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October 15, 2013

Honorable Melvin L. Schweitzer  
Supreme Court of the State of New York  
County of New York  
26 Broadway  
New York, NY 10004

**Re: *Wells Fargo Bank, N.A. as Trustee v. Chukchansi Economic Development Authority, et al., Index No. 652140/2013***

Dear Justice Schweitzer:

I write on behalf of Wells Fargo Bank, N.A. (the “Trustee”) as Plaintiff in the above-captioned action on an issue related to the Lewis Faction’s October 11, 2013 Order to Show Cause regarding so-called “Excluded Asset” payments. Specifically, we wanted to bring to the Court’s attention that CEDA failed to make the full interest payment to the Trustee, on behalf of the Holders, of approximately \$12.49 million that was due under the Indenture on September 30, 2013. CEDA paid only \$6.25 million of the interest payment, and stated in its Form 8-K that “the remaining balance is expected to be paid from operating cash flow during the fourth quarter of 2013.”

CEDA’s failure to make its interest payment has bearing on the Court’s consideration of the propriety of “Excluded Asset” payments at this time. Under the Indenture, the failure to pay interest on the Notes constitutes an Event of Default if not cured within 30 days. Moreover, CEDA’s actions also may constitute a “Tribal Default,” which could lead to the cessation of monthly tribal distributions until the Tribal Default is cured, pursuant to Section 4.9 of the Indenture and Section 1(f) of the Deposit Account Control Agreement. *See* Exhibit A (Indenture excerpts) and Exhibit B (DACA) § 1(f).

The Trustee has been unable to determine whether CEDA had the ability to make the full interest payment on September 30, 2013, or whether there has been a Tribal Default, because it has not received any reports containing the Casino’s financial statements from CEDA since 2012. On July 2, 2013, this Court ordered CEDA to provide “reports containing its 2012 year-end audited financial statements as soon as reasonably feasible, [and] first quarter 2013 unaudited financial statements and unaudited monthly financial statements beginning for the

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month of April 2013 to the Trustee.” July 2, 2013 Order at ¶ 10. CEDA has not provided any of those reports to the Trustee.

On Friday, October 11, 2013, counsel for the Trustee asked CEDA and Casino management to provide it with financial information and a detailed plan to pay the remainder of the interest payment. Earlier today during a meet and confer, counsel for Casino management stated that audited financials were not available because the Casino and the two Factions are still negotiating an engagement letter with Ernst and Young LLP, that third quarter unaudited financial statements were not available because the Casino had just completed the quarter, and that the Casino did not presently have a specific plan for paying the remainder of the September 30, 2013 interest because it still needed to conduct certain forecasts.

The Trustee continues to assess next steps in light of the missing interest payment. However, neither the Trustee nor the Court will be able to assess fully issues of a possible Tribal Default without the financial statements that CEDA must provide pursuant to the Indenture and the Court’s July 2, 2013 Order. The Trustee respectfully requests that this Court require the Casino to provide the financial statements to all parties immediately and on a regular basis, and to set a specific deadline for CEDA to pay the remainder of interest presently due under the Indenture.

The Trustee will be prepared to discuss these issues at the hearing tomorrow.

Respectfully,

/s/ Robert J. Malioneck

Robert J. Malioneck  
of LATHAM & WATKINS LLP

cc: Counsel of Record

# **Exhibit**

## **A**

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CHUKCHANSI ECONOMIC DEVELOPMENT AUTHORITY

and

WELLS FARGO BANK, NATIONAL ASSOCIATION  
as Trustee

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INDENTURE

Dated as of May 30, 2012

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9¾% Secured Notes Due 2020

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INDENTURE, dated as of May 30, 2012, among Chukchansi Economic Development Authority, a wholly-owned unincorporated enterprise of the federally recognized tribe of Picayune Rancheria of the Chukchansi Indians (the "*Tribe*"), as issuer (the "*Authority*"), the Tribe and Wells Fargo Bank, National Association, a national banking association, as trustee (the "*Trustee*").

Each party agrees as follows for the benefit of the other parties and for the equal and ratable benefit of the Holders of the Notes.

## ARTICLE I

### DEFINITIONS AND INCORPORATION BY REFERENCE

#### Section 1.1 *Definitions.*

"*Acquired Indebtedness*" means Indebtedness of a Person (1) assumed in connection with an Acquisition of such Person or (2) existing at the time such Person becomes a Restricted Subsidiary of the Authority or is consolidated with or merged into the Authority or any Restricted Subsidiary of the Authority, whether or not such Indebtedness was Incurred in connection with, or in contemplation of, such transaction.

"*Acquired Person*" means, with respect to any specified Person, any other Person which merges with or into or becomes a Subsidiary of such specified Person.

"*Acquisition*" means (1) any capital contribution (by means of transfers of cash or other assets to others or payments for assets or services for the account or use of others, or otherwise) by the Authority or any Restricted Subsidiary of the Authority to any other Person, or any acquisition or purchase of Capital Stock of any other Person by the Authority or any Restricted Subsidiary of the Authority, in either case pursuant to which such Person will become a Restricted Subsidiary of the Authority or will be consolidated or amalgamated with or merged into the Authority or any Restricted Subsidiary of the Authority or (2) any acquisition by the Authority or any Restricted Subsidiary of the Authority of the assets of any Person which constitute substantially all of an operating unit or line of business of such Person or which is otherwise outside of the ordinary course of business.

"*Action*" has the meaning set forth under *Section 13.1(b)*.

"*Additional Notes*" means any notes issued by the Authority, from time to time, in compliance with *Sections 2.19 and 4.10*.

"*Affiliate*" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise. For the avoidance of doubt, the Authority, and each other

branch, department, instrumentality, division, subsidiary, enterprise, authority or wholly-owned corporation or business of the Tribe, shall be deemed to be under the "control" of the Tribe.

"*Affiliate Transaction*" has the meaning set forth under *Section 4.13*.

"*Annual Tribal Distribution*" means payments to the Tribe in an amount equal to:

(a) if no Default or Event of Default has occurred and is continuing,

(1) for calendar year 2012, an amount *per annum* equal to \$12 million;

(2) for any calendar year beginning on and after 2012, an amount *per annum* equal to 103% of the Annual Tribal Distribution for the immediately prior calendar year (calculated without giving effect to clause (b) below),

(b) if a Default or an Event of Default has occurred and is continuing (and regardless of whether the Trustee or the Collateral Agent has commenced any exercise of remedies), an amount *per annum* equal to \$10.5 million with no increase until such Default or Event of Default has been cured, at which time the amount of the Annual Tribal Distribution in effect under clause (a) shall be restored (calculated without giving effect to any change under this clause (b)).

"*Agent*" means any Registrar, Paying Agent, or agent for service or notices and demands.

"*Agent Members*" has the meaning set forth under *Section 2.16(a)*.

"*amend*" means amend, modify, supplement, restate or amend and restate, including successively; and "*amending*" and "*amended*" have correlative meanings.

"*asset*" means any asset or property, whether real, personal or other, tangible or intangible.

"*Asset Sale*" means any direct or indirect sale, conveyance, transfer, lease (that has the effect of a disposition) or other disposition (including, without limitation, any merger or consolidation or upon any condemnation, eminent domain or similar proceedings) to any Person other than the Authority or a Restricted Subsidiary, in one transaction or a series of related transactions, of:

(1) any Capital Stock of any Subsidiary;

(2) any assets of the Authority or any Restricted Subsidiary of the Authority which constitute substantially all of an operating unit or line of business of the Authority or any Restricted Subsidiary of the Authority; or

(3) any other assets (including without limitation intellectual property) or asset of the Authority or any Restricted Subsidiary of the Authority outside of the ordinary course of business.

For the purposes of this definition, the term "Asset Sale" will not include:

(A) any transaction consummated in compliance with *Section 5.1* and the creation of and foreclosure on any Lien not prohibited by *Section 4.15*;

(B) sales or other dispositions of property or equipment that, in the reasonable determination of the Authority, has become worn out, obsolete or damaged or otherwise unsuitable for use in connection with the business of the Authority or any Restricted Subsidiary of the Authority and dispositions of FF&E in the ordinary course of business pursuant to an established program for the maintenance and upgrading of such FF&E;

(C) any Permitted Investment or any Restricted Payment not prohibited by *Section 4.9*;

(D) any transaction or series of related transactions involving assets with a Fair Market Value not in excess of \$1.0 million;

(E) any operating lease or sublease;

(F) the surrender or waiver of contract rights or the settlement, release or surrender of contract, tort or other claims of any kind;

(G) the licensing or sublicensing of intellectual property or other general intangibles;

(H) sales or other dispositions of Cash Equivalents, inventory, receivables and other current assets in the ordinary course of business;

(I) any transaction between or among the Authority and/or one or more Wholly Owned Restricted Subsidiaries; and

(J) any transfer of cash or Cash Equivalents to any charitable or educational Person from time to time for charitable purposes, *provided* that any such transfer is made in the ordinary course of business consistent with past practice (it being understood and agreed that, for the avoidance of doubt, but without limiting the generality of the foregoing, a donation or series of related donations in 2012 to California State University, Fresno in the amount of up to \$1.0 million in the aggregate shall not be deemed to be an Asset Sale for any purpose hereunder).

“*Authority*” means the party named as such in the first paragraph of this Indenture until a successor replaces such party pursuant to *Article V* of this Indenture and thereafter means the successor.

“*Authority Ordinance*” means the ordinance establishing the Authority, as such ordinance may be amended through the date of this Indenture from time to time.

“*Authority Request*” means any written request signed in the name of the Authority by the Chairman of the Board of Directors, the Chief Executive Officer, the President, any Vice

President, the Chief Financial Officer or the Treasurer of the Authority and attested to by the Secretary or any Assistant Secretary of the Authority.

*"Bankruptcy Law"* means Title 11 of the United States Code entitled "Bankruptcy" or any other law relating to bankruptcy, insolvency, winding up, liquidation, reorganization or relief of debtors, whether in effect on the date hereof or hereafter.

*"Beneficial Owner"* has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act.

*"Board of Directors"* means, with respect to: any Person, (i) in the case of any corporation, the board of directors of such Person, (ii) in the case of any limited liability company, the board of managers of such Person, (iii) in the case of any partnership, the Board of Directors of the general partner of such Person, (iv) with respect to the Authority, the Board (as defined in the Authority Ordinance) and (v) in any other case, the functional equivalent of the foregoing.

*"Board Resolution"* means, with respect to any Person, a duly adopted resolution of the Board of Directors of such Person or a duly authorized committee thereof, as applicable.

*"Business Day"* means a day that is not a Saturday, a Sunday or a day on which (i) commercial banking institutions in New York, New York or the place of payment are authorized or required by law to be closed or (ii) the New York Stock Exchange is not open for trading.

*"Capital Expenditures"* means, for any period, all direct or indirect (by way of acquisition of securities of a Person or the expenditure of cash or the transfer of property or the Incurrence of Indebtedness) expenditures in respect of the purchase or other acquisition of (i) fixed or capital assets determined in conformity with GAAP and (ii) any FF&E utilizing any FF&E Financing incurred pursuant to *Section 4.10(b)(7)*.

*"Capital Lease Obligation"* means, at the time any determination thereof is to be made, the amount of the liability in respect of a lease that would at such time be required to be capitalized on a balance sheet prepared in accordance with GAAP.

*"Capital Stock"* in any Person means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) corporate stock or other equity participations, including partnership interests, whether general or limited, in such Person, including any Preferred Capital Stock and any right or interest which is classified as equity in accordance with GAAP and any ownership interest created or granted as a matter of law.

*"Cash Equivalents"* means

(1) marketable direct obligations issued by, or unconditionally guaranteed by, the United States government or issued by any agency or instrumentality thereof and backed by the full faith and credit of the United States, in each case maturing within two years from the date of acquisition thereof;



(2) marketable direct obligations issued by any state of the United States of America or by the District of Columbia maturing within two years from the date of acquisition thereof and, at the time of acquisition, having one of the two highest ratings obtainable from either S&P or Moody's;

(3) commercial paper maturing no more than one year from the date of creation thereof and, at the time of acquisition, having a rating of at least "A-1" from S&P or a rating of at least "P-1" from Moody's;

(4) investments in time deposit accounts, term deposit accounts, money market deposit accounts, certificates of deposit or bankers' acceptances maturing within one-year from the date of acquisition thereof issued by any bank organized under the laws of the United States of America or any state thereof or the District of Columbia having at the date of acquisition thereof combined capital and surplus of not less than \$250.0 million;

(5) repurchase obligations for underlying securities of the types described in *clauses (1) or (2)* above entered into with any bank meeting the qualifications specified in *clause (4)* above;

(6) Indebtedness or preferred stock of Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's with maturities of one year or less from the date of acquisition; and

(7) investments in money market funds which invest substantially all their assets in securities of the types described in any of *clauses (1) through (6)* above.

"CEDEL" has the meaning set forth in *Section 2.16(a)*.

"*Change of Control*" means the occurrence of any of the following events (whether or not approved by the Board of Directors of the Authority):

(1) the Authority ceases to be wholly-owned, directly or indirectly, by the Tribe;

(2) the Authority or its Restricted Subsidiaries cease to have the exclusive legal right to operate the Facility in accordance with the Authority Ordinance (other than pursuant to a consulting or management agreement permitted under this Indenture);

(3) the Authority sells, assigns, transfers, leases, conveys or otherwise disposes of all or substantially all of its assets to, or consolidates or merges with or into, any other Person, other than any such transaction where immediately thereafter the Surviving Person is a (director indirect) unit, instrumentality, enterprise or subdivision controlled solely by the government of the Tribe or an entity wholly-owned, directly or indirectly, by the Tribe; or

(4) the adoption of a plan relating to the liquidation or dissolution of the Authority unless such plan provides for the assets of the Authority to be transferred to a Wholly Owned Restricted Subsidiary that is a Guarantor.

"CGCC" means the California Gambling Control Commission and any successor thereto.

"Change of Control Offer" has the meaning set forth under Section 4.8.

"Change of Control Purchase Date" has the meaning set forth under Section 4.8.

"Collateral" means the "collateral" as defined in the Collateral Documents.

"Collateral Agent" means Wells Fargo Bank, National Association, in its capacity as collateral agent under the Collateral Documents, together with its successors and assigns in such capacity.

"Collateral Documents" means, collectively, the Security Agreement, any Intercreditor Agreement, each Deposit Account Control Agreement, all Uniform Commercial Code filings related to the security interests granted by any of the foregoing documents and all other pledge agreements, collateral assignments, security agreements and other documents or instruments evidencing, creating or providing for a Lien as security for any of the Obligations of the Authority and the Guarantors under this Indenture, the Notes, the Guarantees or any of the foregoing documents, in each case, as amended, amended and restated, extended, renewed, supplemented or otherwise modified from time to time, in accordance with the terms thereof.

"Compact" means the Tribe State Gaming Compact dated as of September 10, 1999 between the Tribe and the State of California, as amended from time to time.

"Consolidated Coverage Ratio" as of any date of determination means the ratio of (i) the aggregate amount of Consolidated EBITDA for the latest four-quarter period for which financial statements are available ending prior to the date of such determination (the "Four-Quarter Period") to (ii) Consolidated Interest Expense for such Four-Quarter Period; *provided, however*, that:

(1) if the Authority or any Restricted Subsidiary of the Authority has incurred any Indebtedness or issued any Disqualified Capital Stock since the beginning of such Four-Quarter Period that remains outstanding on such date of determination or if the transaction giving rise to the need to calculate the Consolidated Coverage Ratio involves an Incurrence of Indebtedness or an issuance of Disqualified Capital Stock, Consolidated EBITDA and Consolidated Interest Expense for such Four-Quarter Period will be calculated after giving effect on a *pro forma* basis to such Indebtedness or such Disqualified Capital Stock as if such Indebtedness or such Disqualified Capital Stock had been Incurred on the first day of such Four-Quarter Period;

(2) if the Authority or any Restricted Subsidiary of the Authority has repaid, repurchased, defeased, retired or otherwise discharged (a "Discharge") any indebtedness or Disqualified Capital Stock since the beginning of such Four-Quarter Period that no longer remains outstanding on such date of determination or if the transaction giving rise

to the need to calculate the Consolidated Coverage Ratio involves a Discharge of Indebtedness or Disqualified Capital Stock, then Consolidated EBITDA and Consolidated Interest Expense for such Four-Quarter Period will be calculated after giving effect on a *pro forma basis* to such Discharge of Indebtedness or Disqualified Capital Stock, including with the proceeds of any new Indebtedness, as if such Discharge (and Incurrence of new Indebtedness or Disqualified Capital Stock, if any) had occurred on the first day of such Four-Quarter Period;

(3) if since the beginning of such Four-Quarter Period the Authority or any Restricted Subsidiary of the Authority will have disposed of any business or operations or any material asset (a "*Disposition*"), then Consolidated EBITDA for such Four-Quarter Period will be reduced by an amount equal to the Consolidated EBITDA (if positive) directly attributable to the business, operations or assets that are the subject of such Disposition for such Four-Quarter Period or increased by an amount equal to the Consolidated EBITDA (if negative) directly attributable thereto for such Four-Quarter Period, and Consolidated Interest Expense for such Four-Quarter Period will be reduced by an amount equal to the Consolidated Interest Expense directly attributable to any Indebtedness of the Authority or any Restricted Subsidiary of the Authority repaid, repurchased or otherwise discharged with respect to the Authority and its continuing Restricted Subsidiaries in connection with such asset sale for such Four-Quarter Period (or, if the Capital Stock of any Restricted Subsidiary is sold, the Consolidated Interest Expense for such Four-Quarter Period directly attributable to the Indebtedness of such Restricted Subsidiary to the extent the Authority and its continuing Restricted Subsidiaries are no longer liable for such Indebtedness after such sale);

(4) if since the beginning of such Four-Quarter Period the Authority or any Restricted Subsidiary of the Authority (by merger or otherwise) will have made an Investment in any Restricted Subsidiary of the Authority (or any Person that becomes a Restricted Subsidiary of the Authority) or an Acquisition, including any Acquisition of assets occurring in connection with a transaction causing a calculation to be made hereunder, then Consolidated EBITDA and Consolidated Interest Expense for such Four-Quarter Period will be calculated after giving *pro forma* effect thereto (including the Incurrence of any Indebtedness) as if such Investment or acquisition occurred on the first day of such Four-Quarter Period;

(5) if since the beginning of such Four-Quarter Period any Person (that subsequently became a Restricted Subsidiary of the Authority or was merged with or into the Authority or any Restricted Subsidiary of the Authority since the beginning of such Four-Quarter Period) will have made any Disposition or any Investment or Acquisition that would have required an adjustment pursuant to *clause (3) or (4)* above if made by the Authority or a Restricted Subsidiary of the Authority during such Four-Quarter Period, then Consolidated EBITDA and Consolidated Interest Expense for such Four-Quarter Period will be calculated after giving *pro forma* effect thereto as if such Disposition, Investment or Acquisition occurred on, with respect to any Investment or Acquisition, the first day of such Four-Quarter Period and, with respect to any Disposition, the first day of such Four-Quarter Period; and

(6) notwithstanding the foregoing, (i) interest expense on any Indebtedness under a revolving credit facility the outstanding principal balance of which is required to be computed on a *pro forma* basis in accordance with the foregoing shall be computed based upon the average daily balance of such Indebtedness during the applicable period, *provided*, that such average daily balance shall be reduced by the amount of any repayment of Indebtedness under such revolving credit facility during the applicable period, to the extent such repayment permanently reduced the commitments or amounts available to be borrowed under such facility and (ii) interest expense or other fixed charges attributable to Indebtedness Incurred in connection with Expansion Capital Expenditures shall be included as of date Incurred and not at the beginning of the Four-Quarter Period preceding such Incurrence.

For purposes of this definition, whenever *pro forma* effect is to be given to an acquisition of assets, the amount of income or earnings relating thereto and the amount of Consolidated Interest Expense associated with any Indebtedness Incurred in connection therewith, *the pro forma* calculations will be determined in accordance with Regulation S-X under the Securities Act. If any Indebtedness bears a floating rate of interest and is being given *pro forma* effect, the interest expense on such Indebtedness will be calculated as if the rate in effect on the date of determination had been the applicable rate for the entire period (taking into account any agreement under which Hedging Obligations relating to interest are outstanding applicable, to such Indebtedness if such agreement under which such Hedging Obligations are outstanding has a remaining term as at the date of determination equal to or in excess of 12 months; but if the remaining term of such Hedging Obligation is less than 12 months, then such Hedging Obligation shall only be taken into account for that portion of the period equal to the remaining term thereof).

“*Consolidated EBITDA*” means, without duplication, with respect to any Person for any period, the Consolidated Net Income of such Person for such period, (A) plus the following, to the extent deducted in calculating such Consolidated Net Income:

- (1) Consolidated Income Tax Expense for such period;
- (2) Consolidated Interest Expense for such period;
- (3) depreciation expense for such period;
- (4) amortization expense for such period;
- (5) all other non-cash items reducing Consolidated Net Income for such period (other than any non-cash item requiring an accrual or a reserve for cash disbursements in any future period); and
- (6) Transaction Expenses;

*minus*

(B) all non-cash items increasing Consolidated Net Income for such period (other than the accrual of revenue in the ordinary course of business and any non-cash item

representing a reduction of a liability to be paid in the future to the extent such liability previously reduced Consolidated Net Income in such period).

Notwithstanding the foregoing, the provision for taxes based on the income or profits of, and the depreciation and amortization and other non-cash expenses of, a Restricted Subsidiary of the Authority will be added to Consolidated Net Income to compute Consolidated EBITDA of the Authority only to the extent that a corresponding amount would be permitted at the date of determination to be dividended to the Authority by that Restricted Subsidiary without prior governmental approval (or if any required prior governmental approval has been obtained), and without direct or indirect restriction pursuant to the terms of its charter and all agreements, instruments, judgments, decrees, orders, statutes, rules and governmental regulations applicable to that Restricted Subsidiary or its equity holders.

*"Consolidated Income Tax Expense"* means, with respect to any Person for any period, the provision for taxes based on the income or profits of such Person and its Restricted Subsidiaries for such period as determined on a consolidated basis in accordance with GAAP. For the avoidance of doubt, Consolidated Income Tax Expense shall not include gaming tax or any other amounts paid to the State of California pursuant to the Compact.

*"Consolidated Interest Expense"* means, with respect to any Person for any period, without duplication, the sum of:

- (1) the interest expense of such Person and its Restricted Subsidiaries for such period as determined on a consolidated basis in accordance with GAAP, including, without limitation, (a) the net cost under Hedging Obligations relating to interest (including any amortizations of discounts, but excluding any mark-to-market adjustments), (b) the interest portion of any deferred payment obligation, (c) all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing, (d) all capitalized interest and all accrued interest and (e) the accretion of any original issue discount on any Indebtedness;
- (2) the interest component of Capital Lease Obligations paid, accrued and/or scheduled to be paid or accrued by such Person and its Restricted Subsidiaries during such period as determined on a consolidated basis in accordance with GAAP;
- (3) the product of (x) the amount of dividends and distributions paid or accrued in respect of Disqualified Capital Stock of such Person or Preferred Capital Stock of any of its Restricted Subsidiaries (other than dividends or distributions consisting solely of Qualified Capital Stock) during such period as determined on a consolidated basis in accordance with GAAP and (y) a fraction, the numerator of which is one and the denominator of which is one minus the then-current effective consolidated federal, provincial, state and local tax rate of such Person, expressed as a decimal; and
- (4) all interest on any indebtedness described in *clause (6) or (7)* of the definition of "Indebtedness."

