FRANCHISE AGREEMENT

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

RECITALS

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE I
DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II
FRANCHISE TERMS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 2.3 Revocation of the Franchise.

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

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

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

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

Section 2.5 Governance

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 2.12 Financing.

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

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

Section 2.13 Racetrack Operations.

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

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

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

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

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

ARTICLE III
VLT OPERATIONS

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

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

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

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

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

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

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

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

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

ARTICLE IV
REPRESENTATIONS AND WARRANTIES

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

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

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

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

ARTICLE V
COVENANTS

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

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

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

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

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

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

ARTICLE VI
EFFECTIVENESS AND TERMINATION OF AGREEMENT

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

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

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

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

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

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

(e) The execution and delivery of the Leases.

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

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

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

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

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

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

ARTICLE VII
MISCELLANEOUS

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

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

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

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

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

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

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

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

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

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

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

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

If to New NYRA, to:

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

with a copy to:

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

If to the State or the FOB, to:

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

with a copy to:

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

-and-

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

-and-

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

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

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

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

THE NEW YORK RACING ASSOCIATION, INC.

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

THE NEW YORK STATE FRANCHISE OVERSIGHT BOARD

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

THE STATE OF NEW YORK

By: _____
Name:
Title:

Approved as to form by:

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

By: _____
Name:
Title:

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

THE NEW YORK RACING ASSOCIATION, INC.

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

THE NEW YORK STATE FRANCHISE OVERSIGHT BOARD

By: _____
Name:
Title:

THE STATE OF NEW YORK

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

Approved as to form by:

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

By: _____
Name:
Title:

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

THE NEW YORK RACING ASSOCIATION, INC.

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

THE NEW YORK STATE FRANCHISE OVERSIGHT BOARD

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

THE STATE OF NEW YORK

By: _____
Name:
Title:

Approved as to form by:

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

By: _____
Name:
Title:

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

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

THE NEW YORK RACING ASSOCIATION, INC.

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

THE NEW YORK STATE FRANCHISE OVERSIGHT BOARD

By: _____
Name:
Title:

THE STATE OF NEW YORK

By: David A. Paterson
Name:
Title:

Approved as to form by:

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

By: _____
Name:
Title:

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