD CONSTITUTE MANAGEMENT OF ALL OR ANY PART OF THE GAMING OPERATION OR THAT WOULD DEPRIVE THE BORROWER OR THE NATION OF THE SOLE PROPRIETARY INTEREST AND RESPONSIBILITY FOR THE CONDUCT OF THE GAMING OPERATION.

33. Section 81 Compliance. The Loan Documents are not intended to grant a Lien on any "Indian lands" (as such term is defined in 25 U.S.C. §81) of the Grantors, the Nation or any agencies or instrumentalities of the Nation, and no interpretation shall be given to any Loan Document that would have the effect of such an encumbrance. Notwithstanding any right of the Administrative Agent, the L/C Issuer, the Collateral Agent, any Agent Party or any other Secured Party in any Loan Document, or any requirements or restrictions imposed on any Loan Party or the Nation in any Loan Document, any right, requirement or restriction that "encumbers Indian land" within the meaning of 25 U.S.C. § 81 will not be effective for longer than six (6) years, three hundred sixty-four (364) days.

34. Miscellaneous. Any notice, request or demand required or permitted to be given under this Agreement shall be given in accordance with Section 10.2 of the Credit Agreement. No failure or delay on the part of the Collateral Agent in the exercise of any power, right or privilege hereunder or under any other Loan Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. All rights and remedies existing under this Agreement and the other Loan Documents are cumulative to, and not exclusive of, any rights or remedies otherwise available. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby. All covenants hereunder shall be given independent effect so that, if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or would otherwise be within the limitations of, another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists. This Agreement shall be binding upon and inure to the benefit of the Collateral Agent and the Grantors and their respective successors and assigns in accordance with the terms of Section 10.6 of the Credit Agreement. No Grantor shall assign any right, duty or obligation hereunder. This Agreement and the other Loan Documents embody the entire agreement and understanding between the Grantors and the Collateral Agent and supersede all prior agreements and understandings between such parties relating to the subject matter hereof and thereof. Accordingly, the Loan Documents may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten or oral agreements between the parties. This Agreement may be executed in one or more counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

35. Waivers. Each Grantor hereby waives, to the extent not prohibited by Law, for the benefit of the Secured Parties:

(a) any right to require any Secured Party, as a condition of payment or performance by such Grantor, to (i) proceed against the Borrower, any other Grantor or any other Person; (ii) proceed against or exhaust any security held from the Borrower, any other Grantor or any other Person; (iii) proceed against or have resort to any balance of any deposit account or credit on the books of any Secured Party in favor of the Borrower, any such other Grantor or any other Person; or (iv) pursue any other remedy in the power of any Secured Party whatsoever;

(b) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of the Borrower or any other Grantor including any defense based on or arising out of the lack of validity or the unenforceability of any of the Secured Obligations or any agreement or instrument relating thereto;

(c) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal;

(d) any defense based upon any Secured Party's administrative errors or omissions, except behavior which amounts to gross negligence, bad faith or willful misconduct;

(e) (i) the benefit of any statute of limitations affecting such Grantor's liability hereunder or the enforcement hereof; (ii) any rights to set-offs, recoupments and counterclaims; and (iii) promptness, diligence and any requirement that any Secured Party protect, secure, perfect or insure any security interest or lien or any property subject thereto;

(f) notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance of this Agreement, notices of default under the Loan Documents, the Secured Hedge Agreements, the Secured Cash Management Agreements or any agreement or instrument related thereto, notices of any renewal, extension or modification of the Secured Obligations or any agreement related thereto and notices of any extension of credit to the Borrower or any other Grantor in each case, except for notices and demands required hereunder and under the other Loan Documents;

(g) any defenses (other than the defense of payment) or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms of this Agreement;

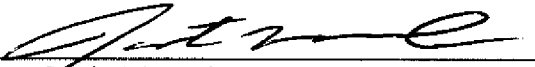
(h) to the extent such waiver is not prohibited by Section 9-602 of the Arizona Uniform Commercial Code, any defense based upon any Secured Party's failure to mitigate damages; and

(i) all rights to insist upon, plead or in any manner claim or take the benefit or advantage of any appraisal, valuation, stay, extension, marshaling of assets, redemption or similar law, or exemption, whether now or hereafter in force, which may delay, prevent or otherwise affect the performance by any Grantor of its obligations under, or the enforcement by any Secured Party of, this Agreement.

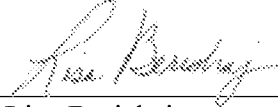
[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, each of the parties hereto have executed this Agreement by its duly authorized officer as of the date first written above.

TOHONO O'ODHAM GAMING ENTERPRISE
as Grantor

By: 
Name: Justin Manuel
Title: Chairperson

BANK OF AMERICA, N.A.,
as Collateral Agent

By:  _____

Name: Lisa Berishaj

Title: Assistant Vice President

SCHEDULE 1

Existing and Pending Trademarks

Trademark	Application No. / Filing Date	Registration No. / Registration Date	Goods/Services List
DESERT DIAMOND	88/809617 February 25, 2020	6091166 June 30, 2020	<p>Class 41: Casinos; Entertainment services, namely, casino gaming; Providing casino facilities; Gambling services; Keno parlor services; Bingo parlor services; Providing casino services featuring a casino players rewards program; Providing casino services featuring stored value membership cards for redeeming cash, discounts, and other benefits; Entertainment services in the nature of live musical performances; Night club services; Conducting and providing facilities for casino gaming contests and tournaments; Organizing, arranging, and conducting gambling tournaments, competitions and contests.</p> <p>Class 43: Hotel services; Providing temporary accommodations; Making hotel reservations for others; Restaurant and bar services; Cocktail lounge services; Catering services; Providing general purpose conference, exhibition and meeting facilities; Providing banquet and social function facilities for special occasions.</p> <p>Class 45: Hotel concierge services.</p>
DESERT DIAMOND SPORTSBOOK	97204052 January 5, 2022	6739540 May 24, 2022	<p>Class 41: Gambling services; Betting services; Entertainment services in the nature of sports betting; providing a website featuring news and information in the field of sports betting; Conducting and providing facilities for casino gaming contests and tournaments; Organizing, arranging, and conducting gambling tournaments, competitions and contests; Entertainment services, namely, providing games of chance via the Internet; Online gaming services in the nature of casino gambling and betting services.</p>

REDACTED

SCHEDULE 2

Existing and Pending Patents

None.

SCHEDULE 3

Pledged Debt

None.

SCHEDULE 4

Existing and Pending Copyrights

None.

SCHEDULE 5

Commercial Tort Claims

On September 9, 2022 TOGE asserted a potential claim against HBG (formerly known as Hnedak Bobo Group) who was the architect of record for Phase 1 of the West Valley Resort. The nature of the claim is based on a breach of contract by HBG and TOGE is requesting relief in the amount of \$11.4 million dollars. At this stage of the claim, TOGE is compiling supporting documentation to provide to HBG in anticipation of negotiation of the claim for settlement purposes.

SCHEDULE 6

Licenses and Other Intellectual Property

None.

SCHEDULE 7

Letters of Credit

None.

SCH-7

TRADEMARK
REEL: 007961 FRAME: 0590

SCHEDULE 8

Deposit Accounts and Securities Accounts

REDACTED