*"Consolidated Net Income"* means, with respect to any Person (the referent Person) for any period, the consolidated net income (loss) of such Person and its Restricted Subsidiaries

(which, for the avoidance of doubt, will be after deduction of minority interests in Restricted Subsidiaries held by third parties) for such period determined in accordance with GAAP; *provided, however*, that there will not be included in calculating such Consolidated Net Income:

(1) any net income (loss) of any Person other than the referent Person and each Restricted Subsidiary of the referent Person, except to the extent of the amount of cash actually distributed by such Person during such period to the referent Person or (subject to the limitation in *clause (2)* below) a Restricted Subsidiary of the referent Person as a dividend or other distribution;

(2) any net income (but not loss) of any Restricted Subsidiary of the referent Person if such Restricted Subsidiary is subject to restrictions, directly or indirectly, precluding the payment of dividends or the making of distributions by such Restricted Subsidiary, directly or indirectly, to the referent Person to the extent of such limitations or restrictions;

(3) any gain or loss realized upon the sale or other disposition of any asset of the referent Person or any Restricted Subsidiary that is not sold or otherwise disposed of in the ordinary course of business and any gain or loss realized upon the sale or other disposition of any Capital Stock of any Person;

(4) any extraordinary or nonrecurring gain or loss;

(5) the cumulative effect of a change in accounting principles;

(6) unrealized gains or losses in respect of Hedging Obligations permitted by *Section 4.10(b)(6)* as recorded on the statement of operations in accordance with GAAP; and

(7) any writedowns or impairments of intangible assets;

*provided, however*, that in the case of *clauses (3), (4) and (6)* such amount or charge will be net of any tax or tax benefit to the referent Person (less all fees and expenses relating to such transaction) or any Restricted Subsidiary resulting therefrom.

For the avoidance of doubt, "Consolidated Net Income" with respect to the Authority means "consolidated net income (loss) before distribution to the Tribe."

"*Constitution*" means the constitution of the Tribe duly and validly adopted by the Tribe on November 7, 1988.

"*Corporate Trust Office*" means, with respect to the administration of this Indenture, the office of the Trustee as listed in *Section 14.2* or such other address as to which the Trustee may give notice to the Authority pursuant to the terms hereof. With respect to the presentation of Notes for redemption or registration of exchange or transfer, 625 Marquette Avenue, Minneapolis, MN 55402, Attention: Bondholder Communication.

"*Covenant Defeasance*" has the meaning set forth under *Section 9.3*.

*“Credit Facilities”* means one or more debt facilities, commercial paper facilities or other types of financings between the Authority and its Restricted Subsidiaries with banks, other institutional lenders, vendors and others providing for revolving credit loans; term loans, capitalized leases, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, in each case, as amended, restated, modified, renewed, refunded, replaced or refinanced in whole or in part from time to time, including any facility with respect to FF&E Financing or any Capital Lease Obligation to acquire or refinance FF&E.

*“Default”* means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

*“Deposit Account”* means each of the accounts maintained by the Authority or a Guarantor and pledged to the Collateral Agent pursuant to the terms of the Security Agreement, and into which certain amounts shall be deposited as set forth in *Section 4.25*.

*“Deposit Account Control Agreement”* means the deposit account control agreement dated as of the date of this Indenture among the Authority, the Guarantors, the Collateral Agent and a Qualified Bank as deposit account bank, as amended or supplemented from time to time in accordance with its terms, and each other control agreement required under the Security Agreement.

*“Depository”* means, with respect to the Notes issued in the form of one or more Global Notes, The Depository Trust Company or another Person designated as Depository by the Authority, which Person must be a clearing agency registered under the Exchange Act.

*“Designation”* has the meaning set forth under *Section 4.14*.

*“Designation Amount”* has the meaning set forth in the definition of “Investment.”

*“Discharge”* has the meaning set forth in the definition of “Consolidated Coverage Ratio.”

*“Disposition”* has the meaning set forth in the definition of “Consolidated Coverage Ratio.”

*“Disqualified Capital Stock”* means any Capital Stock which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable at the option of the holder thereof), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable, at the option of the holder thereof, in whole or in part, or exchangeable into Indebtedness on or prior to the date which is 91 days after the Stated Maturity of the principal of the Notes; *provided, however*, that any Capital Stock that would not constitute Disqualified Capital Stock but for provisions thereof giving holders thereof the right to require the issuer to purchase or redeem such Capital Stock upon the occurrence of an “asset sale” or “change of control” occurring prior to the applicable maturity date of the Notes will not constitute Disqualified Capital Stock if the terms of such Capital Stock provide that the Authority or the applicable Restricted Subsidiary may not

repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with *Section 4.9*.

“*Distribution Agreement*” means that certain Tribal Distribution Security and Intercreditor Agreement, dated as of the Issue Date, by and among the Authority, the Trustee and the Tribe.

“*ECF Period*” means, (i) with respect to an ECF Redemption Date of September 30, the period from January 1 of such year to June 30 of such year, and (ii) with respect to an ECF Redemption Date of March 30, the period from July 1 of the immediately preceding year to December 31 of such immediately preceding year.

“*ECF Redemption Date*” has the meaning set forth under *Section 3.9*.

“*Euroclear*” has the meaning set forth in *Section 2.16(a)*.

“*Event of Default*” has the meaning set forth under *Section 6.1*.

“*Excess*” has the meaning set forth under *Section 4.11(f)*.

“*Excess Cash Flow*” means, for any ECF Period, the Consolidated EBITDA for such period, minus the following, without duplication:

(1) Scheduled Capital Expenditures paid for or otherwise incurred (including, without limitation, by way of acquisition of securities of a Person or the expenditure of cash or the transfer of property or the Incurrence of Indebtedness), in each case, during such period;

(2) the aggregate amount of the Monthly Tribal Distributions made during such period (*minus* the first Monthly Tribal Distribution made during such period, unless such period is the first period in which Excess Cash Flow is calculated) and permitted to be made during the immediately succeeding monthly period;

(3) [RESERVED];

(4) the aggregate amount of Capital Lease Obligations and installment contract payments, the interest payments in respect of the Notes and other Permitted Indebtedness (including, without limitation, all Consolidated Interest Expense for such period) and required amortization or other required principal payments (together with, in the case of any revolving line of credit, elective amortization or principal payments, which may be made in the sole discretion of the Authority) in respect of the Notes and other Permitted Indebtedness, in each case, made or deducted during such period (without, for the avoidance of doubt, internal duplication within this *clause (4)* and to the extent not already deducted in *clause (1)* of this definition of “Excess Cash Flow,” it being understood that the fact that a deduction was made pursuant to *clause (1)* of this definition of “Excess Cash Flow” in respect of FF&E put into service shall not operate to preclude additional deductions from being made pursuant to this *clause (4)* in respect of



future payments made with respect to such FF&E (which payments shall not be considered duplicative for any purpose hereunder), in each case, to the extent applicable;

(5) arbitration settlement payments made during such period (including but not limited to \$1.0 million each year paid to the County of Madera Board of Supervisors), litigation payments, and Tort Claims Appeal Board payments not covered by the Authority's insurance (in each case, to the extent not already deducted in calculating Consolidated EBITDA);

(6) Transaction Expenses paid during such period (to the extent not already deducted in calculating Consolidated EBITDA);

(7) Consolidated Income Tax Expense for such period (to the extent not already deducted in calculating Consolidated EBITDA);

(8) any non-cash gain or other non-cash increase during such period of any kind in or to Consolidated Net Income, in each case, to the extent it has not been subtracted from the calculation of Consolidated EBITDA;

(9) any decreases in cash during such period resulting from changes in Working Capital as of the last day of the applicable ECF Period, to the extent such decreases occur in the ordinary course of business, including, without limitation, decreases as a result of changes in accounts receivable, inventories, prepaids and other, accounts payable and accrued liabilities;

*plus* the following, without duplication:

(10) the amount of any principal amounts of Indebtedness drawn by the Authority during such period under any revolving Credit Facility incurred pursuant to *Section 4.10 (b)(3)*;

(11) the amount of any FF&E Financings incurred during such period pursuant to *Section 4.10 (b)(7)*;

(12) any non-cash loss or other non-cash decrease of any kind during such period in or to Consolidated Net Income, in each case, to the extent it has not been added back in the calculation of Consolidated EBITDA; and

(13) any increases in cash during such period resulting from changes in Working Capital as of the last day of the applicable ECF Period, to the extent such increases occur in the ordinary course of business, including, without limitation, increases as a result of changes in accounts receivable, inventories, prepaids and other, accounts payable and accrued liabilities;

*provided*, that the Excess Cash Flow for the ECF Period ended on June 30 of any year shall be calculated based upon the interim quarterly financial statements for such period, and the Excess Cash Flow for the ECF Period ended on December 31 shall be calculated based upon the audited annual financial statements for the year ended on such December 31, as reduced for the amount

of Excess Cash Flow calculated for the first six months of such year and taking into account other audit adjustments; *provided, further*, that Excess Cash Flow for each ECF Period which occurs during the 2012 fiscal year shall be calculated in accordance with the second paragraph of *Section 3.9*.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated by the SEC thereunder.

“*Excluded Assets*” means:

(1) FF&E securing Indebtedness pursuant to Liens described in clause (7) of the definition of “Permitted Liens”;

(2) amounts in payroll accounts and trust accounts held by the Authority or any Restricted Subsidiary for the benefit of third parties;

(3) any application for registration of a trademark filed with the United States Patent and Trademark Office on an intent-to-use basis until such time (if any) as a statement of use or amendment to allege use is filed, at which time such trademark shall automatically be deemed part of the Collateral and no longer an Excluded Asset as of and after such time;

(4) any leases, permits, licenses (including, without limitation, Gaming Licenses), other contracts or agreements or other assets or property to the extent that a grant of a Lien thereon (a) is prohibited by law or would constitute or result in the abandonment, invalidation or unenforceability of any right, title or interest of the grantor therein pursuant to the applicable law or (b) would require the consent of third parties and such consent has not been obtained after the Authority has used commercially reasonable efforts to obtain such consent or (c) other than as a result of requiring a consent of third parties that has not been obtained, would result in a breach of the provisions thereof, or constitute a default under or result in a termination of, such lease, permit, license, contract or agreement (other than to the extent that any such provision thereof would be rendered ineffective pursuant to Section 9-406, 9-407 or 9-408 of the Uniform Commercial Code, any section of the Tribal UCC or any other applicable law); *provided*, that, immediately upon the ineffectiveness, lapse or termination of such prohibition, the provisions that would be so breached or such breach, default or termination or immediately upon the obtaining of any such consent, the Excluded Assets shall not include, and the Authority shall be deemed to have granted a security interest in, all such leases, permits, licenses, other contracts and agreements and such other assets and property as if such prohibition, the provisions that would be so breached or such breach, default or termination had never been in effect and as if such consent had not been required;

(5) any assets transferred by the Authority or either of the Guarantors to a Person other than the Authority or either of the Guarantors in transactions not prohibited by *Section 4.9*;

(6) all personal property constituting assets of the Tribal Gaming Commission and reasonably required to be owned or otherwise in the possession of the Tribal Gaming Commission for the proper discharge of the Tribal Gaming Commission's responsibilities under the Tribal Gaming Ordinance;

(7) all personal property of the Authority or any Restricted Subsidiary benefiting the Authority or any Guarantor primarily because of its use in connection with the Tribe's provision of customary essential governmental services, such as those related to health, safety and welfare; and

(8) any Protected Assets; *provided*, that the proceeds of any of the foregoing, to the extent such proceeds are themselves not Excluded Assets, shall not be deemed to be Excluded Assets hereunder.

*"Excluded Businesses"* means any existing or future businesses established and conducted by the Tribe or an Affiliate of the Tribe (other than the Authority or a Restricted Subsidiary) to provide any goods or services at the Facility or to the Authority or a Restricted Subsidiary, which goods or services would otherwise be provided at the Facility or to the Authority or a Restricted Subsidiary by a Person that is not an Affiliate of the Tribe or the Authority and provided that such goods or services are to be provided by such Affiliate on terms which are no less favorable to the Authority or a Restricted Subsidiary, as the case may be, than would be available to the Authority or such Restricted Subsidiary from a third party that is not an Affiliate of the Tribe or the Authority in a comparable transaction on an arm's-length basis; *provided, however*, that conducting Class III gaming activities shall not constitute an Excluded Business.

*"Existing Indebtedness"* means (1) the Old Notes and (2) any amounts presently or hereafter owing by the Authority or any Restricted Subsidiary to the applicable counterparty under any of the following contracts:

(A) Gaming Device Agreement, dated as of June 16, 2011, by and between Aristocrat Technologies, Inc. and Chukchansi Economic Development Authority dba Chukchansi Gold Resort & Casino;

(B) Gaming Device Agreement, dated as of July 21, 2011, by and between Aristocrat Technologies, Inc. and Chukchansi Economic Development Authority dba Chukchansi Gold Resort & Casino;

(C) Gaming Device Agreement, dated as of November 18, 2011, by and between Aristocrat Technologies, Inc. and Chukchansi Economic Development Authority dba Chukchansi Gold Resort & Casino;

(D) Tribal Lease / Sale Order, dated on or about October 7, 2010, by and between Aruze Gaming America, Inc. and Rancheria of the Chukchansi Indians dba Chukchansi Economic Development Authority;

(E) Tribal Lease / Sale Order, dated on or about June 30, 2011, by and between Aruze Gaming America, Inc. and Picayune Rancheria of the Chukchansi Indians dba Chukchansi Economic Development Authority;

(F) Capital Lease Order (Fixed Lease Payment), dated on or about October 13, 2010, by and between Atronic Americas LLC and Chukchansi Economic Development Authority dba Chukchansi Gold Resort & Casino;

(G) Conversion from Rental or Participation To Sale Agreement, dated as of June 1, 2011, by and between Bally Gaming, Inc. and Chukchansi Economic Development Authority dba Chukchansi Gold Resort & Casino;

(H) Sales Agreement, dated on or about September 8, 2009, by and between Western Money Systems and Chukchansi Gold;

(I) Sales and Security Agreement, dated as of November 21, 2011, by and between Bally Gaming, Inc. dba Bally Technologies and Chukchansi Economic Development Authority dba Chukchansi Gold Resort & Casino;

(J) Konami Gaming Purchase Equipment Order #CP11-0010-BS and Konami Gaming Purchase Equipment Order #CP11-0004-BS, each dated on or about February 17, 2011, by and between Konami Gaming, Inc. and The Chukchansi Economic Development Authority dba Chukchansi Gold Resort and Casino;

(K) Equipment Financed Sales Agreement, dated on or about October 4, 2010, by and between Shuffle Master, Inc. and Chukchansi Gold Resort & Casino; and

(L) Sales Order, dated on or around March 17, 2011, by and between WMS Gaming, Inc. and Chukchansi Economic Development Authority dba Chukchansi Gold Resort and Casino.

*"Expansion Capital Expenditures"* means any capital expenditure by the Authority or any of its Restricted Subsidiaries in respect of the purchase or other acquisition of any fixed or capital assets that adds to or significantly improves the property of the Authority and its Restricted Subsidiaries, excluding any capital expenditures (i) constituting a Permitted Investment or a Restricted Payment, (ii) financed with Net Cash Proceeds of an Asset Sale or (iii) in the ordinary course of business made to maintain, repair, restore or refurbish the property of the Authority and its Restricted Subsidiaries in its then-existing state or to support the continuation of such Person's day to day operations as then conducted (other than any capital expenditures incurred in connection with the replacement of gaming machines).

*"Facility"* means the multi-amenity gaming, food, lodging and entertainment complex comprising the Chukchansi Gold Resort & Casino in Coarsegold, California, together with any future Related Business that may be developed on the site thereof.

*"Fair Market Value"* means, with respect to any asset, the price (after taking into account any liabilities relating to such assets) which could be negotiated in arm's-length free market transaction, for cash, between a willing seller and a willing and able buyer, neither of which is

under any compulsion to complete the transaction, as determined in good faith by the management of the Authority; *provided, however*, that if management of the Authority determines the Fair Market Value of any such asset or assets to be in excess of \$2.0 million, the Fair Market Value of such asset or assets will be determined conclusively by the Board of Directors of the Authority (or a duly authorized committee thereof) acting in good faith, and will be evidenced by a Board Resolution delivered to the Trustee.

“*FF&E*” means furniture, fixture, equipment, including gaming equipment, and other assets used in connection with any Related Business.

“*FF&E Financing*” means the incurrence of Indebtedness, the proceeds of which will be used to finance the acquisition by the Authority or a Restricted Subsidiary, cost of construction or improvement, or carrying cost, of FF&E used in a Related Business whether or not secured by a Lien on such FF&E; *provided* that such Indebtedness does not exceed the fair market value of such FF&E at the time of its acquisition plus related financing costs, and in the case of a refinancing, accrued but unpaid interest.

“*Four-Quarter Period*” has the meaning set forth in the definition of “Consolidated Coverage Ratio.”

“*GAAP*” means generally accepted accounting principles in effect in the United States on the Issue Date and which are consistently applied.

“*Gaming Authority*” means any agency, authority, board, bureau, commission, department, office or instrumentality of any nature whatsoever of the United States federal or foreign government, the Tribe, any state, province or any city or other political subdivision, whether now or hereafter in existence, or any officer or official thereof, with authority to regulate any gaming operation (or proposed gaming operation) owned, managed or operated by the Tribe or the Authority or any subsidiary of the Authority, including the Tribal Gaming Commission and any division of the Tribe having such authority.

“*Gaming License*” means every license, permit, franchise or other authorization from any Gaming Authority required on the Issue Date or at any time thereafter to own, lease, operate or otherwise conduct a Related Business of the Authority and its Subsidiaries, including all gaming licenses granted under the Tribal Gaming Ordinance, and the regulation promulgated pursuant thereto, and other applicable federal, state, foreign or local laws.

“*Grantee*” has the meaning set forth under *Section 13.1(b)*.

“*Gross Revenues*” means, for any period, all revenues comprised of money, instruments, credit to a securities or deposit account, or other assets received, directly or indirectly, from the Facility or a Related Business, including, without limitation, the total amounts wagered on Class II and Class III games (but in the case of such revenues, net of prizes and payouts), admissions fees (including table or card fees), food and beverage sales, and rental income from lessees, sublessees, licensees or concessionaires (but not the gross receipts of such lessees, sublessees, licensees or concessionaires and net of any credits or rebates issued to them) who are not Restricted Subsidiaries of the Authority, business interruption insurance proceeds, and net proceeds from litigation and other claims against third parties; *provided* that Gross Revenues

shall not include (i) proceeds of any Indebtedness, (ii) any contributions by or on behalf of the Tribe or any Affiliate of the Tribe (other than the Authority or any Restricted Subsidiaries), (iii) net proceeds of condemnation or, exclusive of proceeds of business interruption insurance, proceeds of insurance not reimbursing any costs previously treated as an operating expense, (iv) promotional allowances, (v) credit card slips and other accounts receivable (until money, instruments or a credit to a securities or deposit account is received in respect thereof), (vi) Net Cash Proceeds, (vii) net proceeds from the ownership and operation of automated teller machines, (viii) cash in transit to and/or from the Facility, and (ix) all Operating Cash.

“*Global Note Legend*” means the legend set forth in *Exhibit D*, which is required to be placed on all Global Notes issued under this Indenture.

“*Global Notes*” has the meaning set forth in *Section 2.16(a)*.

“*guarantee*” means, as applied to any obligation, (1) a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner, of any part or all of such obligation and (2) an agreement, direct or indirect, contingent or otherwise, the practical effect of which is to assure in any way the payment or performance (or payment of damages in the event of non-performance) of all or any part of such obligation, including, without limiting the foregoing, the payment of amounts drawn down by letters of credit. A guarantee will include, without limitation, any agreement to maintain or preserve any other Person’s financial condition or to cause any other Person to achieve certain levels of operating results.

“*Guarantee*” means, when and if issued, the senior guarantee by each Guarantor of the Authority’s payment obligations under this Indenture and the Notes executed pursuant to this Indenture.

“*Guarantors*” means any Subsidiary that executes a Guarantee in accordance with the provisions of this Indenture and their respective successors and assigns, in each case, until such Person is released from its Guarantee in accordance with the terms of this Indenture.

“*Hedging Obligations*” means, with respect to any Person, the Obligations of such Person under (1) interest rate swap agreements, interest rate cap agreements, interest rate collar agreements and similar agreements or arrangements and (2) foreign currency or commodity hedge, swap, exchange and similar agreements (agreements referred to in this definition being referred to herein as “*Hedging Agreements*”).

“*Holder*” means the registered holder of any Note on the books of the Registrar.

“*IGRA*” means the Indian Gaming Regulatory Act of 1988, PL 100-497, U.S.C. § 2701 *et seq.*, as the same may from time to time be amended.

“*Incur*” means, with respect to any Indebtedness or other obligation of any Person, to create, issue, incur (including by conversion, exchange or otherwise), assume, guarantee or otherwise become liable in respect of such Indebtedness or other obligation or the recording, as required pursuant to GAAP or otherwise, of any such Indebtedness or other obligation on the balance sheet of such Person (and “*Incurrence*,” “*Incurred*” and “*Incurrence*” will have meanings

correlative to the foregoing). Indebtedness of any Acquired Person or any of its Subsidiaries existing at the time such Acquired Person becomes a Restricted Subsidiary of the Authority (or is merged into or consolidated with the Authority or any Restricted Subsidiary of the Authority), whether or not such Indebtedness was Incurred in connection with, as a result of, or in contemplation of, such Acquired Person becoming a Restricted Subsidiary of the Authority (or being merged into or consolidated or amalgamated with the Authority or any Restricted Subsidiary of the Authority), will be deemed Incurred at the time any such Acquired Person becomes a Restricted Subsidiary or merges into or consolidates or amalgamates with the Authority or any Restricted Subsidiary of the Authority. The following will be deemed not to be Incurrences of Indebtedness: (1) the accrual or payment of interest and the accretion or amortization of original issue discount will not be deemed to be an Incurrence of Indebtedness, *provided, however*, in each such case, that the amount thereof is included in Consolidated Interest Expense as accrued, (2) the payment of interest in the form of additional Indebtedness of the same instrument or the payment of dividends on Capital Stock in the form of additional Capital Stock of the same class and with the same terms, and (3) losses or charges in respect of Hedging Obligations (including those resulting from the application of FAS 133).

“*Indebtedness*” means (without duplication), with respect to any Person, whether recourse is to all or a portion of the assets of such Person and whether or not contingent:

- (1) every obligation of such Person for money borrowed;
- (2) every obligation of such Person evidenced by bonds, debentures, notes or other similar instruments, including obligations incurred in connection with the acquisition of assets or businesses by such Person;
- (3) every reimbursement obligation of such Person with respect to letters of credit; bankers’ acceptances or similar facilities issued for the account of such Person;
- (4) every obligation of such Person issued or assumed as the deferred purchase price of assets or services (but excluding (A) earnout or other similar obligations until such time as the amount of such obligation is capable of being determined and its payment is probable, (B) trade accounts payable (or credit arrangements reasonably related thereto) incurred in the ordinary course of business and payable in accordance with industry practices, or (C) other accrued liabilities arising in the ordinary course of business which are not overdue or which are being contested in good faith);
- (5) every Capital Lease Obligation of such Person;
- (6) every net obligation payable under Hedging Agreements of such Person;
- (7) every obligation of the type referred to in *clauses (1) through (6)* of another Person and all dividends of another Person the payment of which, in either case, such Person has guaranteed or is responsible or liable for, directly or indirectly, as obligor, guarantor or otherwise, the amount of such obligation being the lesser of (A) such obligation and (B) the maximum amount covered by such guarantee or for which such Person is otherwise liable; and

(8) every obligation of the type referred to in *clauses (1) through (7)* above of another Person the payment of which is secured by the assets of such Person, the amount of such obligation being deemed to be the lesser of (i) the Fair Market Value of such asset or (ii) the amount of the obligation so secured;

*provided, however,* that notwithstanding the foregoing, obligations or responsibilities of the Authority not otherwise constituting Indebtedness of the Authority used by third party holders of such obligations or responsibilities to raise financing for such third party (including the Tribe or any manager of the Facility) shall not constitute Indebtedness of the Authority solely by reason of the fact of such financing.

Indebtedness:

(A) for purposes of calculations, basket compliance and other limitations set forth in this Indenture, shall be calculated (1) based solely on the portion of such Indebtedness attributable to principal and (2) net of sinking fund payments made in respect of such Indebtedness and other cash collateral securing such Indebtedness;

(B) will not include obligations of any Person (1) arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds in the ordinary course of business, *provided* that such obligations are extinguished within 5 Business Days of their Incurrence, (2) resulting from the endorsement of negotiable instruments for collection in the ordinary course of business and (3) under standby letters of credit to the extent collateralized by cash or Cash Equivalents;

(C) will include the liquidation preference and any mandatory redemption payment obligations in respect of any Disqualified Capital Stock of the Authority or any Preferred Capital Stock of any Restricted Subsidiary of the Authority;

(D) will not include any liability for federal, provincial, state, Tribe, local or other taxes; and

(E) will not include obligations in respect of the Tribal Distribution Obligations or obligations under performance bonds, performance guarantees, surety bonds and appeal bonds, letters of credit or similar obligations, incurred in the ordinary course of business.

*“Indenture”* means this Indenture as amended, restated or supplemented from time to time in accordance with the terms hereof.

*“Independent Financial Advisor”* means a nationally recognized accounting, appraisal or investment banking firm or consultant in the United States that is, in the judgment of the Authority’s Board of Directors, qualified to perform the task for which it has been engaged (1) which does not, and whose directors, officers and employees or Affiliates do not, have a direct or indirect financial interest in the Authority and (2) which, in the judgment of the Board of



Directors of the Authority, is otherwise independent and qualified to perform the task for which it is to be engaged.

“*Initial Notes*” means the 9¾% senior secured notes due 2020 issued by the Authority pursuant to this Indenture on May 30, 2012.

“*Institutional Accredited Investor*” means an institution that is an “accredited investor” as that term is defined in Rule 501(a)(1), (2), (3) or (7) promulgated under the Securities Act.

“*Intercreditor Agreement*” means, with respect to Indebtedness extended by (i) a Person other than the Tribe or an Affiliate thereof, an intercreditor agreement containing the terms set forth on Annex I hereto and other customary terms not inconsistent therewith, and (ii) the Tribe or an Affiliate thereof, an intercreditor agreement in substantially the form set forth on Annex II hereto (as the same may be reasonably updated for the passage of time, changed circumstances or changed law).

“*interest*” means, with respect to the Notes, any cash interest on the Notes (including any additional interest, if applicable).

“*Interest Payment Date*” means March 30 and September 30 of each year.

“*Investment*” means, with respect to any Person, any direct or indirect loan, advance, guarantee or other extension of credit (in each case other than in connection with an acquisition of property or assets that does not otherwise constitute an Investment) or capital contribution to (by means of transfers of cash or other property or assets to others or payments for property or services for the account or use of others, or otherwise), or purchase or acquisition of Capital Stock, bonds, notes, debentures or other securities or evidences of Indebtedness issued by, any other Person. The amount of any Investment will be the original cost of such investment, plus the cost of all additions thereto, and minus the amount of any portion of such Investment repaid to such Person in cash as a repayment of principal or a return of capital, as the case may be, but without any other adjustments for increases or decreases in value, or write-ups, write-downs or writeoffs with respect to such Investment. In determining the amount of any Investment involving a transfer of any property or asset other than cash, such property will be valued at its Fair Market Value at the time of such transfer. For purposes of *Section 4.9*, an Investment will be deemed to be made upon any Designation in an amount (the “*Designation Amount*”) equal to the greater of (1) the net book value of the Authority’s interest in the applicable Subsidiary calculated in accordance with GAAP and (2) the Fair Market Value of the Authority’s interest in the applicable Subsidiary as determined in good faith by the Board of Directors of the Authority (or a duly authorized committee thereof) and evidenced by a Board Resolution, whose determination will be conclusive, plus, in each case, the amount, if applicable, described in *Section 4.14(4)*. If the Authority or any Restricted Subsidiary, of the Authority sells or otherwise disposes of any Capital Stock of any Restricted Subsidiary of the Authority such that, after giving effect to such sale or disposition, such Person ceases to be a Restricted Subsidiary of the Authority, the Authority will be deemed to have made an Investment on the date of such sale or disposition equal to the Fair Market Value of the Capital Stock of such Restricted Subsidiary that after giving effect to such sale or disposition is owned, directly or indirectly, by the Authority.

*"Issue Date"* means the date on which the Initial Notes are originally issued.

*"Key Project Assets"* means:

(1) any real property or interest in real property held in trust for the Tribe by the United States upon which the Facility is located and

(2) any improvement to the real property referred to in *clause (1)* above (but excluding any real property improvements determined by the Authority to be no longer useful to the operation of the Facility).

*"Legal Defeasance"* has the meaning set forth under *Section 9.2*.

*"Legal Holiday"* has the meaning set forth under *Section 14.7*.

*"Lending Party"* has the meaning set forth in *Section 14.9*.

*"Lien"* means any lien, mortgage, charge, security interest, hypothecation, assignment for security or encumbrance of any kind (including any conditional sale or capital lease or other title retention agreement, and any agreement to give any security interest but excluding any lease which does not secure Indebtedness);

*"Management Activities"* has the meaning set forth in *Section 14.9*.

*"Monthly Tribal Distribution"* means, with respect to any month in any calendar year, an amount equal to one twelfth (1/12) of the Annual Tribal Distribution then in effect for such calendar year.

*"Moody's"* means Moody's Investors Service, Inc. or any successor thereto.

*"Net Cash Proceeds"* means the aggregate proceeds in the form of cash or Cash Equivalents received by the Authority or any Restricted Subsidiary of the Authority in respect of any Asset Sale, including all cash or Cash Equivalents received upon any sale, liquidation or other exchange of proceeds of Asset Sales received in a form other than cash or Cash Equivalents, net of:

(1) The direct costs relating to such Asset Sale (including, without limitation, legal, accounting and investment banking fees, brokerage fees and sales commissions) and any relocation or transportation expenses Incurred as a result thereof;

(2) taxes paid or payable directly as a result thereof;

(3) amounts required to be applied to the repayment of Indebtedness secured by a Lien on the asset or assets that were the subject of such Asset Sale;

(4) amounts deemed, in good faith, appropriate by the Board of Directors of the Authority (or a duly authorized committee thereof) to be provided as a reserve, in accordance with GAAP, against any liabilities associated with such assets which are the

subject of such Asset Sale (*provided* that the amount of any such reserves will be deemed to constitute Net Cash Proceeds at the time such reserves will have been released or are not otherwise required to be retained as a reserve); and

(5) all distributions and other payments required to be made to minority interest holders in Restricted Subsidiaries as a result of such Asset Sale.

*"Net Proceeds Offer"* has the meaning set forth under Section 4.11(e).

*"Net Proceeds Offer Payment Date"* has the meaning set forth in Section 4.11(e)(2).

*"Net Proceeds Offer Trigger Date"* has the meaning set forth in Section 4.11(e).

*"Notes"* means, collectively, the Initial Notes and the Additional Notes, if any.

*"NIGC"* means the National Indian Gaming Commission.

*"Non-U.S. Person"* means a Person who is not a U.S. person, as defined in Regulation S.

*"Obligations"* means any principal, interest, penalties, fees, indemnifications, reimbursement obligations, damages and other liabilities payable under the documentation governing any Indebtedness.

*"Offering Statement"* means the Authority's Offer to Purchase, Offer to Exchange and Consent Solicitation Statement initially issued on March 30, 2012, as the same may be amended or supplemented from time to time.

*"Officer"* means the Chairperson, the President, the Vice Chairperson, the Chief Financial Officer, the Treasurer or the Secretary of the Authority (or the functional equivalent thereof).

*"Officers' Certificate"* means a certificate signed by two Officers or by one Officer and any Assistant Treasurer or Assistant Secretary of the Authority and which complies with the provisions of this Indenture.

*"Old Notes"* means (1) the Authority's 8% Senior Notes due 2013 outstanding on the Issue Date and its related guarantees, and (2) the Authority's Floating Rate Senior Notes due 2012 outstanding on the Issue Date and its related guarantees.

*"Opinion of Counsel"* means a written opinion from legal counsel who is reasonably acceptable to the Trustee; such counsel maybe an employee of or counsel to the Authority or the Trustee.

*"Operating Cash"* means all cash in transit to and from the Facility, all cage cash, slot hopper fill, cash in valet or other registers and change boxes, cash in any gaming devices operated by the Authority, and other cash at any other location on the premises of the Facility necessary or desirable for the operation of the Facility, in each case to the extent that all such cash does not exceed \$10 million in the aggregate.

“*Operating Liquidity*” means, as of any time of determination, the sum of (i) Operating Cash plus (ii) cash and Cash Equivalents on deposit in any Deposit Account from which the Authority at such time is authorized to make withdrawals.

“*Other Notes*” has the meaning set forth in *Section 2.2*.

“*Ownership Interest*” means, with respect to any Person, Capital Stock of such Person or any interest which carries the right to elect or appoint any member of the Board of Directors or other executive office of such Person.

“*Paying Agent*” has the meaning set forth under *Section 2.4*.

“*Permitted Indebtedness*” has the meaning set forth under *Section 4.10(b)*.

“*Permitted Investments*” means:

- (1) Investments in cash and Cash Equivalents;
- (2) Investments in the Authority or any Guarantor or any Person that, as a result of or in connection with such Investment, (a) becomes a Guarantor or (b) is merged or consolidated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Authority or any Guarantor;
- (3) Investments in this Notes;
- (4) investments in prepaid expenses, prepaid assets, negotiable instruments held for collection or deposit and lease, utility and workers’ compensation, performance and other similar deposits made in the ordinary course of business;
- (5) Hedging Obligations permitted by *clause (6)* of the definition of “Permitted Indebtedness”;
- (6) any Investment to the extent that the consideration therefor consists of Qualified Capital Stock of the Authority;
- (7) accounts receivable created or acquired in the ordinary course of business or Investments (including debt obligations or “marker” extended to casino patrons) received in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers;
- (8) advances to officers, directors and employees of the Authority, any Guarantor, or any Restricted Subsidiary for travel, entertainment, relocation, expenses, and payroll advances, in each case in the ordinary course of business not to exceed \$500,000 at any one time outstanding;
- (9) any non-cash consideration received as a result of Asset Sales in compliance with *Section 4.11*;

(10) Investments in the Tribe to the extent required by the Tribe to make Capital Expenditures and for working capital purposes; and

(11) in addition to the Investments described in *clauses (1) through (10)* above, other Investments not to exceed \$2.5 million at any time outstanding.

The amount of Investments outstanding at any time pursuant to *clause (11)* above will be deemed to be reduced:

(a) upon the disposition or repayment of or return on any Investment made pursuant to *clause (11)* above, by an amount equal to the return of capital with respect to such Investment to the Authority or any Restricted Subsidiary of the Authority (to the extent not included in the computation of Consolidated Net Income), less the cost of the disposition of such Investment and net of taxes; and

(b) upon a Revocation redesignating an Unrestricted Subsidiary as a Restricted Subsidiary, by an amount equal to the lesser of (x) the Fair Market Value of the Authority's proportionate interest in such Subsidiary immediately following such redesignation, and (y) the aggregate amount of Investments in such Subsidiary that increased (and did not previously decrease) the amount of Investments outstanding pursuant to *clause (11)* above.

"*Permitted Liens*" means:

(1) Liens on property of a Person existing at the time such Person is merged or consolidated with or into the Authority or any Restricted Subsidiary of the Authority or such Person is designated to be a Restricted Subsidiary; *provided, however*, that such Liens were in existence prior to the contemplation of such merger, consolidation or designation and do not attach to any property or assets of the Authority or any Restricted Subsidiary of the Authority other than the property or assets subject to the Liens prior to such merger, consolidation or designation and the proceeds thereof;

(2) Liens securing the Indebtedness under the Credit Facilities permitted pursuant to *clause (3)* of *Section 4.10*;

(3) Liens existing on the Issue Date securing Existing Indebtedness;

(4) Liens securing all of the Obligations under this Indenture and the Collateral Document;

(5) Liens in favor of the Authority or any Restricted Subsidiary of the Authority;

(6) Liens securing Hedging Obligations incurred pursuant to *clause (6)* of the definition of "Permitted Indebtedness";

(7) Liens securing Indebtedness (including FF&E Financings and Capital Lease Obligations) permitted by *clause (7)* of the definition of "Permitted Indebtedness,"

*provided* that such Indebtedness will not be secured by any asset other than the specified asset being financed;

(8) Liens for taxes, assessments or governmental charges (including, without limitation, license fees payable to the CGCC or charges arising under the Compact) or claims either (a) not delinquent or (b) contested in good faith by appropriate proceedings and as to which the Authority or any of its Restricted Subsidiaries will have set aside on its books such reserves as may be required pursuant to GAAP;

(9) statutory and contractual Liens of landlords and Liens of carriers, warehousemen, mechanics, suppliers, materialmen, repairmen and other Liens imposed by law or contract Incurred in the ordinary course of business for sums not yet delinquent or being contested in good faith, and, in such case, if such reserve or other appropriate provision, if any, as will be required by GAAP will have been made in respect thereof;

(10) Liens Incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money);

(11) Liens upon specific items of inventory or other goods or proceeds of any Person securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods or proceeds;

(12) judgment Liens not giving rise to an Event of Default so long as such Liens are adequately bonded and any appropriate legal proceedings which may have been duly initiated for the review of such judgment have not been finally terminated or the period within which the proceedings may be initiated has not expired;

(13) easements, rights-of-way, zoning restrictions' and other similar charges, restrictions or encumbrances in respect of real property or immaterial imperfections of title which do not, in the aggregate, impair in any material respect the ordinary conduct of the business of the Authority and the Restricted Subsidiaries taken as a whole;

(14) Liens securing reimbursement obligations with respect to commercial letters of credit which encumber documents and other assets relating to such letters of credit and products and proceeds thereof;

(15) Liens encumbering deposits made to secure obligations arising from statutory, regulatory, contractual or warranty requirements of the Authority or any of its Restricted Subsidiaries, including rights of offset and setoff;

(16) bankers' Liens, rights of setoff and other similar Liens existing solely with respect to cash and Cash Equivalents on deposit in one or more accounts maintained by the Authority or any of its Restricted Subsidiaries, in each case granted in the ordinary

course of business in favor of the bank or banks with which such accounts are maintained, securing amounts owing to such bank with respect to cash management and operating account arrangements, including those involving pooled accounts and netting arrangements; *provided* that in no case will any such Liens secure (either directly or indirectly) the repayment of any Indebtedness;

(17) leases or subleases granted to others that do not materially interfere with the ordinary course of business of the Authority or any of its Restricted Subsidiaries;

(18) Liens arising from filing Uniform Commercial Code financing statements regarding capital leases;

(19) Liens securing Acquired Indebtedness permitted to be Incurred under this Indenture; *provided* that the Liens do not extend to assets not subject to such Liens at the time of acquisition and are no more favorable to the lienholders than those securing such Acquired Indebtedness prior to the Incurrence of such Acquired Indebtedness by the Authority or a Restricted Subsidiary of the Authority;

(20) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(21) Liens on and pledges of the Capital Stock of any Unrestricted Subsidiary securing any Indebtedness of such Unrestricted Subsidiary;

(22) Liens arising under this Indenture in favor of the trustee for its own benefit and similar Liens in favor of other trustees, agents and representatives arising under instruments governing Indebtedness permitted to be Incurred under this Indenture, *provided*, that such Liens are solely for the benefit of the trustees; agents, or representatives in their capacities as such and not for the benefit of the holders of such Indebtedness;

(23) Liens arising from the deposit of funds or securities in trust for the purpose of decreasing or defeasing Indebtedness so long as such deposit of funds or securities and such decreasing or defeasing of Indebtedness are permitted under *Section 4.9*;

(24) Liens incurred in the ordinary course of business of the Authority, a Guarantor or any of their respective Restricted Subsidiaries with respect to obligations that do not exceed \$5.0 million at any one time outstanding and (a) are not Incurred in connection with the borrowing of money or the obtaining of advance of credit (other than trade credit in the ordinary course of business) and (b) do not in the aggregate materially detract from the value of the property and materially impair the use thereof in the operation of business by the Authority, a Guarantor, or any of their respective Restricted Subsidiaries;

(25) Liens to secure any refinancings, renewals, extensions, modifications or replacements (collectively, "*refinancing*") (or successive refinancings), in whole or in

part, of any Indebtedness secured by Liens referred to in *clauses (1), (3), (7), (19) or (21)* above so long as such Lien does not extend to any other property; and

(26) Liens on the Collateral granted in favor of the Tribe to secure the Tribal Distribution Obligations.

In each case set forth above, notwithstanding any stated limitation on the assets that may be subject to such Lien, a Permitted Lien on a specified asset or group or type of assets may include Liens on all improvements, additions and accessions thereto and all products and proceeds thereof (including, without limitation, dividends, distributions and increases in respect thereof).

“*Permitted Payments*” means any of the following items:

(1) payment for actual services, products or benefits rendered, performed or delivered in the ordinary course of business of the Authority that are reasonably necessary or desirable, in the good faith determination of an Officer, to the operation of the Authority, not to exceed the amount that would otherwise be paid for such services, products or benefits to a third-party in an arm’s-length transaction, including without limitation any activities of the Tribe, the Tribal Council or the Tribal Gaming Commission in connection with the Authority;

(2) payments for allocated costs of employee benefits for employees of the Authority paid by the Tribe or the Tribal Council, including allocated costs of third-party administration; and

(3) payments for allocated costs of providing police, fire, sewage and other municipal or similar services to the Authority paid by the Tribe or the Tribal Council.

“*Person*” means any individual, corporation, partnership, joint venture, association, joint-stock company, limited liability company, limited liability partnership, trust, unincorporated organization, authority or government or any agency or political subdivision thereof.

“*Physical Notes*” means certificated Notes in registered form in substantially the form set forth in *Exhibit A-1* hereto except that such Note shall not bear the Global Note Legend and shall not have the “Schedule of Exchanges of Interests in the Global Note” attached thereto.

“*Preferred Capital Stock*,” in any Person, means Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends or distributions, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over Capital Stock of any other class in such Person.

“*principal*” of a Note means the principal of the Note plus the premium, if any, payable on the Note which is due or overdue or is to become due at the relevant time.

“*Private Placement Legend*” means the legend initially set forth on the Rule 144A Notes and Other Notes that are Restricted Notes in the form set forth in *Exhibit B*.



*"Protected Assets"* means (a) all real property and interests therein, including fixtures constituting real property, (b) any asset against which it would be a violation of federal law, state law or the Compact to enforce remedies, (c) any assets belonging to the Tribe (as distinct from the Authority or any Restricted Subsidiaries), to any individual member of the Tribe, or to any entity or business owned by the Tribe (other than the Authority, any Restricted Subsidiaries and their respective assets), in each case of this clause (c), to the extent such assets are not used in any Related Business, and (d) any assets owned by an Excluded Business. Notwithstanding the foregoing provisions of this definition, Protected Assets shall not include any assets or properties that were distributed or received by the Tribe (or any entity or business owned by the Tribe other than the Authority, any Restricted Subsidiaries or their respective assets) in violation of any provisions of this Indenture or any assets or properties that were purchased with such assets or properties or any proceeds of such assets or property that were distributed or received by the Tribe (or any entities or business owned by the Tribe other than Authority, any Restricted Subsidiaries or their respective assets) in violation of any provisions of this Indenture.

*"Qualified Bank"* means (a) Rabobank, N.A., (b) any domestic commercial bank having capital and surplus in excess of \$500.0 million and a Thomson BankWatch Rating of "B" or better, or (c) any other domestic commercial bank located within 50 miles of the resort property having capital and surplus in excess of \$100.0 million.

*"Qualified Bank Accounts"* has the meaning set forth in *Section 4.25*.

*"Qualified Capital Stock"* in any Person means any Capital Stock in such Person other than any Disqualified Capital Stock.

*"Qualified Institutional Buyer"* or *"QIB"* shall have the meaning specified in Rule 144A promulgated under the Securities Act.

*"Redemption Date"* when used with respect to any Note to be redeemed on an optional basis means the date fixed for such redemption pursuant to the terms of the Notes.

*"Registrar"* has the meaning set forth under *Section 2.4*.

*"Regulation S"* means Regulation S promulgated under the Securities Act.

*"Regulation S Global Note"* has the meaning set forth in *Section 2.16(a)*.

*"Regulation S Notes"* has the meaning set forth under *Section 2.2*.

*"Regulation S Permanent Global Note"* means a permanent Global Note in the form of Exhibit A-1 hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depositary or its nominee, issued in a denomination equal to the outstanding principal amount of the Regulation S Temporary Global Note upon expiration of the Restricted Period.

*"Regulation S Temporary Global Note"* means a temporary Global Note in the form of Exhibit A-2 hereto deposited with or on behalf of and registered in the name of the Depositary or

its nominee, issued in a denomination equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903 of Regulation S.

*“Related Business”* means (a) any existing or future business or commercial activities of the Authority or any Restricted Subsidiaries, wherever located, and (b) to the extent not included in clause (a), any existing or future business or commercial activities of the Tribe or any Affiliate of the Tribe conducted at the Facility, including, without limitation, all gaming, hotel, entertainment, recreation, food and beverage and retail activities at the Facility, but excluding any Excluded Businesses.

*“Related Business Assets”* means (a) all real and personal property, and any interest therein, of the Authority or any Restricted Subsidiary, and (b) to the extent not included in (a), (i) all assets of the Tribe or any instrumentality, enterprise or subunit of the Tribe used in a Related Business, (ii) all cash, Cash Equivalents, receivables and other assets generated by the businesses conducted with the assets referred to in clause (i) of this definition, and (iii) all proceeds, income and profits from any of the assets referred to in clauses (i) and (ii) of this definition. Notwithstanding the foregoing provisions of this definition, Related Business Assets shall not include any assets used in connection with an Excluded Business or any assets subject to a distribution or transfer that did not at the time of its occurrence violate any terms of this Indenture or Notes.

*“Restricted Global Note”* has the meaning set forth in *Section 2.16(a)*.

*“Restricted Note”* has the same meaning as *“Restricted Security”* set forth in Rule 144(a)(3) promulgated under the Securities Act, *provided*, that the Trustee shall be entitled to request and conclusively rely upon all Opinion of Counsel with respect to whether any Note is a Restricted Note.

*“Restricted Payment”* has the meaning set forth in *Section 4.9(a)*.

*“Restricted Period”* means the 40-day distribution compliance period as defined in Regulation S.

*“Restricted Subsidiary”* means, with respect to any Person, any Subsidiary of such Person other than any Subsidiary that has been designated by the Board of Directors of the Authority, by a Board Resolution delivered to the Trustee, as an Unrestricted Subsidiary pursuant to *Section 4.14*. Any designation of a Subsidiary of the Authority as an Unrestricted Subsidiary may be revoked by a Board Resolution delivered to the Trustee, subject to the provisions of *Section 4.14*. For the avoidance of doubt, on the Issue Date, all Subsidiaries of the Authority that are its Restricted Subsidiaries.

*“Revocation”* has the meaning set forth under *Section 4.14*.

*“Rule 144”* means Rule 144 promulgated under the Securities Act.

*“Rule 144A”* means Rule 144A promulgated under the Securities Act.

*“Rule 144A Notes”* has the meaning set forth under *Section 2.2*.

“S&P” means Standard & Poor’s Ratings Group, a division of The McGraw-Hill Companies, Inc., or any successor thereto.

“*Scheduled Capital Expenditures*” means, with respect to any calendar year, the amount of the Capital Expenditures in an aggregate amount not exceeding the amount set forth below opposite such year:

<u>Year</u>	<u>Amount</u> (in millions)
2012.....	15.5
2013.....	9.0
2014 and thereafter.....	8.0

*provided*, that any amounts not expended in any year may be carried over to future years and that Scheduled Capital Expenditures may be increased at any time by the Authority in its discretion by one-time amounts of up to \$5.0 million to develop and construct a fuel station and convenience market and any and all related amenities, infrastructure and improvements (and any development activities incidental thereto).

“SEC” means the Securities and Exchange Commission.

“*Secured Indebtedness*” means, with respect to any Person, all Indebtedness of such Person secured by a Lien on any property or assets of such Person and/or its Restricted Subsidiaries in compliance with the terms of this Indenture;

“*Securities Act*” means the Securities Act of 1933, or any successor statute, and the rules and regulations promulgated by the SEC thereunder.

“*Security Agreement*” means the Security Agreement dated as of the date of the Issue Date, among the Authority and the Collateral Agent.

“*Significant Subsidiary*” means (1) any Restricted Subsidiary that would be a “significant subsidiary” as defined in Regulation S-X promulgated pursuant to the Securities Act as such Regulation is in effect on the Issue Date and (2) any Restricted Subsidiary that, when aggregated with all other Restricted Subsidiaries that are not otherwise Significant Subsidiaries and as to which any event described in *Section 6.1(8)* has occurred and is continuing, would constitute a Significant Subsidiary under *clause (1)* of this definition.

“*Stated Maturity*” when used with respect to any Note or any installment of interest thereon, means the date specified in such Note as the fixed date on which the principal of such Note or such installment of interest is due and payable.

“*Subordinated Indebtedness*” means any Indebtedness of the Authority or a Guarantor that is expressly subordinated in right of payment to the Notes or the Guarantee of such Guarantor.

“*Subsidiary*” with respect to any Person means (1) any corporation, limited liability company, association or other business entity of which more than 50% of the total voting power

of all outstanding Voting Stock entitled (without regard to the occurrence of any contingency) to vote in the election of the Board of Directors thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person (or a combination thereof) and (2) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are such Person or one or more Subsidiaries of such Person (or any combination thereof). Unless otherwise specified, "Subsidiary" refers to a Subsidiary of the Authority.

"*Surviving Person*" means, with respect to any Person involved in or that makes any Disposition, the Person formed by or surviving such Disposition or the Person to which such Disposition is made.

"*TIA*" means the Trust Indenture Act of 1939 (15 U.S. Code §§77aaa-77bbb) as in effect on the date of this Indenture.

"*Total Assets*" means, with respect to any Person, as of any date, the consolidated total assets of such Person, as determined in accordance with GAAP.

"*Transaction Documents*" means collectively, this Indenture, the Notes, the Guarantees, the Collateral Documents and the Intercreditor Agreement.

"*Transaction Expenses*" means the expenses incurred by the Authority in connection with the Authority's offer to purchase, offer to exchange and consent solicitation and the issuance of the Notes undertaken concurrently with the offering of the Notes.

"*Treasury Rate*" means, with respect to a Redemption Date, the yield to maturity as of such Redemption Date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15(519) (or any successor publication which is published weekly by the Board of Governors of the Federal Reserve System and which establishes yields on actively traded United States Treasury securities adjusted to constant maturity) that has become publicly available at least two Business Days prior to such Redemption Date (or, if such Statistical Release (or any successor release) is no longer published, any publicly available source of similar market data)) most nearly equal to the period from such Redemption Date to May 30, 2016; *provided, however*, that if the period from such Redemption Date to May 30, 2016 is not equal to the constant maturity of the United States Treasury security for which a weekly average yield is given, the Treasury Rate shall be obtained by linear interpolation (calculated to the nearest one twelfth of a year) from the weekly average yields of United States Treasury securities for which such yields are given, except that if the period from such Redemption Date to May 30, 2016 is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year shall be used.

"*Tribal Council*" means the governing body of the Tribe established pursuant to Article IV Section 2 of the Constitution.

"*Tribal Default*" means a Default or Event of Default that arises as a result of either of the following having occurred and being continuing (and the economic effect thereof, if any, on the holders of the Notes has not been cured or remedied): (i) an intentional failure to pay any

amount of principal or interest on the Notes when due, if at any time when such payment was due and not paid, the Authority had the funds available to make such full or partial payment (after giving effect to reserves for (a) the payment of the then-current Monthly Tribal Distribution, (b) current debt service on Credit Facilities that are senior in right of payment to the Obligations under this Indenture, the Notes, the Guarantees or any other Transaction Document, (c) current payment obligations in respect of FF&E Financings and (d) the Authority to have Operating Liquidity of \$14 million after making such payment), but did not make such full or partial payment, or (ii) a Default or an Event of Default under *Section 4.24*.

*"Tribal Distribution Obligations"* means the obligations of the Authority to pay the Monthly Tribal Distributions pursuant to the Distribution Agreement.

*"Tribal Gaming Commission"* means the Picayune Rancheria of the Chukchansi Indians Tribal Gaming Commission.

*"Tribal Gaming Ordinance"* means the duly and validly adopted Tribal Gaming Ordinance of the Tribe adopted by the Tribal Council on February 22, 2010, and approved by the NIGC on April 16, 2010, as required by IGRA.

*"Tribal Party"* has the meaning set forth under *Section 13.1(a)*.

*"Tribal UCC"* means that the Uniform Commercial Code as in effect in the State of California as adopted by certain Tribal Council Resolution No. 2002-28 approving the adoption of Article 9 of the Uniform Commercial Code as in effect in the State of California, as the same may be amended from time to time.

*"Tribe"* means the Picayune Rancheria of the Chukchansi Indians, a sovereign tribe recognized by the United States pursuant to 25 C.F.R. Part 83.

*"Tribe Forum"* means any court or other tribunal, forum, council, or adjudicative body of the Tribe.

*"Trustee"* means the party named as such in this Indenture until a successor replaces it pursuant to this Indenture and thereafter means the successor.

*"Unredeemed Excess Cash Flow"* means, with respect to any ECF Redemption Date in respect of which the amount of Unredeemed Excess Cash Flow is determined, an amount, if any, equal to the lesser of: (A) an amount equal to (i) 95% of Excess Cash Flow calculated in accordance with the terms hereof for each ECF Period ending on or after the Issue Date that has been completed (but excluding the ECF Period immediately prior to such ECF Redemption Date), less (ii) the aggregate amount of cash expended by the Authority to redeem Notes pursuant to *Section 3.9* in respect of all ECF Periods ending on or after the Issue Date that have been completed as of such ECF Redemption Date (without giving effect to any amounts to be paid on such ECF Redemption Date in respect of the ECF Period immediately prior to such ECF Redemption Date), and (B) the amount by which Operating Liquidity exceeds \$14 million as determined by the Authority as of the close of business on the last day of the ECF Period immediately prior to such ECF Redemption Date (as reduced to give pro forma effect to amounts,

if any, to be paid on such ECF Redemption Date in respect of the ECF Period immediately prior to such ECF Redemption Date).

“*Unrestricted Subsidiary*” means any Subsidiary of the Authority designated as such pursuant to and in compliance with *Section 4.14*, in each case until such time as any such designation may be revoked by a Board Resolution delivered to the Trustee, subject to the provisions of *Section 4.14*.

“*Unutilized Net Cash Proceeds*” has the meaning set forth in *Section 4.11(e)*.

“*U.S. Government Obligations*” means direct non-callable obligations of the United States of America for the payment of which the full faith and credit of the United States is pledged.

“*Voting Stock*” means Capital Stock in a corporation or other Person with voting power under ordinary circumstances entitling the holders thereof to elect the Board of Directors or other comparable governing body of such corporation or Person.

“*Weighted Average Life to Maturity*” means, when applied to any Indebtedness (including Disqualified Capital Stock) at any date, the number of years obtained by dividing (1) the sum of the products obtained by multiplying (A) the amount of each then-remaining installment, sinking fund, serial maturity or other required scheduled payment of principal or dividends including payment at final maturity, in respect thereof, by (B) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment, by (2) the then outstanding aggregate principal amount of such Indebtedness (including Disqualified Capital Stock).

“*Wholly Owned Restricted Subsidiary*” means any Restricted Subsidiary all of the voting power of outstanding Voting Stock (other than directors’ qualifying shares) of which is owned, directly or indirectly, by the Authority.

“*Working Capital*” means, as of any date of determination, the current assets (other than cash and Cash Equivalents) of the Authority minus the current liabilities of the Authority, in each case determined in accordance with GAAP. All borrowings and repayments under the revolving Credit Facility, all accrued liabilities for Capital Expenditures and the current portion of any long-term indebtedness shall be excluded from the definition of Working Capital.

Section 1.2 *Incorporation by Reference of Trust Indenture Act.* Whenever this Indenture refers to a provision of the TIA, the portion of such provision required to be incorporated herein in order for this Indenture to be qualified under the TIA is incorporated by reference in and made a part of this Indenture. The following TIA terms used in this Indenture have the following meanings:

“indenture securities” means the Notes.

“indenture securityholder” means a Holder.

“indenture to be qualified” means this Indenture.

“indenture trustee” or “institutional trustee” means the Trustee.

“obligor on the indenture securities” means the Authority, the Guarantors or any other obligor on the Notes.

All other terms used in this Indenture that are defined by the TIA, defined in the TIA by reference to another statute or defined by SEC rule have the meanings therein assigned to them.

Under no circumstances shall the Authority be required to file, deliver or otherwise provide any reports or information to the SEC, the Trustee or the Holders that may be required as a result of the incorporation by reference of the TIA as in effect on the date hereof without regard to any future supplement or amendment

Section 1.3 *Rules of Construction.* Unless the context otherwise requires:

- (1) a term has the meaning assigned to it herein, whether defined expressly or by reference;
- (2) “or” is not exclusive;
- (3) words in the singular include the plural, and in the plural include the singular;
- (4) words used herein implying any gender shall apply to both genders;
- (5) “herein,” “hereof” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subsection;
- (6) unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared in accordance with GAAP, applied on a basis consistent with the most recent audited consolidated financial statements of the Authority;
- (7) “\$,” “dollars,” “U.S. Dollars” and “United States Dollars” each refer to United States dollars, or such other money of the United States that at the time of payment is legal tender for payment of public and private debts; and
- (8) references to “interest” shall include any additional interest that may be payable pursuant to *Section 4.18*.

## ARTICLE II

### THE NOTES

Section 2.1 *Amount of Notes.* The Trustee shall authenticate Notes for original issue on the Issue Date in an aggregate principal amount of \$250,406,000 of 9¾% Secured Notes due 2020 upon a written order of the Authority in the form of an Officers’ Certificate of the

called for redemption on that date which have been delivered by the Authority to the Trustee for cancellation. On and after any ECF Redemption Date, if money sufficient to pay the redemption price of, including premium, if any, and accrued interest on Notes called for redemption shall have been made available in accordance with the preceding paragraph, the Notes called for redemption will cease to accrue interest and the only right of the Holders of such Notes will be to receive payment of the redemption price of and accrued and unpaid interest on such Notes to the Redemption Date. No Notes of a principal amount of \$1,000 or less will be redeemed in part pursuant to this *Section 3.9*.

## ARTICLE IV

### COVENANTS

**Section 4.1** *Payment of Notes.* The Authority shall pay the principal of and interest on the Notes on the dates and in the manner provided in the Notes and this Indenture. An installment of principal or interest, shall be considered paid on the date it is due if the Trustee or Paying Agent by 10:00 a.m. New York City time holds on that date money designated for and sufficient to pay such installment.

The Authority shall pay interest on overdue principal (including post-petition interest in a proceeding under any Bankruptcy Law).

**Section 4.2** *Maintenance of Office or Agency.* The Authority shall maintain an office or agency (which may be an office of the Trustee or an affiliate of the Trustee or Registrar) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Authority in respect of the Notes and this Indenture may be served. The Authority shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Authority shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Authority may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations. The Authority shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Authority hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Authority in accordance with *Section 2.4*.

**Section 4.3** *Legal Existence.* Subject to *Article V* hereof, the Authority shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its legal existence, and the legal existence of each Restricted Subsidiary, in accordance with the respective organizational documents (as the same may be amended from time to time) of each



Restricted Subsidiary and the material rights (charter and statutory), licenses and franchises of the Authority and its Restricted Subsidiaries; *provided* that the Authority shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Restricted Subsidiaries, if the Board of Directors of the Authority shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Authority and its Restricted Subsidiaries taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders.

Section 4.4      *Maintenance of Properties; Compliance with Law.*

(a)      The Authority shall, and shall cause each of its Restricted Subsidiaries to, at all times cause all material properties used or useful in the conduct of their respective businesses to be maintained and kept in good condition, repair and working order (reasonable wear and tear excepted) and supplied with all reasonably necessary equipment, and shall cause to be made all commercially reasonable repairs, renewals, replacements, betterments and improvements thereto.

(b)      The Authority shall, and shall cause each of its Subsidiaries to, comply with all statutes, laws, ordinances or government rules and regulations to which they are subject, non-compliance with which would materially adversely affect the business, prospects, earnings, properties, assets or financial condition of the Authority and its Subsidiaries taken as a whole.

Section 4.5      *Waiver of Stay, Extension or Usury Laws.* Each of the Authority and each of the Guarantors covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, or plead (as a defense or otherwise) or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury law or other law which would prohibit or forgive any of the Authority and the Guarantors from paying all or any portion of the principal of, premium, if any, and/or interest on the Notes as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Indenture; and (to the extent that they may lawfully do so) each of the Authority and the Guarantors hereby expressly waives all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 4.6      *Compliance Certificate.* The Authority shall deliver to the Trustee, within 90 days after the end of each fiscal year, commencing with the fiscal year ending December 31, 2012, a certificate signed by the principal executive officer, principal financial officer or principal accounting officer stating that a review of the activities of the Authority and its Subsidiaries during such fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Authority and the Guarantors have kept, observed, performed and fulfilled their obligations under this Indenture, and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge, the Authority and the Guarantors have kept; observed, performed and fulfilled each and every covenant contained in this Indenture and are not in default in the performance or observance of any of the terms, provisions and conditions hereof (or, if a Default shall have occurred, describing all such Defaults of which he or she may have knowledge and what action they are taking or propose to take with respect thereto) and that to the best of his or her knowledge no event has occurred and

remains in existence by reason of which payments on account of the principal of or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action the Authority and the Guarantors are taking or propose to take with respect thereto.

The Authority will deliver to the Trustee; within 30 days after the occurrence thereof; an Officers' Certificate detailing any Default of which it is aware; its status and what action the Authority is taking or proposes to take with respect to such Default.

The Authority's fiscal year currently ends on December 31. The Authority will provide written notice to the Trustee of any change in its fiscal year.

Section 4.7 *Taxes.* The Authority and the Guarantors shall, and shall cause each of their respective Subsidiaries to, pay prior to delinquency all material taxes, assessments, and governmental levies except as contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders.

Section 4.8 *Repurchase at the Option of Holders upon Change of Control.* If a Change of Control occurs, the Authority will, within 30 days after the occurrence of such Change of Control, make an offer (the "*Change of Control Offer*") to all Holders to purchase all outstanding Notes properly tendered pursuant to such offer, and within 60 days after the occurrence of the Change of Control, all Notes properly tendered pursuant to such offer will be accepted for purchase (the date of such purchase, the "*Change of Control Purchase Date*") for cash price equal to 101% of the principal amount thereof as of the Change of Control Purchase Date, plus accrued and unpaid interest to the date of purchase.

In order to effect the Change of Control Offer, the Authority will mail a notice to each Holder with a copy to the Trustee stating:

- (1) that a Change of Control has occurred and that such Holder has the right to require the Authority to purchase such Holder's Notes at a purchase price in cash equal to 101% of the principal amount thereof plus accrued and unpaid interest to the date of purchase;
- (2) the purchase date, which will be a Business Day no earlier than 30 days nor later than 60 days from the date such notice is mailed;
- (3) that, unless the Authority defaults in the payment of the purchase price, any Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest after the Change of Control Purchase Date; and
- (4) the procedures determined by the Authority, consistent with this Indenture, that a Holder must follow in order to have its Notes purchased.

The Authority will not be required to make a Change of Control Offer following a Change of Control if a third party makes the Change of Control Offer in a manner, at the times and otherwise in compliance with the requirements applicable to a Change of Control Offer made by the Authority and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer.

If the Authority makes a Change of Control Offer, the Authority will comply with all applicable tender offer laws and regulations, including, to the extent applicable, Section 14(e) and Rule 14e-1 under the Exchange Act, any other applicable federal or state securities laws and regulations, any applicable requirements of any securities exchange on which the Notes are listed, IGRA, and the rules and regulations of all applicable Gaming Authorities and any violation of the provisions of this Indenture relating to such Change of Control Offer occurring as a result of such compliance will not be deemed a Default or an Event of Default.

Section 4.9      *Limitation on Restricted Payments.*

(a)      The Authority will not, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly:

(1)      declare or pay any dividend or any other distribution on any Capital Stock of the Authority or any of its Restricted Subsidiaries or make any payment or distribution to the direct or indirect holders (in their capacities as such) of Capital Stock of the Authority or any of its Restricted Subsidiaries (other than any dividends, distributions and payments made to the Authority or any Restricted Subsidiary of the Authority and dividends, distributions and payments payable to any Person solely in the form of Qualified Capital Stock of the Authority);

(2)      make any payment or distribution to the Tribe (or any agency, instrumentality or political subdivision thereof) or make, any general distribution to the members of the Tribe;

(3)      purchase, redeem or otherwise acquire or retire for value any Capital Stock of the Authority or any Restricted Subsidiary of the Authority (other than any such Capital Stock owned by the Authority or any Restricted Subsidiary of the Authority);

(4)      purchase, redeem, defease or retire for value, or make any principal payment on, prior to any scheduled maturity, scheduled repayment or scheduled sinking fund payment, any Subordinated Indebtedness (other than any Subordinated Indebtedness held by the Authority or any Restricted Subsidiary of the Authority), except payments, purchases, redemptions, defeasances, acquisitions or retirements not more than one year before the Stated Maturity thereof; or

(5)      make any Investment in any Person (other than Permitted Investments);

(any such payment or other action (other than my exception thereto) described in *clause (1), (2), (3), (4) or (5)* above, a “*Restricted Payment*”), unless at the time the Authority or such Restricted Subsidiary makes such Restricted Payment:

(A)      no Default or Event of Default will have occurred and be continuing at the time or immediately after giving effect to such Restricted Payment and no part of such Restricted Payment constitutes, directly or indirectly, Excess Cash Flow which would reasonably be expected to be required to make a payment as described under *Section 3.9*;

(B) immediately after giving effect to such Restricted Payment, the Authority would be able to Incur \$1.00 of additional Indebtedness (other than Permitted Indebtedness) under *Section 4.10*; and

(C) immediately after giving effect to such Restricted Payment, the aggregate amount of all Restricted Payments declared or made on or after the Issue Date does not exceed an amount equal to the sum of:

(i) 50% of cumulative Consolidated Net Income of the Authority determined for the period (taken as one period) from the beginning of the fiscal quarter following the Issue Date and ending on the last day of the most recent fiscal quarter immediately preceding the date of such Restricted Payment for which consolidated financial information of the Authority is available (or if such cumulative Consolidated Net Income will be a loss, minus 100% of such loss); plus

(ii) the aggregate net cash proceeds received after the Issue Date by the Authority either (x) as a capital contribution or (y) from the issue and sale (other than to a Subsidiary) of its Qualified Capital Stock (except, in each case, to the extent such proceeds are used to purchase, redeem, retire, defease or otherwise acquire Capital Stock or Subordinated Indebtedness as set forth in *clause (2) or (3) of paragraph (b)* below and excluding the net proceeds from any issuance and sale of Qualified Capital Stock financed, directly or indirectly, using funds borrowed from the Authority or any Subsidiary until and to the extent such borrowing is repaid), plus

(iii) the principal amount (or accreted amount, determined in accordance with GAAP, if less) of any Indebtedness of the Authority or any Restricted Subsidiary of the Authority Incurred after the Issue Date which has been converted into or exchanged for Qualified Capital Stock of the Authority (except, in each case, to the extent such proceeds are used to purchase, redeem, retire, defease or otherwise acquire Subordinated Indebtedness as set forth in *clause (3) of paragraph (b)* below, plus

(iv) in the case of the disposition or repayment of any Investment or the release of a guarantee constituting a Restricted Payment made after the Issue Date, an amount (to the extent not included in the computation of Consolidated Net Income) equal to the lesser of (x) the return of capital with respect to such Investment and (y) the amount of such Investment which was treated as a Restricted Payment, in either case, less the cost of the disposition of such Investment and net of taxes, and, in the case of guarantees, less any amounts paid under such guarantee, plus

(v) so long as the Investment that was deemed to have been made upon a Designation thereof was treated as a Restricted Payment made after the Issue Date, with respect to any Unrestricted Subsidiary that has been redesignated as a Restricted Subsidiary after the Issue Date in accordance with

*Section 4.14*, the Authority's proportionate interest in an amount equal to the excess of (x) the Total Assets of such Subsidiary, valued on an aggregate basis at Fair Market Value, over (y) the total liabilities of such Subsidiary, determined in accordance with GAAP (and provided that such amount will not in any case exceed the Designation Amount with respect to such Restricted Subsidiary upon its Designation).

(b) The foregoing provisions will not prevent:

(1) the payment of any dividend or distribution on, or redemption of, Capital Stock within 60 days after the date of declaration of such dividend or distribution or the giving of formal notice of such redemption, if at the date of such declaration or giving of such formal notice such payment or redemption would comply with the provisions of this Indenture;

(2) the purchase, redemption, retirement or other acquisition of any Capital Stock of the Authority or a Restricted Subsidiary with the net cash proceeds of a substantially concurrent capital contribution to the Authority or issue and sale (other than to a Subsidiary) of, or in exchange for, other Capital Stock of the Authority (other than Disqualified Capital Stock in the case of any such purchase, redemption, retirement or other acquisition of Qualified Capital Stock); *provided, however*, that any such net cash proceeds and the value of any Qualified Capital Stock issued in exchange for such retired Capital Stock are excluded from *Section 4.9(a)(C)(ii)*. (and were not included therein at any time);

(3) the purchase, redemption, retirement, defeasance or other acquisition of Subordinated Indebtedness, or any other payment thereon, with the net cash proceeds of a substantially concurrent capital contribution to the Authority or issue and sale (other than to a Subsidiary) of, or in exchange for:

(A) Qualified Capital Stock of the Authority; *provided, however*, that any such net cash proceeds and the value of any Qualified Capital Stock issued in exchange for Subordinated Indebtedness are excluded from *Sections 4.9(a)(C)(ii)* and *4.9(a)(C)(iv)* (and were not included therein at any time) or

(B) Disqualified Capital Stock of the Authority or other Subordinated Indebtedness having no stated maturity for the payment of any portion of principal thereof prior to the final stated maturity of the Subordinated Indebtedness being purchased, redeemed, retired, defeased or otherwise acquired and having a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of the Subordinated Indebtedness being purchased, redeemed, retired, defeased or otherwise acquired;

(4) the redemption or repurchase of any debt or equity securities of the Authority or any Restricted Subsidiary of the Authority required by, and in accordance with, any order of, any Gaming Authority; *provided, however*, that the Authority has used

its commercially reasonable efforts to effect a disposition of such securities to a third party and has been unable to do so;

(5) any payment, purchase, redemption, defeasance or other acquisition or retirement for value of any Subordinated Indebtedness of the Authority or any Guarantor if (A) such payment or other action is required by this Indenture or other agreement or instrument pursuant to which such Subordinated Indebtedness was issued as a result of a Change of Control, and (B) the Authority has purchased all Notes, if any, properly tendered pursuant to any Change of Control Offer that resulted from such event;

(6) the payment of any dividend by a Restricted Subsidiary to the holders of its Capital Stock on a *pro rata* basis;

(7) any Restricted Payment; *provided* that (a) such Restricted Payment will not cause the ratio of (i) Indebtedness (less cash and Cash Equivalents) of the Authority at the end of the latest four-quarter period for which internal financial statements of the Authority are available to (ii) Consolidated EBITDA of the Authority for the latest four-quarter period for which internal financial statements of the Authority are available, in each case after giving pro forma effect to such Restricted Payment (and the Incurrence of any Indebtedness in connection therewith) to be greater than 2.00 to 1.00, (b) at the time of such Restricted Payment, no Default or Event of Default has occurred and is continuing and (c) the rating of the Notes by at least one of Moody's or S&P (to the extent any such party continues to rate the Notes) is equal to or higher than the rating of the Old Notes by such rating agency on November 14, 2005;

(8) a Monthly Tribal Distribution to the Tribe no more frequently than once each calendar month; *provided*, that any amounts that the Authority is entitled to distribute to the Tribe in any calendar month that are not so distributed by the Authority to the Tribe in such calendar month may be carried over to future months; and

(9) Permitted Payments;

*provided, however*, that in the case of *clauses* (3), (5), (6) and (7), no Default or Event of Default will have occurred and be continuing or would arise therefrom;

and *provided, further*, that in the case of clause (8), such payment shall be made notwithstanding the occurrence of a Default or Event of Default, *provided* that, no payment shall be made under *clause* (8) if a Tribal Default occurs and is continuing.

In determining the amount of Restricted Payments permissible under *Section 4.9(a)(C)*, amounts expended pursuant to *clauses* (1), (7) and (8) of this *Section 4.9(b)* will be included as Restricted Payments and amounts expended pursuant to *clauses* (2), (3), (4), (5), (6) and (9) of this *Section 4.9(b)* will be excluded. The amount of any non-cash Restricted Payment will be deemed to be equal to the Fair Market Value thereof at the date of the making of such Restricted Payment.

Section 4.10 *Limitation on Indebtedness and Issuance of Disqualified Capital Stock.*

(a) The Authority will not, directly or indirectly, Incur any Indebtedness (including any Acquired Indebtedness) or issue any Disqualified Capital Stock, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, Incur any Indebtedness (including any Acquired Indebtedness) or issue any Preferred Capital Stock; except in each case for Permitted Indebtedness; *provided, however*, that if no Default or Event of Default shall have occurred and be continuing at the time or as a consequence of the incurrence of this Indebtedness, the Authority and any Guarantor may Incur Indebtedness, and the Authority or any Guarantor may issue Disqualified Capital Stock, if, in any such case, at the time of and immediately after giving *pro forma* effect to such; Incurrence of Indebtedness or issuance of Disqualified Capital Stock and the application of the proceeds therefrom, the Consolidated Coverage Ratio of the Authority would be greater than 2.5 to 1.0.

(b) The foregoing limitations will not apply to the Incurrence or issuance of any of the following (collectively, "*Permitted Indebtedness*"), each of which will be given independent effect:

(1) Indebtedness under the Initial Notes issued on the Issue Date, any Additional Notes issued solely in exchange for any Old Notes outstanding after the Issue Date at an exchange ratio not to exceed the exchange ratio in the Offering Statement specified with respect to the issuance of the Initial Notes, any Guarantees, and the obligations arising under the Collateral Documents to the extent such obligations constitute Indebtedness;

(2) Existing Indebtedness;

(3) Indebtedness of the Authority and the Guarantors under any one or more Credit Facilities (which Indebtedness may, at the election of the Authority, be senior in right of payment to the Notes) in an aggregate principal amount at any one time outstanding not to exceed \$10.0 million, less the aggregate amount of all Net Cash Proceeds of Asset Sales applied by the Authority or any of its Restricted Subsidiaries since the Issue Date to permanently repay Indebtedness under Credit Facilities and, if the Indebtedness is under a revolving Credit Facility, to reduce the revolving credit commitment pursuant to *Section 4.11*; *provided that* if any such Credit Facility is secured by any of the Collateral, with respect to such Indebtedness extended by (i) a Person other than the Tribe or an Affiliate thereof, such lenders will have become parties to an intercreditor agreement containing the terms set forth on Annex I hereto and other customary terms not inconsistent therewith, and (ii) the Tribe or an Affiliate thereof, such lenders will have become parties to (a) an intercreditor agreement substantially in the form attached as Annex II hereto (as the same may be reasonably updated for the passage of time, changed circumstances or changed law);

(4) Indebtedness of any Restricted Subsidiary of the Authority owed to and held by the Authority or any other Restricted Subsidiary of the Authority and Indebtedness of the Authority owed to and held by any Restricted Subsidiary of the Authority or Disqualified Capital Stock of the Authority or any Restricted Subsidiary of the Authority held by the Authority or any Restricted Subsidiary of the Authority; *provided, however*, that (i) any such Indebtedness owed by the Authority or any

Guarantor will be unsecured and expressly subordinated in right of payment to the payment and performance of the Authority's or such Guarantor's obligations under this Indenture, the Notes and the Guarantees, as applicable, and (ii) an Incurrence of Indebtedness and issuance of Disqualified Capital Stock that is not permitted by this *clause (4)* will be deemed to have occurred upon (x) any sale or other disposition of any Indebtedness or Disqualified Capital Stock of the Authority or any Restricted Subsidiary of the Authority referred to in this *clause (4)* to a Person other than the Authority or any Restricted Subsidiary of the Authority, and (y) the designation of a Restricted Subsidiary which holds Indebtedness or Disqualified Capital Stock of the Authority or any other Restricted Subsidiary as an Unrestricted Subsidiary;

(5) guarantees by the Authority or any Guarantor of Indebtedness permitted to be Incurred under this *Section 4.10*;

(6) Hedging Obligations of the Authority and its Restricted Subsidiaries; *provided, however*, that such Hedging Obligations are entered into for genuine business purposes and not for speculative purposes to protect the Authority and/or its Restricted Subsidiaries against interest rate fluctuations or to reduce costs; *provided, further*, that (i) such Hedging Agreements shall not increase the Indebtedness of the Authority and the Restricted Subsidiaries outstanding other than as a result of fluctuations in interest rates or other risk being hedged or by reason of fees, indemnities and compensation payable thereunder and (ii) in the case of Hedging Agreements relating to interest rates, the foregoing will not prohibit the swap of fixed to floating rates (or vice versa) for genuine business purposes;

(7) the incurrence by the Authority and its Restricted Subsidiaries of Indebtedness in one or more FF&E Financings and Capital Lease Obligations to acquire or refinance FF&E, in an aggregate principal amount under this *clause (7)* (including refinancings (as defined in *clause (10)* below) thereof that do not result in an increase in the aggregate principal amount of Indebtedness as of the date of such proposed refinancing (other than increases from the amount of accrued and unpaid interest thereon, the amount of any premium required to be paid under the terms of the instrument governing such Indebtedness and the amount of reasonable fees and expenses incurred by the Authority in connection with such refinancing)) not to exceed \$10.0 million outstanding at any one time;

(8) Indebtedness, of the Authority, or any of its Restricted Subsidiaries consisting of indemnities, obligations in respect of purchase price adjustments, earn-outs, or similar obligations (at such time as the amount of such obligation is capable of being determined and its payment is probable) in connection with the acquisition or disposition of assets (including pursuant to any amendments to the agreements governing any such acquisition or disposition), including, without limitation, Capital Stock; *provided that*, with respect to any such disposition, the maximum aggregate liability in respect of all such Indebtedness will at no time exceed the gross proceeds actually received by the Authority and its Restricted Subsidiaries in connection with such disposition;



(9) the Incurrence by the Authority or any Restricted Subsidiary of the Authority of Indebtedness in connection with letters of credit (including, without limitation, letters of credit in respect of workers' compensation claims or self-insurance) with respect to reimbursement type obligations, regarding workers' compensation claims, escrow agreements, bankers' acceptances and surety and performance bonds (in each case to the extent that such Incurrence does not result in the Incurrence of any obligation to repay any obligation relating to borrowed money), all in the ordinary course of business;

(10) Indebtedness or Disqualified Capital Stock of the Authority or a Restricted Subsidiary of the Authority to the extent representing a replacement, renewal, refinancing or extension (collectively, a "*refinancing*") of outstanding Indebtedness Incurred or Disqualified Capital Stock issued in compliance with the proviso of *Section 4.10(a)* or any of *clause (1),(2) or (10)* of this *Section 4.10(b)*; *provided, however, that:*

(A) any such refinancing will not exceed the sums of the principal amount (or accreted amount (determined in accordance with GAAP), if less) or liquidation preference, as applicable, of the Indebtedness or Disqualified Capital Stock being refinanced, plus the amount of accrued and unpaid interest or dividends thereon, plus the amount of any reasonably determined prepayment premium necessary to accomplish and actually paid in connection with such refinancing and reasonable fees and expenses incurred in connection therewith;

(B) the refinancing Indebtedness or Disqualified Capital Stock will have a final maturity not earlier than, and a Weighted Average Life to Maturity not less than the Weighted Average Life to Maturity of, the Indebtedness or Disqualified Capital Stock, as applicable, being refinanced;

(C) Subordinated Indebtedness may be refinanced only with Subordinated Indebtedness or Disqualified Capital Stock, and Disqualified Capital Stock may be refinanced only with other Disqualified Capital Stock; and

(D) refinancing Indebtedness Incurred by a Restricted Subsidiary of the Authority that is not a Guarantor may be used to refinance Indebtedness only of a Restricted Subsidiary that is not a Guarantor.

(11) Indebtedness of the Authority, to the extent the net proceeds thereof are promptly (A) used to repurchase Notes tendered in a Change of Control Offer or (B) deposited to defease the Notes pursuant to *Article IX*.

(c) For purposes of determining compliance with this *Section 4.10*, in the event that an item of Indebtedness meets the criteria of more than one of the categories of Permitted Indebtedness described in *clauses (1) through (11)* above or is entitled to be Incurred pursuant to *Section 4.10(a)*, the Authority may, in its sole discretion, classify such item of Indebtedness in any manner that results in compliance with this *Section 4.10*.

(d) Notwithstanding *Sections 4.10(a)* and *4.10(b)*, the Authority shall not, and shall not permit any of its Restricted Subsidiaries to, Incur any Indebtedness unless such Indebtedness is Incurred in compliance with *Sections 4.15* and *4.17*.

(e) In addition, none of the Authority or any Guarantor will, directly or indirectly, Incur any Indebtedness that by its terms (or by the terms of any agreement governing such Indebtedness) would be expressly subordinate in right of payment to any other Indebtedness unless such Indebtedness is also by its terms (or by terms of any agreement governing such Indebtedness) subordinate in right of payment to the Notes or the Guarantees, as applicable, at least to the same extent such Indebtedness is subordinated in right of payment to such other Indebtedness; *provided, however*, that no Indebtedness of the Authority or any Guarantor will be deemed to be subordinate in right of payment to any other Indebtedness solely as a result of one or more of the following: being unsecured, or having a junior lien position; having a later maturity date; or being junior to such other indebtedness with respect to order of payments or application of funds.

Section 4.11 *Limitation on Sales of Assets.*

(a) The Authority will not, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, make any Asset Sale, unless:

(1) the Authority or such Restricted Subsidiary, as the case may be; receives consideration at the time of such Asset Sale at least equal to the Fair Market Value of the assets sold or otherwise disposed of, and

(2) at least 75% of such consideration received by the Authority or such Restricted Subsidiary consists of cash or Cash Equivalents (or a combination of cash or Cash Equivalents).

Notwithstanding the foregoing, the Authority will not be permitted to make any sale or other disposition of Key Project Assets or material Gaming Licenses.

(b) The amount of any (A) Indebtedness (other than any Subordinated Indebtedness) of the Authority or any of its Restricted Subsidiaries that is actually assumed by any Person other than the Authority or any Restricted Subsidiary of the Authority in connection with such Asset Sale and from which the Authority and its Restricted Subsidiaries are fully and unconditionally released will be deemed to be cash for purposes of determining the percentage of the consideration received by the Authority or its Restricted Subsidiaries in cash or Cash Equivalents and (B) notes or other obligations received by the Authority or its Restricted Subsidiaries in connection with such Asset Sale that are converted, sold or exchanged within 30 days of the related Asset Sale by the Authority or its Restricted Subsidiaries into cash or Cash Equivalents will be deemed to be cash, in an amount equal to the net cash proceeds or the Fair Market Value of the Cash Equivalents realized upon such conversion, sale or exchange for purposes of determining the percentage of the consideration received by the Authority or its Restricted Subsidiaries in cash or Cash Equivalents.

(c) If at any time any non-cash consideration received by the Authority or any of its Restricted Subsidiaries, as the case may be, in connection with any Asset Sale is converted into

or sold or otherwise disposed of for cash (other than interest received with respect to any such non-cash consideration), then such conversion or disposition will be deemed to constitute an Asset Sale hereunder and the Net Cash Proceeds thereof will be applied in accordance with the provisions of this *Section 4.11*.

(d) The Authority or such Restricted Subsidiary, as the case may be, may apply an amount equal to the Net Cash Proceeds of any Asset Sale within 365 days of receipt thereof to:

(1) repay any Secured Indebtedness of the Authority or any Guarantor (other than Subordinated Indebtedness), or any Indebtedness of any Restricted Subsidiary that is not a Guarantor (and, in each case, to cause a corresponding permanent reduction in commitments if such repaid Indebtedness was outstanding under the revolving portion of a Credit Facility);

(2) make any payment of current debt service due on Credit Facilities that are senior in right of payment to the Obligations under this Indenture, the Notes, the Guarantees or any other Transaction Document (provided that no Net Cash Proceeds of any Asset Sale of FF&E or other assets essential to the conduct of gaming operations at the Facility, and which is not worn out, obsolete or damaged or otherwise unsuitable for use in connection with the business of the Authority or any Restricted Subsidiary of the Authority, shall be utilized to fund any such payment);

(3) make any Monthly Tribal Distributions (provided that no Net Cash Proceeds of any Asset Sale of FF&E or other assets essential to the conduct of gaming operations at the Facility and which is not worn out, obsolete or damaged or otherwise unsuitable for use in connection with the business of the Authority or any Restricted Subsidiary of the Authority, shall be utilized to fund any such Monthly Tribal Distributions); or

(4) make an investment in or expenditures for assets (other than securities) to be used in a Related Business or acquire the Capital Stock of any Person engaged in a Related Business that is, or as a result of or in connection with such Investment becomes, a Restricted Subsidiary of the Authority.

The requirement of *clause (4)* above shall be deemed to be satisfied if an agreement (including a lease, whether a capital lease or an operating lease) committing to make the expenditures or acquisitions referred to therein is entered into by the Authority or such Restricted Subsidiary within such 365-day period and such Net Cash Proceeds are subsequently applied in accordance with such agreement within 12 months following the date of such agreement.

Pending the final application of any such Net Cash Proceeds, the Authority or such Restricted Subsidiary may temporarily reduce revolving credit borrowings to the extent not prohibited by the terms of this Indenture.

(e) To the extent all or part of the Net Cash Proceeds of any Asset Sale are not applied or committed within 365 days of such Asset Sale as described in *Section 4.11(d)* (the "*Net Proceeds Offer Trigger Date*") and such Net Cash Proceeds, the "*Unutilized Net Cash Proceeds*"), the Authority will, within 20 days after such 365th day, make an offer to purchase (a

"*Net Proceeds Offer*") all outstanding Notes on a *pro rata* basis up to an aggregate maximum principal amount of Notes equal to such Unutilized Net Cash Proceeds, at a purchase price in cash equal, to 100% of the principal amount thereof, plus accrued and unpaid interest thereon, if any, to the purchase date thereof; *provided, however*, that the Net Proceeds Offer may be deferred until there are aggregate Unutilized Net Cash Proceeds equal to or in excess of \$10.0 million, at which time the entire amount of such Unutilized Net Cash Proceeds, and not just the amount in excess of \$10.0 million, will be applied as required pursuant to this *Section 4.11(e)*.

The Authority shall mail a notice of a Net Proceeds Offer by first-class mail, postage prepaid, to the record Holders as shown on the books of the Registrar within 20 days following the Net Proceeds Offer Trigger Date, with a copy to the Trustee, containing all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Net Proceeds Offer and shall state the following terms:

(1) that the Net Proceeds Offer is being made pursuant to this *Section 4.11*, that all Notes tendered will be accepted for payment; *provided, however*, that if the aggregate principal amount of Notes tendered in a Net Proceeds Offer plus accrued interest at the expiration of such offer exceeds the aggregate amount of the Net Proceeds Offer, the Authority shall select on a *pro rata* basis, the Notes to be purchased (with such adjustments as may be deemed appropriate by the Authority so that only Notes in denominations of \$1,000, as applicable, or multiples thereof shall be purchased) and that the Net Proceeds Offer shall remain open for a period of 20 business days or such longer periods as may be required by law;

(2) this offer price (including the amount of accrued interest) and the Net Proceeds Offer: date of payment ("*Net Proceeds Offer Payment Date*") (which shall be not less than 30 nor more than 60 days following the applicable Net Proceeds Offer Trigger Date and which shall be at least five Business Days after the Trustee receives notice thereof from the Authority);

(3) that any Note not tendered will continue to accrue interest;

(4) that, unless the Authority defaults in making payment therefor, any Note accepted for payment pursuant to the Net Proceeds Offer shall cease to accrue interest after the Net Proceeds Offer Payment Date;

(5) that Holders electing to have a Note purchased pursuant to a Net Proceeds Offer will be required to surrender such Note, with the form entitled "*Option of Holder to Elect Purchase*" on the reverse of the Note completed, to the Paying Agent at the address specified in the notice prior to the close of business on the Business Day prior to the Net Proceeds Offer Payment Date;

(6) that Holders will be entitled to withdraw their election if the Paying Agent receives, not later than the second Business Day prior to the Net Proceeds Offer Payment Date, a telegram, telex, facsimile transmission or letter setting forth the name of such

Holder, the principal amount of the Notes such Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Note purchased; and

(7) that Holders whose Notes are purchased only in part will be issued new Notes in a principal amount equal to the unpurchased portion of the Note surrendered; *provided, however*, that each Note purchased and each new Note issued shall be in an original principal amount of \$1,000 or integral multiples thereof.

On or before the Net Proceeds Offer Payment Date, the Authority shall (a) accept for payment Notes or portions thereof (in integral multiples of \$1,000) validly tendered pursuant to the Net Proceeds Offer, (b) deposit with the Paying Agent no later than 10:00 a.m. New York City time, in accordance with *Section 2.15*, U.S. Dollars sufficient to pay the purchase price plus accrued and unpaid interest, if any, of all Notes to be purchased and (c) deliver to the Trustee the Notes so accepted together with an Officers' Certificate stating the Notes or portions thereof being purchased by the Authority. Upon receipt by the Paying Agent of the monies specified in *clause (b)* above and a copy of the Officers' Certificate specified in *clause (c)* above, the Paying Agent shall promptly mail to the Holders of Notes so accepted payment in an amount equal to the purchase price plus accrued and unpaid interest, if any out of the funds deposited with the Paying Agent in accordance with the preceding sentence. The Trustee shall promptly authenticate and mail to such Holders new Notes equal in principal amount to any unpurchased portion of the Notes surrendered. Upon the payment of the purchase price for the Notes accepted for purchase, the Trustee shall cancel such Notes in accordance with its customary manner. Any monies remaining after the purchase of Notes pursuant to a Net Proceeds Offer shall be returned within three business days by the Trustee to the Authority except with respect to monies owed as obligations to the Trustee pursuant to *Article VII*. For purposes of this *Section 4.11*, the Trustee shall act as the Paying Agent.

(f) With respect to any Net Proceeds Offer effected pursuant to this *Section 4.11*, to the extent the aggregate principal amount of Notes tendered pursuant to such Net Proceeds Offer exceeds the Unutilized Net Cash Proceeds to be applied to the repurchase thereof, such Notes will be purchased *pro rata* based on the aggregate principal amount of such Notes tendered by each holder thereof. To the extent the Unutilized Net Cash Proceeds exceed the aggregate amount of Notes tendered by the holders thereof pursuant to such Net Proceeds Offer (such excess constituting an "*Excess*"), the Authority may retain and utilize such Excess for any general corporate purposes. Upon the completion of a Net Proceeds Offer, the amount of Unutilized Net Cash Proceeds will be reset to zero.

(g) If the Authority makes a Net Proceeds Offer, the Authority will comply with all applicable tender offer laws and regulations, including, to the extent applicable, Section 14(e) and Rule 14e-1 under the Exchange Act, any other applicable federal or state securities laws and regulations, any applicable requirements of any securities exchange on which the Notes are listed, IGRA, and the rules and regulations of all applicable Gaming Authorities and any violation of the provisions of this *Section 4.11* relating to such Net Proceeds Offer occurring as a result of such compliance will not be deemed a Default or an Event of Default.

*Section 4.12 Limitation on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries.* The Authority will not, and will not cause or permit any of its Restricted

Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary of the Authority to: (A) pay dividends or make any other distributions to the Authority or any other Restricted Subsidiary of the Authority on its Capital Stock or with respect to any other interest or participation in or measured by, its profits, or pay any Indebtedness owed to the Authority or any other Restricted Subsidiary of the Authority, (B) make loans or advances to, or guarantee any Indebtedness or other obligations of, the Authority or any other Restricted Subsidiary of the Authority or (C) transfer any of its assets to the Authority or any other Restricted Subsidiary of the Authority, except for such encumbrances or restrictions existing under or by reason of:

(a) with respect to *clauses (A), (B), and (C)* of this *Section 4.12*.

(1) any Credit Facility; *provided* that such restrictions, taken as a whole, are in the good faith judgment of the Authority's Board of Directors, not materially more restrictive with respect to such encumbrances and restrictions than those customary in comparable financings (as determined by the Authority) and the Authority determines that any such encumbrance or restriction will not materially affect the Authority's ability to make principal or interest payments on the Notes;

(2) pursuant to an agreement in effect at or entered into on the Issue Date;

(3) any applicable law or any rule, regulation or order of any governmental authority;

(4) any agreement governing Indebtedness of a Person acquired by the Authority or any of its Restricted Subsidiaries as in effect at the time of the acquisition (except to the extent that Indebtedness was incurred in connection with or in contemplation of the acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired;

(5) any agreement for the sale or disposition of the Capital Stock or assets of any Restricted Subsidiary of the Authority pending closing of such sale or disposition;

(6) refinancing Indebtedness permitted under *Section 4.10(b)(10)*; *provided, however*, that such restrictions, taken as a whole, are, in the good faith judgment of the Authority's Board of Directors, not materially more restrictive with respect to such encumbrances and restrictions than those contained in the agreements governing the Indebtedness being refinanced;

(7) supermajority voting requirements and other customary provisions existing under corporate charters, by-laws, stockholders agreements, joint venture agreements and other similar agreements;

(8) this Indenture and Collateral Documents; and

(9) any agreement or instrument that amends, modifies, restates, renews, increases, supplements, refunds, replaces; extends or refinances any agreement or instrument described in *clauses (a)(2), (a)(4) and (a)(8)* of this *Section 4.12*, from time to time, in whole or in part, *provided*, that the encumbrances or restrictions set forth therein, taken as a whole, are, in the good faith judgment of the Authority's Board of Directors, not materially more, restrictive than those contained in the predecessor agreement or instrument (regardless of whether the predecessor agreement or instrument remains outstanding in whole or in part).

(b) with respect to *clause (C)* of this *Section 4.12* only;

(1) any encumbrance or restriction consisting of customary non-assignment provisions in leases governing leasehold interests to the extent such provisions restrict the transfer of the lease or the property leased thereunder;

(2) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(3) agreements governing Permitted Liens to the extent such encumbrance or restriction restricts the transfer of the property subject to such Lien;

(4) purchase money obligations for property acquired in the ordinary course of business (or any agreement or instrument that amends, modifies, restates, renews, supplements, refunds, replaces, extends or refinances any such obligation) that impose restrictions on the property so acquired; and

(5) customary restrictions imposed on the transfer of, or in licenses related to, copyrights, patents or other intellectual property and contained in agreements entered into in the ordinary course of business.

*Section 4.13 Transactions with Affiliates.* The Authority will not, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, conduct any business or enter into, renew, amend or conduct any transaction or series of related transactions (including the purchase, sale, lease or exchange of any assets or the rendering of any service) with or for the benefit of any of their respective Affiliates (each, an "*Affiliate Transaction*"), unless:

(1) such Affiliate Transaction, taken as a whole, is on terms which are no less favorable to the Authority or such Restricted Subsidiary, as the case may be, than would be available in a comparable transaction on an arm's-length basis with an unaffiliated third party;

(2) if such Affiliate Transaction or series of related Affiliate Transactions involves aggregate payments or other consideration having a Fair Market Value in excess of \$5.0 million, such Affiliate Transaction is in writing and a majority of the disinterested members of the Board of Directors of the Authority will have approved such Affiliate Transaction and determined that such Affiliate Transaction complies with the foregoing provisions, or, in the event that there are no disinterested directors, the Trustee has received a written opinion from an Independent Financial Advisor stating that the terms

of such Affiliate Transaction are fair, from a financial point of view, to the Authority or the Restricted Subsidiary involved in such Affiliate Transaction, as the case may be; and

(3) if such Affiliate Transaction or series of related Affiliate Transactions involves aggregate payments or other consideration having a Fair Market Value in excess of \$10.0 million, such Affiliate Transaction is in writing and the Trustee has received a written opinion from an Independent Financial Advisor stating that the terms of such Affiliate Transaction are fair, from a financial point of view, to the Authority or the Restricted Subsidiary involved in such Affiliate Transaction, as the case may be.

Notwithstanding the foregoing, the restrictions set forth in this *Section 4.13* will not apply to:

(A) transactions, to the extent not otherwise prohibited under this Indenture, between or among the Authority and/or one or more Wholly Owned Restricted Subsidiaries;

(B) any Restricted Payment permitted to be made pursuant to *Section 4.9*;

(C) the payment of reasonable and customary directors' fees, indemnification and similar arrangements, consulting fees, employee salaries, bonuses or employment agreements, compensation or employee benefit arrangements and incentive arrangements with any officer, director or employee of the Authority or any Restricted Subsidiary of the Authority entered into in the ordinary course of business (including customary benefits thereunder) and payments under any indemnification arrangements permitted by applicable law;

(D) any transactions undertaken pursuant to any contractual obligations in existence on the Issue Date, as such obligations are in effect on the Issue Date or as thereafter amended, restated or amended and restated in any manner not materially adverse to the Holders of Notes, taken as a whole;

(E) reasonable bid, hiring and promotion preferences to members of the Tribe and their businesses in accordance with Tribe policy;

(F) payments to the Tribe for reimbursement of regulatory costs incurred by the Tribe attributable to the business and operations of the Authority and its Restricted Subsidiaries; and

(G) any transaction to provide goods or services relating to the development or construction of a fuel station and convenience market (and any and all related amenities, infrastructure and improvements) between the Authority or any of its Restricted Subsidiaries, on the one hand, and any Affiliate of the Authority or any Affiliate of any of the Authority's Restricted Subsidiaries (in each case, other than the Authority or any of its Restricted Subsidiaries), on the other, *provided* that such transaction or series of related transactions is, (i) taken as a whole, on terms which are no less favorable to the Authority or such Restricted Subsidiary, as the case may be, than would be available in a comparable transaction on an arm's-length basis with an unaffiliated third party as certified in an Officers' Certificate delivered to the Trustee which summarizes any



competitive bid process undertaken or any other analyses performed of the arm's-length nature of such transaction or series of related transactions establishing that the proposed costs thereof are not greater than the Authority would have incurred in a comparable transaction with an unaffiliated third party, and (ii) together with all other transactions under this *clause (G)*, in an amount not to exceed \$7.5 million in the aggregate.

**Section 4.14 *Designation of Unrestricted Subsidiaries.*** The Authority may designate after the Issue Date any Subsidiary of the Authority as an "*Unrestricted Subsidiary*" under this Indenture (a "*Designation*") only if:

- (1) no Default or Event of Default will have occurred and be continuing or will result after giving effect to such Designation;
- (2) at the time of and after giving effect to such Designation, the Authority could Incur \$1.00 of additional Indebtedness (other than Permitted Indebtedness) under *Section 4.10*;
- (3) the Authority would be permitted to make an Investment at the time of Designation in an amount of the Designation Amount (and no part of such Investment constitutes, directly or indirectly, Excess Cash Flow which would reasonably be expected to be required to make a payment as described under *Section 3.9*);
- (4) such Unrestricted Subsidiary is not a party to any agreement, contract, arrangement or understanding at such time with the Authority or any Restricted Subsidiary of the Authority unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Authority or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Authority or, in the event such condition is not satisfied, the value of such agreement, contract, arrangement or understanding to such Unrestricted Subsidiary in excess of the value that such Unrestricted Subsidiary would have obtained from a Person who was not an Affiliate will be deemed added to the Designation Amount; and
- (5) such Unrestricted Subsidiary does not own any Key Project Assets or Gaming Licenses.

The Authority will not, and will not cause or permit any of its Restricted Subsidiaries to, at any time (A) provide credit support for, subject any of its assets (other than the Capital Stock of any Unrestricted Subsidiary) to the satisfaction of, or guarantee, any Indebtedness of any Unrestricted Subsidiary (including any undertaking, agreement or instrument evidencing such Indebtedness), (B) be directly or indirectly liable for any Indebtedness of any Unrestricted Subsidiary, (C) be directly or indirectly liable for any Indebtedness which provides that the holder thereof may (upon notice, lapse of time or both) declare a default thereon or cause the payment thereof to be accelerated or payable prior to its final scheduled maturity upon the occurrence of a default with respect to any Indebtedness of any Unrestricted Subsidiary, or (D) transfer any Key Project Assets or Gaming Licenses to an Unrestricted Subsidiary, except, with respect to *clauses (A), (B) and (C)* above, such support or liability that would be permitted under

*Sections 4.9 and 4.10.* All Subsidiaries of Unrestricted Subsidiaries will be automatically deemed to be Unrestricted Subsidiaries.

The Authority may revoke any Designation of a Subsidiary as an Unrestricted Subsidiary (a "Revocation") if:

- (1) no Default or Event of Default will have occurred and be continuing or will result after giving effect to such Revocation;
- (2) at the time of and after giving effect such Revocation, the Authority could Incur \$1.00 of additional Indebtedness (other than Permitted Indebtedness) under *Section 4.10*; and
- (3) all Liens of such Unrestricted Subsidiary outstanding immediately following such Revocation would be permitted to be outstanding under *Section 4.15*.

All Designations and Revocations must be evidenced by filing by the Authority with the Trustee of Board Resolutions and an Officers' Certificate certifying compliance with the foregoing provisions.

*Section 4.15 Limitation on Liens.* The Authority will not, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, Incur or suffer to exist any Liens (other than Permitted Liens) against or upon any of their respective assets now owned or hereafter acquired, or any proceeds therefrom or any income or profits therefrom, in each case to secure any Indebtedness.

*Section 4.16 Antilayering.* None of the Authority or any Guarantor will, directly or indirectly, Incur any Indebtedness that by its terms (or by the terms of any agreement governing such Indebtedness) would be expressly subordinate in right of payment to any other Indebtedness unless such Indebtedness is also by its terms (or by terms of any agreement governing such Indebtedness) subordinate in right of payment to the Notes or the Guarantees, as applicable, at least to the same extent such Indebtedness is subordinated in right of payment to such other Indebtedness; *provided, however*, that no Indebtedness of the Authority or any Guarantor will be deemed to be subordinate in right of payment to any other Indebtedness solely as a result of one or more of the following: being unsecured, or having a junior lien position; having a later maturity date; or being junior to such other indebtedness with respect to order of payments or application of funds.

*Section 4.17 Subsidiary Guarantees.* If the Authority or any of its Restricted Subsidiaries acquires or creates another Subsidiary after the Issue Date, then the Authority will cause such newly acquired or created Restricted Subsidiary to (i) execute and deliver to the Trustee a supplemental indenture pursuant to which such Restricted Subsidiary will unconditionally Guarantee all of the Authority's obligations under the Notes and this Indenture on the terms set forth in *Article XII*, (ii) deliver to the Trustee an Opinion of Counsel that such supplemental indenture has been duly authorized, executed and delivered by such Restricted Subsidiary and constitutes a legal, valid, binding and enforceable obligation of such Subsidiary and is authorized or permitted by the terms of this Indenture and that all conditions precedent hereunder to the execution of such supplemental indenture by the Trustee have been satisfied,

(iii) execute and deliver a joinder to the Security Agreement substantially in the form attached thereto, and (iv) deliver and file Uniform Commercial Code financing statements in form and substance, and with governmental authorities, reasonably satisfactory to the Trustee, naming such Restricted Subsidiary as the debtor and the Collateral Agent as the secured party.

Notwithstanding the foregoing, any Guarantee by a Restricted Subsidiary will be automatically and unconditionally released and discharged:

- (1) upon any sale or other disposition of all or substantially all of the assets of such Restricted Subsidiary (including by way of merger or consolidation or any sale of all of the Capital Stock of that Restricted Subsidiary) to a Person that is not the Authority or a Subsidiary of the Authority; *provided* that the Authority will, if applicable, apply the Net Cash Proceeds of that sale or other disposition in accordance with the applicable provisions of this Indenture;
- (2) upon satisfaction and discharge of the Notes as set forth under *Section 9.1*;
- (3) upon a Legal Defeasance or Covenant Defeasance of the Notes as set forth under *Sections 9.2, 9.3 and 9.4*;
- (4) as provided in any Intercreditor Agreement; or
- (5) if the Authority designates such Restricted Subsidiary as an Unrestricted Subsidiary in accordance with this Indenture.

**Section 4.18 *Provision of Financial Information.*** Whether or not the Authority is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, as amended, so long as any Notes are outstanding, the Authority will have its annual consolidated financial statements audited by a nationally recognized firm of independent accountants and its interim consolidated financial statements accompanied by a review report issued by a nationally recognized firm of independent accountants in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. In addition, so long as any Notes are outstanding, the Authority will furnish to the Trustee and the Holders within the time periods, (including any grace periods that would be available under Rule 12b-25 of the Exchange Act) specified in the SEC's rules and regulations for reporting companies under Section 13 or 15(d) of the Exchange Act:

- (1) all annual and quarterly financial information that would be required to be contained in a filing with the SEC on Forms 10-K and 10-Q if the Authority were required to file such Forms, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" and, with respect to the annual information only, a report on the annual financial statements by the Authority's independent public accountants; and
- (2) all current reports that would be required to be filed with the SEC on Form 8-K if the Authority were required to file such reports.

At the Authority's option, the Authority will either (1) distribute such information and such reports (as well as the details regarding the conference call described below) electronically to the Trustee under this Indenture, and/or (2) make available such information to the Trustee, any holder of the Notes and to any Beneficial Owner of the Notes by posting such information on Intralinks or any comparable password protected online data system, which will require a confidentiality acknowledgement, and will make such information readily available to any prospective investor, any securities analyst or any market maker in the Notes who (a) agrees to treat such information as confidential or (b) accesses such information on Intralinks or any comparable password protected online data system, which will require a confidentiality acknowledgement; *provided* that if such information is to be provided by means of Intralinks or a comparable password protected online data system, then the Authority shall post such information thereon and make readily available any password or other login information to any such prospective investor, securities analyst or market maker. The Authority will hold a quarterly conference call for all holders and securities analysts to discuss such financial information no later than fifteen (15) Business Days after distribution of such financial information.

If the Authority has designated any of its Subsidiaries as Unrestricted Subsidiaries, then the quarterly and annual financial information required by the preceding paragraph will include or be accompanied by a reasonably detailed presentation of the financial condition and results of operations of the Authority and the Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Authority.

In addition, the Authority will make available all of the information and reports referred to in the second preceding paragraph and make such information available to securities analysts and prospective investors upon request. The Authority will also furnish to Holders, securities analysts and prospective investors upon request the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act so long as the Notes are not freely transferable under the Securities Act. The Authority will also comply with the other provisions of Section 314(a) of the Trust Indenture Act of 1939.

Notwithstanding the foregoing, beginning with the fiscal year ending December 31, 2012, in the event that the Authority fails to make available the reports required by the first paragraph of this *Section 4.18* to the Holders (in a manner consistent with the second paragraph hereof) on or prior to the 15<sup>th</sup> day following the applicable time period (without regard to any applicable grace period available under Rule 12b-25 of the Exchange Act) specified in the rules and regulations of the SEC for reporting companies under Section 13 or 15(d) of the Exchange Act, the annual interest rate borne by the Notes shall be increased by an additional 0.50% *per annum* for the subsequent number of days for which such report remains outstanding. The Trustee shall have no responsibility whatsoever to determine whether such information or reports have been posted online.

**Section 4.19** *Limitation on Capital Stock of Restricted Subsidiaries.* The Authority will not permit any of its Restricted Subsidiaries to issue any Capital Stock to any Person (other than to the Authority or a Wholly Owned Restricted Subsidiary of the Authority) or permit any Person (other than the Authority or a Wholly Owned Restricted Subsidiary of the Authority) to own any Capital Stock of a Restricted Subsidiary of the Authority, if in either case as a result

thereof such Restricted Subsidiary would no longer be a Restricted Subsidiary of the Authority unless the Authority's remaining ownership interest in such Person after such sale would be permitted by *Section 4.9*; *provided, however*, that this *Section 4.19* will not prohibit (x) the Authority or any of the Restricted Subsidiaries from selling, transferring or otherwise disposing of all of the Capital Stock of any Restricted Subsidiary or (y) the designation of a Restricted Subsidiary as an Unrestricted Subsidiary in compliance with *Section 4.14*.

**Section 4.20 *Business Activities.*** The Authority will not, and will not permit any of its Restricted Subsidiaries to, engage, directly or indirectly, in any business other than a Related Business.

**Section 4.21 *Gaming Licenses.*** The Authority will use its commercially reasonable efforts to obtain and retain in full force and effect at all times all Gaming Licenses necessary for the operation of the Facility; *provided that*, if in the course of the exercise of its governmental or regulatory functions the Tribe is required to suspend or revoke any consent, permit or license or close or suspend any operation or any part of the Facility as a result of any noncompliance with the law, the Authority will use its commercially reasonable efforts to promptly and diligently correct such noncompliance or replace any personnel causing such noncompliance so that such Facility will be opened and fully operating. The Authority shall file with the Trustee any Notice of Violation, Order of Temporary Closure, or Assessment of Civil Fines, from the NIGC pursuant to 25 C.F.R. Part 573 or 575 or any successor provision, and any written notice issued by, or cause of action commenced by, the State of California under the Compact, and the Trustee will promptly notify the Holders upon receipt of such notice.

**Section 4.22 *Maintenance of Insurance.*** The Authority will, and will cause its Restricted Subsidiaries to, maintain insurance, with responsible carriers against such risks and in such amounts as is customarily carried by similar businesses with such deductibles, retentions, self-insured amounts and coinsurance provisions as are customarily carried by similar businesses of similar size, including, without limitation, property and casualty. Customary insurance coverage will be deemed to include, without limitation, the following:

- (1) workers' compensation insurance to the extent required to comply with the Compact or the laws and regulations of any applicable jurisdiction;
- (2) comprehensive general liability insurance with minimum limits of \$1.0 million;
- (3) umbrella or excess liability insurance providing excess liability coverages over and above the foregoing underlying insurance policies up to a minimum limit of \$4.0 million;
- (4) business interruption insurance; *provided that* such business interruption insurance will have a minimum limit of at least \$50.0 million; and
- (5) property insurance protecting the property against losses or damages as is customarily covered by an "all-risk" policy or a property policy covering "special" causes of loss for a business of similar type and size; *provided, however*, that such insurance will provide coverage of not less than 100.0% of actual replacement value (as determined at

each policy renewal based on the F.W. Dodge Building Index or some other recognized means) of any improvements customarily insured consistent with industry standards and with a deductible no greater than 2% of the insured value of the Facility or such greater amount as is available on commercially reasonable terms (other than earthquake or flood insurance, for which the deductible may be up to 10% of such replacement value).

All such insurance policies will be issued by carriers having an A.M. Best & Company, Inc. rating of "A" or higher and a financial size category of not less than "VII," in each case on the date each such policy is issued to the Authority, or if such carrier is not rated by A.M. Best & Company, Inc., having the financial stability and size deemed appropriate by an opinion from a reputable insurance broker.

Section 4.23 *Payments for Consent.* The Authority will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any holder of Notes for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or the Notes unless that consideration is offered to be paid and is paid to all holders of the Notes that consent, waive or agree to amend in the time frame described in the solicitation documents relating to that consent, waiver or agreement, as applicable.

Section 4.24 *Covenants of the Tribe.* The Tribe hereby makes the following covenants and waives sovereign immunity related thereto as described under *Section 13.1*.

(a) The Tribe shall not, by action of its Tribe Forum, by referendum or any other means, and shall not permit any of its representatives, political subunits or councils, agencies, instrumentalities, Gaming Authorities, Affiliates or enterprises, directly or indirectly, except as required by federal or state law or the Compact, to do any of the following:

(1) increase or impose any tax or other payment obligation on the Authority, any Restricted Subsidiary or on any patrons of, or any activity at, the Facility other than:

(A) payments which are due under any agreement in effect on the Issue Date or payments that are permitted by the covenants in this Indenture;

(B) payments which the Authority has agreed to reimburse each Holder of Notes for the economic effect thereof, if any;

(C) sales, use, room occupancy, leisure and related excise taxes, including admissions and cabaret taxes and any other tax (other than income tax) that the Tribe may from time to time impose on the Authority or its Restricted Subsidiaries, their patrons or operations; *provided, however*, that the rate and scope of such taxes shall not be materially inconsistent with taxes imposed by other governments in California;

(D) fees imposed on the Tribe by the NIGC under IGRA or payments required to be made by the Tribe under the Compact that directly relate to the Authority or a Related Business;

(E) reimbursement payments to the Tribe for fees, costs and expenses imposed on or charged to the Tribe, by Persons that are not Affiliates of the Tribe, that directly relate to a Related Business; or

(F) payment obligations imposed by the Authority or a Restricted Subsidiary on patrons of a Related Business or on activities at the Facility in the ordinary course of business.

(2) amend or repeal the Tribal Gaming Ordinance in effect on the Issue Date in a manner that would have a material adverse effect on the economic interests of the Holders of the Notes unless any such amendment is a legitimate effort to ensure that the Authority, its Restricted Subsidiaries and the Facility conduct gaming operations in a manner that is consistent with applicable laws, rules and regulations or that protects the environment, the public health and safety or the integrity of the Tribe, the Authority, its Restricted Subsidiaries or the Facility and not for the purpose of delaying or hindering repayment of the Notes;

(3) restrict or eliminate the right of the Authority and the Restricted Subsidiaries to conduct the Related Business in a manner that would be materially adverse to the economic interests of the Holders of the Notes;

(4) amend or repeal the Authority Ordinance, in effect on the Issue Date, or take any other action, enter into any agreement, amend the Constitution or amend or enact any ordinance, law, rule or regulation that would have a material adverse effect on the economic interests of Holders of the Notes, including, without limitation, taking any action to engage in a Related Business other than through the Authority or a Restricted Subsidiary;

(5) except pursuant to this Indenture, waive its sovereign immunity in any manner that would create recourse to a Related Business Asset except that the Tribe may do so to the extent it is acting for the account and benefit of the Authority or any Restricted Subsidiary and so long as such action of the Tribe would not be prohibited by this Indenture if undertaken directly by the Authority or such Restricted Subsidiary and such action has been approved by the Authority's Board of Directors;

(6) unless required by the Compact or other applicable law, enact any statute, law, ordinance or rule that would have a material adverse effect on the rights of the Trustee or the Holders of the Notes under this Indenture or the Notes;

(7) directly or indirectly impose, tax or otherwise make a charge on the Notes, this Indenture or any payments or deposits to be made thereunder;

(8) permit or Incur any consensual liability of the Tribe (or of any other instrumentality, enterprise or subunit of the Tribe) that is a legal obligation of the Authority or any of its Restricted Subsidiaries, for which Related Business Assets may be bound or for which there may be recourse to Related Business Assets, other than a liability that the Authority or its Restricted Subsidiaries are permitted or not prohibited from Incurring on their own behalf under this Indenture and the Collateral Documents;

(9) appoint or consent to the appointment of a custodian of the Authority for all or substantially all of the assets of the Authority or any of its Restricted Subsidiaries pursuant to or within the meaning of bankruptcy law;

(10) enact any bankruptcy law or similar law for the relief of debtors that would impair, limit, restrict, delay or otherwise adversely affect any of the rights and remedies of the Trustee or the Holders of the Notes provided for in this Indenture, the Notes or the Collateral Documents; *provided, however*, that Tribal Court Ordinance in effect on the date hereof shall be not be deemed to constitute a violation or breach of this *Section 4.24*; *provided, further*, that, the Tribe may adopt a tribal bankruptcy law or similar law without violating this *Section 4.24* so long as its application does not directly or indirectly affect (A) the Liens securing the Notes (including their perfection or priority), (B) the terms of the Notes (or any documents related to the Notes, including, without limitation this Indenture and the Collateral Documents), including limitations on distributions to the Tribe, or (C) the rights, remedies or economic interests of the Trustee or the Holders of the Notes, except, in each case, with the consent of a majority of the Holders in principal amount of the Notes;

(11) exercise any power of eminent domain over any Related Business Asset (other than any such exercise that would not materially adversely affect the economic rights and benefits of the Trustee or the Holders of the Notes);

(12) revoke or modify dispute resolution provisions and related waivers provided in this Indenture or the Notes;

(13) repudiate or assert that the provisions of any of the Transaction Documents are not valid, binding and legally enforceable obligations or fail to reaffirm in writing when and if requested (but in no event more frequently than once per annum) for a reasonable purpose on a good faith basis by the Trustee (at the written direction of Holders of at least 25% in aggregate principal amount of the then outstanding Notes) that this Indenture and the Notes are valid, binding and enforceable;

(14) fail to comply in good faith with the Compact (including the provisions with respect to the licensing and exemption from licensing of Financial Sources as provided therein) or fail to comply with IGRA or any other applicable and binding law, regulation, order or decree, in each case, in a manner that results in a final, non-appealable adverse decision of a court of competent jurisdiction and that results in a material adverse effect on the ability of the Tribe, the Authority or any Restricted Subsidiaries to operate the Facility and conduct any Related Business then being operated or perform their respective obligations under this Indenture or the Notes;

(15) except as may be required by the Compact, assert claims in a Tribe Forum against the holders of the Notes or the Trustee, other than the lawful, bona fide, good faith imposition of licensing requirements of the Tribe that are already adopted by the Tribe as of the Issue Date;



(16) intentionally fail to pay, despite having adequate funds therefor, consensual liabilities of the Tribe (or of any other instrumentality, enterprise or subunit of the Tribe, excluding the Authority and its Restricted Subsidiaries) that upon failure to pay or otherwise satisfy such consensual liabilities would permit the holders thereof to have recourse to any Related Business Asset;

(17) allow any initiative or referendum by the members of the Tribe that would violate, if taken, the agreements of the Tribe in this Indenture or the agreements of the Authority in this Indenture; or

(18) other than as permitted under *Article X* or the Distribution Agreement, take any action to enforce or exercise remedies under the Distribution Agreement, the Tribal UCC or other applicable law with respect to the Liens granted by the Authority under the Distribution Agreement.

(b) The Tribe agrees that, subject to prior and senior payment and reserve for Monthly Tribal Distributions and Annual Tribal Distributions, upon any payment or distribution of assets upon any liquidation, dissolution, winding up, reorganization, assignment for the benefit of creditors, marshalling of assets or any bankruptcy, insolvency or similar proceedings of the Authority or its Restricted Subsidiaries, the holders of the Notes will be entitled to receive payment in full in respect to all principal, premium, interest and other amounts owing in respect of the Notes before any payment or any distribution to the Tribe in respect of the Capital Stock of the Authority or such Guarantor not yet distributed to members of the Tribe.

(c) In the event that the Tribe receives any payment from the Authority or its Restricted Subsidiaries at a time when such payment is prohibited by the terms of this Indenture, such payment shall be held by the Tribe in trust for the benefit of, and shall be paid forthwith over and delivered, upon the written request of the Authority, to the Authority or such Restricted Subsidiary; *provided that*, if the Tribe reserved and distributed to its members such payment prior to obtaining knowledge that such payment is prohibited, then the Tribe shall not have any obligation to recover such payment from its members, nor shall the Trustee or any Holder of the Notes recover or attempt to recover such payment from, or exercise or attempt to exercise any remedy (whether at law or otherwise) against, any such member. Failure by the Tribe, within a reasonable period of time, to pay over and deliver such payments not yet distributed to members will constitute a default under this Indenture.

(d) The Tribe agrees that the Authority and its Restricted Subsidiaries shall have sole and exclusive ownership of and authority to operate the Facility in accordance with the Authority Ordinance.

(e) Any action taken by the Tribe to comply with federal or state law or the Compact (or regulations promulgated thereunder) that would otherwise violate the terms of this Indenture, shall be taken only after 30 days prior written notice to the Trustee, to the extent such notice is possible under the federal or state law or the Compact, accompanied by an Officers' Certificate and Opinion of Counsel that such action is required by federal or state law or the Compact (or regulations promulgated thereunder).

(f) Neither the Tribe nor any other instrumentality, enterprise or subunit of the Tribe shall commingle any Related Business Asset with any assets which are not Related Business Assets

Any action by or on behalf of the Tribe, including any law, ordinance or resolution of the Tribal Council that impairs necessary access to the lands of the Tribe for the purposes of operating the Chukchansi Gold Resort & Casino and conducting the business of the Authority or its ability to timely perform its obligations under this Indenture, the Notes or the Collateral Documents will constitute a default hereunder.

Section 4.25 *Deposit of Gross Revenues.* The Authority shall cause all Gross Revenues of the Authority, other than Operating Cash and Gross Revenues that constitute Excluded Assets, to be deposited at least once per week into Deposit Accounts held in the name of the Authority either with (1) the entity which is acting as the Collateral Agent or (2) any Qualified Bank (such Deposit Accounts held by a Qualified Bank, the "Qualified Bank Accounts").

Section 4.26 *Limitation on Capital Expenditures.* The Authority and its Restricted Subsidiaries shall not make Capital Expenditures during any period in an aggregate amount in excess of an amount equal to the sum of (a) the Scheduled Capital Expenditures for such period and (b) any proceeds from any equity contribution to the Authority; provided that, in the case of both the foregoing clauses (a) and (b), any such amount, if not so expended in the period during which it is initially permitted to be expended, may be expended by the Authority or any of its Restricted Subsidiaries in any succeeding period if so determined in the sole and absolute discretion of the Authority.

Section 4.27 *Additional Collateral; Acquisition of Assets.* Concurrently with the acquisition by the Authority or any of its Restricted Subsidiaries of any assets or property (other than assets or property that constitute Excluded Assets) with a Fair Market Value in excess of \$1 million individually or \$2 million in the aggregate, to the extent not prohibited by Gaming Authorities or applicable law, the Authority will, and will cause the applicable Restricted Subsidiary to:

(1) deliver to the Collateral Agent such Uniform Commercial Code financing statements, if any, or take such other actions as are reasonably necessary or desirable to perfect and protect the Collateral Agent's security interest in such assets or property; and

(2) in the case of the acquisition of personal property (other than personal property in which the Collateral Agent has a perfected security interest (subject only to Permitted Liens)) subject to clause (1) above, promptly deliver to the Collateral Agent such opinions of counsel, if any, as may be reasonably required with respect to the enforceability and perfection of security interests that are not the subject of a prior Opinion of Counsel.

Section 4.28 *Good Faith Operation.* The Authority will operate the Facility and the Related Businesses in good faith and will exercise its commercially reasonable efforts, consistent with past practice, to maximize the Consolidated EBITDA of the Facility, and will not operate in a manner that is inconsistent with past practice and intended to reduce Excess Cash Flow or the amount of the Notes that would be redeemed on the ECF Redemption Date, including, without

limitation, through the manipulation of Working Capital or Operating Liquidity in a manner which effectively changes the amount of Excess Cash Flow available.

## ARTICLE V

### SUCCESSOR CORPORATION

#### Section 5.1 *Merger, Consolidation and Sale of Assets.*

(a) The Authority will not consolidate with or merge with or into (whether or not the Authority is the Surviving Person) any other entity and the Authority will not, and will not cause or permit any Restricted Subsidiary to, sell, convey, assign, transfer, lease or otherwise dispose of all or substantially all of the Authority's and its Restricted Subsidiaries, assets (determined on a consolidated basis for the Authority and its Restricted Subsidiaries) to any Person in a single transaction or series of related transactions, unless:

(1) either (A) the Authority will be the Surviving Person or (B) the Surviving Person (if other than the Authority) will be an entity organized and validly existing under the laws of the Tribe, and will, in any such case, expressly assume (i) by a supplemental indenture, the due and punctual payment of the principal of, premium, if any, and interest on all the Notes and the performance and observance of every covenant of this Indenture to be performed or observed on the part of the Authority, and (ii) by a joinder to the Security Agreement in the form attached thereto, all the obligations of the Authority under the Collateral Documents;

(2) immediately thereafter, on a *pro forma* basis after giving effect to such transaction (and treating any Indebtedness not previously an obligation of the Authority or any Restricted Subsidiary of the Authority in connection with or as a result of such transaction as having been Incurred at the time of such transaction), no Default or Event of Default will have occurred and be continuing; and

(3) immediately after giving effect to any such transaction including the Incurrence by the Authority or any of its Restricted Subsidiaries, directly or indirectly, of additional Indebtedness (and treating any Indebtedness not previously an obligation of the Authority or any Restricted Subsidiary of the Authority in connection with or as a result of such transaction as having been Incurred at the time of such transaction), the Surviving Person could Incur, on a *pro forma* basis after giving effect to such transaction, at least \$ 1.00 of additional Indebtedness (other than Permitted Indebtedness) under *Section 4.10*.

Notwithstanding *Section 5.1(a)(3)*, any Restricted Subsidiary of the Authority may consolidate with, merge into or transfer all or part of its assets to the Authority or another Restricted Subsidiary of the Authority.

For purposes of the foregoing, the transfer (by lease, assignment, sale or otherwise, in a single transaction or series of transactions) of all or substantially all the assets of one or more Restricted Subsidiaries of the Authority, the Capital Stock of which constitute all or substantially

# **Exhibit**

## **B**

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## **DEPOSIT ACCOUNT CONTROL AGREEMENT**

This Deposit Account Control Agreement (this "Agreement") is entered into as of May 30, 2012, among Chukchansi Economic Development Authority ("Depositor"), a wholly-owned unincorporated enterprise of the Picayune Rancheria of the Chukchansi Indians (the "Tribe"), Rabobank, N.A. ("Bank"), Wells Fargo Bank, National Association, as collateral agent ("Collateral Agent") and the other party hereto as an Additional Secured Party (as defined below) (together with Collateral Agent, the "Secured Parties", and each a "Secured Party").

### **RECITALS**

A. In order to secure certain obligations of Depositor to each Secured Party, Depositor has granted each Secured Party a security interest in deposit account number(s) 9592715114 (Operating Account), 9284097971 (Jackpot Account), 9350033242 (Merchant Account) and 9387666198 (Money Market Account) (together with any renumbered or successor accounts, collectively, the "Account") maintained by Depositor with Bank.

B. In connection with the foregoing, Depositor is requesting that Bank enter into this Agreement in order to perfect each Secured Party's security interest in the Account and to establish "control" as defined in Section 9-104 of the Uniform Commercial Code as adopted by the State of California (the "UCC").

### **AGREEMENT**

#### **1. Control of Account by each Secured Party; Depositor's Rights in Account.**

a. This Agreement evidences each Secured Parties' control over the Account. Notwithstanding any separate agreement Depositor may have with Bank, Notice Agent (as hereinafter defined) shall be entitled at any time to give Bank instructions as to the withdrawal or disposition of funds from time to time in the Account, or as to any other matters relating to the Account, all without further consent of Depositor. Bank shall comply with, and is fully entitled to rely upon, any such instructions from Notice Agent pertaining to the withdrawal or disposition of funds from time to time in the Account or as to any other matters relating to the Account, even if such instructions are contrary to any instructions or demands that Depositor may give to Bank.

b. From time to time subsequent to the date hereof, an additional person may become party hereto as an additional secured party ("Additional Secured Party"), by executing a joinder agreement (the "Joinder Agreement"), in substantially the form of Exhibit C attached hereto, which Joinder Agreement shall be signed by Additional Secured Party, Collateral Agent, Depositor and Bank. Upon delivery of the fully executed Joinder Agreement to Bank, Additional Secured Party shall be a Secured Party and shall be as fully a party hereto as if such Additional Secured Party were an original signatory hereto. This Agreement shall be fully effective as to each Secured Party that is or becomes a party hereto regardless of whether any other person becomes or fails to become or ceases to be a Secured Party hereunder.

c. "Notice Agent" means (x) Collateral Agent at all times prior to the date on which the Joinder Agreement is received by Bank; (y) Additional Secured Party after the receipt by Bank of the Joinder Agreement until such times as Bank receives a Termination Notice (as hereinafter defined) from Additional Secured Party pursuant to Section 8(b); and (z) Collateral Agent at all times thereafter.

d. Until Bank has received instructions from Notice Agent to the contrary, including pursuant to a Notice of Default or a Notice of Tribal Default (in each case as defined below), Depositor shall be entitled to present items drawn on or otherwise to withdraw or direct the disposition of funds from the Account.

e. If at any time any Secured Party has delivered to Bank a Notice of Default in the form attached hereto as Exhibit A, then Bank agrees that thereafter until Notice Agent has informed Bank in writing that the Default (as defined below) no longer exists, it will take all directions with respect to the Account solely from Notice Agent and shall not comply with instructions of the Depositor or any other person. However, in each case, the Bank may accept an instruction from the Depositor, given no more than once a month, to transfer no more than \$875,000 to the Tribe. The Secured Parties agree not to deliver a Notice of Default unless a Default has occurred; provided, however, it is understood and agreed that Bank shall rely exclusively on a Notice of Default as to the existence of a Default and shall be under no obligation to make any independent investigation as to the existence of a Default. A Default shall mean an "Event of Default" as defined in that certain Indenture entered into among the Depositor, the Collateral Agent and the other parties thereto (the "Indenture").

f. Notwithstanding clause (e) above, if at any time any Secured Party has delivered to Bank a Notice of Tribal Default in the form attached hereto as Exhibit B, then Bank agrees that thereafter until Notice Agent has informed Bank in writing that the Notice of Tribal Default is withdrawn, Bank will take all directions with respect to the Account solely from Notice Agent and shall not comply with instructions of the Depositor or any other person. The Secured Parties agree not to deliver a Notice of Tribal Default unless a Tribal Default has occurred; however, it is understood and agreed that Bank shall rely exclusively on a Notice of Tribal Default as to the existence of a Tribal Default and shall be under no obligation to make any independent investigation as to the existence of a Tribal Default. Depositor acknowledges that upon the receipt by Bank of a Notice of Tribal Default, the \$875,000 monthly withdrawals permitted under clause (e) shall not be permitted until all active Notices of Tribal Default are withdrawn in writing by the Notice Agent. A Tribal Default shall mean a "Tribal Default" as defined in the Indenture.

g. Notice Agent's rights under this Agreement to give Bank instructions from time to time as to the withdrawal or disposition of any funds in the Account or as to any other matters relating to the Account includes without limitation the power to give stop payment orders for any items being presented to the Account for payment. Depositor confirms that Bank should follow such instructions from Notice Agent even if the result of following such instructions is that Bank dishonors items presented for payment from the Account. Depositor further confirms that Bank will have no liability to Depositor for the wrongful dishonor of such items resulting from Bank's compliance with such instructions from Notice Agent.

2. Bank's Responsibility.

a. Bank shall have no duty to inquire or determine whether Depositor's obligations to each Secured Party are in default or whether Notice Agent is entitled, under any separate agreement between the Secured Parties and Depositor, to give any instructions relating to the Account. Bank shall have no responsibility or liability to any Secured Party for complying with any order or instruction, whether oral or written, concerning the Account, except to the extent such compliance would violate (i) Section 1(b) hereof, or (ii) written instructions or orders previously received from Notice Agent, but only to the extent Bank had reasonable opportunity to act thereon. Bank shall not have any liability to Depositor or any Secured Party for losses or damages resulting from any failure to comply with instructions relating to the Account or delay in complying with such instructions if (i) compliance with such instructions would require Bank to violate any then-existing injunction or order of any court of competent jurisdiction, including without limitation in any bankruptcy case under Title 11 of the United States Code, or (ii) the failure or delay is due to circumstances beyond Bank's reasonable control. Without limiting the foregoing, in no event shall Bank have any liability for indirect, punitive, exemplary or consequential losses or damages, including without limitation lost profits, whether or not any claim for such losses or damages is based on tort or contract or Bank knew or should have known the likelihood of such losses or damages in any circumstances.

b. Bank may rely on notices and communications it believes in good faith to be genuine and given by the appropriate party. Without limiting the foregoing, Bank may (but shall not be obligated to) require that Notice Agent from time to time deliver to Bank such documentation as Bank may reasonably request to evidence the authority of those entities or individuals purporting to give instructions on behalf of Notice Agent to Bank hereunder.

c. Bank shall be permitted to comply with any writ, levy order or other similar judicial or regulatory order or process concerning the Account and shall not be in violation of this Agreement for doing so.

3. Priority of the Secured Parties' Security Interest; Rights Reserved by Bank.

Bank agrees that all of its present and future rights against the Account (whether described as rights of setoff, banker's lien, chargeback or otherwise, and whether available to Bank under the law or under any other agreement between Bank and Depositor concerning the Account, or otherwise) are subordinate to each Secured Party's security interest therein; provided, however, that each Secured Party agrees that nothing herein subordinates or waives any of, and that Bank expressly reserves all of, Bank's present and future rights with respect to: (a) items deposited to the Account and returned unpaid, whether for insufficient funds or for any other reason, and without regard to the timeliness of return of any such item or the occurrence or timeliness of any drawee's notice of non-payment of such items; (b) claims of breach of the applicable UCC's transfer or presentment warranties made against Bank in connection with items deposited to the Account; (c) any automated clearing house (also known as "ACH") entry credited to the Account and returned unpaid or subject to an adjustment entry under applicable clearing house rules, whether for insufficient funds or for any other reason, and without regard to the timeliness of such return or adjustment; (d) any credit to the Account from a merchant card transaction, against which a contractual demand for chargeback has been made; (e) any credit to the Account

made in error; and (f) Bank's usual and customary charges for services rendered in connection with the Account, to the extent that, in each case, Depositor has not separately paid or reimbursed Bank therefore. Items, entries, and transactions described in clauses (a) through (e) of this Section are collectively referred to as "Returned Items."

4. Statements.

Depositor hereby authorizes Bank to provide any information relating to the Account to any Secured Party upon such Secured Party's request without Depositor's further consent.

5. Notice of Adverse Claims; Record of Security Interest.

a. Bank represents and warrants to each Secured Party that Bank has not received notice of any currently effective lien or encumbrance on or other claim to the Account from any other person or entity and has not entered into, and covenants with each Secured Party that it will not enter into, any agreement with any other person or entity by which Bank is obligated to comply with instructions from such other person or entity as to the disposition of funds from the Account or other dealings with the Account. Bank will use commercially reasonable efforts, subject to applicable law, to notify each Secured Party promptly if any other person or entity claims a property interest in the Account. To the extent that it gives notice to Depositor, Bank promptly will notify each Secured Party if any other person or entity claims that it has a property interest in the Account.

b. Bank further represents and warrants to each Secured Party that Bank has marked its books and records to indicate that each Secured Party has the right to control the Account as set forth herein.

c. Bank represents and warrants that it is a "bank" within the meaning of Section 9-102(a)(8) of the UCC, that the Account is a "deposit account" (as defined in Section 9-102(a)(29) of the UCC) and that Depositor is Bank's sole customer with respect to the Account. Bank covenants and agrees that it shall not change the name or the account number of the Account without the prior written consent of the Secured Parties.

6. Returned Items.

Depositor and each Secured Party understand and agree that Bank will collect the amount of each Returned Item by debiting the Account. Depositor agrees to pay the amount of any Returned Item immediately upon demand to the extent that there are not sufficient funds in the Account to cover such amount on the day of the debit. Subject to Section 7.b.(iv) below, Secured Party agrees to pay any such amount that is not paid in full by Depositor within 10 days after demand on Depositor by Bank up to the amount of the proceeds received by Secured Party from the corresponding Returned Item. Bank agrees that any demand upon any Secured Party for such amount shall be made within 90 days after such Secured Party's receipt of such proceeds. To the extent that Bank is precluded from making demand or giving notice hereunder by reason of the commencement of a bankruptcy or similar proceeding, then such demand or notice shall be deemed to have been made or given at the commencement of such proceeding.



7. Costs; Indemnity.

a. Depositor and Secured Parties agree that Bank shall have no liability to either of Depositor or Secured Parties for any loss or damage that either or both may claim to have suffered or incurred, either directly or indirectly, by reason of this Agreement or any transaction or service contemplated by its provisions, unless occasioned by the gross negligence or willful misconduct of Bank. In no event shall Bank be liable for any losses, costs, or damages, whether direct or indirect, special, or consequential resulting or arising from any causes beyond Bank's reasonable control.

b. Depositor will be responsible for Bank's customary charges for services rendered in connection with the Account.

c. (i) Depositor will indemnify Bank and its officers, directors, employees and agents against claims, liabilities and expenses arising out of this Agreement (including without limitation all fees and costs incurred by Bank in complying with instructions or requests given by Notice Agent hereunder and reasonable attorneys' fees and disbursements and the reasonable estimate of the allocated costs and expenses of in-house legal counsel and staff), except to the extent the claims, liabilities or expenses are caused by Bank's gross negligence or willful misconduct. Depositor agrees, and Collateral Agent acknowledges, that, in order to secure in part Depositor's indemnity obligations to Bank under this Agreement, simultaneously with the execution and delivery of that certain Indenture, Depositor shall deposit, or cause to be deposited, with the Bank Five Hundred Thousand Dollars (\$500,000) (the "Indemnity Funds"), via transfer from the Account to a separate account maintained by the Bank (the "Indemnity Account"). The Bank agrees to hold the Indemnity Funds in the Indemnity Account in accordance with the terms of this Agreement. Upon the first delivery by the Notice Agent of either of a Notice of Default or Notice of Tribal Default, Bank may establish an administrative hold on funds in the Depositors Accounts and sweep an amount, not greater than, Seven Hundred and Fifty Thousand Dollars (\$750,000) into the Indemnity Account ("Swept Funds"). The Bank at all times shall have the right of offset against the Indemnity Account to satisfy indemnity claims against it under this Agreement. Bank shall return all Swept Funds to the Account Ninety (90) days after withdrawal by the Notice Agent of all previously given Notices of Default or Notices of Tribal Default unless a Notice of Claim has been given by Bank on or before such date, and if a Notice of Claim is given, within 30 days after resolution of the claim specified in such notice. However, under no circumstances shall the Indemnity Account have a balance less than Five Hundred Thousand Dollars \$500,000 while the Accounts remain in use by Depositor. Bank shall deliver all Swept Funds to the Notice Agent Seventy-Five (75) days after the last deposit of funds by the Depositor into the Account unless a Notice of Claim has been given by Bank on or before such date, and if a Notice of Claim is given, within 30 days after resolution of the claim specified in such notice. For avoidance of doubt, (i) If a new Notice of Default or Notice of Tribal Default is received by Bank following the termination of any previously imposed administrative hold, the Bank may establish a new administrative hold, of fund in the Account, in the aggregate amount of Seven Hundred and Fifty Thousand Dollars (\$750,000) which shall be immediately swept into the Indemnity Account. Depositor hereby grants to Bank a security interest in all funds that are subject to an administrative hold imposed pursuant to this Section 7(c)(i) and acknowledges that such administrative hold constitutes control of such funds.

(ii) Subject to Section 7(c)(iii) below, the Notice Agent will indemnify Bank and its officers, directors, employees and agents against claims, liabilities and expenses arising out of Bank's compliance with any instruction or request from Notice Agent in connection with this Agreement (including without limitation reasonable attorneys' fees and disbursements and the reasonable estimate of the allocated costs and expenses of in-house legal counsel and staff), except to the extent the claims, liabilities or expenses are caused by Bank's gross negligence or willful misconduct, and subject to the limitation on liability set forth in Section (iv) with respect to claims against the Collateral Agent.

(iii) To the extent that the obligations of indemnity incurred by Bank in complying with this Agreement are not satisfied by Depositor, pursuant to Section 7(c)(i), within 10 days after demand on Depositor by the Bank, the Secured Parties will indemnify Bank pursuant to Section 7(c)(ii).

(iv) Collateral Agent's liability under this indemnification provision shall be limited to: (i) the assets contained in the trust estate created under the Indenture wherever held; (ii) the indemnification it actually receives in its capacity as Collateral Agent under the terms of the Indenture, including without limitation, Sections 7.7 and 6.11 thereof, or related agreements, including without limitation any indemnity hereafter provided by "Holders" to the Collateral Agent in respect of the giving of any notices to Bank under this Agreement; and (iii) shall not in any event be recoverable from its own assets. Bank shall have recourse solely to assets, including without limitation rights of indemnity and the proceeds thereof, that are held by Collateral Agent in its capacity as Collateral Agent and that, upon a Notice of Claim, (x) have not yet been applied or disbursed in accordance with the Indenture or (y) are thereafter received pursuant to the Indenture whether as indemnification or other payments, collections, proceeds of collateral or otherwise. As used herein, "Notice of Claim" shall mean a written notice from Bank to Collateral Agent describing in reasonable detail the nature and amount of Bank's indemnification claim pursuant to this provision.

#### 8. Termination; Survival.

a. Notice Agent may terminate this Agreement by written notice to Bank and Depositor. Bank may terminate this Agreement on 30 days' prior written notice to the Secured Parties and Depositor. If this Agreement is terminated by Bank, and Bank has not received written instructions countersigned by the Secured Parties and Depositor regarding the disposition of the assets in the Account within 30 days from the date written notice was provided to the Secured Parties and Depositor, Bank shall promptly close the Account and remit all funds on deposit therein to, or as directed by, the Notice Agent. Depositor may not terminate this Agreement except with written consent of the Secured Parties and on 30 days' prior written notice to the Secured Parties and Bank.

b. This Agreement will terminate with respect to Additional Secured Party, but shall remain in effect with respect to Depositor, Collateral Agent and Bank, upon Additional Secured Party providing notice substantially in the form of Exhibit C ("Termination Notice") to Depositor, Collateral Agent and Bank signed by Additional Secured Party. This Agreement shall terminate with respect to Collateral Agent, but shall remain in effect with respect to Depositor,

Additional Secured Party and Bank, upon Collateral Agent providing a Termination Notice to Depositor, Additional Secured Party and Bank, signed by Collateral Agent.

c. Sections 2 ("Bank's Responsibility"), 6 ("Returned Items"), and 7 ("Costs; Indemnity") will survive termination of this Agreement.

9. Governing Law.

a. Bank represents and warrants to each Secured Party that the account agreement(s) between Bank and Depositor relating to the establishment and general operation of the Account expressly provides that such account agreement(s) are governed by the law of the state of California. Bank covenants that it will not, without each Secured Party's prior written consent, amend those account agreement(s) to change their governing law or to provide that secured transactions relating to the Account are governed by the law of another jurisdiction. Regardless of any provision in any other agreement, for purposes of the UCC, California shall be Bank's jurisdiction (within the meaning of Section 9-304 thereof) with respect to the Account

b. This Agreement will be governed by the internal laws of **California**.

10. INDIAN LAW PROVISIONS

a. **Limited Waiver of Sovereign Immunity; Specific Consent to Jurisdiction; Exhaustion of Tribal Remedies.**

(i) Depositor does not consent to the enforcement, levy or other execution of any judgment for money or other damages against any assets, real or personal, of Depositor other than Related Business Assets (as defined in the Indenture); provided that, in the event that the Tribe or any affiliate of the Tribe (other than Depositor) receives any payment or distribution of Related Business Assets in violation of this Agreement or the Indenture, then the obligations of Depositor under this Agreement or the Indenture shall be enforceable against any assets of the Tribe other than assets that are not legally available for such satisfaction under state or federal law, but only to the extent of the amount of such payment or distribution of Related Business Assets.

(ii) Depositor grants to the Bank, each Secured Party, and such other persons as may be expressly identified as beneficiaries in this Agreement (each, a "Grantee"), an irrevocable limited waiver of sovereign immunity (and any defense based thereon) from unconsented suit, arbitration or other legal proceedings (each, inclusive of actions for equitable or provisional relief and to compel arbitration, an "Action") with respect to this Agreement, the Indenture and the transactions contemplated hereby and thereby, *provided that*:

- (1) the Action shall be brought by or on behalf of a Grantee;
- (2) the Action shall be commenced within the statute of limitations applicable to such Action under applicable state or federal law;
- (3) the Action is to (i) interpret or enforce the provisions of this Agreement or the Indenture or the rights arising in connection herewith or therewith or the transactions

contemplated hereby, whether such rights arise in law or equity or (ii) enforce or execute any order, judgment, award or ruling resulting from such an Action;

(4) the Action shall not include a claim seeking punitive damages;

(5) the Action does not seek recourse against assets of Depositor other than as permitted by the first paragraph of this section; and

(6) for no other purpose whatsoever.

(iii) Subject to the foregoing limitations on Depositor's limited waiver of sovereign immunity, Depositor, Bank and each Secured Party agrees to irrevocably and unconditionally submit, for itself and its property, to the exclusive jurisdiction of the United States District Court, Southern District of New York, and any appellate court from which any appeals therefrom are available (the "New York Federal Courts"), the courts of the State of New York sitting in the City of New York, County of New York, and any appellate court from which any appeals therefrom are available (the "New York State Courts"), or in the event that the New York Federal Courts or the New York State Courts lack or decline jurisdiction, or if a Action is brought by the Bank- or a Grantee of the Bank- in a California court, then the United States District Courts sitting in California (the "California Federal Courts") and the courts of the State of California and any appellate court from which any appeals therefrom are available (the "California State Courts"), or if none of the foregoing courts accepts jurisdiction over the action, then the tribal courts of the Tribe, in any action or proceeding arising out of or relating to this Agreement, the Indenture or the transactions contemplated hereby or thereby, or for recognition or enforcement of any judgment, and Depositor, Bank and each Secured Party irrevocably and unconditionally agree that all claims in respect of any such action or proceeding may be heard and determined in such court. Depositor, Bank and each Secured Party agree that a final judgment in any such action or proceeding may be enforced by any court of competent jurisdiction and 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 court of competent jurisdiction, including without limitation, entering the real property of any Tribal Party (as defined in the Indenture) in giving effect to any judgment entered. Depositor expressly waives, to the fullest extent it may legally and effectively do so, any right it may otherwise have to require any suit, arbitration, legal process or enforcement proceeding be considered or heard first in any tribal court of the Tribe or forum of the Tribe, now or hereafter existing, whether because of the doctrine of exhaustion of tribal remedies or as a matter of comity or abstention.

(iv) Without limiting the foregoing, Depositor agrees that it shall not institute any action in its own tribal court system in respect of any claim or cause of action arising out of or relating to this Agreement, the Indenture and the transactions contemplated hereunder and thereunder, but shall instead resort to the other courts set forth above, except as set forth pursuant to Section 10(b) below.

(v) Depositor agrees that the waivers and consents described in this Section 10(a) shall inure to the benefit of each person who is entitled to the benefits of this Agreement or the Indenture. Depositor agrees that the counterparties to this Agreement and such other persons shall have and will be entitled to all available legal and equitable remedies,

including the right to specific performance, money damages and injunctive or declaratory relief. The limited waivers of sovereign immunity and consents to jurisdiction in this Section 10(a) are irrevocable.

(vi) Depositor agrees to irrevocably and unconditionally waive, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement, the Indenture or the transactions contemplated hereby or thereby in any court set forth above. Depositor irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(vii) Depositor agrees to irrevocably consent to service of process in the manner provided for notices in this Agreement or in the Indenture. Nothing in this Agreement will affect the right of any party thereto to serve process in any other manner permitted by law.

(viii) For the purposes of this Agreement or the Indenture, each of the parties hereto agrees that a final judgment in any such dispute, controversy, suit, action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(ix) Notwithstanding anything to the contrary contained in the foregoing, nothing in this Agreement or the Indenture shall limit the ability of any party hereto, to the extent otherwise entitled to do so pursuant to this Agreement or the Indenture, to move to compel arbitration or move to stay or dismiss a lawsuit in favor of arbitration, and Depositor's waiver of sovereign immunity expressly extends to such actions.

(x) Depositor agrees that any dispute arising under this Agreement shall be resolved pursuant to the law specified in this Agreement.

(xi) Depositor agrees not to revoke or limit, in whole or in part, its limited waiver of sovereign immunity or other waivers described in this Section 10(a) or in any way attempt to revoke or limit, in whole or in part, such limited waiver of sovereign immunity or other waivers. In the event of any such revocation, limitation, attempted revocation, or attempted limitation, Depositor, Bank and each Secured Party expressly recognize and agree that there remains no adequate remedy at law available to the Secured Parties, each Secured Party will be irreparably injured upon any revocation or limitation hereof, and Depositor shall consent to the entry of appropriate injunctive relief, consistent with the terms and conditions of this Agreement, the Indenture, the New Notes (as defined in the Indenture) or the Collateral Documents (as defined in the Indenture), as applicable. In the event of any attempted limitation or revocation of the limited waiver of sovereign immunity or other waivers described herein, each Secured Parties may immediately seek judicial injunctive relief as provided for herein without first complying with any of the prerequisites described herein to the limited waiver of sovereign immunity described herein. Any action seeking injunctive relief hereunder shall be brought in one of the United States District Courts for New York or the New York State Supreme Court and Depositor and the Tribe expressly consents to the jurisdiction of, and agrees to be bound by, any order or judgment of such District Courts or state court, and any federal or state court with appellate jurisdiction thereover.

**b. Dispute Resolution.**

(i) Notwithstanding the irrevocable submission to the jurisdiction of the courts described in Section 10(a), Depositor, Bank and each Secured Party irrevocably and unconditionally agrees that if the New York and California Federal Courts and the New York and California State Courts all lack or decline jurisdiction with respect to an Action, then Depositor, the Bank or either Secured Parties may (i) submit any controversy, claim, suit or other action between or among the parties thereto arising out of or relating to this Agreement or the Indenture, or the enforcement of rights hereunder, to binding arbitration or (ii) remove any such action brought by any other party in any forum other than an arbitration contemplated hereby and submit such action to be determined by binding arbitration. Any arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). Any controversy concerning whether an issue is arbitrable shall be determined by the arbitrators in accordance with the AAA Commercial Arbitration Rules. Judgment upon the arbitration award may be entered in any court of competent jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy will not constitute a waiver of the right of any party to submit the controversy or claim to arbitration if any other party contests such action for judicial relief. Any such arbitration, to which the Bank is not a party, will take place in the City of New York, County of New York. Any such arbitration, to which the Bank is a party, shall take place in California.

(ii) Nothing in this provision shall be construed to effect or impair the Bank's Dispute Resolution and Arbitration agreement as provided in the Bank's Account Disclosure Agreement.

**c. Management Activities.** Notwithstanding any provision in this Agreement, neither any Secured Party nor Bank nor any Person (as defined in the Indenture) acting on their behalf shall engage in any of the following: planning, organizing, directing, coordinating, or controlling all or any portion of Depositor's gaming operations (collectively, "Management Activities"), including but not limited to:

(i) the training, supervision, direction, hiring, firing, retention, compensation (including benefits) of any employee (whether or not a management employee) or contractor;

(ii) any employment policies or practices;

(iii) the hours or days of operation;

(iv) any accounting systems or procedures;

(v) any advertising, promotions or other marketing activities;

(vi) the purchase, lease, or substitution of any gaming device or related equipment or software, including player tracking equipment;

(vii) the vendor, type, theme, percentage of pay-out, display or placement of any gaming device or equipment; or

(viii) budgeting, allocating, or conditioning payments of Depositor's operating expenses;

provided, however, that neither Bank nor any Secured Party will be in violation of the foregoing restriction solely because such party: (x) enforces compliance with any term in this Agreement that does not require the gaming operation to be subject to any third-party decision-making as to any Management Activities; or (y) requires that all or any portion of the revenues securing the obligations be applied to satisfy the valid terms of this Agreement; or (z) otherwise forecloses on all or any portion of the property securing the New Notes (as defined in the Indenture).

d. **Section 81 Compliance.** Notwithstanding any right of any Secured Party or Bank in this Agreement, or any requirements or restrictions imposed on Depositor in this Agreement, any right, requirement or restriction that "encumbers Indian land" within the meaning of 25 U.S.C. § 81, shall not be effective for longer than six years and 364 days.

11. Entire Agreement.

This Agreement is the entire agreement among the parties regarding the subject matter hereof and supersedes any prior agreements and contemporaneous oral agreements of the parties concerning its subject matter. To the extent that any provision in this Agreement conflicts with any provision in any other agreement between Bank and Depositor, the provision in this Agreement shall control.

12. Amendments.

No amendment of this Agreement will be binding unless it is in writing and signed by Depositor, each Secured Party and Bank, and no waiver of any right under this Agreement will be binding unless it is in writing and signed by the party to be charged.

13. Severability.

To the extent a provision of this Agreement is unenforceable, this Agreement will be construed as if the unenforceable provision were omitted.

14. Successors and Assigns.

The provisions of this Agreement shall be binding upon and inure to the benefit of Bank, each Secured Party and Depositor and their respective successors and transferees permitted under this Section 14. Except as provided by this Section 14, a voluntary transfer of a party's rights or duties under this Agreement without the prior written consent of the other parties will be void. Depositor shall not assign or transfer any of its rights or obligations under this Agreement. Bank may transfer its rights and duties hereunder to a transferee; provided that Bank shall provide written notification to Depositor and the Secured Parties of any such transfer promptly after such transfer. Either Secured Party may assign or transfer any of its rights and obligations under this

Agreement; provided that the Secured Party provide written notification to the Bank of any such assignment or transfer promptly thereafter.

15. Notices.

All notices, instructions or other communications to a party under this Agreement shall be in writing and shall be sent to the party's address for notices set forth below or to such other address as shall be designated by such party by notice given to the other parties, and, except as otherwise expressly provided for herein, will be effective on receipt.

16. No Agency, Etc.

Nothing contained in this Agreement shall create any agency, fiduciary, joint venture or partnership relationship between Depositor, any Secured Party and Bank.

17. Counterparts.

This Agreement may be executed in counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement or any document or instrument delivered in connection herewith by telecopy, facsimile or .pdf shall be effective as delivery of a manually executed counterpart of this Agreement or such other document or instrument, as applicable.



The foregoing is hereby acknowledged and agreed to, effective as of the date first set forth above.

**DEPOSITOR:**

By: Reggie Lewis  
Name: Reggie Lewis  
Title: Chairman

Facsimile: 559.642.3683  
Telephone: 559.642.3681 x304  
E-mail Address: tlawr3e@tcouncil.com  
tattard@tcouncil.com

By: Nancy Ayala  
Name: Nancy Ayala  
Title: Vice Chairperson

Facsimile: 559.642.3683  
Telephone: 559.642.3681 x304  
E-mail Address: naayala@tcouncil.com  
tattard@tcouncil.com

**COLLATERAL AGENT:**

By: Maddy Hall

Name: Maddy Hall

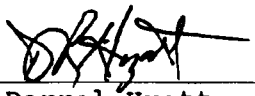
Title: Vice President

Facsimile: (213) 614-3355

Telephone: (213) 614-2588

E-mail Address: Madeliena.J.Hall@wellsfargo.com

**BANK:**

By:   
Name: Darrel Hyatt  
Title: VP and Manager

Facsimile: 559-447-7925  
Telephone: 559-447-7919  
E-mail Address: darrel.hyatt@rabobank.com

**Exhibit A**

[Letterhead of Notice Agent]

[Date]

[Address of Bank]

Re: Notice of Default

Ladies and Gentlemen:

As referenced in the Deposit Account Control Agreement (the "Agreement"), dated \_\_\_\_\_, 2012, among Chukchansi Economic Development Authority, you and the undersigned we hereby give you notice that a Default (as defined in the Agreement) has occurred and is continuing. You are hereby instructed not to accept any direction or instructions with respect to the Account from any person other than the undersigned, unless otherwise ordered by a court of competent jurisdiction, otherwise permitted by the Agreement or otherwise directed by us in writing.

Very truly yours,

Wells Fargo Bank, National Association

By: \_\_\_\_\_  
Title

CC: Chukchansi Economic Development Authority  
Collateral Agent

**Exhibit B**

[Letterhead of Notice Agent]

[Date]

[Address of Bank]

Re: Notice of Tribal Default

Ladies and Gentlemen:

As referenced in the Deposit Account Control Agreement (the "Agreement"), dated \_\_\_\_\_, 2012, among Chukchansi Economic Development Authority, you and the undersigned we hereby give you notice that a Tribal Default (as defined in the Agreement) has occurred and is continuing. You are hereby instructed not to accept any direction or instructions with respect to the Account from any person other than the undersigned, unless otherwise ordered by a court of competent jurisdiction, otherwise permitted by the Agreement or otherwise directed by us in writing.

Very truly yours,

Wells Fargo Bank, National Association

By: \_\_\_\_\_  
Title

CC: Chukchansi Economic Development Authority  
Collateral Agent

## Exhibit C

### JOINDER AGREEMENT

This JOINDER AGREEMENT, dated as of [\_\_\_\_], 20[\_\_\_], is delivered by [NAME OF ADDITIONAL SECURED PARTY] ("Additional Secured Party") pursuant to the Deposit Account Control Agreement, dated as of [\_\_\_\_], 2012 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Agreement"), among Chukchansi Economic Development Authority, as Depositor, Rabobank, N.A., as Bank, and Wells Fargo Bank, National Association, as Collateral Agent. Capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed thereto in the Agreement.

#### RECITALS:

WHEREAS, Depositor and Bank have entered into the Agreement in order to perfect Collateral Agent's security interest in the Account; and

WHEREAS, the agreements, documents and instruments related to the obligations of Depositor to Additional Secured Party require the Additional Secured Party to become a party to the Agreement in order to perfect Additional Secured Party's security interest in the Account.

#### NOW, THEREFORE, IT IS AGREED:

1. Agreement. By executing and delivering this Joinder Agreement, the Additional Secured Party, as provided in Section 1(b) of the Agreement, hereby becomes a party to the Agreement as a Secured Party thereunder with the same force and effect as if originally named therein as a Secured Party and, without limiting the generality of the foregoing, hereby expressly assumes all obligations and liabilities of a Secured Party thereunder.

2. Confirmation of Secured Party. Depositor, Collateral Agent and Bank hereby acknowledge and agree that Additional Secured Party hereby becomes a party to the Agreement as a Secured Party thereunder with the same force and effect as if originally named therein as a Secured Party and, without limiting the generality of the foregoing, hereby is an express beneficiary of all of the rights and obligations of a Secured Party thereunder.

3. Management Activities, Sovereign Immunity and Governing Law. **THE PROVISIONS UNDER THE HEADINGS "MANAGEMENT ACTIVITIES", "LIMITED WAIVER OF SOVEREIGN IMMUNITY; SPECIFIC CONSENT TO JURISDICTION; EXHAUSTION OF TRIBAL REMEDIES", "DISPUTE RESOLUTION" AND "SERVICE OF PROCESS" IN THE AGREEMENT ARE INCORPORATED HEREIN BY THIS REFERENCE AND SHALL APPLY TO THE ADDITIONAL SECURED PARTY AS IF SUCH ADDITIONAL SECURED PARTY EXECUTED THE AGREEMENT AS A SECURED PARTY.**

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned has caused this Joinder Agreement to be duly executed and delivered as of the date first above written.

**[ADDITIONAL SECURED PARTY]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Facsimile: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

**ACKNOWLEDGED AND AGREED:**

**COLLATERAL AGENT:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**DEPOSITOR:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BANK:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Exhibit D**

Letterhead of applicable Secured Party

\_\_\_\_\_, 20\_\_

Rabobank, N.A.

\_\_\_\_\_

Attn: \_\_\_\_\_

**Re: Termination of Deposit Account Control Agreement**

**Account(s):** \_\_\_\_\_

Ladies and Gentlemen:

Reference is made to that certain Deposit Account Control Agreement, dated as of \_\_\_\_\_, 20\_\_ (as amended, supplemented, amended and restated or otherwise modified from time to time, the "Agreement"), among you, Chukchansi Economic Development Authority (the "Depositor"), [\_\_\_\_\_, as [Collateral Agent / Additional Secured Party],] and us. You are hereby notified that the Agreement is terminated with respect to the undersigned, and you have no further obligations to the undersigned thereunder. This notice terminates any obligations you may have to the undersigned with respect to the Account. The Agreement shall remain in effect until you are in receipt of notices in the form of this from both Collateral Agent and Additional Secured Party.

Very truly yours,

\_\_\_\_\_  
as [Collateral Agent / Additional Secured Party]

By: \_\_\_\_\_

Name:

Title:

**ACKNOWLEDGED AND AGREED:**

**RABOBANK, N.A., as Bank**

By \_\_\_\_\_

Name:

Title: