



AMENDED AND RESTATED

CREDIT AGREEMENT

BY AND BETWEEN

DUBUQUE RACING ASSOCIATION, LTD., AN IOWA NON-PROFIT CORPORATION,
AS BORROWER,

AND

MIDWEST ONE BANK
AS LENDER

DATED AS OF ~~OCTOBER 20, 2023~~ APRIL 19, 2024

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AMENDED AND RESTATED CREDIT AGREEMENT

This AMENDED AND RESTATED CREDIT AGREEMENT (this “Agreement”) is dated as of ~~October 20, 2023~~ April 19, 2024, by and between DUBUQUE RACING ASSOCIATION, LTD., an Iowa Non-Profit Corporation (“DRA” or “Borrower”), and MIDWESTONE BANK (the “Lender”).

RECITALS

A. ~~Borrower wishes to borrow from Lender (i) in the form of a term loan, the aggregate principal amount of up to One Million Nine Hundred Thirty-Nine Thousand Three Hundred Seventy-Five and 09/100 Dollars (\$1,939,375.09) (the “Schmitt Island Term Loan”), (ii) in the form of a construction loan, and Lender are parties to that certain Credit Agreement, originally dated as of October 20, 2023 (as amended, restated or otherwise modified prior to the date hereof, the “Existing Loan Agreement”), pursuant to which Lender made available certain extensions of credit, including (i) a construction loan in the principal amount of Twenty-Seven Million Seven Hundred Seventy-Seven Thousand Eight Hundred Twenty-One Dollars (\$27,777,821) (the “Phase I Construction Loan”); and (iii) in~~, as evidenced by the ~~form of Phase I Note; (ii) a term loan, in the principal amount of Twenty-Seven Million Seven Hundred Seventy-Seven Thousand Eight Hundred Twenty-One Dollars (\$27,777,821) (the “Phase I Term Loan”); and (iii) a term loan in the aggregate principal amount of One Million Nine Hundred Thirty-Nine Thousand Three Hundred Seventy-Five and 09/100 Dollars (\$1,939,375.09) (the “Schmitt Island Term Loan”), as evidenced by the Schmitt Island Term Loan Note.~~

B. ~~As of the date of this Agreement, Lender, through the Title Company and in accordance with the Construction Loan Disbursing Agreement, has disbursed a portion of the Phase I Construction Loan Commitment on behalf Borrower for the Phase I Casino Project.~~

C. ~~Borrower wishes to borrow from Lender (i) in the form of a construction loan, the principal amount of Thirty-Four Million Four Hundred Seventy-Two Thousand One Hundred Seventy-Nine and 00/100 Dollars (\$34,472,179.00) (the “Phase II Construction Loan”); and (ii) in the form of a term loan, the principal amount of Thirty-Four Million Four Hundred Seventy-Two Thousand One Hundred Seventy-Nine and 00/100 Dollars (\$34,472,179.00) (the “Phase II Term Loan”).~~

~~B.D.~~ Lender (s/b/m/ AMERICAN TRUST & SAVINGS BANK) previously provided Borrower a loan to be used for the purchase of the Hilton Garden Inn, Houlihan’s restaurant, and substantially all of the assets related thereto (the “Existing Hilton Garden Loan”), as evidenced by that certain Business Loan Agreement dated as of June 13, 2014, as amended from time to time (the “Existing Hilton Garden Loan Agreement”).

~~C.~~ ~~Lender previously provided Borrower a loan to fund the improvements known as the Schmitt Island Memorial (the “Existing Schmitt Island Term Loan”), as evidenced by that certain Promissory Note dated as of October 31, 2018, (the “Existing Schmitt Island Term Loan Agreement”).~~

~~D.E.~~ Lender previously extended to Borrower a Line of Credit (including a letter of credit sub-facility available thereunder) in the amount of Three Million Dollars (\$3,000,000.00) (the “Existing Line of Credit”) as evidenced by that certain Business Loan Agreement dated as of April 1, 2023 (the “Existing Line of Credit Agreement”) and as of the date of this Agreement Borrower and Lender desire to terminate the Existing Line of Credit and the Existing Line of Credit Agreement and in turn as of the date of this Agreement Lender agrees to extend to Borrower a Line of Credit (including a letter of credit sub-facility

available thereunder) in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00), as replaced, amended, restated, modified, or supplemented from time to time (the “Line of Credit”).

~~E. The purpose of the Schmitt Island Term Loan is to refinance the Existing Schmitt Island Term Loan to fund the improvements known as the Schmitt Island Memorial.~~

F. The purpose of the Phase I Construction Loan is to finance the capital improvement project known as Phase I Casino Project as more particularly described herein.

G. The purpose of the Phase I Term Loan is to convert the Phase I Construction Loan into a term loan after the completion of the Phase I Casino Project.

H. The purpose of the Phase II Construction Loan is to finance the capital improvement project known as Phase II Casino Project as more particularly described herein.

I. The purpose of the Phase II Term Loan is to convert the Phase II Construction Loan into a term loan after the completion of the Phase II Casino Project.

H.J. Defined terms used herein, not specifically defined elsewhere in this Agreement, shall have the meanings provided in Section 1.1 hereof.

AGREEMENTS

In consideration of the terms and conditions contained in this Agreement and of any loans or extensions of credit made to or for the benefit of Borrower by Lender hereunder, the parties agree as follows:

ARTICLE I **DEFINITIONS; CONSTRUCTION**

1.1 General Terms. When used in this Agreement, the following terms shall have the following meanings:

“Affiliate” shall mean, with respect to any Person, (a) each Person that, directly or indirectly, owns or controls, whether beneficially or as a trustee, guardian or other fiduciary, ten percent (10%) or more of any class of Equity Securities of such Person, (b) each Person that controls, is controlled by or is under common control with such Person or any Affiliate of such Person or (c) each of such Person’s officers, directors, managers, joint venturers and partners; provided, however, that in no case shall any of the following Persons be deemed to be an Affiliate of Borrower for purposes of this Agreement: (i) Lender; (ii) the City of Dubuque, Iowa; or (iii) Schmitt Island Development Corporation. For the purpose of this definition, “control” of a Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through the ownership of voting securities, by contract or otherwise.

“Agreement” shall mean this ~~Credit Agreement~~ Amended and Restated Credit Agreement, as from time to time amended, modified, supplemented, restated or amended and restated.

“Amphitheater” shall mean any amphitheater constructed on the property adjacent to the ~~Leased Premises~~ Casino Real Property or any other portion of Chaplain Schmitt Island.

“Anti-Corruption Laws” shall have the meaning given to that term in Section 4.1(w)(ii).

“Anti-Terrorism Law” shall mean each of: (a) the Executive Order; (b) the Patriot Act; (c) the Money Laundering Control Act of 1986, 18 U.S.C. §§ 1956 & 1957; and (d) any other Governmental Rule now or hereafter enacted to monitor, deter or otherwise prevent terrorism or the funding or support of terrorism, including, without limitation, economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (i) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (ii) the United Nations Security Council, the European Union, any European Union member state or Her Majesty’s Treasury of the United Kingdom (collectively, “Sanctions”).

“Approved Fund” shall mean any Fund that is administered or managed by (a) Lender, (b) an Affiliate of Lender or (c) an entity or an Affiliate of an entity that administers or manages Lender.

“Architect” shall mean each licensed architect, space planner or design professional that Borrower may engage from time to time to design any portion of the Phase I Casino Project or the Phase II Casino Project, including the preparation of the Plans and Specifications therefor.

“Assignee Lender” shall have the meaning given to that term in Section 8.5(c).

“Assignment” shall have the meaning given to that term in Section 8.5(c).

“Assignment Agreement” shall have the meaning given to that term in Section 8.5(c).

“Assignment Effective Date” shall have, with respect to each Assignment Agreement, the meaning set forth therein.

“Assignment of Architect’s Agreement” shall mean that certain Assignment of Plans and Specifications and Architect’s Agreement executed by DRA in favor of Lender (and consented to and acknowledged by the Architect) in form and substance satisfactory to Lender.

“Assignment of Construction Contracts” shall mean ~~that certain each~~ Assignment of Construction Contracts executed by DRA in favor of Lender (and consented to and acknowledged by each contractor party to a Construction Contract) in form and substance satisfactory to Lender.

“Assignment of General Contractor Agreement” shall mean that certain Assignment of General Contractor Agreement executed by DRA in favor of Lender (and consented to and acknowledged by the General Contractor) in form and substance satisfactory to Lender.

“Borrower” shall have the meaning given to such term in the introductory paragraph hereof.

“Borrowing” shall mean a Schmitt Island Term Loan Borrowing, a Phase I Construction Loan Borrowing, ~~or a Phase Ia Phase I Term Loan Borrowing, a Phase II Construction Loan Borrowing, or a Phase II~~ Term Loan Borrowing, as the context may require.

“Business Day” shall mean any day on which commercial banks are not authorized or required to close in Dubuque, Iowa.

“Capital Asset” shall mean, with respect to any Person, any tangible fixed or capital asset owned or leased (in the case of a Finance Lease) by such Person, or any expense incurred by such Person that is required by GAAP to be reported as a non-current asset on such Person’s balance sheet.

“Capital Expenditures” shall mean, with respect to any Person and any period, all amounts expended by such Person during such period to acquire or to construct Capital Assets (including renewals, improvements and replacements, but excluding repairs in the ordinary course) computed in accordance with GAAP (including all amounts paid or accrued on Finance Leases and other Indebtedness incurred or assumed to acquire Capital Assets).

“Casino Real Property” shall mean the real property legally described as Lot 1 of Chaplain Schmitt Island in the City of Dubuque, Iowa, according to the Plat recorded as Instrument #2023-7679, records of Dubuque County, Iowa.

“Change of Control” shall mean the occurrence of any one or more of the following:

(a) at any time after the Phase I Closing Date Borrower ceases to be the owner, directly or indirectly, of at least one hundred percent (100%) of the outstanding voting Stock of Borrower;

(b) except as expressly permitted under the terms of this Agreement, Borrower consolidates with or merges into another Person or conveys, transfers or leases all or substantially all of its property to any Person in one or a series of transactions, or any Person consolidates with or merges into a Borrower, in either event pursuant to a transaction in which the outstanding Stock of a Borrower is reclassified or changed into or exchanged for cash, securities or other property; or

(c) except as otherwise expressly permitted under the terms of this Agreement, Borrower shall cease to own and control, directly or indirectly, all of the economic and voting rights associated with all of the outstanding Stock of each of Borrower’s Subsidiaries.

For the purpose of this definition, “control” of a Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through the ownership of voting securities, by contract or otherwise.

“Change of Law” shall mean the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority.

~~“Closing Date” shall mean the time and Business Day on which the consummation of all of the transactions contemplated in Section 3.1 occurs.~~

“Code” shall mean the United States Internal Revenue Code of 1986, as amended.

“Collateral” shall mean all property in which Lender has a Lien to secure the Obligations.

“Commitment(s)” shall mean the Schmitt Island Term Loan Commitment, the Phase I Construction Loan Commitment, the Phase I Term Loan Commitment, the Phase II Construction Loan Commitment, and the Phase III Term Loan Commitment.

“Completion Date” shall mean the date on which the Phase I Casino Project is fully completed (including all “punch-list” items) as described in the Plans and Specifications.

“Compliance Certificate” shall have the meaning given to that term in Section 5.1(a)(i+vi).

“Confidential Information” shall mean information delivered to Lender by or on behalf of Borrower pursuant to the Credit Documents that is proprietary in nature and that is clearly marked or labeled as being confidential information of Borrower; provided; however, that such term does not include information that (a) was publicly known or otherwise known to the receiving party prior to the time of such disclosure, (b) subsequently becomes publicly known through no act or omission by the receiving party or any person acting on its behalf, (c) otherwise becomes known to the receiving party other than through disclosure by or on behalf of Borrower or (d) constitutes financial statements delivered to Lender under Section 5.1(a) that are otherwise publicly available.

“Construction Budget” shall mean the projections and budgets, prepared by Borrower or General Contractor setting forth the total fees, costs and expenses anticipated to be incurred in connection with the completion of the Phase I Casino Project (together with all material supporting contracts) (as such projections and budgets may be revised from time to time in accordance with the provisions of this Agreement). The Construction Budget shall, among other things, break out furniture, fixture, and equipment and related costs from the other costs of the Phase I Casino Project. The initial Construction Budget shall be the document titled the “AIA Document G701-2017 – Change Order” dated as of September 13, 2023 and provided to Lender prior to the Phase I Closing Date.

“Construction Consultant” shall mean Primus Companies, Inc. and their representatives or any other construction consultant selected by Lender.

“Construction Contract” shall mean each construction contract entered into by Borrower for work related to the construction of any portion of the Phase I Casino Project or Phase II Casino Project, which must be in form and substance reasonably satisfactory to Lender, as amended, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof.

“Construction Loan Disbursing Agreement” shall mean that certain Construction Loan Disbursing Agreement, dated as of the Phase I Closing Date, among First American Title Company, Lender and DRA.

“Construction Progress Report” shall mean a report, in form and substance acceptable to Lender, prepared by the Construction Consultant describing the progress of construction of the Phase I Casino Project or the Phase II Casino Project, as the case may be.

“Contingent Obligation” shall mean, with respect to any Person, (a) any Guaranty Obligation of that Person; and (b) any direct or indirect obligation or liability, contingent or otherwise, of that Person

(i) in respect of any Surety Instrument issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings or payments, (ii) as a partner or joint venturer in any partnership or joint venture, (iii) to purchase any materials, supplies or other property from, or to obtain the services of, another Person if the relevant contract or other related document or obligation requires that payment for such materials, supplies or other property, or for such services, shall be made regardless of whether delivery of such materials, supplies or other property is ever made or tendered, or such services are ever performed or tendered, or (iv) in respect to any Rate Contract that is not entered into in connection with a bona fide hedging operation that provides offsetting benefits to such Person. The amount of any Contingent Obligation shall (subject, in the case of Guaranty Obligations, to the last sentence of the definition of “Guaranty Obligation”) be deemed equal to the maximum reasonably anticipated liability in respect thereof, and shall, with respect to item (b)(iv) of this definition be marked to market on a current basis.

“Contractual Obligation” of any Person shall mean, any indenture, note, lease, loan agreement, security, deed of trust, mortgage, security agreement, guaranty, instrument, contract, agreement or other form of contractual obligation or undertaking to which such Person is a party or by which such Person or any of its property is bound.

“Control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. The terms “Controlling” and “Controlled”, and the term “Control” when used as a verb, have meanings correlative thereto.

“Control Agreement” shall mean a control agreement among Borrower, a depository bank, a securities intermediary or a commodity intermediary, as the case may be, and Lender, in form and substance reasonably acceptable to Lender.

“Credit Documents” shall mean and include this Agreement, the Notes, the Security Documents, the Environmental Indemnity Agreement, the Phase II Environmental Indemnity Agreement, each Notice of Borrowing, and all other documents, instruments and agreements delivered to Lender pursuant to Sections 3.1, 3.2, 3.3 3.4, 3.5, or 3.46 and all other documents, instruments and agreements delivered by Borrower to Lender in connection with this Agreement, including, without limitation, any amendments, consents or waivers, as the same may be amended, restated, supplemented or modified from time to time.

“Credit Event” shall mean (i) the making of any Loan, (ii) each release of any Deposited Loan Funds, (iii) each release of any Phase II Deposited Loan Funds.

“Debtor Relief Laws” shall mean the Bankruptcy Code of the United States of America, and all other applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Governmental Rules from time to time in effect affecting the rights of creditors generally.

“Default” shall mean an Event of Default or any event or circumstance not yet constituting an Event of Default which, with the giving of any notice or the lapse of any period of time or both, would become an Event of Default.

“Default Rate” shall have the meaning given to that term in Section 2.54(c).

“Deposited Loan Funds” shall mean the proceeds of the Loans advanced on the Disbursement Deposit Date and deposited in the Disbursement Account.

“Designated Person” shall mean any Person who (i) is named on the list of Specially Designated Nationals or Blocked Persons maintained by the U.S. Department of the Treasury’s Office of Foreign Assets Control and/or any other similar lists maintained by the U.S. Department of the Treasury’s Office of Foreign Assets Control pursuant to authorizing statute, executive order or regulation, (ii) (A) is a Person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of the Executive Order or any related legislation or any other similar executive order(s) or (B) engages in any dealings or transactions prohibited by Section 2 of the Executive Order or is otherwise associated with any such Person in any manner violative of Section 2 of the Executive Order or (iii) (X) is an agency of the government of a country, (Y) an organization controlled by a country, or (Z) a Person resident in a country that is subject to a sanctions program identified on the list maintained by the U.S. Department of the Treasury’s Office of Foreign Assets Control, or as otherwise published from time to time, as such program may be applicable to such agency, organization or Person.

“Development Manager” shall mean Ben Mammina Development Group, LLC and its representatives or any other development manager selected by Borrower.

“Development Management Agreement” shall mean the Agreement Between Architect and Development Manager dated February 28, 2023.

“Disbursement Account” shall mean a demand deposit account maintained at Lender in the DRA’s name, subject to an account control agreement in form and substance satisfactory to Lender.

“Disbursement Deposit Date” shall mean the Phase I Construction Loan Conversion Date.

“Distributions” shall mean the declaration or (without duplication) payment of any distributions or dividends (in cash, property or obligations) on, or other payments on account of, or the setting apart of money for a sinking or other analogous fund for, or the purchase, repurchase, redemption, retirement or other acquisition of, any Equity Securities of any Person or of any warrants, options or other rights to acquire the same (or to make any payments to any Person, such as “phantom membership” or “phantom stock” payments or similar payments, where the amount is calculated with reference to the fair market or equity value of any Person), but excluding distributions or dividends payable by a Person solely in common membership or common shares of Equity Securities of such Person.

“Dollars” and “\$” shall mean the lawful currency of the United States of America and, in relation to any payment under this Agreement, same day or immediately available funds.

“DRA” shall have the meaning given to such term in the introductory paragraph hereof.

~~“DRA Leasehold Mortgage” shall mean that certain Leasehold Mortgage, Fixture Filing and Security Agreement with Absolute Assignment of Leases and Rents, dated as of the Closing Date, executed by DRA in favor of Lender.~~

“DRA Equity Contributions” means cash and capital contributions suitable to Lender, which may include the proceeds of that certain loan by and between Borrower and Dubuque Initiatives dated as of the Phase I Closing Date, but shall not include the proceeds of a Loan provided by Lender hereunder, in

~~the a minimum~~ amount of twenty-five percent (25%) of the total cost of the Phase I Casino Project (i.e., Nine Million Two Hundred Fifty-Nine Thousand Two Hundred Seventy-Four and 00/100 Dollars (\$9,259,274.00)), which must be expended on Phase I Casino Project costs and expenses by Borrower as set forth in Section 3.3(b) and Section 5.2(s)(vii)(vi).

“DRA Phase II Equity Contributions” means cash and capital contributions suitable to Lender, which shall not include the proceeds of a Loan provided by Lender hereunder, in a minimum amount of twenty-five percent (25%) of the total cost of the Phase II Casino Project (i.e., Eleven Million Four Hundred Ninety Thousand Seven Hundred Twenty-Seven and 00/100 Dollars (\$11,490,727.00)), which must be expended on Phase II Casino Project costs and expenses by Borrower as set forth in Section 3.5(b) and Section 5.2(s)(vi).

“Draw Package” shall mean the documents and other items required to be provided to Lender, the Construction Consultant, and/or the Title Company, as applicable, pursuant to the Construction Loan Disbursing Agreement or the Phase II Construction Loan Disbursing Agreement as the case may be.

“Eligible Assignee” shall mean an Affiliate of Lender or an Approved Fund, in each case, to the extent that such Affiliate or Approved Fund is not in the same line of business as Borrower).

“Engineer” shall mean each licensed civil, structural, mechanical, electrical, soils, environmental or other engineer that Borrower may engage from time to time to perform any engineering services with respect to any portion of the Phase I Casino Project- or Phase II Casino Project.

“Environmental Damages” shall mean all claims, judgments, damages, losses, penalties, liabilities (including strict liability), costs and expenses, including costs of investigation, remediation, defense, settlement and attorneys’ fees and consultants’ fees and any diminution in the value of the security afforded to Lenders with respect to any real property owned or used by Borrower), that are incurred at any time (a) as a result of the existence or potential existence of any Hazardous Materials upon, about or beneath any real property owned by or leased by Borrower or migrating or threatening to migrate to or from such real property regardless of whether or not caused by or within the control of Borrower, (b) arising from any investigation, mitigation, monitoring, management, removal, reporting, proceeding or remediation of any location at which Borrower or any predecessors are alleged to have directly or indirectly disposed of Hazardous Materials or (c) arising in any manner whatsoever out of any violation of Hazardous Materials Laws by Borrower or with respect to the Casino Real Property.

“Environmental Indemnity Agreement” shall mean that certain Certificate and Indemnification Regarding Hazardous Substances, dated as of the Phase I Closing Date, executed by Borrower in favor of Lender.

“Equity Securities” of any Person shall mean (a) all common stock, preferred stock, participations, shares, partnership interests, limited liability company interests or other equity interests in and of such Person (regardless of how designated and whether or not voting or non- voting) and (b) all warrants, options and other rights to acquire any of the foregoing.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974.

“ERISA Affiliate” shall mean any Person which is treated as a single employer with Borrower under Sections 414(b) and (c) of the IRC (and Sections 414(m) and (o) of the IRC for purposes of the provisions relating to Section 412 of the IRC).

“Event of Default” shall have the meaning given to that term in Section 6.1.

“Excluded Assets” shall mean and include (a) the Gaming License, (b) any and all funds on deposit in the Debt Payment Reserve Fund (as defined in the Schmitt Island Lease), (c) any and all funds held by Borrower in a fiduciary or pass through capacity including, without limitation, all taxes, fees, and funds paid and/or remitted to Borrower, in its capacity as qualified sponsoring organization under the Iowa Code with respect to any casino (including Q Casino and Diamond Jo) and/or licensor with respect to any license to conduct advance sports wagering, which taxes, fees and funds are required to be remitted to a Governmental Authority, (d) all rights, title, interests, and benefits of Borrower under, in and to that certain Lease Agreement dated as of September 19, 2023, between the City of Dubuque, Iowa and Borrower with respect the real property legally described as Lots 2 and 3 of Chaplain Schmitt Island in the City of Dubuque, Iowa, according to the Plat recorded as Instrument #2023-7679, records of Dubuque County, Iowa, (e) any other “Excluded Assets” as defined in the Security Agreement, and (f) all attendant rights and benefits related to and/or arising in connection with any and each of the foregoing.

“Excluded Swap Obligation” shall mean, with respect to any guarantor, any Swap Obligation if, and to the extent that, all or a portion of the guaranty of such guarantor of, or the grant by such guarantor of a security interest to secure, such Swap Obligation (or any guaranty thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder at the time the guaranty of such guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such guaranty or security interest is or becomes illegal.

“Excluded Taxes” shall mean any of the following Taxes imposed on or with respect to Lender or required to be withheld or deducted from a payment to Lender, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of Lender being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) Lender acquires such interest in the Loan or Commitment or (ii) Lender changes its lending office, and (c) any U.S. federal withholding Taxes imposed under FATCA.

“Executive Order” shall mean Executive Order No. 13224 on Terrorist Financings: - Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism issued on 23rd of September, 2001.

“Existing Credit Agreements” shall mean the Existing Hilton Garden Credit Agreement, ~~the Existing Schmitt Island Promissory Note, and the Existing Line of Credit Agreement.~~

“Existing Hilton Garden Credit Agreement” shall have the meaning given to that term in the recitals hereof.

“Existing Hilton Garden Loan” shall have the meaning given to that term in the recitals hereof.

“Existing Hilton Garden Security Agreement” shall mean that certain Security Agreement, dated June 13, 2014, as amended, among Borrower and Lender.

“Existing Line of Credit” shall have the meaning given to that term in the recitals hereof.

“Existing Line of Credit Agreement” shall have the meaning given to that term in the recitals hereof.

~~“Existing Loan” shall mean the Existing Hilton Garden Loan, the Existing Schmitt Island Term Loan, and the Existing Line of Credit.~~

~~“Existing Schmitt Island Promissory Note Loans” shall have the meaning given to ~~that~~the term in the recitals hereof.~~ Section 8.17(d).

~~“Existing Schmitt Island Term Loan” shall have the meaning given to that term in the recitals hereof.~~

“FASB ASC” shall mean the Accounting Standards Codification of the Financial Accounting Standards Board.

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) ~~of the Code.~~

“Federal Reserve Board” shall mean the Board of Governors of the Federal Reserve System.

“Finance Leases” shall mean any and all lease obligations that, in accordance with GAAP, are required to be capitalized on the books of a lessee, provided, however, GAAP notwithstanding, any lease for slot machines or gaming tables which are (i) freely terminable by Borrower with no more than thirty (30) days’ notice and (ii) the rent for which is either (a) a per diem amount, or (b) a percentage of the machine take, shall not be Finance Leases for purposes of this Agreement.

“Financial Contract” shall mean (1) an agreement (including terms and conditions incorporated by reference therein) which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, commodity option, equity or equity index swap, bond option, interest rate option, foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, and other similar agreement (including any option to enter into any of the foregoing; (2) any combination of the foregoing; or (3) a master agreement for any of the foregoing together with all amendments and supplements

“Financial Statements” shall mean, with respect to any accounting period for any Person, statements of income and cash flows (and, in the case of financial statements in respect of a fiscal year, statements of retained earnings, or stockholders’ equity or members’ equity or partners’ capital) of such Person for such period, and a balance sheet of such Person as of the end of such period, setting forth in each case in comparative form figures for the corresponding period in the preceding fiscal year if such period is less than a full fiscal year or, if such period is a full fiscal year, corresponding figures from the preceding annual audited financial statements and, in each case, corresponding figures from the comparable budgeted and projected figures for such period, all prepared in reasonable detail and in accordance with GAAP.

“Fund” shall mean any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

“GAAP” shall mean generally accepted accounting principles and practices as in effect in the United States of America from time to time, consistently applied.

“Gaming Authorities” shall mean, collectively, the Iowa Racing and Gaming Commission and any other Governmental Authorities which enforce Gaming Laws.

“Gaming Facilities” shall mean:

(a) the casino, hotel, and entertainment complex, commonly known as the “Q Casino” as of the ~~Closing Date~~date of this Agreement and located in Dubuque County, Iowa and all other Property owned by Borrower which is directly ancillary thereto or used in connection therewith, including any hotels, resorts, card clubs, theaters, parking facilities, recreational vehicle parks, timeshare operations, retail shops, restaurants, other buildings, land, and other recreation and entertainment facilities and related equipment, in each case, to the extent located on the Casino Real Property;

(b) the Phase I Casino Project, both prior to and from and after completion; and

~~(b)(c)~~ the Phase II Casino Project, both prior to and from and after completion.

“Gaming Laws” shall mean all statutes, rules, regulations, ordinances, codes, administrative or judicial orders or decrees or other laws pursuant to which any Gaming Authority or other Governmental Authority possesses regulatory, licensing or permit authority over gambling, gaming or casino activities conducted by Borrower within its jurisdiction.

“Gaming License” shall mean, collectively, any and all Governmental Authorizations (i) necessary to enable Borrower to engage in the casino, gambling or gaming business, including the operation of racetracks, and the conduct of pari-mutual wagering and other gaming activities at such racetracks or otherwise continue to conduct its business, or (ii) required by any Governmental Authority or under any Gaming Law.

“Gaming Operations” shall mean the operation of casino, gambling or gaming business, including the operation of racetracks, and the conduct of pari-mutual wagering and other gaming activities at such racetracks or otherwise at the Casino Real Property.

“General Contractor” shall mean Conlon Construction Co. or any other general contractor that Borrower may engage from time to time to construct any portion of the Phase I Casino Project ~~or Phase II Casino Project.~~

“General Contractor Agreement” shall mean the Agreement Between Owner and Contractor dated November 1, 2022, by and between Conlon Construction Co. as the General Contractor and Borrower.

“Governmental Authority” shall mean any international, domestic or foreign national, state or local government, any political subdivision thereof, any department, agency, authority or bureau of any of the foregoing, or any other entity exercising executive, legislative, judicial, regulatory, tax or administrative functions of or pertaining to government, including, without limitation, the Iowa Racing and Gaming Commission, the Federal Trade Commission, the Federal Deposit Insurance Corporation, the Federal Reserve Board, the Comptroller of the Currency, any central bank or any comparable authority and any supra-national bodies such as the European Union or the European Central Bank.

“Governmental Authorization” shall mean any permit, license, registration, approval, finding of suitability, authorization, plan, directive, order, consent, exemption, waiver, consent order or consent decree of or from, or notice to, action by or filing with, any Governmental Authority (including any Gaming Authority).

“Governmental Charges” shall mean, with respect to any Person, all levies, assessments, fees, claims or other charges imposed by any Governmental Authority upon such Person or any of its property or otherwise payable by such Person.

“Governmental Rule” shall mean any law, rule, regulation, ordinance, order, code interpretation, judgment, decree, directive, Governmental Authorization, guidelines, policy or similar form of decision of any Governmental Authority (including any Gaming Laws).

“Guaranty Obligation” shall mean, with respect to any Person, any direct or indirect liability of that Person with respect to any indebtedness, lease, dividend, letter of credit or other obligation (the “primary obligations”) of another Person (the “primary obligor”), including any obligation of that Person, whether or not contingent, (a) to purchase, repurchase or otherwise acquire such primary obligations or any property constituting direct or indirect security therefor, or (b) to advance or provide funds (i) for the payment or discharge of any such primary obligation, or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency or any balance sheet item, level of income or financial condition of the primary obligor, or (c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, or (d) otherwise to assure or hold harmless the holder of any such primary obligation against loss in respect thereof, provided that the term “Guaranty Obligation” shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Guaranty Obligation shall be deemed equal to the stated or determinable amount of the primary obligation in respect of which such Guaranty Obligation is made or, if not stated or if indeterminable, the maximum liability in respect thereof.

“Hazardous Materials” shall mean: (a) any material, substance, chemical, gas, vapor or waste which is defined as a “hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” “restricted hazardous waste,” “contaminant,” “pollutant,” “toxic waste” or “toxic

substance” under any provision of Hazardous Materials Laws or any other formulations intended to define, list or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproduction toxicity, “TCLP toxicity” or “EP toxicity” or words of similar import under any provision of Hazardous Materials Laws; (b) any asbestos or asbestos containing materials in any form that is or could become friable, tremolite, anthophyllite, actinolite; (c) any solvents, degreasers, heavy metals, refrigerants, nitrates, urea formaldehyde, polychlorinated biphenyls, dioxins, petroleum and petroleum products and derivatives, fuel additives, ethanol, bio-fuels, methyl tertiary butyl ether, per- and polyfluoroalkyl substances; and (d) any other product, byproduct, compound, substance, chemical, material, waste; solid, liquid, gaseous or thermal irritant; greenhouse gas; carbon emission; atomic, molecular and macromolecular nanomaterials; and microbial material whose presence, characteristics, nature, quantity, intensity, existence, use, manufacture, possession, handling, disposal, transportation, spill, Release, threatened Release, Remedial Action or effect, either by itself or in combination with other materials is or is allegedly: (x) injurious, dangerous, toxic, hazardous to human health, safety or welfare or any other portion of the environment or natural resources; (y) is now or at any time in the future becomes regulated, defined, listed, prohibited, controlled, studied or monitored in any manner by any Governmental Authority or Hazardous Materials Laws; or (z) a basis for liability, responsibility, or duty owed to any Governmental Authority or private or public third party.

“Hazardous Materials Laws” shall mean any applicable present or future regional, state, federal and local laws, statutes, regulations, rules, ordinances and the like, as well as consent orders, administrative orders, enforcement actions and other governmental written directives, agency guidance materials and common law relating to flood control or the protection of the environment, natural resources or human health and safety, including, without limitation: (i) environmental matters, including, without limitation, those relating to fines, injunctions, penalties, damages, contribution, cost recovery compensation, losses or injuries resulting from or relating to any Release, threatened Release, intrusion, or migration of any Hazardous Materials; (ii) the generation, use, storage, treatment, transportation, disposal, management, monitoring, reporting, of Hazardous Materials or the Release or threatened Release of Hazardous Materials; or (iii) occupational safety and health or industrial hygiene; in any manner applicable to Indemnitor or to any of its real properties; including, without limitation, the Federal Water Pollution Control Act (33 U.S.C. § 1251, *et seq.*, as amended), the Resource Conservation and Recovery Act (42 U.S.C. § 6901, *et seq.*, as amended), , the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 *et seq.*, as amended), the Toxic Substances Control Act (15 U.S.C. § 2601, *et seq.*, as amended), the Hazardous Materials Transportation Act (49 U.S.C. § 1801, *et seq.*), the Clean Air Act (42 U.S.C. § 7401, *et seq.*, as amended), the Occupational Safety and Health Act (29 U.S.C. § 651, *et seq.*, as amended), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001, *et seq.*, as amended), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 136 *et seq.*, as amended), the Rivers and Harbors Act (33 U.S.C. § 401, *et seq.*, as amended), the Endangered Species Act (16 U.S.C. § 1531, as amended), the Safe Drinking Water Act, 42 USC 300f *et seq.*, as amended, and all analogous state laws, including, without limitation, Chapter 455 B of the Iowa Code and the Uniform Fire Code (1988 Edition), and all rules and regulations promulgated thereunder, from time to time, as amended, by any state or federal agency or any other governmental organization or agency having jurisdiction over any of the Real Property; all as recodified, amended or supplemented. The term “Hazardous Materials Laws” also includes, without limitation, any present and future federal, state and local laws, statutes ordinances, rules, regulations and the like, as well as common law conditioning transfer of real property upon a negative declaration or other approval of a governmental authority of the environmental condition of the Real Property; requiring notification or disclosure of the Release or threatened Release of Hazardous Materials or other environmental condition of the Real

Property to any Governmental Authority or other Person, whether or not in connection with transfer of title to or interest in property; imposing conditions or requirements in connection with any Permit.

“Hilton Letter Agreement” shall mean that certain letter ~~of consent agreement~~ dated ~~June 13, 2014~~ as of the Phase II Closing Date, from Hilton ~~Garden Inns~~ Franchise, Holding LLC to Lender ~~(s/b/m/ American Trust & Savings Bank)~~.

“Hilton Franchise Agreement” shall mean that certain ~~Hilton~~ Franchise Agreement dated July 3, 2023 by and between DRA and Hilton Franchise Holding, LLC.

“Hilton Tapestry Hotel” shall mean the Hilton Tapestry hotel to be constructed on the Casino Real Property as part of the Phase II Casino Project.

“Indebtedness” of any Person shall mean, without duplication:

(a) All obligations of such Person evidenced by notes, bonds, debentures or other similar instruments and all other obligations of such Person for borrowed money (including the Loans and obligations to repurchase receivables and other assets sold with recourse);

(b) All obligations of such Person for the deferred purchase price of property or services (including obligations under letters of credit and other credit facilities which secure or finance such purchase price), except for trade accounts arising in the ordinary course of such Person’s business payable on terms customary in the trade);

(c) All obligations of such Person under conditional sale or other title retention agreements with respect to property acquired by such Person (to the extent of the value of such property if the rights and remedies of the seller or Lender under such agreement in the event of default are limited solely to repossession or sale of such property);

(d) All obligations of such Person as lessee under or with respect to Finance Leases and synthetic leases and all other off-balance sheet financing;

(e) All obligations of such Person, contingent or otherwise, under or with respect to Surety Instruments;

(f) All obligations of such Person arising under acceptance facilities or under facilities for the discount of accounts receivable of such Person;

(g) All Contingent Obligations of such Person;

(h) If any Rate Contract to which such Person is a party is terminated, all obligations of such Person (including the related Termination Value) under all such terminated Rate Contracts;

(i) All obligations of such Person with respect to letters of credit, whether drawn or undrawn, contingent or otherwise;

(j) All Swap Indebtedness including all principal and interest together with all other indebtedness and costs and expenses for which Borrower is responsible under the Phase I Note and the

Phase II Note, or under any of the Credit Documents, or under any of the Swap Transaction Documents. Specifically, without limitation, the indebtedness and obligations of the Borrower shall also include all assessments, losses, fees and costs of any kind or nature incurred by Lender under any and all Swap Transaction Documents by and between Borrower and Lender, which arise, directly or indirectly, as a result of ~~Borrower's~~Borrower's prepayment of the principal amount of the Phase I Note and the Phase II Note, in whole or in part, whether voluntary or involuntary.

(k) All Guaranty Obligations of such Person with respect to the obligations of other Persons of the types described in clauses (a) - ~~(kj)~~ above; and

(l) All obligations of other Persons ("primary obligors") of the types described in clauses (a) - ~~(kj)~~ above to the extent secured by (or for which any holder of such obligations has an existing right, contingent or otherwise, to be secured by) any Lien on any property (including accounts and contract rights) of such Person, even though such Person has not assumed or become liable for the payment of such obligations (and, for purposes of this clause (i), the amount of the Indebtedness of such Person shall be deemed to be the lesser of (x) the amount of all obligations of such primary obligors so secured by (or for which any holder of such obligations has an existing right, contingent or otherwise, to be secured by) the property of such Person and (y) the value of such property).

To the extent not included above, "Indebtedness" shall include all Obligations.

"Indemnified Taxes" shall mean (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of Borrower under any Credit Document and (b) to the extent not otherwise described in (a), Other Taxes.

"Indemnitees" shall have the meaning given to that term in Section 8.3.

"Interest Expense" shall mean, for any period, the sum, for Borrower (determined on a consolidated basis without duplication in accordance with GAAP), of the following: (a) all interest, fees, charges and related expenses payable during such period to any Person in connection with Indebtedness or the deferred purchase price of assets that are treated as interest in accordance with GAAP, (b) the portion of rent actually paid during such period under Finance Leases that should be treated as interest in accordance with GAAP and (c) the net amounts payable (or minus the net amounts receivable) under Rate Contracts accrued during such period (whether or not actually paid or received during such period).

"Investment" of any Person shall mean (a) any loan or advance of funds by such Person to any other Person (other than advances to employees of such Person for moving and travel expenses, drawing accounts and similar expenditures in the ordinary course of business consistent with past practice), any purchase or other acquisition of any Equity Securities or Indebtedness of any other Person, any capital contribution by such Person to or any other investment by such Person in any other Person (including (x) any Guaranty Obligations of such Person with respect to any obligations of any other Person and (y) any payments made by such Person on account of obligations of any other Person) or (b) any acquisition of real property; provided, however, that Investments shall not include (i) accounts receivable or other indebtedness owed by customers of such Person (other than Borrower) which are current assets and arose from sales of inventory in the ordinary course of such Person's business consistent with past practice or (ii) prepaid expenses of such Person incurred and prepaid in the ordinary course of business consistent with past practice. For avoidance of doubt, the parties acknowledge and agree that an advance

of funds, capital contribution or other transfer of property by Borrower (whether in the form of cash or otherwise) to any Person, to the extent such advance, contribution, or other transfer constitutes a charitable distribution by Borrower required by (i) the terms of the Schmitt Island Lease and/or (ii) Iowa law, as it pertains to Borrower in its capacity as a qualified sponsoring organization, shall not, for purposes of this Agreement, constitute or be deemed to be an Investment.

“Joint Venture” shall mean a joint venture, limited liability company, corporation, partnership, other entity or other legal arrangement (whether created pursuant to a contract or conducted through a separate legal entity) formed by Borrower and one or more other Persons.

“Leasehold Mortgage” shall mean that certain Leasehold Mortgage, Fixture Filing and Security Agreement with Absolute Assignment of Leases and Rents, dated as of the Phase I Closing Date, and as amended by that certain First Amendment to Leasehold Mortgage, Fixture Filing and Security Agreement with Absolute Assignment of Leases and Rents, dated as of the Phase II Closing Date, and as from time to time further amended, modified, supplemented, restated, or amended and restated, executed by DRA in favor of Lender.

“Lender” shall have the meaning given to such term in the introductory paragraph hereof and shall include Lender’s successors and assigns.

“Lender Bank Products” shall mean each and any of the following types of services or facilities extended to Borrower by Lender: (a) commercial credit cards; (b) cash management services (including treasury management services, purchasing card services, daylight overdrafts, multicurrency accounts, merchant card services, controlled disbursement services, ACH transactions, and interstate depository network services), and (c) returned items and foreign exchange services and facilities. For the avoidance of doubt, this definition shall include all such services or facilities extended prior to the Phase I Closing Date.

“Lender Rate Contract(s)” shall mean one or more Rate Contracts between Borrower and one or more Lender Rate Contract Counterparties with respect to the Indebtedness evidenced by this Agreement and/or the Existing Credit Agreements, on terms acceptable to Borrower and any Lender Rate Contract Counterparty that is a party to such Rate Contract. The Obligations arising under a Lender Rate Contract shall be secured by the Liens created by the Security Documents to the extent set forth in Section 2.428(a). For the avoidance of doubt, this definition shall include all such Rate Contracts entered into prior to the Phase II Closing Date.

“Lender Rate Contract Counterparty” shall mean any Lender or Affiliate of a Lender that is a party to a Lender Rate Contract.

“License Revocation” shall mean the loss, revocation, failure to renew, termination or suspension of any Gaming License issued by any Gaming Authority covering any Gaming Facility or any portion of the gaming activity of Borrower.

“Licenses” shall mean, collectively, any and all licenses (including provisional licenses and applicable gaming licenses), certificates of need, accreditations, permits, franchises, rights to conduct business, approvals (by a Governmental Authority or otherwise), consents, qualifications, operating authority and any other authorizations.

“Lien” shall mean, with respect to any property, any security interest, mortgage, pledge, lien, charge or other encumbrance in, of, or on such property or the income therefrom, including, without limitation, the interest of a vendor or lessor under a conditional sale agreement, Finance Lease or other title retention agreement, or any agreement to provide any of the foregoing, and the filing of any financing statement or similar instrument under the Uniform Commercial Code or comparable law of any jurisdiction.

“Line of Credit” shall have the meaning given to that term in the recitals hereof.

“Line of Credit Maturity Date” shall have the meaning given in the Line of Credit Note.

“Line of Credit Note” shall have the meaning given to that term in Section 2.5(g).

“Loan” shall mean the Line of Credit, the Schmitt Island Term Loan, the Phase I Construction Loan, the Phase I Term Loan, the Phase II Construction Loan, or the Phase ~~III~~ Term Loan (or, as the context may require, a portion of thereof).

“Loan Account” shall have the meaning given to that term in Section 2.5(a).

“Management Agreements” shall mean any other management agreement or similar agreement between Borrower and a Management Company.

“Management Companies” shall mean any Person engaged by Borrower or any Affiliate thereof to manage a Gaming Facility.

“Margin Stock” shall have the meaning given to that term in Regulation U issued by the Federal Reserve Board.

“Material Adverse Effect” shall mean any event or circumstance that has or could reasonably be expected to have a material adverse effect on (a) the assets, liabilities, financial condition, business operations, or performance of Borrower (taken as a whole); (b) the ability of Borrower to pay or perform the Obligations in accordance with the terms of this Agreement and the other Credit Documents; (c) the rights and remedies of Lender under this Agreement, the other Credit Documents or any related document, instrument or agreement; (d) the value of the Collateral, Lender’s security interest in the Collateral, or the perfection or priority of such security interests; (e) the validity or enforceability of any of the Credit Documents, or (f) the use, occupancy or operation of any Gaming Facility or any material portion thereof.

“Material Contract” shall mean (i) the Schmitt Island Lease, (ii) the Operating Agreement, (iii) the Construction Budget, (iv) the Phase II Construction Budget, (v) the General Contractor Agreement, ~~(vi)~~ each Construction Contract, ~~(vii)~~ the Architect’s Agreement, ~~(viii)~~ the Development Management Agreement, ~~(ix)~~ the Plans and Specifications, ~~(x)~~ the Swap Transaction Documents, ~~(xi)~~ the Construction Loan Disbursing Agreement, and (xii) any agreement or arrangement to which Borrower is a party (other than the Credit Documents) with respect to which breach, termination, nonperformance or failure to renew could reasonably be expected to have a Material Adverse Effect.

“Material Documents” shall mean the (i) articles of incorporation, certificate of incorporation, certificate of organization, limited liability company agreement, by-laws and other organizational documents of Borrower and (ii) Material Contracts.

“Maturity” shall mean, with respect to any Loan, interest, fee or other amount payable by Borrower under this Agreement or the other Credit Documents, the date such Loan, interest, fee or other amount becomes due, whether upon the stated maturity or due date, upon acceleration or otherwise.

“Maturity Date” shall mean (a) for Obligations in respect of Schmitt Island Term Loan, the Schmitt Island Term Loan Maturity Date, (b) for Obligations in respect of Phase I Construction Loan, the Phase I Construction Loan Conversion Date, and (c) for Obligations in respect of the Phase I Term Loan, the Phase I Term Loan Maturity Date, (d) for Obligations in respect of Phase II Construction Loan, the Phase II Construction Loan Conversion Date, (e) for Obligations in respect of the Phase II Term Loan, the Phase II Term Loan Maturity Date, and (f) for the Obligations in respect of the Line of Credit, the Line of Credit Maturity Date.

“Negative Pledge” shall mean a Contractual Obligation which contains a covenant binding on Borrower that prohibits Liens on any Property constituting Collateral, other than (a) any such covenant contained in a Contractual Obligation granting or relating to a particular Permitted Lien which affects only the Property that is the subject of such Permitted Lien and (b) any such covenant that does not apply to Liens securing the Obligations. For avoidance of doubt, the parties hereto expressly acknowledge and agree that the term Negative Pledge, as used in this Agreement, shall not be applicable to any of the Excluded Assets.

“Net Condemnation Proceeds” shall mean an amount equal to: (a) any cash payments or proceeds received by Borrower or Lender as a result of any condemnation or other taking or temporary or permanent requisition of any property, any interest therein or right appurtenant thereto, or any change of grade affecting any property, as the result of the exercise of any right of condemnation or eminent domain by a Governmental Authority (including a transfer to a Governmental Authority in lieu or anticipation of a condemnation), minus (b) (i) any actual and reasonable costs incurred by Borrower in connection with any such condemnation or taking (including reasonable fees and expenses of counsel), and (ii) provisions for all taxes payable as a result of such condemnation, without regard to the consolidated results of operations of Borrower, taken as a whole.

“Net Insurance Proceeds” shall mean an amount equal to: (a) any cash payments or proceeds received by Borrower or Lender under any casualty policy in respect of a covered loss thereunder with respect to any property, minus (b) (i) any actual and reasonable costs incurred by Borrower in connection with the adjustment or settlement of any claims of Borrower in respect thereof (including reasonable fees and expenses of counsel) and (ii) provisions for all taxes payable as a result of such event without regard to the consolidated results of operations of Borrower, taken as a whole.

“Net Proceeds” shall mean:

(a) With respect to any sale of any asset or property by any Person, (i) the aggregate consideration received by such Person from such sale, minus (ii) the sum of (A) the actual amount of the reasonable fees and commissions payable to Persons other than such Person or any Affiliate of such Person, the reasonable legal expenses and other costs and expenses directly related to such sale that are to

be paid by such Person and (B) the amount of any Indebtedness (other than the Obligations) which is secured by such asset and is required to be repaid or prepaid by such Person as a result of such sale;

(b) With respect to any issuance or incurrence of any Indebtedness by any Person, (i) the aggregate consideration received by such Person from such issuance or incurrence, minus (ii) the sum of (A) the actual amount of the reasonable fees and commissions payable by such Person other than to any of its Affiliates and (B) the reasonable legal expenses and the other reasonable costs and expenses directly related to such issuance or incurrence that are to be paid by such Person other than to any of its Affiliates; and

(c) With respect to any issuance of Equity Securities by any Person, (i) the aggregate consideration received by such Person from such issuance, minus (ii) the sum of (A) the actual amount of the reasonable fees and commissions payable by such Person other than to any of its Affiliates and (B) the reasonable legal expenses and the other reasonable costs and expenses directly related to such issuance that are to be paid by such Person other than to any of its Affiliates.

“Non-Wholly-Owned Subsidiary” shall mean a direct or indirect Subsidiary of Borrower that is not a Wholly-Owned Subsidiary.

“Note” shall mean the Line of Credit Note, the Schmitt Island Term Loan Note, the Phase I Note, or the Phase III Note, as the case may be.

~~“Notice” shall have the meaning set forth in Section 8.1(b).~~

“Obligations” shall mean and include (a) all loans, advances, debts, liabilities and obligations, howsoever arising, owed or owing by Borrower to Lender of every kind and description (whether or not evidenced by any note or instrument and whether or not for the payment of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising pursuant to the terms of this Agreement or any of the other Credit Documents, including without limitation all interest (including interest that accrues after the commencement of any bankruptcy or other insolvency proceeding by or against Borrower, whether or not allowed or allowable), fees, charges, expenses, reasonable attorneys’ fees and reasonable accountants’ fees chargeable to and payable by Borrower hereunder and thereunder and (b) any and all obligations, howsoever arising, owed or owing by Borrower to Lender under or in connection with any Lender Rate Contract or Lender Bank Product (provided that if any such Lender Party ceases to be a Lender or an Affiliate of a Lender hereunder, such obligations under this clause (b) shall be limited to those that relate to any transaction entered into under any such Lender Rate Contract or any Lender Bank Product extended or provided prior to the date such party ceased to be a Lender or an Affiliate of a Lender); provided that “Obligations” shall exclude all Excluded Swap Obligations.

~~“Opening Date” shall mean the first date on which the Phase I Casino Project is substantially completed (other than “punch list” items) and open to the public as an operating casino with substantially all of the material facilities and amenities described in the Plans and Specifications.~~

“Operating Agreement” shall mean that certain Operating Agreement dated January 1, 2019, by and between by and between Dubuque Racing Association, Ltd. and Diamond Jo, LLC, which provides for certain annual payments by Diamond Jo, LLC to DRA.

“Other Connection Taxes” shall mean, with respect to Lender, Taxes imposed as a result of a present or former connection between Lender and the jurisdiction imposing such Tax (other than connections arising from Lender having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Credit Document, or sold or assigned an interest in any Loan or Credit Document).

“Other Taxes” shall mean all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Credit Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment ~~(other than an assignment made pursuant to Section 2.13(b)).~~

“Participant” shall have the meaning given to that term in Section 8.5(b).

“Participation Seller” shall have the meaning given to that term in Section 8.5(hg).

“Patriot Act” shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 (commonly known as the USA Patriot Act).

“Permit” shall mean any permit, approval, license, certification, authorization, letter, notice, clearance, consent, waiver, closure, exemption, decision or other action required under or issued, granted, given, authorized by or made pursuant to Hazardous Materials Laws, together with any amendments or renewals thereof.

“Permitted Indebtedness” shall have the meaning given to that term in Section 5.2(a).

“Permitted Liens” shall have the meaning given to that term in Section 5.2(b).

“Person” shall mean and include an individual, a partnership, a corporation (including a business trust), a non-profit corporation, a joint stock company, an unincorporated association, a limited liability company, a joint venture, a trust or other entity or a Governmental Authority.

“Phase I Casino Project” shall mean the improvements to be constructed in accordance with the Plans and Specifications in Dubuque County, Iowa and described in the Plans and Specifications, including without limitation: (i) the temporary relocation of the casino floor to the former dog track betting area, (ii) upgrading HVAC systems in current casino, (iii) paved parking areas, including lighting and entry and exit ways and (iv) related facilities and appurtenances (including, without limitation, curbs, grading, storm and sanitary sewers, paving, sidewalks, landscaping, hardscaping, sprinklers, electric lines, gas lines, telephone lines, cable television lines, fiber optic lines, pipelines and other utilities) necessary to make the Casino Real Property suitable for the construction and operation of a casino thereon. The construction and completion of the Phase I Casino Project includes the equipping, furnishing and opening of the Phase I Casino Project to the public and “construction of the Phase I Casino Project,” “completion of the Phase I Casino Project” and “total project costs of the Phase I Casino Project” and similar phrases shall include the construction, equipping, furnishing and opening of the Phase I Casino Project to the public prior to and as of the date construction is completed.

“Phase I Closing Date” shall mean October 20, 2023.

“Phase I Construction Loan” shall mean each advance made by Lender pursuant to Section 2.1(a)(~~iiii~~).

“Phase I Construction Loan Borrowing” shall mean a borrowing by Borrower consisting of the Phase I Construction Loan made by Lender to Borrower.

“Phase I Construction Loan Commitment” shall mean, at any time, up to Twenty-Seven Million Seven Hundred Seventy-Seven Thousand Eight Hundred Twenty-One Dollars (\$27,777,821), provided, however, at no time shall the total amount of the Loans exceed seventy-five percent (75%) of the total Phase I Casino Project Costs based upon the Construction Budget ~~or seventy five percent (75%) of the Appraised Value of the Real Property Collateral and the Gaming Operations.~~

“Phase I Construction Loan Conversion Date” shall mean May 1, 2025.

“Phase I Construction Loan Rate” means the *per annum* rate of interest determined on the basis of the Prime Rate as reported in the “Money Rates” section of The Wall Street Journal or a substitute source reasonably determined by Lender in the event such source is no longer available. The Phase I Construction Loan Rate will initially be the Prime Rate as of the date of the Phase I Note, and will be adjusted effective on the date any change in such rate is reported.

“Phase I Note” shall have the meaning given to that term in Section 2.5(c).

“Phase I Opening Date” shall mean the first date on which the Phase I Casino Project is substantially completed (other than “punch-list” items) and open to the public as an operating casino with substantially all of the material facilities and amenities described in the Plans and Specifications.

“Phase I Term Loan Borrowing” shall mean a borrowing by Borrower consisting of the Phase I Term Loan made by Lender to Borrower.

“Phase I Term Loan Commitment” shall mean, at any time, up to Twenty-Seven Million Seven Hundred Seventy-Seven Thousand Eight Hundred Twenty-One Dollars (\$27,777,821), provided, however, at no time shall the total amount of the Loans exceed seventy-five percent (75%) of the total Phase I Casino Project Costs based upon the Construction Budget ~~or seventy five percent (75%) of the Appraised Value of the Real Property Collateral and the Gaming Operations.~~

“Phase I Term Loan Maturity Date” shall mean, May 1, 2035.

“Phase I Term Loan Rate” means the *per annum* variable rate of interest equal to 250 basis points above the 1-month Term SOFR converted to a fixed rate at the execution of the interest rate swap agreement. Borrower may choose to enter into a forward lock interest rate swap with Lender in order to protect Borrower from adverse movements in interest rates (SOFR). Such interest rate swap must be executed in conjunction with closing of the Phase I Term Loan.

“Phase I Title Policy” means an ALTA Loan Policy of Title Insurance issued by the Title Company, with a liability limit in the amount of Forty-One Million Ten Thousand Four Hundred Twenty-Five and 9/100 Dollars (\$41,010,425.09), and with coverage and in form satisfactory to Lender, insuring

Lender's interest under the Leasehold Mortgage as a valid first lien on the Casino Real Property, together with such reinsurance (with direct access to the reinsurers thereunder) or coinsurance agreements and such endorsements to the Title Policy as Lender may require. The Title Policy shall not be subject to any exceptions of any kind whatsoever other than the matters approved by Lender in writing.

"Phase II Casino Project" shall mean the improvements to be constructed in accordance with the Plans and Specifications in Dubuque County, Iowa and described in the Plans and Specifications, including without limitation: (i) the construction and furnishing of a 7-story, 90 room Hilton Tapestry hotel including a rooftop restaurant with banquet space to be located between the existing gaming facilities and existing Hilton Garden Inn, (ii) repairs and upgrades to the parking lot, (iii) upgrade outside areas to maximize aesthetics, and (iv) make other improvements as determined so that Phase I and Phase II projects fully complement each other. The construction and completion of the Phase II Casino Project includes the equipping, furnishing and opening of the Phase II Casino Project to the public and "construction of the Phase II Casino Project," "completion of the Phase II Casino Project" and "total project costs of the Phase II Casino Project" and similar phrases shall include the construction, equipping, furnishing and opening of the Phase II Casino Project to the public prior to and as of the date construction is completed.

"Phase II Closing Date" shall mean the time and Business Day on which the consummation of all of the transactions contemplated in Section 3.1(g) occurs.

"Phase II Completion Date" shall mean the date on which the Phase II Casino Project is fully completed (including all "punch-list" items) as described in the Plans and Specifications.

"Phase II Construction Budget" shall mean the projections and budgets, prepared by Borrower or General Contractor setting forth the total fees, costs and expenses anticipated to be incurred in connection with the completion of the Phase II Casino Project (together with all material supporting contracts) (as such projections and budgets may be revised from time to time in accordance with the provisions of this Agreement). The Phase II Construction Budget shall, among other things, break out furniture, fixture, and equipment and related costs from the other costs of the Phase II Casino Project. The initial Phase II Construction Budget shall be the document titled the "AIA Document G701-2017 – Change Order" dated as of [REDACTED] and provided to Lender prior to the Phase II Closing Date.

"Phase II Construction Loan" shall mean each advance made by Lender pursuant to Section 2.1(a)(iv).

"Phase II Construction Loan Disbursing Agreement" shall mean that certain Construction Loan Disbursing Agreement, dated as of the Phase II Closing Date, among First American Title Company, Lender and DRA.

"Phase II Construction Loan Borrowing" shall mean a borrowing by Borrower consisting of the Phase II Construction Loan made by Lender to Borrower.

"Phase II Construction Loan Commitment" shall mean, at any time, up to Thirty-Four Million Four Hundred Seventy-Two Thousand One Hundred Seventy-Nine and 00/100 Dollars (\$34,472,179.00), provided, however, at no time shall the total amount of the Loans exceed seventy-five percent (75%) of the total Phase II Casino Project Costs based upon the Phase II Construction Budget.

“Phase II Construction Loan Conversion Date” shall mean December 1, 2025.

“Phase II Construction Loan Rate” means the *per annum* rate of interest determined on the basis of the Prime Rate as reported in the “Money Rates” section of The Wall Street Journal or a substitute source reasonably determined by Lender in the event such source is no longer available. The Phase II Construction Loan Rate will initially be the Prime Rate as of the date of the Phase II Note and will be adjusted effective on the date any change in such rate is reported.

“Phase II Deposited Loan Funds” shall mean the proceeds of the Loans advanced on the Phase II Disbursement Deposit Date and deposited in the Disbursement Account.

“Phase II Disbursement Deposit Date” shall mean the Phase II Construction Loan Conversion Date.

“Phase II Environmental Indemnity Agreement” shall mean that certain Certificate and Indemnification Regarding Hazardous Substances, dated as of the Phase II Closing Date, executed by Borrower in favor of Lender.

“Phase II Note” shall have the meaning given to that term in Section 2.5(e).

“Phase II Opening Date” shall mean the first date on which the Phase II Casino Project is substantially completed (other than “punch-list” items) and open to the public as an operating hotel with substantially all of the material facilities and amenities described in the Plans and Specifications.

“Phase II Term Loan Borrowing” shall mean a borrowing by Borrower consisting of the Phase II Term Loan made by Lender to Borrower.

“Phase II Term Loan Commitment” shall mean, at any time, up to Thirty-Two Million Four Hundred Seventy-Two Thousand One Hundred Seventy-Nine Dollars (\$34,472,179.00), provided, however, at no time shall the total amount of the Loans exceed seventy-five percent (75%) of the total Phase II Casino Project Costs based upon the Phase II Construction Budget.

“Phase II Term Loan Maturity Date” shall mean, January 1, 2036.

“Phase II Term Loan Rate” means the *per annum* variable rate of interest equal to 250 basis points above the 1-month Term SOFR converted to a fixed rate at the execution of the interest rate swap agreement. Borrower may choose to enter into a forward lock interest rate swap with Lender in order to protect Borrower from adverse movements in interest rates (SOFR). Such interest rate swap must be executed in conjunction with closing of the Phase II Term Loan.

“Phase II Title Policy” means an ALTA Loan Policy of Title Insurance issued by the Title Company, with a liability limit in the amount of Thirty-Four Million Four Hundred Seventy-Two Thousand One Hundred Seventy-Nine Dollars (\$34,472,179.00) and with coverage and in form satisfactory to Lender, insuring Lender’s interest under the Leasehold Mortgage as a valid first lien on the Casino Real Property, together with such reinsurance (with direct access to the reinsurers thereunder) or coinsurance agreements and such endorsements to the Title Policy as Lender may require. The Title Policy shall not be subject to any exceptions of any kind whatsoever other than the matters approved by Lender in writing.

“Plans and Specifications” shall mean the drawings, plans, specifications, construction plan and timetable prepared by the Architect for DRA in connection with the Phase-I Casino Project, and Phase II Casino Project (as may be amended to reflect the existing change orders set forth on Schedule I), as the same may be further amended, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, all of which plans and specifications describe and show the construction of the Phase I Casino Project and Phase II Casino Project and the labor and materials necessary for the construction thereof.

“Prime Rate” shall mean the *per annum* rate of interest (rounded upwards to the nearest 1/100 of one percent) most recently reported in the “Money Rates” section of The Wall Street Journal or a substitute source reasonably determined by Lender in the event such source is no longer available.

“Rate Contract” shall mean any agreement with respect to any swap, cap, collar, hedge, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions, including any “swap agreement” (as defined in 11 U.S.C. § 101).

“Real Property” shall mean that real property described on Schedule 4.1(h)(i).

“Real Property Security Documents” shall mean (a) the Schmitt Island Lease, (b) the Leasehold Mortgage, and (c) the Schmitt Island Lease Subordination Agreement.

“Receipt Date” shall have the meaning given to that term in Section 2.3(c)(iii).

“Release(s)” shall mean any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of Hazardous Materials into the indoor or outdoor environment (including, without limitation, the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Materials), or into or out of any Real Property, structure, vessel or vehicle, including, without limitation, the movement of any Hazardous Materials into or through the air, soil, soil gas, surface water, groundwater or other media.

“Remedial Action” shall mean action, including any capital expenditures, required or voluntarily undertaken to (a) cleanup, abate, remove, respond, contain, remediate, mitigate, treat, cap or in any other way address, respond to or alter any Hazardous Materials or any Release of any Hazardous Materials; (b) prevent the Release or to minimize the further Release of any Hazardous Materials so it does not migrate or endanger or threaten to endanger public health, safety, welfare or the environment; (c) perform pre-remedial evaluations, assessments, studies and investigations, post-remedial monitoring, assessments and care concerning any Release of Hazardous Materials; (d) re-open any closed or completed action to respond to any Hazardous Materials Release; (e) bring all operations conducted into compliance with Hazardous Materials Laws; or (f) assess, investigate, evaluate, study, restore, replace or compensate for any injured or damaged portion of natural resources or the environment.

“Requirement of Law” applicable to any Person shall mean (a) the articles or certificate of incorporation, certificate of organization, limited liability company agreement, by-laws or other organizational or governing documents of such Person, (b) any Governmental Rule applicable to such Person, (c) any Governmental Authorization granted by or obtained from any Governmental Authority or under any Governmental Rule for the benefit of such Person or (d) any judgment, decision, award, decree,

writ or determination of any Governmental Authority or arbitrator, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Responsible Officer” shall mean, with respect to Borrower, the chief executive officer, president, chief financial officer or director of finance of Borrower. Any document delivered hereunder that is signed by a Responsible Officer and any request or other communication conveyed telephonically or otherwise by a Responsible Officer shall be conclusively presumed to have been authorized by all necessary corporate, company, partnership and/or other action on the part of Borrower and such Responsible Officer shall be conclusively presumed to have acted on behalf of Borrower.

“Sale and Leaseback” shall mean, with respect to any Person, the sale of Property owned by such Person (the “Seller”) to another Person (the “Buyer”), together with the substantially concurrent leasing of such Property by the Buyer to the Seller.

“Schmitt Island Lease” shall mean that certain Amended and Restated Lease Agreement, dated as of September 19, 2023, by and between Borrower and the City of Dubuque, Iowa with respect to the Casino Real Property as amended, restated, modified and supplemented from time to time and in effect at any given time if such amendment, restatement, modification or supplement is permitted hereby or thereby.

“Schmitt Island Lease Subordination Agreement” shall mean that certain Subordination Agreement, dated as of October 20, 2023, by and among Borrower, Lender, Dubuque Initiatives, and the City of Dubuque, Iowa.

“Schmitt Island Term Loan” shall mean each advance made by Lender pursuant to Section 2.1(a)(i).

“Schmitt Island Term Loan Borrowing” shall mean a borrowing by Borrower consisting of the Schmitt Island Term Loans made by Lender to Borrower.

“Schmitt Island Term Loan Rate” means the *per annum* rate of interest equal to ~~the five (5) year Treasury Note plus 1.75%, notwithstanding the foregoing, at no time shall such rate be less than seven percent (7.00%) per annum, to be fixed within fourteen (14) days of the Closing Date.%)~~.

“Schmitt Island Term Loan Commitment” shall mean, at any time, One Million Nine Hundred Thirty-Nine Thousand Three Hundred Seventy-Five Dollars and Nine Cents (\$1,939,375.09).

“Schmitt Island Term Loan Maturity Date” shall mean April 1, 2029.

“Schmitt Island Term Loan Note” shall have the meaning given to that term in Section 2.5(b).

“Security Agreement” shall mean that certain Security Agreement, dated as of the Phase I Closing Date, among Borrower and Lender.

“Security Documents” shall mean and include the Security Agreement, each Real Property Security Document, the Assignment of Architect’s Agreement, each Assignment of Construction Contracts, the Assignment of General Contractor Agreement, the Hilton Letter Agreement, each pledge agreement or security agreement delivered in accordance with Section 5.1(i), and all other instruments,

agreements, certificates, opinions and documents (including Uniform Commercial Code financing statements and fixture filings) delivered to Lender in connection with any Collateral or to secure the Obligations under the Credit Documents.

“Solvent” shall mean, with respect to any Person on any date, that on such date (a) the fair value of the property of such Person is greater than the fair value of the liabilities (including contingent, subordinated, matured and unliquidated liabilities) of such Person, (b) the present fair saleable value of the assets of such Person is greater than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person has not incurred or is not about to incur debts or liabilities beyond such Person’s ability to pay as such debts and liabilities become due in the ordinary course of such Person’s activities and (d) such Person is not engaged in or about to engage in business or transactions for which such Person’s property would constitute an unreasonably small capital.

“Subordinated Obligations” shall mean, as of any date of determination (without duplication), (a) any Management Fees and (b) any other Indebtedness of Borrower on that date which has been subordinated in right of payment to the Obligations in a manner reasonably satisfactory to Lender and contains such other protective terms with respect to senior debt (such as amount, maturity, amortization, interest rate, covenants, defaults, remedies, payment blockage and terms of subordination) as Lender may reasonably require.

“Subsidiary” of any Person shall mean (a) any corporation of which more than fifty percent (50%) of the issued and outstanding Equity Securities having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency) is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more of its other Subsidiaries or by one or more of such Person’s other Subsidiaries, (b) any partnership, joint venture, limited liability company or other association of which more than 50% of the Equity Securities having the power to vote, direct or control the management of such partnership, joint venture or other association is at the time owned and controlled by such Person, by such Person and one or more of the other Subsidiaries or by one or more of such Person’s other Subsidiaries or (c) any other Person included in the Financial Statements of such Person on a consolidated basis. Unless otherwise indicated in this Agreement, “Subsidiary” shall mean a Subsidiary of Borrower.

“Surety Instruments” shall mean all letters of credit (including standby and commercial), banker’s acceptances, bank guaranties, shipside bonds, surety bonds and similar instruments.

“Swap Indebtedness” shall mean indebtedness, liabilities, fees, costs, assessments, or obligations, now existing or hereafter arising, due or to become due, absolute or contingent, of Borrower to Lender under any Swap Transaction, Swap Transaction Documents, or Financial Contract.

“Swap Transactions” or a “Swap” and/or “Swap Transaction” shall mean one or more agreements between Borrower and Lender with respect to any interest rate swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more interest rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk of value.

“Swap Transaction Documents” shall mean any and all documents related to any Swap Transactions by and between the Borrower and Lender, including but not limited to the following: 2002 Multicurrency-Cross Border version of the ISDA Master Agreement, the Schedule to the Master Agreement, any Credit Support Annexes, any Swap Trade Confirmation, Risk Disclosure Statement, Eligible Contract Participant Verification Form, Financial Contracts, and all such other related documents as Lender may require. All such Swap Transaction Documents shall be in form and content, and include such terms and conditions, as required by Lender and/or its legal counsel.

“Swap Obligation” shall mean with respect to any guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act.

“Taxes” shall mean all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Term SOFR” shall mean the One Month Term SOFR published by CME Group Benchmark Administration Limited (or a successor administrator designated by the relevant authority) on the Reset Date. If the Lender determines in good faith (which determination shall be conclusive, absent manifest error) that: (A) adequate and fair means do not exist for ascertaining Term SOFR; (B) Term SOFR does not accurately reflect the cost to the Lender of the Loan; or (C) a Regulatory Change (as hereinafter defined) shall, in the reasonable determination of the Lender, make it unlawful or commercially unreasonable for the Lender to use Term SOFR as the index for purposes of determining the Phase I Term Loan Rate or the Phase II Term Loan Rate, then: (i) Term SOFR shall be replaced with an alternative or successor rate or index chosen by the Lender in its reasonable discretion; and (ii) the Margin may also be adjusted by Lender in its reasonable discretion, giving due consideration to market convention for determining rates of interest on comparable loans and any related changes to the Swap Transaction Documents. “Regulatory Change” shall mean a change in any applicable law, treaty, rule, regulation or guideline, or the interpretation or administration thereof, by the administrator of the relevant benchmark or its regulatory supervisor, any governmental authority, central bank or other fiscal, monetary, or other authority having jurisdiction over Lender or its lending office.

“Termination Value” shall mean, in respect of any one or more Rate Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Rate Contracts, (a) for any date on or after the date such Rate Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a) the amount(s) determined as the mark to market value(s) for such Rate Contracts, as determined by Lender based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Rate Contracts which may include any Lender.

“Title Company” shall mean: (a) First American Title Insurance Company or (b) such successor title company selected by Lender from time to time, as applicable.

“Total Debt” shall mean, as of any date of determination, all Indebtedness of or attributable to the Borrower as of such date.

“Unused Phase I Construction Loan Commitment” shall mean, at any time, the positive remainder, if any, of (a) the Total Phase I Construction Loan Commitment on the Phase I Closing Date minus (b) the aggregate amount of all Phase I Construction Loan advanced from and after the Phase I Closing Date.

“Unused Phase II Construction Loan Commitment” shall mean, at any time, the positive remainder, if any, of (a) the Total Phase II Construction Loan Commitment on the Phase II Closing Date minus (b) the aggregate amount of all Phase II Construction Loan advanced from and after the Phase II Closing Date.

“United States” and “U.S.” shall mean the United States of America.

“Wholly-Owned Subsidiary” shall mean any Person in which 100% of the Equity Securities of each class having ordinary voting power, and 100% of the Equity Securities of every other class, in each case, at the time as of which any determination is being made, is owned, beneficially and of record, by DRA, or by one or more Wholly-Owned Subsidiaries of DRA, or both.

“Withholding Agent” shall mean Borrower and/or Lender, as applicable.

1.2 GAAP. Unless otherwise indicated in this Agreement or any other Credit Document, all accounting terms used in this Agreement or any other Credit Document shall be construed, and all accounting and financial computations hereunder or thereunder shall be computed, in accordance with GAAP applied in a consistent manner with the principles used in the preparation of the Financial Statements of Borrower referred to in Section 4.1(i). Notwithstanding the other provisions of this Section 1.2, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness and other liabilities of Borrower shall be deemed to be carried at 100% of the outstanding principal amount thereof, and, to the extent applicable, the effects of FASB ASC 825 (and FASB ASC 470-20, if applicable) on financial liabilities shall be disregarded. If GAAP changes, as applicable, during the term of this Agreement such that any covenants contained herein would then be required or permitted to be calculated in a different manner or with different components, other than changes in GAAP that require items to be included in the definition of Indebtedness that were not so required before such change in GAAP, Borrower and Lender agree to negotiate in good faith to amend this Agreement in such respects as are necessary to conform those covenants as criteria for evaluating Borrower’ financial condition to substantially the same criteria as were effective prior to such change in GAAP; provided, however, that, until Borrower and Lender so amend this Agreement, all such covenants shall be calculated in accordance with GAAP, as in effect immediately prior to such change in GAAP.

1.3 Headings. The table of contents, captions and section headings appearing in this Agreement are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

1.4 Plural Terms. All terms defined in this Agreement or any other Credit Document in the singular form shall have comparable meanings when used in the plural form and vice versa.

1.5 Time. All references in this Agreement and each of the other Credit Documents to a time of day shall mean Dubuque, Iowa time, unless otherwise indicated.

1.6 Governing Law. This Agreement and, unless otherwise expressly provided in any such Credit Document, each of the other Credit Documents shall be governed by and construed in accordance with the laws of the State of Iowa without reference to conflicts of law rules. The scope of the foregoing governing law provision is intended to be all-encompassing of any and all disputes that may be brought in any court or any mediation or arbitration proceeding and that relate to the subject matter of the Credit Documents, including contract claims, tort claims, breach of duty claims and all other common law and statutory claims.

1.7 Construction. This Agreement is the result of negotiations among, and has been reviewed by Borrower and Lender and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of all parties hereto, and no ambiguity shall be construed in favor of or against Borrower or Lender.

1.8 Entire Agreement. This Agreement and each of the other Credit Documents, taken together, constitute and contain the entire agreement of Borrower and Lender and supersede any and all prior agreements, negotiations, correspondence, understandings and communications among the parties, whether written or oral, respecting the subject matter hereof.

1.9 Calculation of Interest and Fees. All calculations of interest and fees under this Agreement and the other Credit Documents for any period (a) shall include the first day of such period and exclude the last day of such period; provided that any Loan or other Obligation that is repaid on the same day on which it is made shall bear interest for one day and (b) shall be computed on an actual 360-day basis; that is, by applying the ratio of the applicable interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. All interest payable pursuant to this Agreement is computed using this method.

1.10 References.

(a) References in this Agreement to “Recitals,” “Sections,” “Paragraphs,” “Exhibits~~”,~~” and “Schedules” are to recitals, sections, paragraphs, exhibits, and schedules herein and hereto unless otherwise indicated.

(b) References in this Agreement or any other Credit Document to any document, instrument or agreement (i) shall include all exhibits, schedules, annexes and other attachments hereto or thereto, (ii) shall include all documents, instruments or agreements issued or executed in replacement thereof if such replacement is permitted hereby or thereby, and (iii) shall mean such document, instrument or agreement, or replacement or predecessor thereto, as amended, restated, modified and supplemented from time to time and in effect at any given time if such amendment, restatement, modification or supplement is permitted hereby or thereby.

(c) References in this Agreement or any other Credit Document to any Governmental Rule (i) shall include any successor Governmental Rule, (ii) shall include all rules and regulations promulgated under such Governmental Rule (or any successor Governmental Rule), and (iii) shall mean such Governmental Rule (or successor Governmental Rule) and such rules and regulations, as amended, restated, modified, codified or reenacted from time to time and in effect at any given time.

(d) References in this Agreement or any other Credit Document to any Person in a particular capacity (i) shall include any successors to and permitted assigns of such Person in that capacity and (ii) shall exclude such Person individually or in any other capacity.

1.11 Other Interpretive Provisions. The words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement or any other Credit Document shall refer to this Agreement or such other Credit Document, as the case may be, as a whole and not to any particular provision of this Agreement or such other Credit Document, as the case may be. The words “include” and “including” and words of similar import when used in this Agreement or any other Credit Document shall not be construed to be limiting or exclusive and shall be deemed to be followed by the phrase “without limitation”. In the event of any inconsistency between the terms of this Agreement and the terms of any other Credit Document, the terms of this Agreement shall govern.

1.12 Rounding. Any financial ratios required to be maintained by Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed in this Agreement and rounding the result up or down to the nearest number (with a round-up if there is no nearest number) to the number of places by which such ratio is expressed in this Agreement.

1.13 Amendment and Restatement. It is intended by the parties hereto that except as expressly stated herein or amended hereby, each Existing Credit Agreement and the other Credit Documents are ratified and confirmed as remaining unmodified and in full force and effect as of the ~~Closing Date~~ date of this Agreement with respect to all obligations thereunder; it being understood that it is the intent of the parties hereto that this Agreement does not constitute a novation of rights, obligations and liabilities of the respective parties existing under each Existing Credit Agreement and such rights, obligations and liabilities shall continue and remain outstanding, except to the extent amended or modified in accordance with their respective terms, after the ~~Closing Date~~ date of this Agreement. On the ~~Closing Date~~ date of this Agreement, each Credit Document that was in effect immediately prior to the ~~Closing Date~~ date of this Agreement shall continue to be effective until such time as it is terminated in accordance with its terms. For the avoidance of doubt, Borrower confirms that the Security Documents secure the Obligations as defined in this Agreement. Prior to the ~~Closing Date~~ date of this Agreement, all Credit Documents (as defined in each of the Existing Credit Agreements) shall remain in full force in effect in accordance with their existing terms.

ARTICLE II

CREDIT FACILITIES

2.1 Loan Facilities.

(a) Availability of Loans.

(i) Schmitt Island Term Loan Availability. On the ~~terms and subject to the conditions of this Agreement~~ Phase I Closing Date Lender ~~agrees to advance~~ advanced to Borrower ~~on the Closing Date~~ the Schmitt Island Term Loan in a principal amount equal to the Schmitt Island Term Loan Commitment.

(ii) Phase I Construction Loan Availability. On the terms and subject to the conditions of this Agreement, Lender agrees to advance to Borrower from time to time during the period

beginning on the Phase I Closing Date up to and including the Disbursement Deposit Date (such period shall be referred to herein as the “Construction Phase”) such loans in Dollars as Borrower may request under this Section 2.1(a)(ii) (individually, a “Phase I Construction Loan”); provided, however, that (x) the aggregate amount of all Phase I Construction Loans made by Lender during the Construction Phase shall not exceed Lender’s Phase I Construction Loan Commitment. Borrower may not reborrow the principal amount of a Phase I Construction Loan after repayment or prepayment thereof.

~~(iii)(i) Phase I Term Loan Availability. At the end of the Construction Phase, the Phase I Construction Loan shall automatically convert to a term loan (the “Phase I Term Loan”), with the Phase I Term Loan to commence on Disbursement Deposit Date and to mature on the Phase I Term Loan Maturity Date.~~

~~(iv)(A) Disbursement Deposit Date. Notwithstanding anything to the contrary herein, (x) on the Disbursement Deposit Date, Borrower shall be deemed to have requested a Phase I Construction Loan in the amount of the Unused Phase I Construction Loan Commitment on such date, (y) the making of such Phase-I Construction Loan contemplated by this subsection (iv)subclause shall not be subject to the conditions precedent set forth in Sections 3.2(a), or Section 3.3 and (z) the proceeds of such Phase I Construction Loan contemplated by this subsection (iv)subclause shall be deposited in the Disbursement Account and the disbursement thereof shall be subject to the terms and conditions set forth in Sections 3.2, 3.3, and/or 3.4 (as applicable).~~

~~(iii) Phase I Term Loan Availability. At the end of the Construction Phase, the Phase I Construction Loan shall automatically convert to a term loan (the “Phase I Term Loan”), with the Phase I Term Loan to commence on Disbursement Deposit Date and to mature on the Phase I Term Loan Maturity Date.~~

(iv) Phase II Construction Loan Availability. On the terms and subject to the conditions of this Agreement, Lender agrees to advance to Borrower from time to time during the period beginning on the Phase II Closing Date up to and including the Phase II Disbursement Deposit Date (such period shall be referred to herein as the “Phase II Construction Phase”) such loans in Dollars as Borrower may request under this Section 2.1(a)(iv) (individually, a “Phase II Construction Loan”); provided, however, that (x) the aggregate amount of all Phase II Construction Loans made by Lender during the Phase II Construction Phase shall not exceed Lender’s Phase II Construction Loan Commitment. Borrower may not reborrow the principal amount of a Phase II Construction Loan after repayment or prepayment thereof.

(A) Phase II Disbursement Deposit Date. Notwithstanding anything to the contrary herein, (x) on the Phase II Disbursement Deposit Date, Borrower shall be deemed to have requested a Phase II Construction Loan in the amount of the Unused Phase II Construction Loan Commitment on such date, (y) the making of such Phase II Construction Loan contemplated by this subclause shall not be subject to the conditions precedent set forth in Section 3.5 and (z) the proceeds of such Phase II Construction Loan contemplated by this subclause shall be deposited in the Disbursement Account and the disbursement thereof shall be subject to the terms and conditions set forth in Sections 3.2, 3.5, and/or 3.6 (as applicable).

(v) Phase II Term Loan Availability. At the end of the Phase II Construction Phase, the Phase II Construction Loan shall automatically convert to a term loan (the “Phase II Term

Loan”), with the Phase II Term Loan to commence on Phase II Disbursement Deposit Date and to mature on the Phase II Term Loan Maturity Date.

(vi) Line of Credit Availability. The Line of Credit shall be available to Borrower on the Phase II Closing Date in accordance with this Agreement and the Line of Credit Note.

(b) Draw Request/Release of Funds.

(i) Borrower shall request each Phase I Construction Loan Borrowing or Phase II Construction Loan Borrowing, as the case may be, by delivering the Draw Package to Lender, the Construction Consultant, and/or the Title Company, as applicable, and otherwise complying with the provisions of the Construction Loan Disbursing Agreement or Phase II Construction Loan Disbursing Agreement applicable to said Borrowing.

(c) Interest Rates. Borrower shall pay interest on the unpaid principal amount of each Loan from the date of such Loan until paid in full, at one of the following rates *per annum*:

(i) The outstanding principal of the Schmitt Island Term Loan shall bear interest at the Schmitt Island Term Loan Rate.

(ii) The outstanding principal balance of the Phase I Construction Loan shall bear interest at the Phase I Construction Loan Rate.

(iii) The outstanding principal balance of the Phase I Term Loan shall bear interest at the Phase I Term Loan Rate.

(iv) The outstanding principal balance of the Phase II Construction Loan shall bear interest at the Phase II Construction Loan Rate.

(v) The outstanding principal balance of the Phase II Term Loan shall bear interest at the Phase II Term Loan Rate.

(vi) The outstanding principal balance of the Line of Credit shall bear interest as the interest rate set forth in the Line of Credit Note.

(d) Scheduled Payments.

(i) Schmitt Island Term Loan. Commencing on the first (1st) monthly anniversary of the first (1st) full month following the Phase I Closing Date, which date shall be December 1, 2023, and continuing on the same date each month thereafter until the Schmitt Island Term Loan Maturity Date, Borrower shall make monthly payments of principal and interest on the Schmitt Island Term Loan based on a sixty-five (65) month amortization schedule. Borrower shall also make a final payment of all outstanding principal, accrued interest, and all other amounts due and owing with respect to the Schmitt Island Term Loan on the Schmitt Island Term Loan Maturity Date or the date on which the Schmitt Island Term Loan is accelerated as provided herein. Borrower agrees that Lender is authorized to debit Borrower’s accounts with Lender for all payments of principal and interest without notice to Borrower. Whenever any payment to be made hereunder shall be stated to be due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day, and such extension of

time shall in such case be included in the computation of payment of interest on the Schmitt Island Term Loan Note.

(ii) Phase I Construction Loan. Commencing on the first (1st) monthly anniversary of the first (1st) full month following the Phase I Closing Date, which date shall be December 1, 2023, and continuing on the same date each month thereafter, Borrower shall make monthly payments of accrued interest only on the outstanding principal balance of the Phase I Construction Loan, outstanding from time to time during the Construction Phase until the Phase I Construction Loan Conversion Date, at which time the last interest only payment shall be made.

(iii) Phase I Term Loan. At the end of the Construction Phase the Phase I Construction Loan shall automatically convert to a term loan until the Phase I Term Loan Maturity Date, with the Phase I Term Loan to commence upon the expiration of the Construction Phase and to mature on the Phase I Term Loan Maturity Date (the “Phase I Term Loan Term”). Commencing on the first (1st) monthly anniversary of the first (1st) full month following the end of the Construction Phase, which date shall be June 1, 2025, and continuing on the same date each month thereafter during the remainder of the Phase I Term Loan Term, Borrower shall make monthly payments of principal and interest on the Phase I Term Loan based on a twenty (20) year amortization schedule. Borrower shall also make a final payment of all principal, interest, and all other amounts due and owing on the Phase I Term Loan Maturity Date or the date on which the Phase I Term Loan is accelerated as provided herein. Borrower agrees that Lender is authorized to debit Borrower’s accounts with Lender for all payments of principal and interest without notice to Borrower. Whenever any payment to be made hereunder shall be stated to be due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of payment of interest on the Phase I Note.

(iv) Phase II Construction Loan. Commencing on the first (1st) monthly anniversary of the first (1st) full month following the Phase II Closing Date, which date shall be June 1, 2024, and continuing on the same date each month thereafter, Borrower shall make monthly payments of accrued interest only on the outstanding principal balance of the Phase II Construction Loan, outstanding from time to time during the Phase II Construction Phase until the Phase II Construction Loan Conversion Date, at which time the last interest only payment shall be made.

(v) Phase II Term Loan. At the end of the Phase II Construction Phase the Phase II Construction Loan shall automatically convert to a term loan until the Phase II Term Loan Maturity Date, with the Phase II Term Loan to commence upon the expiration of the Phase II Construction Phase and to mature on the Phase II Term Loan Maturity Date (the “Phase II Term Loan Term”). Commencing on the first (1st) monthly anniversary of the first (1st) full month following the end of the Phase II Construction Phase, which date shall be January 1, 2026, and continuing on the same date each month thereafter during the remainder of the Phase II Term Loan Term, Borrower shall make monthly payments of principal and interest on the Phase II Term Loan based on a thirty (30) year amortization schedule. Borrower shall also make a final payment of all principal, interest, and all other amounts due and owing on the Phase II Term Loan Maturity Date or the date on which the Phase II Term Loan is accelerated as provided herein. Borrower agrees that Lender is authorized to debit Borrower’s accounts with Lender for all payments of principal and interest without notice to Borrower. Whenever any payment to be made hereunder shall be stated to be due on a day which is not a Business Day, such payment may

be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of payment of interest on the Phase II Note.

2.2 Fees.

(a) Schmitt Island Term Loan Fee. In consideration of Lender's agreement to make the Schmitt Island Term Loan evidenced by Schmitt Island Term Loan Note, on the Phase I Closing Date Borrower ~~shall pay~~ Lender an origination fee of Three Hundred and no/100 Dollars (\$300.00) (the "Schmitt Island Term Loan Origination Fee"). The Schmitt Island Term Loan Origination Fee is in addition to all other fees, costs, and expenses payable by the Borrower with respect to the Schmitt Island Term Loan.

(b) Phase I Construction Loan Fee. In consideration of Lender's agreement to make the Phase I Construction Loan evidenced by the Phase I Note, on the Phase I Closing Date, Borrower ~~shall pay~~ Lender an origination fee of 0.50% of the amount of the Phase I Construction Loan Commitment (the "Phase I Construction Loan Origination Fee"). The Phase I Construction Loan Origination Fee is in addition to all other fees, costs, and expenses payable by the Borrower with respect to the Phase I Construction Loan.

(c) Phase I Term Loan Fee. In consideration of Lender's agreement to make the Phase I Term Loan evidenced by the Phase I Note, Borrower shall pay Lender an origination fee of 0.25% of the Phase I Term Loan payable to Lender ~~upon the funding of on~~ the Phase I Term Construction Loan Conversion Date (the "Phase I Term Loan Origination Fee"). The Phase I Term Loan Origination Fee is in addition to all other fees, costs, and expenses payable by the Borrower with respect to the Phase I Term Loan.

(d) Phase II Construction Loan Fee. In consideration of Lender's agreement to make the Phase II Construction Loan evidenced by the Phase II Note, on the Phase II Closing Date, Borrower shall pay Lender an origination fee of 0.50% of the amount of the Phase II Construction Loan Commitment (the "Phase II Construction Loan Origination Fee"). The Phase II Construction Loan Origination Fee is in addition to all other fees, costs, and expenses payable by the Borrower with respect to the Phase II Construction Loan.

(e) Phase II Term Loan Fee. In consideration of Lender's agreement to make the Phase II Term Loan evidenced by the Phase II Note, Borrower shall pay Lender an origination fee of 0.25% of the Phase II Term Loan payable to Lender on the Phase II Construction Loan Conversion Date (the "Phase II Term Loan Origination Fee"). The Phase II Term Loan Origination Fee is in addition to all other fees, costs, and expenses payable by the Borrower with respect to the Phase II Term Loan.

~~(d)(f)~~ Lender Fees; Other Fees. In addition to the origination fees set forth in this Section 2.2 Borrower shall pay to Lender any fees set forth in any fee letter.

2.3 Prepayments.

(a) Terms of All Prepayments.

(i) Upon the prepayment of any Loan (whether such prepayment is an optional prepayment under Section 2.3(b), a mandatory prepayment required by Section 2.3(c) or a mandatory

prepayment required by any other provision of this Agreement or the other Credit Documents, including a prepayment upon acceleration), Borrower shall pay, if a prepayment is made upon acceleration, to Lender all accrued interest and fees to the date of such prepayment on the amount prepaid. Any prepayment shall be without prejudice to Borrower's obligations under any Rate Contract, which shall remain in full force and effect subject to the terms of such Rate Contract (including provisions that may require a reduction, modification or early termination of a swap transaction, in whole or in part, in the event of such prepayment, and may require Borrower to pay any fees or other amounts for such reduction, modification or early termination), and no such fees or amounts shall be deemed a penalty hereunder or otherwise.

(ii) Prepayment of the principal amount of the Phase I Note, in whole or in part, whether voluntary or involuntary, will be subject to payment by Borrower to Lender of all assessments, losses, fees and costs of any kind or nature incurred by Lender under any and all Swap Transaction Documents (as defined herein) by and between Borrower and Lender, which arise, directly or indirectly, as a result of such prepayment. Moreover, at no time during the term of the Phase I Term Loan may the then principal balance of the Phase I Term Loan be less than the then remaining notional amount of the corresponding Swap, and any prepayment of the Phase I Note below the notional amount will require an equivalent reduction in the notional amount under the Swap Transaction Documents. This prepayment penalty provision is only applicable if the Borrower and Lender have entered into a Swap Transaction evidenced by a separate Swap Transaction Documents.

(ii)(iii) Prepayment of the principal amount of the Phase II Note, in whole or in part, whether voluntary or involuntary, will be subject to payment by Borrower to Lender of all assessments, losses, fees and costs of any kind or nature incurred by Lender under any and all Swap Transaction Documents (as defined herein) by and between Borrower and Lender, which arise, directly or indirectly, as a result of such prepayment. Moreover, at no time during the term of the Phase II Term Loan may the then principal balance of the Phase II Term Loan be less than the then remaining notional amount of the corresponding Swap, and any prepayment of the Phase II Note below the notional amount will require an equivalent reduction in the notional amount under the Swap Transaction Documents. This prepayment penalty provision is only applicable if the Borrower and Lender have entered into a Swap Transaction evidenced by a separate Swap Transaction Documents.

(b) Optional Prepayments.

(i) Schmitt Island Term Loan Prepayments. Borrower may at its option, at any time upon thirty (30) days' prior written notice to Lender, prepay the Schmitt Island Term Loan, in whole or in part, provided that Borrower shall pay a prepayment fee as follows: (i) if the prepayment is made prior to the first anniversary of the Phase I Closing Date, a prepayment fee equal three percent (3.0%) of the outstanding principal balance of the Schmitt Island Term Loan, (ii) if the prepayment is made on or after the first anniversary of the Phase I Closing Date but before the second anniversary of the Phase I Closing Date, a prepayment fee equal to two percent (2.0%) of the outstanding principal balance of the Schmitt Island Term Loan, (iii) if the prepayment is made on or after the second anniversary of the Phase I Closing Date a prepayment fee equal to one percent (1.0%) of the outstanding principal balance of the Schmitt Island Term Loan. The forgoing prepayment fees are only applicable in the event the Schmitt Island Term Loan is refinanced or paid off by any financial institution other than Lender. No amounts prepaid may be reborrowed.

(ii) Phase I Construction Loan Prepayments. Borrower may at its option, at any time upon thirty (30) days' prior written notice to Lender, prepay the Phase I Construction Loan, in whole or in part, provided that Borrower shall pay a prepayment fee in an amount equal to three percent (3.0%) of the Phase I Construction Loan Commitment. The forgoing prepayment fees are only applicable in the event the Phase I Construction Loan is refinanced or paid off by any financial institution other than Lender. No amounts prepaid may be reborrowed.

~~(iii)~~ Phase I Term Loan Prepayments. Borrower may at its option, at any time upon thirty (30) days' prior written notice to Lender, prepay the Phase I Term Loan, in whole or in part, provided that Borrower shall pay a prepayment fee as follows: At the time of a full or partial prepayment, Lender will calculate the then current swap rate for the remaining term of the interest rate swap ("Replacement Rate"). ~~If the Replacement Rate is below the contractual rate stated in the~~ If the Replacement Rate is below the contractual rate stated in the applicable Swap Transaction Documents, a breakage amount equal to the present value of the difference in the Replacement Rate and the contractual rate over the remaining life of the Swap Transaction Document(s) – applied to the outstanding notional schedule – will be required. Conversely, if the Replacement Rate is above the contractual rate a reverse calculation will occur and Lender will pay Borrower the present value of the difference in the Replacement Rate and the contractual rate over the remaining life of the Swap Transaction Document(s) – applied to the outstanding notional schedule. This calculation will be applied to whatever portion of the swap is being terminated. Partial prepayments are permitted.

~~(iv)~~ Phase II Construction Loan Prepayments. Borrower may at its option, at any time upon thirty (30) days' prior written notice to Lender, prepay the Phase II Construction Loan, in whole or in part, provided that Borrower shall pay a prepayment fee in an amount equal to three percent (3.0%) of the Phase II Construction Loan Commitment. The forgoing prepayment fees are only applicable in the event the Phase II Construction Loan is refinanced or paid off by any financial institution other than Lender. No amounts prepaid may be reborrowed.

~~(iii)~~ (v) Phase II Term Loan Prepayments. Borrower may at its option, at any time upon thirty (30) days' prior written notice to Lender, prepay the Phase II Term Loan, in whole or in part, provided that Borrower shall pay a prepayment fee as follows: At the time of a full or partial prepayment, Lender will calculate the then current swap rate for the remaining term of the interest rate swap ("Replacement Rate"). ~~If the Replacement Rate is below the contractual rate stated in the applicable~~ If the Replacement Rate is below the contractual rate stated in the applicable Swap Transaction Documents, a breakage amount equal to the present value of the difference in the Replacement Rate and the contractual rate over the remaining life of the Swap Transaction Document(s) – applied to the outstanding notional schedule – will be required. Conversely, if the Replacement Rate is above the contractual rate a reverse calculation will occur and Lender will pay Borrower the present value of the difference in the Replacement Rate and the contractual rate over the remaining life of the Swap Transaction Document(s) – applied to the outstanding notional schedule. This calculation will be applied to whatever portion of the swap is being terminated. Partial prepayments are permitted.

(c) Mandatory Prepayments. Borrower shall prepay the Obligations as follows:

(i) If, at any time after the Phase I Closing Date, Borrower issues or incurs any Indebtedness for borrowed money, including Indebtedness evidenced by notes, bonds, debentures, or other similar instruments but excluding Permitted Indebtedness, Borrower shall, immediately after such issuance or incurrence, prepay the outstanding Obligations in the manner set forth in Section 2.3(d), in

each case, in an aggregate principal amount equal to one hundred percent (100%) of the Net Proceeds of such Indebtedness, unless otherwise waived in writing by Lender.

(ii) If, at any time after the Phase I Closing Date, Borrower issues or sells any Equity Securities or receives any capital contributions, Borrower shall, immediately after such issuance or sale of Equity Securities or receipt of such capital contributions, prepay the outstanding Obligations in the manner set forth in Section 2.3(d), in each case, in an aggregate principal amount equal to One Hundred Percent (100%) of the Net Proceeds realized or received by Borrower or any Subsidiary of Borrower from such sale or issuance, unless otherwise waived in writing by Lender; provided, that, in any event, prior to undertaking any sale or issuance of any Equity Securities as described in this Section- 2.3(c)(ii), Borrower must provide Lender at least thirty (30) Business Days written notice of such proposed sale or issuance.

(iii) Not later than ten (10) Business Days following the date of receipt (each a “Receipt Date”) by Borrower (or Lender) of any Net Insurance Proceeds or Net Condemnation Proceeds, Borrower shall prepay the outstanding Obligations in the manner set forth in Section 2.3(d) in an amount equal to the aggregate amount of the sum of such Net Insurance Proceeds and Net Condemnation Proceeds. Notwithstanding the foregoing, Borrower shall not be required to make a prepayment pursuant to this clause (iii) with respect to any particular Net Insurance Proceeds or Net Condemnation Proceeds if Borrower advises Lender in writing within ten (10) Business Days after the related Receipt Date that Borrower intends to repair, restore or replace the assets from which such Net Insurance Proceeds or Net Condemnation Proceeds were derived to the extent (A) such Net Insurance Proceeds and Net Condemnation Proceeds are in fact committed to be utilized to repair, restore or replace such assets pursuant to one or more contracts providing for such repair, restoration or replacement that is executed by Borrower and the relevant counterparty(ies) within ninety (90) days after the related Receipt Date, (B) such repair, restoration or replacement is completed within one hundred eighty (180) days after the related Receipt Date, and (C) the Net Insurance Proceeds or Net Condemnation Proceeds are sufficient to defray the entire cost of such repair, restoration or replacement or if not, Borrower has deposited with Lender good funds equal to the difference between the cost of such repair, restoration or replacement and the amount of Net Insurance Proceeds or Net Condemnation Proceeds deposited with Lender, and such funds and proceeds will be held by Lender and disbursed under procedures established by Lender in good faith for application to such repair, restoration or replacement, or (II) immediately prepay the Obligations in the amount and in the manner described in the first sentence of this clause (iii). If, at any time after the occurrence of a Receipt Date and prior to the completion of the corresponding repair, restoration or replacement, the applicable period provided in clause (A) or (B) of the preceding sentence shall elapse without execution of the related contract (in the case of clause (A)) or the completion of the related repair, restoration or replacement (in the case of clause (B)), or Borrower shall fail to provide and deposit the funds and proceeds required under clause (C) above, or an Event of Default shall occur, then Borrower shall immediately prepay the Obligations in the amount and in the manner described in the first sentence of this clause (iii). If Borrower has provided the written notice contemplated by the prior sentence, then until such Net Insurance Proceeds or Net Condemnation Proceeds are needed to pay for the related repair, restoration or replacement such proceeds shall be held by Lender as Collateral. No right to apply proceeds to repair, restoration, or replacement shall exist if any such repair, restoration or replacement attributable to the Phase I Casino Project cannot reasonably be completed prior to one hundred eighty (180) days before the Phase I Term Loan Maturity Date; or if any such repair, restoration or replacement attributable to the Phase II Casino Project cannot reasonably be completed prior to one hundred eighty (180) days before the Phase II Term Loan Maturity Date.

(iv) Borrower shall deliver to Lender, at the time of each prepayment required under this Section 2.3(c), (A) a certificate signed by a Responsible Officer of Borrower setting forth in reasonable detail the calculation of the amount of such prepayment and (B) to the extent practicable, at least three (3) days prior written notice of such prepayment. Each notice of prepayment shall specify the prepayment date and principal amount of each Loan to be prepaid. In the event that Borrower shall subsequently determine that the actual amount required to be prepaid was greater than the amount set forth in such certificate, Borrower shall promptly make an additional prepayment of the Loans in an amount equal to the amount of such excess, and Borrower shall concurrently therewith deliver to Lender a certificate signed by a Responsible Officer of Borrower demonstrating the derivation of the additional amount resulting in such excess.

(d) Application of Loan Prepayments. All prepayments under Section 2.3(eb) shall be applied -to (i) the Existing Hilton Garden Loan, (ii) the Phase I Construction Loan, ~~and~~ (iii) the Phase I Term Loan, (iv) the Phase II Construction Loan, and (v) the Phase II Term Loan as directed by Borrower; provided, however, that if an Event of Default has occurred and is continuing, such prepayments any prepayments (whether such prepayment is an optional prepayment under Section 2.3(b), a mandatory prepayment required by Section 2.3(c), or a mandatory prepayment required by any other provision of this Agreement or the other Credit Documents, including a prepayment upon acceleration) shall be applied as determined by Lender in its reasonable discretion.

2.4 Other Payment Terms.

(a) Place and Manner. All payments to be made by Borrower under this Agreement or any other Credit Document shall be made in Dollars without condition or deduction for any counterclaim, defense, recoupment, offset or setoff. Borrower shall make all payments due to Lender under this Agreement or any other Credit Document by payments to Lender at Lender's office located at the address specified in Section 8.1. Borrower shall make all payments under this Agreement or any other Credit Document in lawful money of the United States and in same day or immediately available funds not later than 12:00 noon on the date due.

(b) Date. Whenever any payment due hereunder shall fall due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall be included in the computation of interest or fees, as the case may be.

(c) Default Rate. Upon the occurrence and during the continuation of any Event of Default other than an Event of Default described in Section 6.1-(f) or (g), at the option of Lender, from and after the date of such Event of Default (or such later date designated by Lender) until the time when such Event of Default shall have been cured or waived in writing by Lender, Borrower shall pay interest on the aggregate, outstanding amount of all Obligations hereunder, including, but not limited to Obligations in respect Swap Indebtedness (excluding Obligations in respect of Lender Rate Contracts and Lender Bank Products) at a *per annum* rate equal to the otherwise applicable Interest Rate plus five percent (5.00%) (the "Default Rate") payable on demand. Upon the occurrence and during the continuation of an Event of Default described in Section 6.1-(f) or (g) until the time when such Event of Default shall have been cured or waived in writing by Lender, Borrower shall pay interest on the aggregate, outstanding amount of all Obligations hereunder, including, but not limited to Obligations in respect Swap Indebtedness (excluding Obligations in respect of Lender Rate Contracts and Lender Bank Products) at a *per annum* rate equal to the Default Rate (such Default Rate becoming effective on such

date of occurrence of such Event of Default without notice and shall be immediately due and payable without notice or demand). Overdue interest shall itself bear interest at the Default Rate, and shall be compounded with the principal Obligations daily, to the fullest extent permitted by applicable Governmental Rules.

(d) Application of Payments. All payments hereunder shall be applied first to unpaid fees, costs, and expenses then due and payable under this Agreement or the other Credit Documents, second to accrued interest then due and payable under this Agreement or the other Credit Documents, and finally to reduce the principal amount of outstanding Loans. ~~The proceeds of the Collateral will be applied as set forth in Section 6.2.~~

Notwithstanding anything in this Agreement to the contrary, interest in excess of the maximum amount permitted by applicable Laws shall not accrue or be payable hereunder or under the Notes, and any amount paid as interest hereunder or under the Notes which would otherwise be in excess of such maximum permitted amount shall instead be treated as a payment of principal.

2.5 Loan Accounts; Notes.

(a) Loan Accounts. The obligation of Borrower to repay the Loans made to it by Lender and to pay interest thereon at the rates provided herein shall be evidenced by an account or accounts maintained by Lender on its books (individually, a "Loan Account"). Lender shall record in its Loan Accounts (i) the date and amount of each Loan made by Lender, (ii) the interest rates applicable to each such Loan and the effective dates of all changes thereto, (iii) the date and amount of each principal and interest payment on each Loan, and (iv) such other information as such Lender may determine is necessary for the computation of principal and interest payable to it by Borrower hereunder; provided, however, that any failure by a Lender to make, or any error by any Lender in making, any such notation shall not affect Borrower's Obligations. The Loan Accounts shall be conclusive absent manifest error as to the matters noted therein.

(b) Schmitt Island Term Loan. The Schmitt Island Term Loan ~~shall be~~ evidenced by a promissory note ~~substantially in the form dated as of Exhibit A the Phase I Closing Date (the "Schmitt Island Term Loan Note") which note shall be (i) payable to the order of Lender, (ii) in the amount of the executed Schmitt Island Term Loan Commitment, (iii) dated the Closing Date or such other date acceptable to Lender, and (iv) otherwise appropriately completed~~ Note is attached hereto as Exhibit A.

(c) Phase I Construction Loan. The Phase I Construction Loan ~~shall be~~ evidenced by a promissory note ~~substantially in the form dated as of Exhibit B the Phase I Closing Date (the "Phase I Note") which note shall be (i) payable to the order of Lender, (ii) in the amount of the Phase I Construction Loan Commitment, (iii) dated the Closing Date or such other date acceptable to Lender, and (iv) otherwise appropriately completed~~). A copy of the executed Phase I Note is attached hereto as Exhibit B.

(d) Phase I Term Loan. The Phase I Term Loan shall be evidenced by the Phase I Note, provided, however, if requested by Lender, the Phase I Term Loan shall be evidenced by a further promissory note in a form acceptable to Lender which note shall be (i) payable to the order of Lender, (ii) in the amount of the Phase I Term Loan Commitment, (iii) dated the ~~Closing~~ Phase I Construction Loan Conversion Date or such other date acceptable to Lender, and (iv) otherwise appropriately completed.

(e) Phase II Construction Loan. The Phase II Construction Loan shall be evidenced by a promissory note substantially in the form of Exhibit C (the “Phase II Note”) which note shall be (i) payable to the order of Lender, (ii) in the amount of the Phase II Construction Loan Commitment, (iii) dated the Phase II Closing Date or such other date acceptable to Lender, and (iv) otherwise appropriately completed.

(f) Phase II Term Loan. The Phase II Term Loan shall be evidenced by the Phase II Note, provided, however, if requested by Lender, the Phase II Term Loan shall be evidenced by a further promissory note in a form acceptable to Lender which note shall be (i) payable to the order of Lender, (ii) in the amount of the Phase II Term Loan Commitment, (iii) dated the Phase II Construction Loan Conversion Date or such other date acceptable to Lender, and (iv) otherwise appropriately completed.

(g) Line of Credit. The Line of Credit shall be evidenced by the Line of Credit Note, in the form of Exhibit D (the “Line of Credit Note”) which note shall be (i) payable to the order of Lender, (ii) in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00), (iii) dated the Phase II Closing Date or such other date acceptable to Lender, and (iv) otherwise appropriately completed.

2.6 Loan Funding.

(a) Funding and Disbursement to Borrower. Lender shall, on the date of each Borrowing or on such date as required by the Construction Loan Disbursing Agreement or Phase II Construction Loan Disbursing Agreement, as applicable to said Borrowing, make available in same day or immediately available funds of such Borrowing. Upon satisfaction of the applicable conditions set forth in Section 3.1 and Sections 3.2, 3.3, 3.4, 3.5 and/or 3.46 (as applicable):

(i) For On the Phase I Closing Date, the loan proceeds of the Schmitt Island Term Loan, the loan proceeds thereof shall be were used to refinance the that certain term loan dated October 31, 2018, known as the “Existing Schmitt Island Term Loan on the Closing Date;”).

(ii) For a Phase I Construction Loan, except as provided in Section 2.1(a)(i)(A), prior to the full completion of the Phase I Casino Project and the payment of all costs in respect thereof, Lender shall promptly make all such Phase I Construction Loan funds available to Title Company for disbursement in accordance with the terms of the Construction Loan Disbursing Agreement.

(iii) For a Phase II Construction Loan, except as provided in Section 2.1(a)(iv)(A), prior to the full completion of the Phase II Casino Project and the payment of all costs in respect thereof, Lender shall promptly make all such Phase II Construction Loan funds available to Title Company for disbursement in accordance with the terms of the Phase II Construction Loan Disbursing Agreement.

2.7 Taxes on Payments.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of Borrower under any Credit Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such

deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by Borrower shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section) Lender receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) Payment of Other Taxes. Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of Lender timely reimburse it for the payment of, any Other Taxes.

(c) Indemnification by Borrower. Borrower shall indemnify Lender, within ten (10) Business Days after demand therefor, for the full amount of any Indemnified Taxes payable or paid by Lender or required to be withheld or deducted from a payment to Lender and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to Borrower by Lender shall be conclusive absent manifest error.

(d) Evidence of Payments. As soon as practicable after any payment of Taxes by Borrower to a Governmental Authority pursuant to this Section 2.7, Borrower shall deliver to Lender the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Lender.

(e) Survival. Without prejudice to the survival of any other agreement contained herein, the agreements and obligations contained in this Section 2.7 shall survive the payment in full of principal, interest and all other Obligations hereunder.

(f) Tax Returns. Nothing contained in this Section 2.7 shall require Lender to make available any of its tax returns or any other information that it reasonably deems to be confidential or proprietary.

2.8 Security.

(a) Security Documents. The Loans, together with all other Obligations, shall be secured by the Liens granted by Borrower under the Security Documents (or, in the case of any Real Property Security Document, the Obligations described in such Real Property Security Document and subject to any limitation specifically set forth therein, if any).

(b) Further Assurances. Borrower shall deliver to Lender such mortgages, deeds of trust, security agreements, pledge agreements, lessor consents and estoppels (containing appropriate mortgagee and lender protection language), control agreements, and other instruments, agreements, certificates, opinions and documents (including Uniform Commercial Code financing statements and fixture filings and landlord waivers) as Lender may request to:

(i) grant, perfect, maintain, protect and evidence security interests in favor of Lender, in any or all present and future property of Borrower other than the Excluded Assets, prior to the Liens or other interests of any Person, except for Permitted Liens; and

(ii) otherwise establish, maintain, protect and evidence the rights provided to Lender, pursuant to the Security Documents.

(iii) Borrower shall fully cooperate with Lender and perform all additional acts requested by Lender to effect the purposes of this Section 2.8.

ARTICLE III **CONDITIONS PRECEDENT**

3.1 Initial Conditions Precedent. Notwithstanding any other provisions contained in this Agreement, as a condition precedent to any obligations of Lender under this Agreement to make the Loans, all of the following shall have occurred, to Lender's satisfaction, on or before the first advance thereof:

(a) On or prior to the Phase I Closing Date, Borrower ~~shall have~~ delivered or caused to be delivered all of the following to Lender, in form and substance satisfactory to Lender:

- (i) This Agreement;
- (ii) The Schmitt Island Term Loan Note;
- (iii) The Phase I Note;
- (iv) The Security Agreement;
- (v) The Schmitt Island Lease;
- (vi) The Swap Transaction Documents;
- (vii) The Leasehold Mortgage;
- (viii) The Schmitt Island Lease Subordination Agreement;
- (ix) The Phase I Title Policy for the Leasehold Mortgage;
- (x) The Environmental Indemnity Agreement;
- (xi) The Construction Loan Disbursing Agreement, duly executed by the parties thereto;
- (xii) The Assignment of Architect's Agreement fully executed and delivered by Borrower and, to the extent available as of the Phase I Closing Date, the Architect;
- (xiii) The Assignment of Construction Contracts fully executed and delivered by Borrower and, to the extent available as of the Phase I Closing Date, each contractor;
- (xiv) The Assignment of General Contractor Agreement fully executed and delivered by Borrower and, to the extent available as of the Phase I Closing Date, the General Contractor;

(xv) The Assignment of the Amended and Restated Operating Agreement by and between DRA and Diamond Jo, LLC, fully executed and delivered by Borrower;

(xvi) Preliminary title opinion (and for all advances other than the initial advance the final title opinion) from Borrower's counsel certifying title to the ~~Leasehold Mortgage~~ Casino Real Property;

(xvii) Satisfactory evidence of utilities, roads, and access;

(xviii) The appraisal required by Lender.

(b) Organizational Documents. On or prior to the Phase I Closing Date, Borrower delivered or caused to be delivered all of the following to Lender, in form and substance satisfactory to Lender:

(i) The Articles of Incorporation of Borrower, certified as of a recent date prior to the Phase I Closing Date by the Secretary of State (or comparable official) of Borrower's state of incorporation;

(ii) A certificate of the Secretary of Borrower, dated the Phase I Closing Date, certifying that (A) attached thereto is a true and correct copy of the Articles of Incorporation of Borrower and the Bylaws of Borrower as in effect on the Phase I Closing Date; (B) attached thereto are true and correct copies of resolutions duly adopted by the board of directors of Borrower and continuing in effect, which authorize the execution, delivery and performance by Borrower of the Credit Documents executed or to be executed by Borrower and the consummation of the Transactions; and (C) there are no proceedings for the dissolution or liquidation of Borrower; and

(iii) Certificates of good standing for Borrower, certified as of a recent date prior to the Phase I Closing Date by the Secretary of State of Iowa.

(c) Financial Statements, Financial Condition, Etc. On or prior to the Phase I Closing Date, Borrower delivered or caused to be delivered all of the following to Lender, in form and substance satisfactory to Lender:

(i) A copy of ~~the most recent~~ interim statements Financial Statements of Borrower and its Subsidiaries (prepared on a consolidated and consolidating basis), certified by a Responsible Officer of Borrower to present fairly the financial condition, results of operations and other information reflected therein and to have been prepared in accordance with GAAP (subject to normal year-end audit adjustments);

(ii) A copy of ~~and Lender's satisfactory review of~~ the projected financial statements of Borrower by fiscal year for each of the fiscal years through the Phase I Term Loan Maturity Date, including, in each case, projected balance sheets, statements of income and retained earnings and statements of cash flow of Borrower, all in reasonable detail, reflecting the Borrower's compliance with each of the covenants set forth in Section 5.3 of this Agreement, all prepared by a financial officer of Borrower; and

(iii) Such other financial, business and other information regarding Borrower as Lender ~~may reasonably request~~requested.

~~(d) — Collateral Documents.~~

(d) Collateral Documents. On or prior to the Phase I Closing Date, Borrower delivered or caused to be delivered all of the following to Lender, in form and substance satisfactory to Lender:

(i) Such endorsements as Lender ~~may require~~required in connection with the Phase I Title Policy;

(ii) Uniform Commercial Code search certificates from jurisdiction of incorporation of Borrower reflecting no other financing statements or filings which evidence Liens of other Persons in the Collateral which are prior to the Liens granted to Lender in this Agreement, the Security Documents, and the other Credit Documents, except for any such prior Liens (a) which are expressly permitted by this Agreement to be prior or (b) for which Lender has received a termination statement or and has made a satisfactory arrangement concerning the termination of such Liens;

(iii) Such other documents, instruments and agreements as Lender ~~may reasonably request~~requested to establish and perfect the Liens granted to Lender in this Agreement, the Security Documents, and the other Credit Documents;

(iv) ~~Borrower shall have complied~~Evidence of compliance with FIRREA (and any banking regulations associated therewith or enacted to implement FIRREA in the lending context) and all other legal requirements for the making of the extensions of credit hereunder (including, without limitation, acknowledging receipt of results of flood zone reports, maintenance of necessary flood insurance in amounts and where required under applicable law);

(v) Such other evidence as Lender ~~may reasonably request~~requested to establish that the Liens granted to Lender in this Agreement, the Security Documents, and the other Credit Documents are or upon the proper filings shall be perfected and prior to the Liens of other Persons in the Collateral, except for any such Liens which are expressly permitted by this Agreement to be prior;

(vi) An ALTA survey of the Property underlying the Phase I Casino Project, certified in a manner acceptable to Lender;

(vii) ~~Lender's receipt and approval of all applicable~~Applicable environmental studies and reports for the Phase I Casino Project (including a Phase I report and if recommended, a Phase II report), issued by environmental consultants reasonably acceptable to Lender in form and substance reasonably acceptable to Lender; and

(viii) ~~Lender's receipt of confirmation~~Confirmation (which confirmation shall be reasonably acceptable to Lender) that Borrower ~~is was~~ in compliance with all applicable Mitigation Requirements (as defined in Environmental Indemnity Agreement).

(e) Opinion. AOn or prior to the Phase I Closing Date, Borrower delivered or caused to be delivered all of the following to Lender, in form and substance satisfactory to Lender a favorable written opinion from O'Connor and Thomas, P.C., counsel for Borrower, dated the Phase I Closing Date,

addressed to Lender for the benefit of Lender, covering such legal matters as Lender ~~may~~ reasonably ~~request~~requested and otherwise in form and substance satisfactory to Lender.

~~(f) — Other Items.~~

(f) Other Items. On or prior to the Phase I Closing Date, Borrower delivered or caused to be delivered all of the following to Lender, in form and substance satisfactory to Lender, or Lender otherwise completed or obtained:

(i) Evidence reasonably satisfactory to Lender that the Iowa Racing and Gaming Commission ~~has~~ approved this Agreement and the other Credit Documents;

(ii) Evidence reasonably satisfactory to Lender that the City of Dubuque ~~has~~ approved this Agreement and the other Credit Documents;

(iii) ~~Lender shall have completed all due~~Due diligence concerning Borrower and its assets, in scope and with results in all respects satisfactory to Lender in Lender's sole discretion;

(iv) Such assurances as Lender ~~deems~~deemed appropriate that the relevant Gaming Authorities ~~have had~~ approved the transactions contemplated by the Credit Documents to the extent that such approval ~~is was~~ required by applicable Gaming Laws;

(v) ~~Since December 31, 2022, Confirmation that~~ no event or circumstance ~~shall have had~~ occurred ~~since December 31, 2023,~~ that ~~has~~ resulted or ~~is was~~ reasonably likely to result in a material adverse change in the business, assets, liabilities, operations, performance or condition (financial or otherwise) of Borrower (taken as a whole);

(vi) ~~There shall not exist any~~Confirmation that no pending or threatened action, suit, investigation or proceeding ~~had occurred~~, which, if adversely determined, could materially and adversely affect Borrower, any transaction contemplated hereby or the ability of Borrower to perform its obligations under the Credit Documents or the ability of Lender to exercise its rights thereunder;

(vii) There ~~shall not exist was no existing~~ (A) ~~any~~ order, decree, judgment, ruling or injunction ~~which restrains as of the Phase I Closing Date that restrained~~ any part of the consummation of the transactions contemplated under this Agreement in the manner contemplated by the Credit Documents (or any documents executed in connection therewith); or (B) any litigation pending or threatened against Borrower as of the Phase I Closing Date which could have a Material Adverse Effect;

(viii) ~~There shall not exist any~~No material adverse change or material disruption in the financial, banking or capital markets ~~had occurred as of the Phase I Closing Date~~ that, in the judgment of Lender, ~~has had~~ materially impaired, or could reasonably be expected to materially impair, the participation of any component of the credit facilities provided hereunder;

(ix) A certificate of a Responsible Officer, addressed to Lender and dated the Phase I Closing Date, certifying that:

(A) The representations and warranties set forth in Article IV and in the other Credit Documents ~~are were~~ true and correct in all material respects as of such date (except to the

extent that such representation and warranty is qualified by materiality, in which case such representation and warranty must be true in all respects) as if made on such date (except for representations and warranties expressly made as of a specified date, which shall be true and correct in all material respects (except to the extent that such representation and warranty is qualified by materiality, in which case such representation and warranty must be true in all respects) as of such date); and

(B) No Default ~~hashad~~ occurred ~~and is or was~~ continuing as of such date;

(C) Borrower ~~hashad~~ obtained all Governmental Authorizations and all consents of other Persons, in each case that ~~are were~~ necessary or advisable to have been obtained prior to the ~~Phase I~~ Closing Date in connection with the transactions herein and the continued operation of the business conducted by Borrower in substantially the same manner as conducted prior to the ~~Closing Date~~. Phase I Closing Date and that each such Governmental Authorization or consent was in full force and effect as of such date, except in a case where the failure to obtain or maintain a Governmental Authorization or consent, either individually or in the aggregate, could not have a Material Adverse Effect. All applicable waiting periods had expired without any action being taken or threatened by any competent authority that would have restrained, prevented or otherwise imposed adverse conditions on the transactions contemplated by the Credit Documents. No action, request for stay, petition for review or rehearing, reconsideration, or appeal with respect to any of the foregoing was pending as of the Phase I Closing Date, and the time for any applicable Governmental Authority to take action to set aside its consent on its own motion had expired; and

(D) No temporary restraining order, preliminary or permanent injunction or other order preventing Borrower or Lender from entering into this Agreement or the other Credit Documents or consummating the transactions contemplated hereby or thereby had been issued by any court of competent jurisdiction or other Governmental Authority having authority over any such Person as of the Phase I Closing Date, and no applicable Governmental Rules had enacted or deemed applicable to the Credit Documents by a Governmental Authority having authority over any such Person that would have made the closing of the Credit Documents or any extensions of credit thereunder illegal.

(x) Confirmation that no action, suit, investigation or proceeding was pending or, to the knowledge of Borrower, threatened in any court or before any arbitrator or governmental authority that could reasonably be expected to have a Material Adverse Effect as of the Phase I Closing Date.

(xi) Documentation and other information with respect to Borrower required by regulatory authorities under applicable “know your customer” and anti-money-laundering rules and regulations, including, without limitation, the Patriot Act;

(xii) Confirmation that all fees and expenses payable to Lender on or prior to the Phase I Closing Date had been paid to Lender as of the Phase I Closing Date;

(xiii) Confirmation that all fees and expenses of counsel to Lender invoiced through the Phase I Closing Date had been paid as of the Phase I Closing Date; and

(xiv) Other evidence Lender reasonably requested to establish the accuracy and completeness of the representations and warranties and the compliance with the terms and conditions contained in this Agreement and the other Credit Documents.

(g) Phase II Conditions Precedent. Notwithstanding any other provisions contained in this Agreement, as conditions precedent to any obligations of Lender under this Agreement to make the Phase II Construction Loan and Phase II Term Loan, all of the following shall have occurred, to Lender's satisfaction, on or before the first advance thereof:

(i) Borrower shall have delivered or caused to be delivered all of the following to Lender, in form and substance satisfactory to Lender:

(A) Any updates, amendments, restatements, recertifications, reconfirmation, and/or re-executions of the items delivered under Section 3.1(a)-(f), dated as of the Phase II Closing Date, as required by Lender;

(B) This Agreement;

(C) The Phase II Note;

(D) The Line of Credit Note;

(E) The First Amendment to the Leasehold Mortgage;

(F) The First Amendment to the Schmitt Island Lease;

(G) The Swap Transaction Documents applicable to the Phase II Term Loan;

(H) The Phase II Environmental Indemnity Agreement;

(I) The Phase II Title Policy;

(J) The Phase II Construction Loan Disbursing Agreement, duly executed by the parties thereto;

(K) The Hilton Letter Agreement;

(L) Preliminary title opinion (and for all advances other than the initial advance of the Phase II Construction Loan, the final title opinion) from Borrower's counsel certifying title to the Casino Real Property;

(M) The appraisal required by Lender for the Phase II Casino Project;

(N) Evidence and Lender's approval of standard builder's risk insurance coverage obtained by Borrower with extended coverage, specifically to include a "collapse" endorsement and a "permit to occupy" endorsement, during the period of any construction, repair, restoration, or replacement of the Phase II Casino Project, in the amount of 100 percent of the replacement cost of the Phase II Casino Project.

(O) A copy of, and Lender's satisfactory review of, the projected financial statements of Borrower by fiscal year for each of the fiscal years through the Phase II Term Loan Maturity Date, including, in each case, projected balance sheets, statements of income and retained

earnings and statements of cash flow of Borrower, all in reasonable detail, reflecting the Borrower's compliance with each of the covenants set forth in Section 5.3 of this Agreement, all prepared by a financial officer of Borrower;

(P) A Survey Affidavit with respect to the Property underlying the Phase II Casino Project, in a form acceptable to the Title Company;

(Q) Lender's receipt and approval of all applicable environmental studies and reports for the Phase II Casino Project (including a Phase I report and if recommended, a Phase II report), issued by environmental consultants reasonably acceptable to Lender in form and substance reasonably acceptable to Lender;

(R) A certificate of a Responsible Officer, dated the Phase II Closing Date, certifying that (A) attached thereto is a true and correct copy of the Articles of Incorporation of Borrower and the Bylaws of Borrower as in effect on the Phase II Closing Date; (B) attached thereto are true and correct copies of resolutions duly adopted by the board of directors of Borrower and continuing in effect, which authorize the execution, delivery and performance by Borrower of the Credit Documents executed or to be executed by Borrower and the consummation of the Transactions; and (C) there are no proceedings for the dissolution or liquidation of Borrower; and

(S) Certificates of good standing for Borrower, certified as of a recent date prior to the Phase II Closing Date by the Secretary of State of Iowa.

(T) A certificate of a Responsible Officer, addressed to Lender and dated the Phase II Closing Date, certifying that:

(1) The representations and warranties set forth in Article IV and in the other Credit Documents are true and correct in all material respects as of such date (except to the extent that such representation and warranty is qualified by materiality, in which case such representation and warranty must be true in all respects) as if made on such date (except for representations and warranties expressly made as of a specified date, which shall be true and correct in all material respects (except to the extent that such representation and warranty is qualified by materiality, in which case such representation and warranty must be true in all respects) as of such date); and

(2) No Default has occurred and is continuing as of such date;

~~(C)~~(3) Borrower has obtained all Governmental Authorizations and all consents of other Persons, in each case that are necessary or advisable to have been obtained prior to the Phase II Closing Date in connection with the transactions herein and the continued operation of the business conducted by Borrower in substantially the same manner as conducted prior to the Phase II Closing Date. Each such Governmental Authorization or consent is in full force and effect, except in a case where the failure to obtain or maintain a Governmental Authorization or consent, either individually or in the aggregate, could not have a Material Adverse Effect. All applicable waiting periods have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise

impose adverse conditions on the transactions contemplated by the Credit Documents. No action, request for stay, petition for review or rehearing, reconsideration, or appeal with respect to any of the foregoing is pending, and the time for any applicable Governmental Authority to take action to set aside its consent on its own motion has expired; and

~~(D)~~(4) No temporary restraining order, preliminary or permanent injunction or other order preventing Borrower or Lender from entering into this Agreement or the other Credit Documents or consummating the transactions contemplated hereby or thereby shall have been issued by any court of competent jurisdiction or other Governmental Authority having authority over any such Person and remains in effect, and no applicable Governmental Rules shall be enacted or deemed applicable to the Credit Documents by a Governmental Authority having authority over any such Person that makes the closing of the Credit Documents or any extensions of credit thereunder illegal.

~~(x) — The absence of any action, suit, investigation or proceeding pending or, to the knowledge of Borrower, threatened in any court or before any arbitrator or governmental authority that could reasonably be expected to have a Material Adverse Effect.~~

~~(xi) — Borrower shall have provided the documentation and other information to Lender that is required by regulatory authorities under applicable “know your customer” and anti money-laundering rules and regulations, including, without limitation, the Patriot Act, in each case which are requested at least ten (10) days prior to the Closing Date;~~

(U) Evidence reasonably satisfactory to Lender that the Iowa Racing and Gaming Commission has approved this Agreement and the other Credit Documents;

(V) Evidence reasonably satisfactory to Lender that the City of Dubuque has approved this Agreement and the other Credit Documents;

~~(xii)~~(W) All fees and expenses payable to Lender on or prior to the Phase II Closing Date shall have been paid to Lender as of the Phase II Closing Date;

~~(xiii)~~(X) All fees and expenses of counsel to Lender invoiced through the Phase II Closing Date shall have been paid as of the Phase II Closing Date; and

~~(xiv)~~(Y) Such other evidence as Lender may reasonably request to establish the accuracy and completeness of the representations and warranties and the compliance with the terms and conditions contained in this Agreement and the other Credit Documents.

3.2 Conditions Precedent to Each Credit Event. The occurrence of each Credit Event (including the initial Borrowing) is subject to the further conditions that:

(a) On the date such Credit Event is to occur and after giving effect to such Credit Event, the following shall be true and correct:

(i) The representations and warranties of Borrower set forth in Article IV and in the other Credit Documents are true and correct in all material respects (except to the extent that such representation and warranty is qualified by materiality, in which case such representation and warranty must be true in all respects) as if made on such date (except for representations and warranties expressly made as of a specified date, which shall be true and correct in all material respects (except to the extent that such representation and warranty is qualified by materiality, in which case such representation and warranty must be true in all respects) as of such date);

(ii) No Default has occurred and is continuing or will result from such Credit Event; and

(iii) No material adverse change in the business, assets, liabilities, operations, performance or condition (financial or otherwise) of Borrower has occurred.

The submission by Borrower to Lender of each Notice of Borrowing shall be deemed to be a representation and warranty by Borrower that each of the statements set forth above in this Section 3.2(a) is true and correct as of the date of such document.

3.3 Any Phase I Construction Credit Event. In addition to any applicable conditions precedent set forth elsewhere in this Article III, and after giving effect to the requested Loans, the obligation of Lender to make advances under the Phase I Construction Loan is subject to the following conditions precedent, unless Lender, in its sole and absolute discretion, agrees otherwise:

(a) Prior to the date the initial Phase I Construction Loan Borrowing is requested, Lender shall have received true and correct copies of (i) all material architectural contracts and the Plans and Specifications for the construction of the Phase I Casino Project, as well as all material engineering and other analyses prepared and all Construction Contracts entered into with respect thereto, in each case, which are in effect as of the date of such initial request and (ii) the Construction Budget in effect as of the date of such initial request, the form, substance and scope of which shall be acceptable to Lender and the Construction Consultant;

(b) All DRA Equity Contributions required to have been made as of the date of such Loan shall have been made;

(c) Borrower shall have delivered the Draw Package and complied with the terms of the Construction Loan Disbursing Agreement; ~~and~~

(d) To the extent not delivered as of the Phase I Closing Date or updated or modified since such delivery, Lender shall have received and approved in form and substance satisfactory to Lender: (i) if requested by Lender, a soils report for the Casino Real Property and Phase I Casino Project; (ii) two (2) sets of the Plans and Specifications, certified as complete by the architect that prepared them, together with evidence of all necessary or appropriate approvals of governmental agencies (and to include a customary summary with respect to the of the Plans and Specifications, a summary of the approved revised contract amount(s) and a summary of all changes and updates); and (iii) if requested by Lender, copies of all building permits and similar permits, licenses, approvals, development agreements and other authorizations of governmental agencies or private parties required in connection with the development of the Casino Real Property and Phase I Casino Project;

(e) The total project costs (inclusive of pre-opening expenses, capitalized interest and financing fees) for the Phase I Casino Project shall not actually exceed or be projected to exceed (as reasonably determined by Lender, in consultation with the Construction Consultant) Fifty-One Million Three Hundred Eight Thousand Seven Hundred Seventy-Five Dollars (\$51,308,775.00) (including, without limitation, all amounts spent through the Phase I Closing Date);

(f) With respect to the making of any Loans, (i) Lender shall have received such endorsements, in form and content satisfactory to Lender, to the Title Policy as Lender may require and (ii) all applicable conditions in the Construction Loan Disbursing Agreement shall have been satisfied; and

(g) To the extent not previously delivered, Lender shall have received (x) an executed counterpart consent to the Assignment of Architect's Agreement and the Assignment of General Contractor Agreement executed and delivered by each applicable party in form and substance satisfactory to Lender (to the extent not delivered as of the Phase I Closing Date) and (y) an Assignment of Construction Contract, if any, executed and delivered by each contractor in form and substance satisfactory to Lender.

3.4 Final Phase I Construction Loan. In addition to any applicable conditions precedent set forth elsewhere in this Article III, and after giving effect to the requested Loans (or disbursement of Deposited Loan Funds), the obligation of Lender to make the Loan and the obligation of Lender to disburse any Deposited Loan Funds in each case, for the payment of final costs of the Phase I Casino Project (including payment of then unpaid retention amounts), is subject to the following conditions precedent (unless Lender, in its sole and absolute discretion, agrees otherwise):

(a) Receipt of evidence, satisfactory to Lender, that the Phase I Casino Project has been constructed prior to the Completion Date and in accordance with the Plans and Specifications;

(b) Lender shall have received AIA Form G704 (Certificate of Substantial Completion) or other document satisfactory to Lender executed by each Architect, General Contractor, and DRA;

(c) Lender shall have received a notice of completion in recordable form and otherwise in form and substance satisfactory to Lender, executed by DRA, and Lender is authorized, at its option, to record such notice of completion in the official records of Dubuque County, Iowa;

(d) Evidence satisfactory to Lender of lien free completion of the Phase I Casino Project or that the statutory lien filing period has expired including, without limitation, either evidence that no claim of lien or stop notice has been filed or Lender has received releases with respect to the same;

(e) Lender shall have received the final certificate of occupancy or the local equivalent thereof issued by all applicable Governmental Authorities with regard to all portions of the Phase I Casino Project in form and substance satisfactory to Lender;

(f) Lender shall have received an officer's certificate of DRA certifying that the termination of the construction relating to the Phase I Casino Project has occurred and that the Phase I Casino Project is in compliance with the General Contractor Agreement, each Construction Contract and the Plans and Specifications;

(g) Lender shall have received such endorsements, in form and content reasonably satisfactory to Lender, to the Title Policy as Lender may require and all applicable conditions in the Construction Loan Disbursing Agreement shall have been satisfied;

(h) The Phase I Casino Project is in a condition (including the installation of fixtures, furnishings and equipment) to receive patrons in the ordinary course of business; and

(i) Lender shall have received, in form and substance reasonably satisfactory to Lender, inspection reports and such other assurances, certificates, documents or consents related to the Phase I Casino Project as Lender may reasonably require.

3.5 Any Phase II Construction Credit Event. In addition to any applicable conditions precedent set forth elsewhere in this Article III, and after giving effect to the requested Loans, the obligation of Lender to make advances under the Phase II Construction Loan is subject to the following conditions precedent, unless Lender, in its sole and absolute discretion, agrees otherwise:

(a) Prior to the date the initial Phase II Construction Loan Borrowing is requested, Lender shall have received true and correct copies of (i) all material architectural contracts and the Plans and Specifications for the construction of the Phase II Casino Project, as well as all material engineering and other analyses prepared and all Construction Contracts entered into with respect thereto, in each case, which are in effect as of the date of such initial request and (ii) the Phase II Construction Budget in effect as of the date of such initial request, the form, substance and scope of which shall be acceptable to Lender and the Construction Consultant;

(b) All DRA Phase II Equity Contributions required to have been made as of the date of such Loan shall have been made;

(c) Borrower shall have delivered the Draw Package and complied with the terms of the Phase II Construction Loan Disbursing Agreement;

(d) To the extent not delivered as of the Phase II Closing Date or updated or modified since such delivery, Lender shall have received and approved in form and substance satisfactory to Lender: (i) if requested by Lender, a soils report for the Casino Real Property and Phase II Casino Project; (ii) two (2) sets of the Plans and Specifications, certified as complete by the architect that prepared them, together with evidence of all necessary or appropriate approvals of governmental agencies (and to include a customary summary with respect to the of the Plans and Specifications, a summary of the approved revised contract amount(s) and a summary of all changes and updates); and (iii) if requested by Lender, copies of all building permits and similar permits, licenses, approvals, development agreements and other authorizations of governmental agencies or private parties required in connection with the development of the Casino Real Property and Phase II Casino Project;

(e) The total project costs (inclusive of pre-opening expenses, capitalized interest and financing fees) for the Phase II Casino Project shall not actually exceed or be projected to exceed (as reasonably determined by Lender, in consultation with the Construction Consultant) Forty-Five Million Nine Hundred Sixty-Two Thousand Nine Hundred Five and 00/100 Dollars (\$45,962,905.00) (including, without limitation, all amounts spent through the Phase II Closing Date);

(f) With respect to the making of any Loans, (i) Lender shall have received such endorsements, in form and content satisfactory to Lender, to the Phase II Title Policy as Lender may require and (ii) all applicable conditions in the Phase II Construction Loan Disbursing Agreement shall have been satisfied; and

(g) To the extent not previously delivered, Lender shall have received (x) an executed counterpart consent to the Assignment of Architect's Agreement and the Assignment of General Contractor Agreement executed and delivered by each applicable party in form and substance satisfactory to Lender (to the extent not delivered as of the Phase II Closing Date) and (y) an Assignment of Construction Contract, if any, executed and delivered by each contractor in form and substance satisfactory to Lender.

3.6 Final Phase II Construction Loan. In addition to any applicable conditions precedent set forth elsewhere in this Article III, and after giving effect to the requested Loans (or disbursement of Phase II Deposited Loan Funds), the obligation of Lender to make the Loan and the obligation of Lender to disburse any Phase II Deposited Loan Funds in each case, for the payment of final costs of the Phase II Casino Project (including payment of then unpaid retention amounts), is subject to the following conditions precedent (unless Lender, in its sole and absolute discretion, agrees otherwise):

(a) Receipt of evidence, satisfactory to Lender, that the Phase II Casino Project has been constructed prior to the Phase II Completion Date and in accordance with the Plans and Specifications;

(b) Lender shall have received AIA Form G704 (Certificate of Substantial Completion) or other document satisfactory to Lender executed by each Architect, General Contractor, and DRA;

(c) Lender shall have received a notice of completion in recordable form and otherwise in form and substance satisfactory to Lender, executed by DRA, and Lender is authorized, at its option, to record such notice of completion in the official records of Dubuque County, Iowa;

(d) Evidence satisfactory to Lender of lien free completion of the Phase II Casino Project or that the statutory lien filing period has expired including, without limitation, either evidence that no claim of lien or stop notice has been filed or Lender has received releases with respect to the same;

(e) Lender shall have received the final certificate of occupancy or the local equivalent thereof issued by all applicable Governmental Authorities with regard to all portions of the Phase II Casino Project in form and substance satisfactory to Lender;

(f) Lender shall have received an officer's certificate of DRA certifying that the termination of the construction relating to the Phase II Casino Project has occurred and that the Phase II Casino Project is in compliance with the General Contractor Agreement, each Construction Contract and the Plans and Specifications;

(g) Lender shall have received such endorsements, in form and content reasonably satisfactory to Lender, to the Phase II Title Policy as Lender may require and all applicable conditions in the Phase II Construction Loan Disbursing Agreement shall have been satisfied;

(h) The Phase II Casino Project is in a condition (including the installation of fixtures, furnishings and equipment) to receive patrons in the ordinary course of business; and

(i) Lender shall have received, in form and substance reasonably satisfactory to Lender, inspection reports and such other assurances, certificates, documents or consents related to the Phase II Casino Project as Lender may reasonably require.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties. In order to induce Lender to enter into this Agreement and the other Credit Documents, Borrower hereby represents and warrants to Lender as follows and agrees that each of said representations and warranties shall be deemed to survive until full, complete and indefeasible payment and performance of the Obligations and shall apply anew to each Borrowing hereunder:

(a) Due Formation, Qualification, Etc. Borrower (i) is an Iowa non-profit corporation, duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or formation; (ii) has the power and authority to own, lease and operate its properties and carry on its business as now conducted; and (iii) is duly qualified, licensed to do business and in good standing as a foreign corporation, partnership, limited liability company or other organization, as applicable, in each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification or license and where the failure to be so qualified or licensed, individually or in the aggregate could have a Material Adverse Effect.

(b) Authority. The execution, delivery and performance by Borrower of each Credit Document executed, or to be executed, by Borrower and the consummation of the transactions contemplated thereby (i) are within the power Borrower and (ii) have been duly authorized by all necessary actions on the part Borrower.

(c) Enforceability. Each Credit Document executed, or to be executed, by Borrower has been, or will be, duly executed and delivered by Borrower and constitutes, or will constitute, a legal, valid and binding obligation of Borrower, enforceable against Borrower in accordance with its terms, except as limited by bankruptcy, insolvency or other laws of general application relating to or affecting the enforcement of creditors' rights generally and general principles of equity.

(d) Non-Contravention. The execution and delivery by Borrower of the Credit Documents executed by Borrower and the performance and consummation of the transactions (including the use of Loan proceeds) contemplated thereby do not (i) violate any Requirement of Law applicable to Borrower; (ii) violate any provision of, or result in the breach or the acceleration of, or entitle any other Person to accelerate (whether after the giving of notice or lapse of time or both), any Contractual Obligation of Borrower; (iii) result in the creation or imposition of any Lien (or the obligation to create or impose any Lien) upon any property, asset or revenue of Borrower (except such Liens as may be created in favor of Lender pursuant to this Agreement or the other Credit Documents), (iv) result in a revocation, termination or other material restriction on any Licenses material to the business, operations or properties of Borrower, (v) result in the termination or otherwise materially adversely affect any Material Document, or (vi) violate any provision of any existing law, rule, regulation, order, writ, injunction or decree of any

court or Governmental Authority to which it is subject, in each case except where such breach or violation could not reasonably be expected to result in a Material Adverse Effect.

(e) Approvals.

(i) No consent, approval, order or authorization of, or registration, declaration or filing with, any Governmental Authority or other Person is required in connection with the borrowing of Loans, the granting of Liens under the Credit Documents, the execution and delivery of the Credit Documents (or any documents executed in connection therewith) executed by Borrower or the performance or consummation of the transactions contemplated hereby and thereby, except for those which have been made or obtained and are in full force and effect.

(ii) The execution, delivery and performance by Borrower of the Credit Documents to which it is a party and the consummation of the transactions contemplated by the Credit Documents do not and will not result in any License Revocation.

(iii) All Gaming Licenses and other Governmental Authorizations have been duly obtained and are in full force and effect without any known conflict with the rights of others and free from any unduly burdensome restrictions (excepting restrictions which apply generally to Gaming Licenses and other Governmental Authorizations), except where any such failure to obtain such Gaming Licenses or Governmental Authorizations or any such conflict or restriction could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect. Borrower has not received any written notice or other written communications from any Gaming Authority or Governmental Authority regarding (i) any revocation, withdrawal, suspension, termination or modification of, or the imposition of any material conditions with respect to, any Gaming License or Governmental Authorization, or (ii) any other limitations on the conduct of business by Borrower, except where any such revocation, withdrawal, suspension, termination, modification, imposition or limitation could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

(iv) No Governmental Authorization is required for either (x) the pledge or grant by Borrower as applicable of the Liens purported to be created in favor of Lender in connection herewith or any other Credit Document or (y) the exercise by Lender of any rights or remedies in respect of any Collateral (whether specifically granted or created pursuant to any of the Security Documents or created or provided for by any Governmental Rule), except for (1) such Governmental Authorizations that have been obtained and are in full force and effect and fully disclosed to Lender in writing, and (2) filings or recordings contemplated in connection with this Agreement or any Security Document.

(f) No Violation or Default. To its knowledge, Borrower is not in violation of or in default with respect to (i) any Requirement of Law applicable to Borrower (including applicable Gaming Laws, Regulations T, U and X, and the Anti-Terrorism Laws) or (ii) any Contractual Obligation of Borrower (nor is there any waiver in effect which, if not in effect, could result in such a violation or default), where, in each case, such violation or default could reasonably be expected to have a Material Adverse Effect. Without limiting the generality of the foregoing, Borrower (A) has not, to its knowledge, violated any Hazardous Materials Laws, (B) does not have, to its knowledge, any liability under any Hazardous Materials Laws, or (C) has not received notice or other communication of an investigation or, to its knowledge, is not under investigation by any Governmental Authority having authority to enforce Hazardous Materials Laws, where such violation, liability or investigation could reasonably be expected

to have a Material Adverse Effect. No Default has occurred and is continuing. Borrower is in material compliance with all applicable Gaming Laws.

(g) Litigation. Except as set forth in Schedule 4.1(g), no actions (including derivative actions), suits, proceedings (including arbitration proceedings or mediation proceedings) or investigations are pending (including, without limitation, any investigation by any Gaming Authority), or, to the knowledge of Borrower, threatened against Borrower at law or in equity in any court, arbitration proceeding or before any other Governmental Authority which (i) could reasonably be expected to (alone or in the aggregate) have a Material Adverse Effect or (ii) seek to enjoin, either directly or indirectly, the execution, delivery or performance by Borrower of the Credit Documents (or any documents executed in connection therewith) or the transactions contemplated thereby or the construction of the Phase I Casino Project: or the construction of the Phase II Casino Project.

(h) Real Property, Etc. Schedule 4.1(h)(i) (as supplemented from time to time by Borrower in a notice delivered pursuant to Section 5.1(a)(ixx)) sets forth, as of the Phase I Closing Date, recertified as of the Phase II Closing Date, and as of the date by which Section 5.1(a)(ixxii) requires such supplement to be delivered by Borrower, each fee interest in real property owned by Borrower and each leasehold interest in real property leased by Borrower. Borrower owns and has good and marketable title to, or a valid leasehold interest in, all its properties and assets as reflected in the most recent Financial Statements delivered to Lender (except those assets and properties disposed of in the ordinary course of business or otherwise in compliance with this Agreement since the date of such Financial Statements) and all respective assets and properties acquired by Borrower since such date (except those disposed of in the ordinary course of business or otherwise in compliance with this Agreement), except in each case, such defects in title that, in the aggregate, could not reasonably be expected to have a Material Adverse Effect. The Collateral is subject to no Lien, except for Permitted Liens. Borrower has complied in all material respects with all material obligations under all material leases to which it is a party and enjoys peaceful and undisturbed possession under such leases.

(i) Financial Statements. Borrower has delivered to Lender Borrower's Financial Statements for the fiscal year ended December 31, 20222023, which Financial Statements (i) are in accordance with the books and records of Borrower and have been maintained in accordance with good business practice; (ii) have been prepared in conformity with GAAP; and (iii) fairly present in all material respects the financial conditions and results of operations of Borrower as of the date thereof and for the period covered thereby. Borrower has no Contingent Obligations, liability for taxes or other outstanding obligations which, in any such case, are material in the aggregate, except as disclosed in the Financial Statements delivered to Lender pursuant to clause (i), (ii), or (iii) of Section 5.1(a).

(j) Creation, Perfection and Priority of Liens.

(i) As of the Phase II Closing Date, (x) the execution and delivery of the Security Documents by Borrower, together with the filing of any Uniform Commercial Code financing statements delivered to Lender for filing and recording, and as of the date delivered, the recording of any Real Estate Security Documents delivered to Lender for recording (but not yet recorded), are effective to create in favor of Lender, as security for the Obligations, a valid and perfected first priority Lien on all of the Collateral as of the Phase II Closing Date (subject only to Permitted Liens), and (y) all filings and other actions necessary or desirable to perfect and maintain the perfection and first priority status of such Liens have been duly made or taken and remain in full force and effect. In the case of deposit accounts

and accounts with any securities intermediary maintained in the United States and pledged to Lender under the Security Agreement, the Security Agreement shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of Borrower in such Collateral, as security for the Obligations, prior and superior to the Lien of any other Person.

(ii) Each of the Real Property Security Documents is effective to create in favor of Lender a legal, valid, binding, and enforceable Lien on, and security interest in, Borrower's right, title and interest in and to the real property subject thereto and proceeds thereof, and, each such Real Property Security Document shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the grantors thereof in such real property and proceeds thereof, as security for the Obligations, prior and superior in right to any other Person (except with respect to Permitted Liens).

(k) ERISA. Except as set forth on Schedule 4.1(k):

(i) Neither Borrower nor any ERISA Affiliate has any liability with respect to any post-retirement benefit under any employee welfare plan (as defined in Section 3(1) of ERISA), other than liability for health plan continuation coverage described in Part 6 of Title I(B) of ERISA, which liability for health plan continuation coverage could not have a Material Adverse Effect.

(l) Margin Stock; Other Regulations. Borrower does not own any Margin Stock which, in the aggregate, would constitute a substantial part of the assets of Borrower, and not more than 25% of the value (as determined by any reasonable method) of the assets of Borrower is represented by Margin Stock, and no proceeds of any Loan will be used, whether directly or indirectly, to purchase, acquire or carry any Margin Stock or to extend credit, directly or indirectly, to any Person for the purpose of purchasing or carrying any Margin Stock. Borrower is not subject to regulation under the Investment Company Act of 1940, the Federal Power Act, the Interstate Commerce Act, any state public utilities code or to any other Governmental Rule limiting its ability to incur indebtedness.

(m) Trademarks, Patents, Copyrights and Licenses. Borrower possesses and either owns, or has the right to use to the extent required, all necessary trademarks, trade names, copyrights, patents, patent rights and licenses which are material to the conduct of its respective businesses as now operated. Borrower conducts its businesses without infringement or, to Borrower's knowledge, claim of infringement of any trademark, trade name, trade secret, service mark, patent, copyright, license or other intellectual property rights of any other Person, except where such infringement or claim of infringement could not have a Material Adverse Effect. There is no infringement or, to Borrower's knowledge, claim of infringement by others of any material trademark, trade name, trade secret, service mark, patent, copyright, license, or other intellectual property right of Borrower. Each of the patents, trademarks, trade names, service marks, and copyrights owned by Borrower which is registered with any Governmental Authority is set forth on the schedules to the Security Agreement.

(n) Governmental Charges. Borrower has timely filed or caused to be timely filed with the appropriate taxing authorities all tax returns which are required to be filed by it. The tax returns accurately reflected all liabilities for taxes of Borrower for the periods covered thereby. Borrower has paid, or made provision for the payment of, all taxes and other Governmental Charges which have or may have become due pursuant to said returns or otherwise and all other indebtedness, except such Governmental Charges or indebtedness, if any, which are being contested in good faith by appropriate proceedings and as to which adequate reserves (determined in accordance with GAAP) have been

established. All taxes which Borrower was required by law to withhold or collect in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder or other third party have been duly withheld or collected, and have been timely paid over to the proper authorities to the extent due and payable. Borrower has not executed or filed with the Internal Revenue Service or any other Governmental Authority any agreement or other document extending, or having the effect of extending, the period for assessment or collection of any taxes or Governmental Charges.

(o) Subsidiaries, Etc. Schedule 4.1(o) (as supplemented by Borrower in a notice delivered pursuant to Section 5.1(a)(~~viii~~)) sets forth each of the Subsidiaries of Borrower, its jurisdiction of organization, the classes of its Equity Securities, the number of Equity Securities of each such class issued and outstanding, the percentages of Equity Securities of each such class owned directly or indirectly by Borrower and whether Borrower owns such Equity Securities directly or, if not, the Subsidiary of Borrower that owns such Equity Securities and the number of Equity Securities and percentages of Equity Securities of each such class owned directly or indirectly by Borrower. Except as set forth on Schedule 4.1(o) (as supplemented as set forth above), Borrower does not currently have any Subsidiaries. All of the outstanding Equity Securities of each such Subsidiary indicated on Schedule 4.1(o) as owned by Borrower are owned beneficially and of record by Borrower free and clear of all adverse claims. Each of the Subsidiaries of Borrower is organized under the laws of the United States or any state thereof.

(p) Solvency, Etc. Borrower is Solvent and, after the execution and delivery of the Credit Documents and the consummation of the transactions contemplated thereby, will be Solvent.

(q) Labor Matters. There are no disputes presently subject to grievance procedure, arbitration or litigation under any of the collective bargaining agreements, employment contracts or employee welfare or incentive plans to which Borrower is a party, and there are no strikes, lockouts, work stoppages or slowdowns, or, to the knowledge of Borrower, jurisdictional disputes or organizing activities occurring or threatened which alone or in the aggregate could have a Material Adverse Effect.

(r) No Material Adverse Effect. Between December 31, ~~2022~~2023, and the date of this Agreement, no event has occurred and no condition exists which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

(s) Accuracy of Information Furnished; Material Documents.

(i) The Credit Documents and the other certificates, statements and information (excluding projections) furnished by Borrower to Lender in connection with the Credit Documents and the transactions contemplated thereby, taken as a whole, do not contain any untrue statement of a material fact and do not omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. All projections furnished by Borrower to Lender in connection with the Credit Documents and the transactions contemplated thereby have been prepared on a basis consistent with the historical financial statements described above, except as described therein, have been based upon reasonable assumptions and represent, as of their respective dates of presentations, Borrower's good faith and reasonable estimates of the future performance of Borrower, and Borrower has no reason to believe that such estimates and assumptions are not reasonable.

(ii) The copies of the Material Documents which have been delivered to Lender in accordance with Section 3.1 are true, correct and complete copies of the respective originals thereof, as in effect on the Phase II Closing Date, and no amendments or modifications have been made to the Material Documents, except as set forth by documents delivered to Lender in accordance with said Section 3.1 or as otherwise permitted under Section 5.2(m). None of the Material Documents have been terminated and each of the Material Documents is in full force and effect. Borrower is not in default in the observance or performance of any of its material obligations under the Material Documents, and Borrower has taken all action required to be taken as of the ~~Closing Date~~date of this Agreement to keep unimpaired its rights thereunder.

(t) Brokerage Commissions. No person is entitled to receive any brokerage commission, finder's fee or similar fee or payment in connection with the extensions of credit contemplated by this Agreement as a result of any agreement entered into by Borrower.

(u) Policies of Insurance. The properties of Borrower are insured with financially sound and reputable insurance companies not Affiliates of Borrower, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning or leasing similar properties in localities where Borrower operates. Schedule 4.1(u) sets forth a true and complete listing of all insurance maintained by Borrower as of the ~~Closing Date~~date of this Agreement. Such insurance has not been terminated and is in full force and effect, and Borrower has taken all action required to be taken as of the date of this Agreement to keep unimpaired its rights thereunder.

(v) Agreements with Affiliates and Other Agreements. Except as disclosed on Schedule 4.1(v), Borrower has not entered into and, as of the date of the applicable Credit Event does not contemplate entering into, any material agreement or contract with any Affiliate of Borrower, except upon terms at least as favorable to Borrower as an arms-length transaction with unaffiliated Persons, based on the totality of the circumstances. Borrower is not a party to or is bound by any Contractual Obligation or is subject to any restriction under its respective charter or formation documents, which could not reasonably be expected to have a Material Adverse Effect.

(w) Foreign Assets Control, Etc.

(i) Borrower (A) is not and will not become a Designated Person; (B) is not and will not become controlled by a Designated Person; (C) has not received and will not receive funds or other Property from a Designated Person; and (D) is not and will not become in breach of and is not the subject of any action or investigation under any Anti-Terrorism Law. Borrower does not engage and will not engage in any dealings or transactions, and is not and will not be otherwise associated, with any Designated Person. Borrower is in compliance, in all respects, with Anti-Terrorism Laws. Borrower has taken commercially reasonable measures to ensure compliance with the Anti-Corruption Laws and Anti-Terrorism Laws including the requirements that (1) no Person who owns any direct or indirect interest in Borrower is a Designated Person, (2) funds invested directly or indirectly in Borrower are derived from legal sources, (3) Borrower is not the subject of any Sanctions, and (4) Borrower is not located, organized or resident in a country or territory that is, or whose government is, the subject of Sanctions.

(ii) No portion of the proceeds of any Loan, or other credit made hereunder has been or will be used, directly or indirectly for, and no fee, commission, rebate or other value has been or will (A) be paid to, or for the benefit of, any governmental official, political party, official of a political

party or any other Person acting in an official capacity in violation of any applicable Governmental Rules, including the U.S. Foreign Corrupt Practices Act of 1977 (collectively, with such Governmental Rules, “Anti-Corruption Laws”), as amended or (B) be used to violate any Anti-Terrorism Law.

(x) Burdensome Contractual Obligations, Etc. Borrower and none of its properties are subject to any Contractual Obligation or Requirement of Law which, either individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

(y) Phase I Construction Budget. On and as of the Phase I Closing Date and as of the date of any revision thereof permitted hereunder, the Construction Budget prepared by DRA and delivered to Lender was based on DRA’s good faith assumptions and estimates, and Borrower is not aware of any facts that would lead it to believe that the assumptions and estimates on which the Construction Budget was based are not reasonable.

(z) Phase II Construction Budget. On and as of the Phase II Closing Date and as of the date of any revision thereof permitted hereunder, the Phase II Construction Budget prepared by DRA and delivered to Lender was based on DRA’s good faith assumptions and estimates, and Borrower is not aware of any facts that would lead it to believe that the assumptions and estimates on which the Phase II Construction Budget was based are not reasonable.

~~(z)~~(aa) Access; Utilities.

(i) All roads necessary for the construction and operation of the Phase I Casino Project and Phase II Casino Project for its intended purposes have either been completed or the necessary rights of way therefor have been acquired by Borrower.

(ii) All utilities, services and facilities necessary for the construction of the Phase I Casino Project (including, without limitation, water supply, storm and sanitary sewer facilities, gas, electrical and telephone facilities) will be available without impediment or delay at the boundaries of the Phase I Casino Project no later than the Completion Date and all utility services necessary for the operation of the Phase I Casino Project (including the Gaming Facility) are and will continue to be available at or within the boundaries thereof when needed.

(iii) All utilities, services and facilities necessary for the construction of the Phase II Casino Project (including, without limitation, water supply, storm and sanitary sewer facilities, gas, electrical and telephone facilities) will be available without impediment or delay at the boundaries of the Phase II Casino Project no later than the Phase II Completion Date and all utility services necessary for the operation of the Phase II Casino Project (including the Gaming Facility) are and will continue to be available at or within the boundaries thereof when needed.

~~(iii)~~(iv) Borrower possess all rights and interests in property (including, without limitation, the Phase I Casino Project, the Phase II Casino Project, and rights of ingress to and egress from the Phase I Casino Project and the Phase II Casino Project) and all material rights or contracts necessary for the construction, installation, completion, operation, and maintenance of the Phase I Casino Project and the Phase II Casino Project as contemplated by this Agreement, the General Contractor Agreement, each Construction Contract, and the Plans and Specifications.

~~(aa)~~(bb) Contractors. As of the Phase I Closing Date, Schedule 4.1(aabb) is a true, correct and complete list of (i) all contractors party to a Construction Contract as of the Phase I Closing Date and (ii) all contracts (and the name of the proposed contractors to be party thereto) under negotiation as of the Phase I Closing Date.

(cc) Contractors. As of the Phase II Closing Date, Schedule 4.1(cc) is a true, correct and complete list of (i) all contractors party to a Construction Contract as of the date of this Agreement and (ii) all contracts (and the name of the proposed contractors to be party thereto) under negotiation as of the date of this Agreement.

4.2 Reaffirmation. Borrower shall be deemed to have reaffirmed, for the benefit of Lender, each representation and warranty contained in Article IV on and as of the date of each Credit Event (except for representations and warranties expressly made as of a specified date, which shall be true as of such date).

ARTICLE V **COVENANTS**

5.1 Affirmative Covenants. So long as any Loan remains unpaid, or any other Obligation remains unpaid or unperformed, or any portion of any loan commitment hereunder remains in force, Borrower will comply with the following affirmative covenants, unless Lender shall otherwise consent in writing:

(a) Financial Statements, Reports, Etc. Borrower shall furnish to Lender the following, each in such form and such detail as Lender shall request:

(i) As soon as available, but in no event later than thirty (30) days past the prior month's end, copies of the monthly Financial Statements of Borrower and the balance sheets and statements of income of Borrower for such month and for the fiscal year to date, each certified by a Responsible Officer to present fairly in all material respects the financial condition, results of operations and other information reflected therein and to have been prepared in accordance with GAAP, which Financial Statements and balance sheets and statements of income shall be accompanied by a narrative from management of Borrower as prepared for Borrower's executive board committee which discusses results, if any such narrative is actually prepared by Borrower;

(ii) As soon as available copies of monthly statements providing information on the Average Daily Rate, occupancy, and Revenue Per Available Room with respect to the Hilton Garden Inn, which statements shall be accompanied by a narrative from management of Borrower as prepared for Borrower's executive board committee which discusses results, if any such narrative is actually prepared by Borrower;

(iii) After the opening of the Hilton Tapestry Hotel, as soon as available copies of monthly statements providing information on the Average Daily Rate, occupancy, and Revenue Per Available Room with respect to the Hilton Tapestry Hotel, which statements shall be accompanied by a narrative from management of Borrower as prepared for Borrower's executive board committee which discusses results, if any such narrative is actually prepared by Borrower;

~~(iii)~~(iv) Borrower shall deliver to Lender within thirty (30) days after the applicable filing period, Borrower's filed tax returns, including all schedules and exhibits thereto, including any extensions filed (in which case, Borrower shall deliver to Lender its filed federal income tax return within thirty (30) days of the extended filing);

~~(iv)~~(v) As soon as available and in no event later than one hundred twenty (120) days after the end of each fiscal year, a copy of the Financial Statements of Borrower, (A) audited by an independent certified public accountants acceptable to Lender, which Financial Statements shall be accompanied by a narrative from management of Borrower as prepared for Borrower's executive board committee which discusses results, if any such narrative is actually prepared by Borrower, and (B) copies of the unqualified opinions delivered by such accountants and, to the extent delivered, management letters delivered by such accountants in connection with all such Financial Statements and prepared in accordance with GAAP;

~~(v)~~(vi) Contemporaneously with the annual Financial Statements for each fiscal year required by the foregoing clause (iv), a compliance certificate of a Responsible Officer substantially in the form of Exhibit E or in a form otherwise acceptable to Lender (the "Compliance Certificate") which (A) states that no Default has occurred and is continuing, or, if any such Default has occurred and is continuing, a statement as to the nature thereof and what action Borrower proposes to take with respect thereto, (B) sets forth, for fiscal year covered by such Financial Statements or as of the last day of such fiscal year (as the case may be), the calculation of the financial ratios and tests provided in Section 5.3, and (C) sets forth information and computations related to Sections 5.1(i), 5.2(a), 5.2(e) and 5.2(f) of this Agreement and any other provisions of the Credit Documents required to be included in such Compliance Certificate;

~~(vi)~~(vii) As soon as possible and in no event later than five (5) Business Days after Borrower knows of the occurrence or existence of (A) any actual or threatened litigation, suits, claims, disputes or investigations against Borrower involving potential monetary damages payable by Borrower or in which injunctive relief or similar relief is sought, which relief, if granted, could have a Material Adverse Effect, (B) any other event or condition which, either individually or in the aggregate, could have a Material Adverse Effect, including (I) breach or non-performance of, or any default under, a Contractual Obligation of Borrower; (II) any dispute, litigation, investigation, proceeding or suspension between Borrower and any Governmental Authority; or (III) the commencement of, or any material development in, any litigation or proceeding affecting Borrower, including pursuant to any applicable Hazardous Materials Laws; (C) any Default or any default under any Subordinated Obligations, the statement of a Responsible Officer of Borrower setting forth details of such event, condition, default or Default and the action which Borrower propose to take with respect thereto, or (D) any material change in accounting policies of or financial reporting practices by Borrower. Each notice pursuant to this Section 5.1(a)(~~v~~vii) shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action Borrower has taken and proposes to take with respect thereto. Each notice pursuant to this Section 5.1(a)(~~v~~vii) shall describe with particularity any and all provisions of this Agreement or other Credit Document that have been breached;

~~(vii)~~(viii) As soon as available, and in any event not later than thirty (30) days prior to the commencement of each fiscal year of Borrower, the budget and projected financial statements of Borrower for such fiscal year, including, in each case, projected balance sheets, statements of income and statements of cash flow of Borrower, all in reasonable detail and with assumptions and in any event

to include projected Capital Expenditures and projections of Borrower's compliance with each of the covenants set forth in Section 5.3 of this Agreement;

~~(viii)~~(ix) As soon as possible and in no event later than five (5) Business Days prior to the occurrence of any event or circumstance that would require a prepayment pursuant to Section 2.3(c), the statement of a Responsible Officer setting forth the details thereof;

~~(ix)~~(x) As soon as possible and in no event later than ten (10) Business Days prior thereto, written notice of the establishment by Borrower of any new Subsidiary;

~~(x)~~(xi) As soon as possible and in no event later than five (5) Business Days after the receipt thereof by Borrower, a copy of any notice, summons, citations or other written communications concerning any actual, alleged, suspected or threatened violation of any Hazardous Materials Law, or any liability of Borrower for Environmental Damages;

~~(xi)~~(xii) As soon as possible and in no event later than ten (10) Business Days prior to the acquisition by Borrower of any leasehold or ownership interest in real property, a written supplement to Schedule 4.1(h)~~(i)~~;

~~(xii)~~(xiii) As soon as possible and in no event later than five (5) Business Days after the receipt thereof by Borrower, copies of any and all material adverse notices and other material adverse communications from any Governmental Authority with respect to Borrower or any Gaming Facility and promptly upon the request of Lender, copies of any and all periodic or special reports filed by Borrower with any Gaming Authority or other Governmental Authority with respect to any Gaming Facility;

~~(xiii)~~(xiv) To the extent not previously provided, contemporaneously with the Financial Statements for each month and each fiscal year end required by the foregoing clauses (i) and (ii), the notices and supplements required by the Security Agreement with respect to the period covered by such Financial Statements;

~~(xiv)~~(xv) To the extent Borrower is required to file any notice or other document with respect to the Loans or any Credit Document pursuant to applicable Gaming Laws, Borrower shall make such filings in a timely manner and notify Lender in writing upon the completion thereof;

~~(xv)~~(xvi) (x) As soon as practicable, and in any event no later than ten (10) Business Days prior to entering any Construction Contract or modifying any Construction Contract, a copy of such proposed Construction Contract or modification, and (y) as soon as practicable, and in any event no later than two (2) Business Days after entering any Construction Contract or modification of any Construction Contract, a copy of such Construction Contract or modification and, to the extent not previously delivered, a signed Assignment of Construction Contract from the contractor party to such Construction Contract, provided that so long as any change order is allowed under Section 5.2(r)(i)(C) or Section 5.2(s)(i)(C), Borrower shall not be required to provide a copy of any change order prior to entering into such change order modifying a Construction Contract; and

~~(xvi)~~(xvii) Such other instruments, agreements, certificates, opinions, statements, documents, and information relating to the properties, operations or condition (financial or

otherwise) of Borrower, and compliance by Borrower with the terms of this Agreement and the other Credit Documents as Lender may from time-to-time reasonably request.

(b) Books and Records. Borrower shall at all times keep proper books of record and account in which full, true and correct entries will be made of its transactions in accordance with GAAP.

(c) Inspections. Borrower shall permit Lender, or any agent or representative thereof, upon reasonable notice, during normal business hours, and only so often as is reasonably necessary, so long as no Default shall have occurred and be continuing and otherwise at any time as Lender may determine with or without prior notice to Borrower, to visit and inspect any of the properties and offices of Borrower, to conduct audits of any or all of the Collateral, to examine the books and records of Borrower and make copies thereof, and to discuss the affairs, finances and business of Borrower with, and to be advised as to the same by, their officers, auditors and accountants, all at such times and intervals as Lender may request, all at Borrower's expense. Without limiting the foregoing, Borrower shall:

(i) provide the Construction Consultant any and all requested and reasonably necessary access to the Phase I Casino Project construction site;

(ii) provide the Construction Consultant any and all requested and reasonably necessary access to the Phase II Casino Project construction site;

~~(ii)~~(iii) provide the Construction Consultant any and all information which is reasonably required for the preparation of a monthly Construction Progress Report;

~~(iii)~~(iv) cooperate in the preparation of each Construction Progress Report and, if reasonably requested by Lender, cause each Architect, General Contractor and each contractor to certify that the Phase I Casino Project constructed as of the date of any Construction Progress Report conform to the Plans and Specifications in all material respects;

(v) cooperate in the preparation of each Construction Progress Report and, if reasonably requested by Lender, cause each Architect, General Contractor and each contractor to certify that the Phase II Casino Project constructed as of the date of any Construction Progress Report conform to the Plans and Specifications in all material respects;

~~(iv)~~(vi) if requested by the Construction Consultant, maintain a full set of working drawings at the construction office for the Phase I Casino Project for review by the Construction Consultant;

(vii) if requested by the Construction Consultant, maintain a full set of working drawings at the construction office for the Phase II Casino Project for review by the Construction Consultant;

~~(v)~~(viii) within fifteen (15) days following any request by Lender, deliver (i) then current construction plans for the Phase I Casino Project certified as true and correct by each Architect and Engineer, (ii) a then current list of the names, addresses and telephone numbers of each contractor, subcontractor and material supplier with respect to the Phase I Casino Project and the dollar value and amounts paid with respect to the related contracts, and (iii) then current versions of the

construction schedule for all uncompleted work on the Phase I Casino Project and all executed contracts and subcontracts for such work; ~~and~~

(ix) within fifteen (15) days following any request by Lender, deliver (i) then current construction plans for the Phase II Casino Project certified as true and correct by each Architect and Engineer, (ii) a then current list of the names, addresses and telephone numbers of each contractor, subcontractor and material supplier with respect to the Phase II Casino Project and the dollar value and amounts paid with respect to the related contracts, and (iii) then current versions of the construction schedule for all uncompleted work on the Phase II Casino Project and all executed contracts and subcontracts for such work;

(x) cooperate (and shall use its best efforts to cause General Contractor and each contractor to cooperate) with Lender in arranging for inspections from time to time by Lender or the Construction Consultant or any other representative of Lender of the progress of construction and its relation to the Construction Budget, and Plans and Specifications, which inspections shall occur only so often as is reasonably necessary and at such times as to minimize any interfere with such construction. In the course of such inspections, Lender and the Construction Consultant or any other representative of Lender shall be entitled to inspect the Phase I Casino Project, including, without limitation, (i) the Phase I Casino Project, (ii) all materials to be used in the construction of the Phase I Casino Project, (iii) all plans and shop drawings which are or may be kept at the construction site, (iv) any contracts, bills of sale, statements, receipts or vouchers in connection with the Phase I Casino Project whether or not kept at the construction site, (v) all work done, labor performed, materials furnished in and about the Phase I Casino Project, (vi) all books, contracts and records of Borrower and Borrower's agents and other entities as may be contractually bound to Borrower to provide such records with respect to the construction of the Phase I Casino Project whether or not kept at the construction site, and (vii) any other documents relating to the construction of the Phase I Casino Project whether or not kept at the construction site. In addition to the foregoing, Lender and the Construction Consultant or any employees, agents and representatives of Lender shall be entitled to inspect (to the extent Borrower has a right to so inspect) (i) all books, contracts and records of General Contractor and each contractor with respect to the Phase I Casino Project and (ii) any other document of General Contractor relating to the Phase I Casino Project and whether or not kept at the construction site. Borrower will cooperate (and will use its best efforts to cause all of the following Persons to cooperate) and instruct each Architect, General Contractor, each contractor and all material subcontractors to cooperate with Lender and any representatives of Lender so that they may perform their respective responsibilities hereunder and to comply with Lender's reasonable requirements; and

~~(vi)~~(xi) cooperate (and shall use its best efforts to cause General Contractor and each contractor to cooperate) with Lender in arranging for inspections from time to time by Lender or the Construction Consultant or any other representative of Lender of the progress of construction and its relation to the Phase II Construction Budget and Plans and Specifications, which inspections shall occur only so often as is reasonably necessary and at such times as to minimize any interfere with such construction. In the course of such inspections, Lender and the Construction Consultant or any other representative of Lender shall be entitled to inspect the Phase II Casino Project, including, without limitation, (i) the Phase II Casino Project, (ii) all materials to be used in the construction of the Phase II Casino Project, (iii) all plans and shop drawings which are or may be kept at the construction site, (iv) any contracts, bills of sale, statements, receipts or vouchers in connection with the Phase II Casino Project whether or not kept at the construction site, (v) all work done, labor performed, materials furnished in and

about the Phase II Casino Project, (vi) all books, contracts and records of Borrower and Borrower's agents and other entities as may be contractually bound to Borrower to provide such records with respect to the construction of the Phase II Casino Project whether or not kept at the construction site, and (vii) any other documents relating to the construction of the Phase II Casino Project whether or not kept at the construction site. In addition to the foregoing, Lender and the Construction Consultant or any employees, agents and representatives of Lender shall be entitled to inspect (to the extent Borrower has a right to so inspect) (i) all books, contracts and records of General Contractor and each contractor with respect to the Phase II Casino Project and (ii) any other document of General Contractor relating to the Phase II Casino Project and whether or not kept at the construction site. Borrower will cooperate (and will use its best efforts to cause all of the following Persons to cooperate) and instruct each Architect, General Contractor, each contractor and all material subcontractors to cooperate with Lender and any representatives of Lender so that they may perform their respective responsibilities hereunder and to comply with Lender's reasonable requirements.

(d) Insurance. Borrower shall, at Borrower's expense, carry and maintain the insurance coverage specified on Schedule 5.1(d); provided, however, that if Borrower shall fail to maintain insurance in accordance with this Section 5.1(d), or if Borrower shall fail to provide the required endorsements with respect thereto, Lender shall have the right (but shall be under no obligation) to procure such insurance and Borrower agrees to reimburse Lender for all costs and expenses of procuring such insurance.

(e) Governmental Charges and Other Indebtedness. Borrower shall promptly pay and discharge when due (i) all taxes and other Governmental Charges prior to the date upon which penalties accrue thereon, (ii) all Indebtedness which, if unpaid, could become a Lien upon the property of Borrower, and (iii) subject to any subordination provisions applicable thereto, all other Indebtedness which in each case, if unpaid, could be reasonably likely to have a Material Adverse Effect, except such taxes, Governmental Charges and Indebtedness as may in good faith be contested or disputed, or for which arrangements for deferred payment have been made; provided that in each such case appropriate reserves are maintained in accordance with GAAP and no material property of Borrower is at impending risk of being seized, levied upon or forfeited.

(f) Use of Proceeds. Borrower shall use the proceeds of the Loans to (i) refinance certain existing Indebtedness of Borrower, (ii) finance the design, construction and equipping costs of the Phase I Casino Project, (iii) finance the design, construction and equipping costs of the Phase II Casino Project, (iv) pay fees and expenses incurred in connection with this Agreement, ~~(i-v)~~ provide working capital and general company purposes of Borrower; provided that the Phase I Construction Loan may only be used to finance the design, construction, and equipping costs of the Phase I Casino Project; and to pay fees and expenses incurred in connection with this Agreement, provided further that the Phase II Construction Loan may only be used to finance the design, construction, and equipping costs of the Phase II Casino Project and to pay fees and expenses incurred in connection with this Agreement. No part of the proceeds of any Loan or any other extension of credit hereunder shall be used, whether directly or indirectly, (A) to purchase, acquire or carry any Margin Stock, or (B) for any purpose that entails a violation of any of the regulations of the Federal Reserve Board, including Regulations T, U, and X, (C) to fund any Distributions or any portion thereof, (D) for payment to, or for the benefit of, any governmental official, political party, official of a political party or any other Person acting in an official capacity in violation of any applicable Anti-Corruption Laws, (E) for the purpose of funding, financing or facilitating

any activities, business or transaction of or with any Designated Person, or (F) in any manner that would result in the violation of any Anti-Terrorism Laws applicable to any party hereto.

(g) General Business Operations. Borrower shall (i) preserve, renew and maintain in full force its corporate existence and good standing under the Governmental Rules of the jurisdiction of its organization and all of its rights, Licenses (including Gaming Licenses), leases, qualifications, privileges, franchises and other authority reasonably necessary to the conduct of its business, (ii) conduct its business activities in compliance in all material respects with all Requirements of Law (including all Gaming Laws) and Contractual Obligations applicable to such Person, (iii) keep all property useful and necessary in its business in good working order and condition, ordinary wear and tear excepted and from time to time make, or cause to be made, all necessary and proper repairs, except, in each case, where any failure, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, (iv) maintain, preserve and protect all of its rights to enjoy and use material trademarks, trade names, service marks, patents, copyrights, Licenses (including Gaming Licenses), leases, franchise agreements and franchise registrations, in each case, to the extent necessary to maintain its business operations in the ordinary course, and (v) conduct its business in an orderly manner without voluntary interruption (other than the interruption resulting from the Phase I Casino Project~~);~~ or Phase II Casino Project). Borrower shall not change its jurisdiction of formation.

(h) Compliance with Laws; Maintenance of Gaming and Liquor License.

(i) Compliance with Laws. Borrower shall comply in all material respects with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority (including, without limitation, all Gaming Laws, Hazardous Materials Laws and the Patriot Act), noncompliance with which could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(ii) Maintenance of Licenses. Borrower shall maintain (i) a valid Gaming License in Iowa as may be necessary to operate each Gaming Facility, the absence of which could reasonably be expected to result in a Material Adverse Effect, and (ii) all liquor Licenses and registrations as may be necessary to sell alcoholic beverages from and in each Gaming Facility. Borrower shall notify Lender promptly upon the revocation or non-renewal of any such Gaming License, liquor License, or registration.

(i) New Subsidiaries. Borrower shall, at its own expense promptly, and in any event within ten (10) Business Days after the formation or acquisition of any Subsidiary by Borrower (A) notify Lender of such event in writing (to the extent notice has not already been provided in accordance with Section 5.1(a)(viii)), (B) cause each Subsidiary to become a party to the Security Agreement and each other applicable Security Document in accordance with the terms thereof, execute additional Security Documents if reasonably requested by Lender and amend the Security Documents as appropriate in light of such event to pledge Lender one hundred percent (100%) of the Equity Securities of each such Person which becomes a Subsidiary and execute and deliver all documents or instruments required thereunder or appropriate to perfect the security interest created thereby, (C) deliver (or cause the appropriate Person to deliver) to Lender all certificates and other instruments constituting Collateral thereunder free and clear of all adverse claims, accompanied by undated stock powers or other instruments of transfer executed in blank (and take such other steps as may be requested by Lender to perfect Lender's first priority Lien in such Collateral consisting of Equity Securities), (D) cause each document (including each Uniform

Commercial Code financing statement and each filing with respect to intellectual property owned by each new Subsidiary) required by law or requested by Lender to be filed, registered or recorded in order to create in favor of Lender a valid, legal and perfected first-priority security interest in and lien on the Collateral subject to the Security Documents to be so filed, registered or recorded and evidence thereof delivered to Lender, (E) deliver an opinion of counsel in form and substance satisfactory to Lender with respect to each new Subsidiary, and/or the pledge of the Equity Securities of each Subsidiary and the matters set forth in this Section, and (F) deliver to Lender the same organization documents, resolutions, certificates and other matters set forth in Section 3.1(b) with respect to such new Subsidiary as required to be delivered with respect to Borrower on the ~~Closing Date~~date of this Agreement and lien searches with respect to such new Subsidiary, in form and substance satisfactory to Lender.

(j) Appraisals. During the existence of an Event of Default or upon the written request of Lender acting pursuant to any applicable Requirement of Law, Borrower agrees that Lender may, at the expense of Borrower, commission an appraisal of any property (i) to which Borrower holds legal title, and (ii) which is encumbered by any Security Document.

(k) Additional Collateral. If at any time from and after the Phase I Closing Date Borrower acquires any fee interest in the Casino Real Property, including by way of exercising Borrower's right of first refusal contained in the Schmitt Island Lease, Borrower shall deliver to Lender, at its own expense, promptly all documentation and information in form and substance reasonably satisfactory to Lender (including surveys, environmental reports and environmental indemnities) to assist Lender in obtaining deeds of trust or mortgages on such additional interest the Casino Real Property and ALTA policies of title insurance, with such endorsements as Lender may reasonably require, issued by a company and in form and substance satisfactory to Lender, insuring Lender's Lien on such additional interest in the Casino Real Property Collateral to be of first priority, subject only to such exceptions as Lender shall approve in its discretion, with all costs thereof to be paid by Borrower.

(l) Continual Operation of the Gaming Facilities. Borrower shall continuously operate each Gaming Facility in the manner operated as of the Phase I Closing Date (or as contemplated on the Phase I Closing Date to be operated), in each case in compliance with all applicable Laws in all material respects.

(m) Sanctions, Anti-Terrorism and Anti-Corruption.

(i) Borrower (A) is not and will not become a Designated Person; (B) is not and will not become controlled by a Designated Person; (C) has not received and will not receive funds or other Property from a Designated Person; and (D) is not and will not become in breach of, and is not the subject of any action or investigation under, any Anti-Terrorism Law. Borrower does not engage and will not engage in any dealings or transactions, and is not and will not be otherwise associated, with any Designated Person. Borrower has taken commercially reasonable measures to ensure compliance with the Anti-Corruption Laws and Anti-Terrorism Laws including the requirements that (1) no Person who owns any direct or indirect interest in Borrower is a Designated Person, (2) funds invested directly or indirectly in Borrower are derived from legal sources, (3) Borrower is not the subject of any Sanctions, and (4) Borrower is not located, organized or resident in a country or territory that is, or whose government is, the subject of Sanctions.

(ii) No portion of the proceeds of any Loan or other credit made hereunder has been or will be used, directly or indirectly for, and no fee, commission, rebate or other value has been or will (A) be paid to, or for the benefit of, any governmental official, political party, official of a political party or any other Person acting in an official capacity in violation of any applicable Governmental Rules, including the U.S. Foreign Corrupt Practices Act of 1977 (collectively, with such Governmental Rules, “Anti-Corruption Laws”), as amended, or (B) be used to violate any Anti-Terrorism Law.

(n) Construction of the Phase I Casino Project. Borrower shall:

(i) Cause the construction of the Phase I Casino Project to be prosecuted with diligence and continuity so as to cause (A) the Phase I Opening Date to occur on or before May 1, 2025 and (B) the Completion Date to occur on or before May 1, 2025.

(ii) Cause the Phase I Casino Project to be constructed in a good and workmanlike manner in accordance with the Plans and Specifications and the Construction Budget, and in compliance with all applicable laws, rules, permits, requirements and regulations of any Governmental Authority in all respects, and Borrower will not cause, permit or allow any deviations from the Construction Budget and/or the Plans and Specifications without the prior written consent of Lender, except to the extent permitted by Section 5.2(sr)(i).

(iii) Upon written demand from Lender, at Borrower’s sole cost and expense (and not from the Loan proceeds), correct any material defect in the Phase I Casino Project or any material departure from the Plans and Specifications not theretofore approved in writing by Lender, and it is expressly understood and agreed that the advancement by Lender of any Loan proceeds shall not constitute a waiver of Lender’s right to require compliance with this covenant with respect to any such defects or departures from the Plans and Specifications not theretofore approved by Lender in writing.

(iv) Cause the Phase I Casino Project to be completed free and clear of liens or material claims for material supplied or for labor or services performed in connection with the construction of the Phase I Casino Project or otherwise.

(o) Construction of the Phase II Casino Project. Borrower shall:

(i) Cause the construction of the Phase II Casino Project to be prosecuted with diligence and continuity so as to cause (A) the Phase II Opening Date to occur on or before January 1, 2026, and (B) the Phase II Completion Date to occur on or before January 1, 2026.

(ii) Cause the Phase II Casino Project to be constructed in a good and workmanlike manner in accordance with the Plans and Specifications and the Phase II Construction Budget, and in compliance with all applicable laws, rules, permits, requirements and regulations of any Governmental Authority in all respects, and Borrower will not cause, permit or allow any deviations from the Phase II Construction Budget and/or the Plans and Specifications without the prior written consent of Lender, except to the extent permitted by Section 5.2(s)(i).

(iii) Upon written demand from Lender, at Borrower’s sole cost and expense (and not from the Loan proceeds), correct any material defect in the Phase II Casino Project or any material departure from the Plans and Specifications not theretofore approved in writing by Lender, and it is expressly understood and agreed that the advancement by Lender of any Loan proceeds shall not constitute

a waiver of Lender's right to require compliance with this covenant with respect to any such defects or departures from the Plans and Specifications not theretofore approved by Lender in writing.

(iv) Cause the Phase II Casino Project to be completed free and clear of liens or material claims for material supplied or for labor or services performed in connection with the construction of the Phase II Casino Project or otherwise.

(p) Additional Construction Covenants.

(i) Liens. If a claim of lien is recorded or served upon Lender which affects the Casino Real Property or Phase I Casino Project or Phase II Casino Project, Borrower shall, within twenty (20) calendar days of such recording or service or within five (5) calendar days of Lender's demand, whichever occurs first: (a) pay and discharge the claim of lien; (b) effect the release thereof by recording or delivering to Lender or Title Company a surety bond in sufficient form and amount; or (c) provide Lender with other assurances which Lender or Title Company deems, in its sole discretion, to be satisfactory for the payment of such claim of lien and for the full and continuous protection of Lender from the effect of such lien.

(ii) Construction Responsibilities. Borrower shall comply in all material respects with any construction schedule furnished to Lender and all applicable laws, ordinances, rules, regulations, building restrictions, recorded covenants and restrictions, and requirements of all regulatory authorities having jurisdiction over the Casino Real Property or Phase I Casino Project or Phase II Casino Project. Each portion and all of the Phase I Casino Project and Phase II Casino Project, except for approved off-site improvements, shall be constructed within building restriction and set-back lines, and shall not encroach upon, overhang or interfere with any easement, right-of-way, floodplain or other property. Borrower shall not commence the construction of any improvements on the Casino Real Property, except for those set forth in the Plans and Specifications, without Lender's prior written consent. Borrower shall be solely responsible for all aspects of Borrower's business and conduct in connection with the Casino Real Property, Phase I Casino Project, and Phase III Casino Project, including, without limitation, for the quality and suitability of the Plans and Specifications and their compliance with all governmental requirements, the supervision of the work of construction, the qualifications, financial condition and performance of all architects, engineers, contractors, material suppliers, consultants and property managers, and the accuracy of all applications for payment and the proper application of all disbursements. Lender is not obligated to supervise, inspect, or inform Borrower or any third party of any aspect of the construction of the Phase I Casino Project or Phase II Casino Project or any other matter referred to above. Except to the extent approved in writing by Lender, no materials, equipment or other personal property or fixture constituting part of the Phase I Casino Project or Phase II Casino Project shall be purchased or installed under any security agreement, lease or other arrangement whereby any third party has a security interest, lien or right to remove or repossess any such item or to claim or assert a lien upon any such property, or to consider such property to constitute personal property after its incorporation into the Phase I Casino Project or Phase II Casino Project.

(iii) Assessments and Community Facilities Districts. Without Lender's prior written consent, Borrower shall not cause or suffer to become effective or otherwise consent to the formation of any assessment district or community facilities district which includes all or any part of the Casino Real Property and, Phase I Casino Project, or Phase II Casino Project, nor shall Borrower cause or otherwise consent to the levying of special taxes or assessments against the Casino Real Property and,

Phase I Casino Project, or Phase II Casino Project by any such assessment district or community facilities district. Borrower shall immediately give notice to Lender of any notification or advice that Borrower may receive from any municipality or other third party of any intent or proposal to include the Casino Real Property ~~and~~, Phase I Casino Project, or Phase II Casino Project in a community facilities district or to levy any such special taxes or assessments. Lender shall have the right to file a written objection to the inclusion of all or any part of the Casino Real Property ~~and~~, Phase I Casino Project, or Phase II Casino Project in a community facilities district, or to the levy of any such special taxes or assessments, either in its own name or in the name of Borrower, and to appear at, and participate in, any hearing with respect to the formation of any such district or the levy or such special taxes or assessments.

(iv) Delay. Borrower shall promptly notify Lender in writing of any event causing material delay or material interruption of construction, or the timely completion of construction. The notice shall specify the particular work delayed, and the cause and period of each delay.

(v) Surveys. Borrower shall deliver to Lender a survey of the Casino Real Property ~~and~~, Phase I Casino Project, and Phase II Casino Project. Such survey shall be performed and certified by a licensed engineer or surveyor acceptable to Lender and Title Company, shall be prepared according to current ALTA/ACSM Minimum Standard Detail Requirements and any additional items required by Lender or Title Company, and shall be certified to Lender and Title Company.

(vi) Bonds. Within five (5) Business Days of Lender's request, Borrower shall procure from a surety reasonably acceptable to Lender, and deliver to Lender dual obligee performance and labor and material payment bonds in form, substance and amount reasonably acceptable to Lender, if and to the extent a Default has occurred. If requested by Lender, Borrower shall record said bond, the Plans and Specifications and each Construction Contract, if any, in the Office of the Dubuque County, Iowa Recorder.

~~(p)(q)~~ Subordinated Lease Payments. If any payment under the Schmitt Island Lease would have been prohibited at the time of such payment pursuant to the Schmitt Island Lease Subordination Agreement, Borrower shall use its best efforts to immediately recover from the City of Dubuque the difference between the actual amount of rent paid to the City of Dubuque and the amount of such rent payments that would have been permitted at such time.

5.2 Negative Covenants. So long as any Loan or the Existing Hilton Garden Loan remains unpaid, or any other Obligation remains unpaid or unperformed, or any portion of any loan commitment hereunder remains in force, Borrower will comply with the following negative covenants, unless Lender shall otherwise consent in writing:

(a) Indebtedness. Borrower shall not create, incur, assume or permit to exist any Indebtedness or engage in any off-balance sheet finance transaction or other similar transaction except for the following ("Permitted Indebtedness"):

(i) Indebtedness of Borrower under the Credit Documents;

(ii) Indebtedness (excluding purchase money Indebtedness and Finance Lease obligations) of Borrower listed in Schedule 5.2(a) and existing on the date of this Agreement and any Indebtedness of Borrower under initial or successive refinancings or replacements of any such Indebtedness permitted by this Section 5.2(a)(ii); provided that (A) the principal amount of any such

refinancing or replacement does not exceed the principal amount of the Indebtedness being refinanced or replaced and (B) the material terms and provisions of any such refinancing or replacement (including maturity, redemption, prepayment, default and subordination provisions) are no less favorable to Borrower and Lender than the Indebtedness being refinanced or replaced;

(iii) Indebtedness of Borrower under (x) Lender Rate Contracts and (y) other Rate Contracts entered into with respect to Indebtedness permitted by the other provisions of this Section 5.2(a); provided that (A) all such other Rate Contracts are entered into in connection with bona fide hedging operations and not for speculation, (B) the aggregate notional principal amount under all such other Rate Contracts does not exceed the principal amount of the Indebtedness to which such other Rate Contracts relate and (C) such other Rate Contracts are permitted under Section 5.2(l);

(iv) Indebtedness of Borrower with respect to surety, appeal, indemnity, performance or other similar bonds in the ordinary course of business (including surety or similar bonds issued in connection with the stay of a proceeding of the type described in Section 6.1(h)) or required in connection with the Phase I Casino Project; or required in connection with the Phase II Casino Project;

(v) purchase money Indebtedness and Finance Lease obligations in excess of Borrower's formally adopted annual budget;

(vi) Unsecured trade payables incurred in the ordinary course of business that are, unless such amounts are being disputed in good faith, less than one hundred twenty (120) days past due;

(vii) Indebtedness of Borrower under that certain promissory note of even date herewith in the original principal amount of \$4,000,000.00 issued by Borrower and made payable to Dubuque Initiatives; and

(viii) Indebtedness of Borrower in respect of its repayment obligation to the City of Dubuque, Iowa for bonds issued by the City of Dubuque, Iowa in connection with the construction of the Amphitheater.

(b) Liens. Borrower shall not create, incur, assume or permit to exist any Lien or Negative Pledge on or with respect to any of the Collateral, whether now owned or hereafter acquired, except for the following ("Permitted Liens"):

(i) Liens in favor of Lender securing the Obligations and Negative Pledges under the Credit Documents (or in favor of one or more Lender Rate Contract Counterparties in connection with Lender Rate Contracts);

(ii) Liens listed in Schedule 5.2(b) and existing on the date of this Agreement and any replacement Liens (covering the same or a lesser scope of property) in respect of replacement Indebtedness permitted under Section 5.2(a)(ii);

(iii) Liens for Taxes or other Governmental Charges not at the time delinquent or thereafter payable without penalty or being contested in good faith by appropriate proceedings and have not proceeded to judgment; provided that adequate reserves for the payment thereof have been established

in accordance with GAAP and no property of Borrower is subject to impending risk of loss or forfeiture by reason of nonpayment of the obligations secured by such Liens;

(iv) statutory Liens, possessory liens of carriers, warehousemen, materialmen, mechanic's liens and landlord liens, arising in the ordinary course of business with respect to obligations which are not delinquent or are being contested in good faith by appropriate proceedings, provided that, if delinquent, adequate reserves have been set aside with respect thereto in accordance with GAAP and, by reason of nonpayment, no property of Borrower is subject to a material impending risk of loss or forfeiture;

(v) Deposits under workers' compensation, unemployment insurance and social security laws or to secure the performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, or to secure statutory obligations of surety, appeal or customs bonds or to secure indemnity, performance or other similar bonds in the ordinary course of business or in connection with the Phase I Casino Project; or in connection with the Phase II Casino Project;

(vi) Purchase money Liens and associated Negative Pledges incurred with respect to property acquired using the proceeds of Indebtedness and Finance Leases permitted under Section 5.2(a)(viiiv);

(vii) Liens incurred in connection with the extension, renewal or refinancing of the Indebtedness secured by the Liens described in Section 5.2(a)(ii) ~~or (vi)~~ above; provided that any extension, renewal or replacement Lien (A) is limited to the property covered by the existing Lien and (B) secures Indebtedness which is no greater in amount and has material terms no less favorable to Lenders than the Indebtedness secured by the existing Lien;

(viii) leases or subleases granted to others (in the ordinary course of business consistent with past practices) not interfering in any material respect with the ordinary conduct of the business or operations of Borrower;

(ix) easements, rights-of-way, restrictions, minor defects, encroachments or irregularities in title and other similar charges or encumbrances not interfering in any material respect with the ordinary conduct of the business of Borrower;

(x) deposits in the ordinary course of business to secure liabilities to insurance carriers, lessor, utilities and other service providers;

(xi) bankers liens and rights of setoff or offset with respect to customary depository arrangements entered into in the ordinary course of business;

(xii) Liens arising by reason of security for surety or appeal bonds in the ordinary course of business of Borrower or in connection with the Phase I Casino Project; or in connection with the Phase II Casino Project;

(xiii) Liens in respect of judgments, orders, decrees or arbitration awards that do not constitute an Event of Default under Section 6.1(h);

(xiv) Uniform Commercial Code financing statements filed as a precautionary matter by lessors of equipment or other goods to Borrower under operating leases, provided that such precautionary financing statements extend only to the equipment or other goods under such operating leases and any substitutions or replacements therefor and proceeds thereof;

(xv) the Schmitt Island Lease; and

(xvi) Liens on the real property subject to any of the Real Property Security Documents identified in each ALTA title policy received by Lender (in form and substance reasonably satisfactory to Lender) relating to such real property.

(c) Asset Dispositions. Borrower shall not, directly or indirectly, sell, lease, convey, transfer or otherwise dispose (including, without limitation, via any Sale and Leaseback transaction) of any of its assets or property, whether now owned or hereafter acquired, except for the following:

(i) Sales by Borrower of inventory in the ordinary course of its businesses;

(ii) Sales by Borrower of furniture, fixtures and equipment and other items of Collateral for no less than fair market value that are, in Borrower's prudent business judgment, damaged, worn-out, obsolete or no longer necessary for Borrower's business objectives;

(iii) Licenses of intellectual property owned by or licensed to Borrower to any third party in the ordinary course of business;

(iv) Transfers permitted by Section 5.2(b), Section 5.2(d), Section 5.2(e), and Section 5.2(f); and

(v) Sales, transfers and other dispositions of assets that are not permitted by any other clause of this Section, provided that the aggregate fair market value of all assets sold, transferred or otherwise disposed of in reliance upon this clause (v) shall not exceed \$250,000.00 during any fiscal year of Borrower;

(vi) Transfers of property (whether in the form of cash or otherwise) to any Person, to the extent such transfers constitute charitable distributions by Borrower required by (i) the terms of the Schmitt Island Lease (except to the extent expressly prohibited by the Schmitt Island Lease Subordination Agreement) and/or (ii) Iowa law, as it pertains to Borrower in its capacity as a qualified sponsoring organization;

provided that nothing herein shall be construed to permit (x) any Sale and Leaseback transaction with respect to any Property of any character, whether now owned or hereafter acquired or (y) the sale, conveyance, transfer or other disposition of any Equity Securities of Borrower (other than in the creation of the Lien thereon in favor of Lender pursuant to the Security Documents).

(d) Mergers, Acquisitions, Etc. Borrower shall not (x) acquire any Person as a new Subsidiary or acquire all or substantially all of the assets, any material assets, any business unit or any division of any other Person or (y) dissolve, cease to exist, reorganize, recapitalize or consolidate with or merge into any other Person or permit any other Person to merge into it.

(e) Investments. Borrower shall not make any Investment except for Investments in the following:

(i) investments in short-term direct obligations of the United States Government;

(ii) investments in negotiable certificates of deposit issued by Lender, an Affiliate of Lender, or by any other bank acceptable to Lender, in its reasonable discretion, and payable to the order of Borrower or to bearer and delivered to Lender;

(iii) investments in commercial paper rated A1 or P1;

(iv) investments listed in Schedule 5.2(e) existing on the date of this Agreement;

(v) investments or loans in or to any wholly-owned Subsidiary of Borrower;

(vi) investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and investments acquired in connection with the settlement of delinquent accounts or notes receivable or in connection with bankruptcy or reorganization of suppliers or customers;

(vii) investments received as the non-cash portion of consideration received in connection with dispositions permitted pursuant to Section 5.2(c); and

(viii) investments received in connection with the settlement of a bona fide dispute with another Person after making reasonable efforts to collect cash in respect thereof.

(f) Distributions, Redemptions, Etc. Borrower shall not reorganize, recapitalize or make any Distributions or set apart any sum for any such purpose except as follows:

(i) If no Default shall have occurred and be continuing or would result from a proposed Distribution under this Section 5.2(f)(i) Borrower may make payments in accordance with the Schmitt Island Lease and further in accordance with the Schmitt Island Lease Subordination Agreement.

(g) Change in Business. Borrower shall not engage, either directly or indirectly through Affiliates, in any business different from the business of Borrower as of the ~~Closing Date~~ date of this Agreement except in immaterial respects.

(h) Payments of Indebtedness, Etc. Borrower shall not:

(i) prepay, redeem, purchase, defease, acquire or otherwise satisfy (or offer to redeem, purchase, acquire or otherwise satisfy) in any manner prior to the scheduled payment thereof any Indebtedness (including any Subordinated Obligations) or lease obligations of Borrower (other than (A) the Obligations and (B) the prepayment of any Indebtedness incurred in accordance with Section 5.2(a)(v) so long as no Default exists at the time of such proposed prepayment of any Indebtedness incurred in accordance with Section 5.2(a)(v) or would result therefrom); or make any payment or deposit any monies, securities or other property with any trustee or other Person that has the effect of providing for the satisfaction (or assurance of any satisfaction) of any Indebtedness (including any Subordinated

Obligations) of Borrower prior to the date when due or otherwise to provide for the defeasance of any such Indebtedness, other than deposits in connection with the Phase ~~I~~ Casino Project or in connection with the Phase II Casino Project; or

(ii) pay or prepay any principal, premium, interest or any other amount (including sinking fund payments) with respect to any Subordinated Obligation (except payments expressly permitted by, in the case of all other Subordinated Obligations, the subordination provisions approved by Lender and payments expressly approved in writing by Lender), or redeem purchase, defease, acquire or otherwise satisfy (or offer to redeem, purchase, acquire or otherwise satisfy) any Subordinated Obligations; or make any payment or deposit any monies, securities or other property with any trustee or other Person that has the effect of providing for the satisfaction (or assurance of any satisfaction) of any Subordinated Obligations prior to the date when due or otherwise to provide for the defeasance of any Subordinated Obligations; or

(iii) supplement, modify, amend, restate, extend, or otherwise change the terms of any document, instrument or agreement evidencing or governing any Subordinated Obligations (other than in respect of (i) extensions of the maturity date of such Subordinated Obligations or the scheduled dates for payment of principal, interest or any other payments of such Subordinated Obligations, (ii) reductions in the interest rate applicable to such Subordinated Obligations, and (iii) conversions of cash pay interest to payment in kind interest).

(i) ERISA.

(i) Borrower nor any ERISA Affiliate shall (A) adopt or institute any Pension Plan; (B) take any action which will result in the partial or complete withdrawal, within the meanings of Sections 4203 and 4205 of ERISA, from a Multiemployer Plan; (C) engage or permit any Person to engage in any transaction prohibited by Section 406 of ERISA or Section 4975 of the Code involving any Pension Plan or Multiemployer Plan which would subject Borrower or any ERISA Affiliate to any tax, penalty or other liability including a liability to indemnify; (D) incur or allow to exist any accumulated funding deficiency (within the meaning of Section 412 of the Code or Section 302 of ERISA); (E) fail to make full payment when due of all amounts due as contributions to any Pension Plan or Multiemployer Plan; (F) fail to comply with the requirements of Section 4980B of the Code or Part 6 of Title I(B) of ERISA; or (G) adopt any amendment to any Pension Plan which would require the posting of security pursuant to Section 401(a)(29) of the Code, where singly or cumulatively, the above could have a Material Adverse Effect.

(j) Transactions With Affiliates. Borrower shall not enter into or permit to exist any Contractual Obligation with any Affiliate or engage in any other transaction with any Affiliate except upon terms at least as favorable to such Borrower as an arms-length transaction with unaffiliated Persons.

(k) Accounting Changes. Borrower shall not change (i) its fiscal year (currently January-1 through December-31) or (ii) its accounting practices except as required by GAAP.

(l) Rate Contracts. Borrower shall not enter into any Rate Contract, except (i) Rate Contracts entered into to hedge or mitigate risks to which Borrower has actual exposure, (ii) Rate Contracts entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing

liability or investment of Borrower, ~~and~~ (iii) those certain Swap Transaction Documents executed by and between Borrower and Lender on the Phase I Closing Date, and (iv) those certain Swap Transaction Documents executed by and between Borrower and Lender on the Phase II Closing Date.

(m) Amendment of Material Documents. Borrower shall not agree to amend, modify, supplement, terminate, or replace any Material Document or any document executed and delivered in connection therewith, in each case (i) in a manner which would adversely affect the interests of Lender or (ii) in the case of the Schmitt Island Lease, without the prior written consent of Lender, which consent shall not be unreasonably delayed, conditioned and/or withheld; provided, that any change to the Plans and Specifications permitted under Section 5.2(~~ur~~)(i) or Section 5.2(s)(i) and any corresponding change in the Construction Budget or Phase II Construction Budget shall not be prohibited hereby.

(n) Joint Ventures; Non-Wholly Owned Subsidiaries. Borrower shall not enter into any Joint Venture or own any Non-Wholly-Owned Subsidiary, ~~except to the extent permitted by Section 5.2(e)(iii).~~

(o) Foreign Subsidiaries. Borrower shall not form or acquire any Subsidiary that is organized or domiciled, or take any other action that would result in Borrower or any of its Subsidiaries being organized or domiciled, under the law of any jurisdiction outside the United States.

(p) No New Gaming Facilities. Borrower shall not open or prepare to open, or allow or cause any of its Subsidiaries to open or prepare to open, any new gaming facilities other than the Gaming Facilities (including the Phase I Casino Project and the Phase II Casino Project), without the written consent of Lender, which consent will not be unreasonably withheld, conditioned or delayed.

(q) No Agreements to Sell Assets; Etc. Borrower has no legal obligation, absolute or contingent, to any Person to sell the assets of Borrower (except as permitted by Section 5.2(c)), or to effect any merger, consolidation or other reorganization of Borrower (except as permitted by Section 5.2(d)) or to enter into any agreement with respect thereto.

(r) Construction of the Phase I Casino Project. Borrower shall not:

(i) Permit any amendments or modifications of the Plans and Specifications (excluding the existing change orders set forth on Schedule I) that (A) constitute a material change in the building material or equipment specifications, or in the architectural or structural design, value or quality of any of the Phase I Casino Project; (B) would affect the structural integrity, quality of building materials, or overall efficiency of operating systems of the Phase I Casino Project; or (C) will increase the cost of constructing the Phase I Casino Project or delay the completion thereof. The term “change order” shall include any update to a line item in the Construction Budget which is estimated and which is later updated based on the actual aggregate costs associated with such line item to the extent such actual costs exceed the estimate for such line item.

(ii) Purchase or contract for any materials, equipment, furnishings, fixtures or articles of personal property to be placed or installed on the Phase I Casino Project under any security agreement or other agreement where the seller reserves or purports to reserve title or the right of removal or repossession (except for such reservations as may arise solely by operation of any applicable Laws, or that are permitted by Section 5.2(a)(~~vii~~v)), or the right to consider such materials personal property after

their incorporation in the work of construction, unless Lender in each instance has authorized Borrower to do so in writing.

(iii) Fail to promptly pay prior to delinquency (subject to applicable and customary retentions) or otherwise discharge all lawful claims and Liens for labor done and materials and services furnished in connection with the construction of the Phase I Casino Project, except for claims contested in good faith by appropriate proceedings and without prejudice to the construction timetable, provided that any such claims are covered by such payment bonds or title insurance policy endorsements as may be reasonably requested by Lender.

(iv) Fail to properly obtain, comply with and keep in effect all legally required material permits, licenses and approvals which are customarily required to be obtained from Governmental Authorities in order to construct and occupy the Phase I Casino Project as of the then current stage of construction, and deliver copies of all such permits, licenses and approvals to Lender promptly following a written request therefor.

(v) Fail to promptly notify Lender if it takes title to any construction materials for the Phase I Casino Project having a value in excess of \$50,000 that are not located on the Phase I Casino Project, or will not be delivered to the Phase I Casino Project site within fifteen (15) days after the date upon which title thereto has been transferred to Borrower (describing such construction materials, the purchase price therefor and the location thereof) or, if requested by Lender, fail to provide to Lender the written acknowledgement of the Person having custody of such construction materials of the existence of Lender's Lien on such construction materials and the right of Lender to have access to and to remove such construction materials when an Event of Default has occurred and remains continuing.

(vi) Fail to make the DRA Equity Contributions prior to the use of any Loan proceeds.

(s) Construction of the Phase II Casino Project. Borrower shall not:

(i) Permit any amendments or modifications of the Plans and Specifications (excluding the existing change orders set forth on Schedule I) that (A) constitute a material change in the building material or equipment specifications, or in the architectural or structural design, value or quality of any of the Phase II Casino Project; (B) would affect the structural integrity, quality of building materials, or overall efficiency of operating systems of the Phase II Casino Project; or (C) will increase the cost of constructing the Phase II Casino Project or delay the completion thereof. The term "change order" shall include any update to a line item in the Phase II Construction Budget which is estimated and which is later updated based on the actual aggregate costs associated with such line item to the extent such actual costs exceed the estimate for such line item.

(ii) Purchase or contract for any materials, equipment, furnishings, fixtures or articles of personal property to be placed or installed on the Phase II Casino Project under any security agreement or other agreement where the seller reserves or purports to reserve title or the right of removal or repossession (except for such reservations as may arise solely by operation of any applicable Laws, or that are permitted by Section 5.2(a)(v)), or the right to consider such materials personal property after their incorporation in the work of construction, unless Lender in each instance has authorized Borrower to do so in writing.

(iii) Fail to promptly pay prior to delinquency (subject to applicable and customary retentions) or otherwise discharge all lawful claims and Liens for labor done and materials and services furnished in connection with the construction of the Phase II Casino Project, except for claims contested in good faith by appropriate proceedings and without prejudice to the construction timetable, provided that any such claims are covered by such payment bonds or title insurance policy endorsements as may be reasonably requested by Lender.

(iv) Fail to properly obtain, comply with and keep in effect all legally required material permits, licenses and approvals which are customarily required to be obtained from Governmental Authorities in order to construct and occupy the Phase II Casino Project as of the then current stage of construction, and deliver copies of all such permits, licenses and approvals to Lender promptly following a written request therefor.

(v) Fail to promptly notify Lender if it takes title to any construction materials for the Phase II Casino Project having a value in excess of \$50,000 that are not located on the Phase II Casino Project, or will not be delivered to the Phase II Casino Project site within fifteen (15) days after the date upon which title thereto has been transferred to Borrower (describing such construction materials, the purchase price therefor and the location thereof) or, if requested by Lender, fail to provide to Lender the written acknowledgement of the Person having custody of such construction materials of the existence of Lender's Lien on such construction materials and the right of Lender to have access to and to remove such construction materials when an Event of Default has occurred and remains continuing.

(vi) Fail to make the DRA Phase II Equity Contributions prior to the use of any Loan proceeds.

(s)(t) Management Fees. Borrower shall not enter into or otherwise have any obligations under any Management Agreement unless the obligations of Borrower thereunder are reasonably acceptable to Lender.

5.3 Financial Covenants. So long as any Loan remains unpaid, or any other Obligation remains unpaid or unperformed, or any portion of any loan commitment hereunder remains in force, Borrower will comply, and will cause compliance, with the following financial covenants, unless Lender shall otherwise consent in writing:

(a) Debt Service Coverage Ratio. Measured annually utilizing the audited financial statement beginning with fiscal year-end December 31, 2023. Borrower shall maintain a minimum Debt Service Coverage Ratio of 1.10 to 1.00. Debt Service Coverage Ratio means the ratio of (i) Cash Flow to (ii) the sum of all contractual principal and interest payments on all borrower debt and finance lease obligations. "Cash Flow" is defined as (a) Change in Net Assets without Donor Restrictions, (b) plus Amortized Diamond Jo Lease Parking Expense, (c) Less Actual Diamond Jo Lease Parking Reimbursement Payment, (d) plus Depreciation and Amortization, (e) plus interest expense, (f) plus realized and unrealized losses from interest rate swap(s), asset sales, marketable securities, and extraordinary items, (g) less realized and unrealized gains from interest rate swap(s), asset sales, marketable securities, and extraordinary items;

(b) Resting Period. During each fiscal year in which the ~~Existing Revolving~~ Line of Credit ~~Loan~~ is in place the outstanding principal balance of the ~~Existing Revolving Line of~~ Credit ~~Loan~~

shall be reduced to, and maintained at, zero dollars for a period of at least thirty (30) consecutive calendar days.

ARTICLE VI

EVENTS OF DEFAULT

6.1 Events of Default. The occurrence or existence of any one or more of the following shall constitute an “Event of Default” hereunder:

(a) Non-Payment. Borrower shall (i) fail to pay when due any principal of any Loan or (ii) fail to pay within five (5) days after the same becomes due, any interest, fees or other amounts payable under the terms of this Agreement or any of the other Credit Documents; or

(b) Specific Defaults. Borrower shall fail to observe or perform any covenant, obligation, condition or agreement set forth in Section 5.1(a)(~~iv~~v), Section 5.1(a)(~~v~~vi), Section 5.1(f), Section 5.1(g)(i), Section 5.1(h)(ii)(i), Section 5.2 or Section 5.3; or

(c) Other Defaults. (i) Any default shall occur under any Security Document and such default shall continue beyond any period of grace provided with respect thereto; (ii) Borrower shall fail to observe or perform any other covenant, obligation, condition or agreement contained in this Agreement or any other Credit Document and such failure described in this clause (ii) shall continue for thirty (30) days after the date of such failure; or (iii) Borrower shall fail to observe or perform any covenant, obligation, condition or agreement in any Lender Rate Contract or documentation for any Lender Bank Product and such failure shall continue beyond any period of grace provided with respect thereto; or

(d) Representations and Warranties. Any representation, warranty, certificate, information or other statement (financial or otherwise) made or furnished by or on behalf of Borrower, shall be false, incorrect, incomplete or misleading in any material respect (or if such representation, warranty, certificate, information or other statement (financial or otherwise) is qualified by materiality, in any respect) when made or furnished; or

(e) Cross-Default. (i) The occurrence of a default or event of default (or any similar event or circumstance) under any document for the Indebtedness described in Section 5.2(a)(v), (ii) Borrower shall fail to make any payment on account of any Indebtedness or Contingent Obligation of such Person (other than the Obligations) when due (whether at scheduled maturity, by required prepayment, upon acceleration or otherwise) and such failure shall continue beyond any period of grace provided with respect thereto, or (iii) Borrower shall otherwise fail to observe or perform any agreement, term or condition contained in any agreement or instrument relating to any Indebtedness or Contingent Obligation of such Person (other than the Obligations), in each case, if the effect of such failure, event or condition is to cause, or permit the holder or holders thereof to cause, Indebtedness and/or Contingent Obligations of Borrower (other than the Obligations) in an aggregate amount exceeding Five Hundred Thousand Dollars (\$500,000) to become redeemable, due, liquidated or otherwise payable (whether at scheduled maturity, by required prepayment, upon acceleration or otherwise) and/or to be secured by cash collateral; or

(f) Insolvency; Voluntary Proceedings. Borrower shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian of itself or of all or a substantial part of its property, (ii) be unable, or admit in writing its inability, to pay its debts generally as they mature, (iii) make

a general assignment for the benefit of its or any of its creditors, (iv) be dissolved or liquidated in full or in part, (v) become insolvent (as such term may be defined or interpreted under any applicable statute), or (vi) commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or consent to any such relief or to the appointment of or taking possession of its property by any official in an involuntary case or other proceeding commenced against it, or, in each case, any analogous procedure or step is taken in any jurisdiction; or

(g) Involuntary Proceedings. Proceedings for the appointment of a receiver, trustee, liquidator or custodian of Borrower or of all or a substantial part of the property thereof, or an involuntary case or other proceedings seeking liquidation, reorganization or other relief with respect to Borrower or the debts thereof under any bankruptcy, insolvency or other similar law now or hereafter in effect shall be commenced and an order for relief entered or such proceeding shall not be dismissed or discharged within sixty (60) days of commencement, or, in each case, any analogous procedure or step is taken in any jurisdiction; or

(h) Judgments. (i) One or more judgments, orders, decrees or arbitration awards requiring Borrower to pay an aggregate amount of One Million Dollars (\$1,000,000) or more (exclusive of amounts covered by insurance issued by an insurer not an Affiliate of Borrower and otherwise satisfying the requirements set forth in Section 5.1(d)) shall be rendered against Borrower in connection with any single or related series of transactions, incidents or circumstances and the same shall not be satisfied, vacated or stayed for a period of ten (10) consecutive days; (ii) any judgment, writ, assessment, warrant of attachment, tax lien or execution or similar process shall be issued or levied against a part of the property of Borrower with an aggregate value in excess of One Million Dollars (\$1,000,000) and the same shall not be released, stayed, vacated or otherwise dismissed within thirty (30) days after issue or levy; or (iii) any other judgments, orders, decrees, arbitration awards, writs, assessments, warrants of attachment, tax liens, executions or similar processes which, alone or in the aggregate, could reasonably be expected to have a Material Adverse Effect are rendered, issued or levied; or

(i) Credit Documents. Any Credit Document or any material term thereof shall cease to be, or be asserted by Borrower not to be, a legal, valid and binding obligation of Borrower enforceable in accordance with its terms or shall otherwise cease to be in full force and effect; or

(j) Security Documents. Any Lien intended to be created by any Security Document shall at any time be invalidated, subordinated or otherwise cease to be in full force and effect, for whatever reason, or any security interest purported to be created by any Security Document shall cease to be, or shall be asserted by Borrower not to be, a valid, first priority (except as expressly otherwise provided in this Agreement or such Security Document) perfected Lien in the Collateral covered thereby, or Borrower shall issue, create or permit to be outstanding any Equity Securities which shall not be subject to a first priority perfected Lien under the Security Documents (other than Equity Securities not required to be pledged under the Credit Documents); or

(k) Change of Control. Any Change of Control shall occur; or

(l) Loss of Gaming Licenses/Failure to Maintain Gaming Activities. The occurrence of a License Revocation, other than on account of casualty, condemnation or force majeure event, provided that such License Revocation continues for at least thirty (30) consecutive days; or

(m) Involuntary Dissolution or Split Up. Any order, judgment or decree shall be entered against Borrower decreeing its involuntary dissolution or split up and such order shall remain undischarged and unstayed for a period in excess of sixty (60) days; or

(n) Other Default. The occurrence of an Event of Default (as such term is or may hereafter be specifically defined in any other Credit Document or Material Contract) under any other Credit Document or Material Contract that continues beyond any applicable cure period; or

(o) Designated Person. Borrower shall become a Designated Person; or

(p) Subordinated Obligations. Any trustee for, or any holder of, any Subordinated Obligations asserts in writing that any such Subordinated Obligations (or any portion thereof) is not subordinated to the Obligations in accordance with its terms or the applicable subordination agreement (in the case of such other Subordinated Obligations); or any event occurs which gives the holder or holders of such Subordinated Obligations (or an agent or trustee on its or their behalf) the right to declare such Subordinated Obligations due before the date on which it otherwise would become due, or the right to require the issuer thereof, to redeem, purchase or otherwise defease, or offer to redeem, purchase or otherwise defease, all or any portion of any Subordinated Obligations, or a final judgment is entered by a court of competent jurisdiction that any Subordinated Obligations (or any portion thereof) is not subordinated in accordance with its terms or the applicable subordination agreement (in the case of such other Subordinated Obligations) to the Obligations; or

(q) Uninsured Loss. The occurrence of any uninsured loss with respect to any property of Borrower in excess of \$1,000,000; or

(r) Management Companies. (i) DRA ceases to actively manage the operations of Q Casino; or

(s) Cessation of Gaming. The occurrence of any event or circumstance, other than a casualty, condemnation or forces majeure which results in the failure of Borrower to have any material portion of any Gaming Facility open to conduct gaming activities for any reason for more than thirty (30) consecutive days or which results in the prohibition of Borrower to conduct gaming activities at any Gaming Facility for a period in excess of thirty (30) consecutive days; or

(t) Governmental Action. Any Governmental Authority with jurisdiction over the Phase I Casino Project, Phase II Casino Project, or the Casino Real Property orders or requires that construction of the Phase I Casino Project or the Phase II Casino Project be stopped, in whole or in part, or any required approval, license or permit is withdrawn or suspended, and the order, requirement, withdrawal or suspension remains in effect for a period of fifteen (15) days; or

(u) Cessation of Construction. Construction of the Phase I Casino Project or the Phase II Casino Project is abandoned or halted prior to completion for any period of fifteen (15) consecutive days for any cause not beyond the reasonable control of Borrower; or

(v) Lien; Attachment; Condemnation. (i) The recording or service upon Lender of any claim of lien against the Casino Real Property or any Gaming Facility, and the continuance of such claim of lien for twenty (20) days after such recording or service or five (5) days after Lender's demand, whichever occurs first, without discharge, satisfaction or provision for payment being made by Borrower

in a manner satisfactory to Lender; or (ii) the condemnation, seizure or appropriation of, or occurrence of uninsured casualty damage with respect to, any material portion of the Casino Real Property or any Gaming Facility; or (iii) the sequestration or attachment of, or any levy or execution upon, any of the Casino Real Property or any Gaming Facility or any other collateral provided by Borrower or any other party under any of the Credit Documents which is not released, expunged or dismissed within twenty (20) days; or

(w) Swap Cross-Default. Borrower acknowledges and agrees that an Event of Default under this Agreement shall also constitute an event of default under all Swap Transactions. In addition to Lender's rights set forth herein, upon the occurrence of an Event of Default under this Agreement, Lender has the right to demand payment of any Swap Indebtedness. Conversely, Borrower acknowledges and agrees that an Event of Default under the Swap Indebtedness shall also constitute an Event of Default under the Phase I Note, the Phase II Note, this Agreement, and any Credit Documents. Upon the occurrence of an Event of Default under the Swap Indebtedness, Lender has the right to exercise all of its rights and remedies under the Credit Documents, including acceleration.

6.2 Remedies. At any time after the occurrence and during the continuance of any Event of Default (other than an Event of Default referred to in Section 6.1(f) or Section 6.1(g)), Lender may, by written notice to Borrower, (a) terminate the Commitments and the obligations of Lender to make Loans, and/or (b) declare all or a portion of the outstanding Obligations payable by Borrower to be immediately due and payable without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived, anything contained herein or in the Notes to the contrary notwithstanding. Upon the occurrence or existence of any Event of Default described in Section 6.1(f) or Section 6.1(g), immediately and without notice, (1) the Commitments and the obligations of Lender to make Loans shall automatically terminate, and (2) all outstanding Obligations payable by Borrower hereunder shall automatically become immediately due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived anything contained herein or in the Notes to the contrary notwithstanding. In addition to the foregoing remedies, upon the occurrence or existence of any Event of Default, Lender may exercise any other right, power or remedy available to it under any of the Credit Documents or otherwise by law, either by suit in equity or by action at law, or both.

6.3 Additional Provisions Concerning Phase I Casino Project, ~~and Phase II Casino Project~~.

(a) Disbursements to Third Parties. Upon the occurrence of an Event of Default occasioned by Borrower's failure to pay money to a third party as required by this Agreement, Lender may but shall not be obligated to make such payment from the Loan proceeds, or other funds of Lender. If such payment is made from proceeds of the Loans, Borrower shall immediately deposit with Lender, upon written demand, an amount equal to such payment. If such payment is made from funds of Lender, Borrower shall immediately repay such funds upon written demand of Lender. In either case, the Event of Default with respect to which any such payment has been made by Lender shall not be deemed cured until such deposit or repayment (as the case may be) has been made by Borrower to Lender.

(b) Lender's Completion of Construction. Upon the occurrence of an Event of Default, Lender may, upon five (5) days prior written notice to Borrower, and with or without legal process, take possession of the Casino Real Property ~~and~~ Phase I Casino Project, and Phase II Casino Project remove Borrower and all agents, employees and contractors of Borrower from the Casino Real Property, Phase I Casino Project, and Phase III Casino Project, complete the work of construction and market, operate and

sell or lease the Casino Real Property, Phase I Casino Project, and/or Phase III Casino Project (provided, however, that such right to sell is expressly limited to Borrower's leasehold interest in and under the Schmitt Island Lease). For this purpose, Borrower irrevocably appoints Lender as its attorney in fact, which agency is coupled with an interest. As attorney in-fact, Lender may, in Borrower's name, take or omit to take any action Lender may deem appropriate, including, without limitation, exercising Borrower's rights under the Credit Documents and all contracts concerning the Casino Real Property, Phase I Casino Project, and/or Phase III Casino Project.

(c) Right to Stop Construction. If Lender reasonably determines at any time that the Phase I Casino Project or the Phase II Casino Project is not being constructed in accordance with the Plans and Specifications and all governmental requirements, Lender may immediately cause all construction to cease on any of the Phase I Casino Project and the Phase II Casino Project affected by the condition of nonconformance and withhold further disbursements under the Loans. Borrower shall thereafter not allow any construction work, other than corrective work, to be performed on any of the Phase I Casino Project and the Phase II Casino Project affected by the condition of nonconformance until such time as Lender notifies Borrower in writing that the nonconforming condition has been corrected. Borrower shall notify Lender and the Construction Consultant immediately upon receipt of "red tag" or "stop order" notices from any federal, state, county or municipal building inspector or of unsatisfactory compliance with any applicable building code, and in such event, Borrower shall provide Lender and the Construction Consultant with a full and complete written explanation of the nature of such noncompliance.

(d) Deposited Loan Funds. All Deposited Loan Funds shall be disbursed for the costs of the Phase I Casino Project as contemplated by this Agreement other than (i) amounts used to pay for expenses of Lender, and (ii) amounts to be applied to the Obligations.

(e) Phase II Deposited Loan Funds. All Phase II Deposited Loan Funds shall be disbursed for the costs of the Phase II Casino Project as contemplated by this Agreement other than (i) amounts used to pay for expenses of Lender, and (ii) amounts to be applied to the Obligations.

ARTICLE VII

[RESERVED]

ARTICLE VIII

MISCELLANEOUS

8.1 Notices.

(a) Except as otherwise provided herein, all notices, requests, demands, consents, instructions or other communications to or upon Borrower or Lender under this Agreement or the other Credit Documents shall be in writing and faxed, mailed, e-mailed or delivered, if to Borrower or to Lender, at its respective facsimile number, e-mail address or address set forth below (or to such other facsimile number or address for any party as indicated in any notice given by that party to the other parties). All such notices and communications shall be effective (a) when sent by an overnight courier service of recognized standing, on the second Business Day following the deposit with such service; (b) when mailed, first-class postage prepaid and addressed as aforesaid through the United States Postal Service, upon receipt; (c) when delivered by hand, upon delivery; and (d) when sent by facsimile transmission or e-mail, upon confirmation of receipt.

Lender: MIDWESTONE BANK
895 Main Street
Dubuque, Iowa 52001
Attn: Wayne Breckon, First Vice President
Tel. No.: (563) 589-0828
Fax No. (563) 589-0860

Borrower: DUBUQUE RACING ASSOCIATION, LTD.
1855 Greyhound Park Road
Dubuque, ~~IA~~Iowa 52001
Attn: Alex Dixon, President and CEO
Tel. No.: (563) 585-3002
Fax No.:

Each Notice of Borrowing shall be given by Borrower to Lender's office located at the address referred to above during Lender's normal business hours; provided, however, that any such notice received by Lender after 2:00 p.m. on any Business Day shall be deemed received by Lender on the next Business Day. In any case where this Agreement authorizes notices, requests, demands or other communications by Borrower to Lender may conclusively presume that anyone purporting to be a person designated in any incumbency certificate or other similar document received by Lender is such a person.

8.2 Expenses. Borrower shall pay on demand, whether or not any Credit Event occurs hereunder, (a) all reasonable fees and expenses, including reasonable attorneys', consultants' and experts' fees and expenses incurred by Lender, in connection with the participation of the facility provided hereunder, due diligence, the preparation, negotiation, execution and delivery of, and the exercise of its duties under, this Agreement and the other Credit Documents, and the preparation, negotiation, execution and delivery of amendments, waivers, consents, modifications and supplements related to the Credit Documents, (b) all reasonable fees and expenses of Lender in connection with the hiring and use of any Construction Consultant, and (c) all reasonable fees and expenses, including reasonable attorneys' fees and expenses, incurred by Lender in the enforcement or attempted enforcement of any of the Obligations or the Credit Documents or in preserving any of Lender's rights and remedies (including, without limitation, all such fees and expenses incurred in connection with any "workout" or restructuring affecting the Credit Documents or the Obligations or any bankruptcy or similar proceeding involving Borrower). The obligations of Borrower under this Section 8.2 shall survive the payment and performance of the Obligations and the termination of this Agreement. Without limiting the foregoing, upon the occurrence and during the continuation of any Event of Default, Lender is authorized, at Borrower's expense, to obtain a tax service contract with a third-party vendor which shall provide tax information on the Casino Real Property and the Gaming Facilities satisfactory to Lender.

8.3 Indemnification. To the fullest extent permitted by law, and in addition to any other indemnity set forth in the Credit Documents, Borrower agrees to (a) protect, indemnify, defend and hold harmless Lender and their Affiliates and their respective directors, officers, employees, attorneys, agents, trustees and advisors (collectively, "Indemnitees") from and against any and all liabilities, obligations, losses, damages, penalties, judgments, costs, disbursements, claims or expenses of any kind or nature and from any suits, claims or demands (including in respect of or for reasonable attorneys' fees and other

expenses) arising on account of or in connection with any matter or thing or action or failure to act by Indemnitees, or any of them, arising out of or relating to (a) the Credit Documents or any transaction contemplated thereby or related thereto, including the making of any Loans, issuing of any Letters of Credit, any use by Borrower of any proceeds of the Loans or the Letters of Credit, (b) any Environmental Damages, (c) any claims for brokerage fees or commissions in connection with the Credit Documents or any transaction contemplated thereby or in connection with Borrower's failure to conclude any other financing, and to reimburse each Indemnatee on demand for all reasonable legal and other expenses incurred in connection with investigating or defending any of the foregoing, or (d) any and all excise, sales or other similar taxes which may be payable or determined to be payable with respect to any of the Collateral or in connection with any of the transactions contemplated by this Security Documents, including any penalties, claims or other losses resulting from any delay in paying such excise, sales or other similar taxes; provided, however, that nothing contained in this Section 8.3 shall obligate Borrower to protect, indemnify, defend or hold harmless any Indemnatee against any such liabilities, obligations, losses, damages, penalties, judgments, costs, disbursements, claims or expenses to the extent determined by a final, non-appealable judgment of a court of competent jurisdiction to have arisen from (i) the gross negligence or willful misconduct of such Indemnatee or (ii) a material breach of any Credit Document by such Indemnatee. Upon receiving knowledge of any suit, claim or demand asserted by a third party that Lender believes is covered by this indemnity, Lender shall give Borrower notice of the matter and Lender may select its own counsel or request that Borrower defend such suit, claim or demand, with legal counsel satisfactory to Lender, at Borrower's sole cost and expense and (b) reimburse each Indemnatee for all reasonable legal fees and other expenses in connection with such Indemnatee's investigation or defense of any of the foregoing; provided, however, that Lender shall have the right to defend, at Borrower's sole cost and expense, any such matter that is in connection with a formal proceeding instituted by any Governmental Authority having authority to regulate or oversee any aspect of Lender or Lender's business or that of its Affiliates. Lender may also require Borrower to defend the matter. In the event an Indemnatee (or any of its officers, directors or employees) appears as a witness in any action or proceeding brought against Borrower in which an Indemnatee is not named as a defendant, Borrower agrees to reimburse such Indemnatee for all out-of-pocket expenses incurred by it (including reasonable fees and expenses of counsel) in connection with its appearing as a witness. Any failure or delay of Lender to notify Borrower of any such suit, claim or demand shall not relieve Borrower of its obligations under this Section 8.3, except to the extent that Borrower is materially prejudiced as a result of such failure or delay. No Indemnatee referred to above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnatee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Credit Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnatee as determined by a final and non-appealable judgment of a court of competent jurisdiction. Borrower shall not, without the prior written consent of each Indemnatee affected thereby (which consent will not be unreasonably withheld, conditioned or delayed), settle any threatened or pending claim or action that would give rise to the right of any Indemnatee to claim indemnification hereunder unless such settlement (x) includes a full and unconditional release of all liabilities arising out of such claim or action against such Indemnatee, (y) does not include any statement as to or an admission of fault, culpability or failure to act by or on behalf of any Indemnatee, and (z) involves only the payment of a monetary sum (and does not restrict any future activity of such Indemnatee). Borrower agree that no Indemnatee shall have any liability (whether direct or indirect, in contract or tort, or otherwise) to Borrower or its Affiliates or to their respective equity holders or creditors arising out of, related to or in connection with any aspect of the

transactions contemplated hereby, except to the extent such liability is determined in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from (i) such Indemnatee's own gross negligence or willful misconduct of such Indemnatee under the Credit Documents or (ii) a material breach in bad faith of any Credit Document by such Indemnatee. The obligations of Borrower under this Section 8.3 shall survive the payment and performance of the Obligations and the termination of this Agreement. The obligations of Borrower with respect to Environmental Damages are (1) separate and distinct from the Obligations described within the Real Property Security Documents and the Liens and security interests created in the Real Property Security Documents, and (2) may be enforced against Borrower without regard to the existence of the Real Property Security Documents and independently of any action with respect to the Real Property Security Documents.

8.4 Waivers; Amendments. Any term, covenant, agreement or condition of this Agreement or any other Credit Document may be amended or waived, and any consent under this Agreement or any other Credit Document may be given, if such amendment, waiver or consent is in writing and is signed by Borrower and Lender; provided, however, that:

(a) Any amendment, waiver or consent which would (i) increase the Schmitt Island Term Loan Commitment, (ii) increase the Phase I Construction Loan Commitment or the aggregate amount of the Phase I Construction Loan, (iii) increase any Phase I Term Loan Commitment, (iv) increase the Phase II Construction Loan Commitment or the aggregate amount of the Phase II Construction Loan, (v) increase any Phase II Term Loan Commitment, (vi) extend the Schmitt Island Term Loan Maturity Date, the Phase I Construction Loan Conversion Date, any Phase I Term Loan Maturity Date, ~~or the Phase II Construction Loan Conversion Date, any Phase II Term Loan Maturity Date~~ (vii) reduce the principal of or interest on any Loan or any fees or other amounts payable for the account of Lender hereunder (whether or not scheduled), ~~or~~ (viii) extend any date fixed for any scheduled payment of the principal of or interest on any Loans or any fees or other amounts payable for the account of Lender (excluding mandatory prepayments required by Section 2.3(c)(i) through (ii), ~~(vii)~~), (ix) amend Section 2.8, or ~~(viii)~~ release Borrower, must be in writing and signed or approved in writing by Lender;

(b) Any amendment, waiver or consent which (i) releases any guaranty or any substantial part of the Collateral, or (ii) would amend this Section 8.4 must be in writing and signed or approved in writing by Lender; and

(c) Any amendment, waiver or consent which affects the rights or obligations of Lender must be in writing and signed by Lender.

No failure or delay by Lender in exercising any right under this Agreement or any other Credit Document shall operate as a waiver thereof or of any other right hereunder or thereunder nor shall any single or partial exercise of any such right preclude any other further exercise thereof or of any other right hereunder or thereunder. Unless otherwise specified in such waiver or consent, a waiver or consent given hereunder shall be effective only in the specific instance and for the specific purpose for which given. Lender may condition the giving or making of any amendment, waiver or consent of any term, covenant, agreement or condition of this Agreement or any other Credit Document on payment of a reasonable fee by Borrower.

8.5 Successors and Assigns.

(a) Binding Effect. This Agreement and the other Credit Documents shall be binding upon and inure to the benefit of Borrower, Lender, all future holders of the Notes and their respective successors and permitted assigns, except that Borrower may not assign or transfer any of its rights or obligations under any Credit Document without the prior written consent of Lender. Any purported assignment or transfer by Borrower in violation of the foregoing shall be null and void.

(b) Participations. Lender may, without notice to or consent of Borrower, at any time sell to one or more one or more banking institutions or other Persons (other than a Person that is in the same line of business as Borrower), in Lender's sole and absolute discretion ("Participants") participating interests in all or a portion of any Loan owing to Lender, any Note held by Lender, any Commitment of Lender or any other interest of Lender under this Agreement and the other Credit Documents, and, subject to the conditions set forth in this subsection (b), Borrower hereby consents to the grant. Notwithstanding the foregoing: (i) Lender's obligations under this Agreement shall remain unchanged; (ii) Lender shall remain solely responsible to Borrower for the performance of such obligations; (iii) Borrower shall continue to deal solely and directly with Lender in connection with Lender's rights and obligations under this Agreement; (iv) no Participant shall have the right to (~~XW~~) approve any amendment or grant any waiver of any provision of this Agreement or any other Credit Document, (~~YX~~) consent (or withhold consent) to any departure by Borrower of any such provision, (~~ZY~~) consent to the release of Collateral, or (~~WZ~~) receive any notice directly from Borrower, all of which rights shall exclusively belong to Lender, and any amendment, waiver, and/or consent executed and/or granted by Lender under or pursuant to this Agreement or any other Credit Document, and any notice provided to Lender under or pursuant to this Agreement or any other Credit Document, shall be conclusively binding on Lender and each of the Participants if signed and delivered by or to Lender.

(c) Assignments. Lender may, at any time, sell and assign to any Eligible Assignee (individually, an "Assignee Lender") all or a portion of its rights and obligations under this Agreement and the other Credit Documents (such a sale and assignment to be referred to herein as an "Assignment"). With respect to any such Assignment, (i) such Assignee Lender shall be deemed automatically to have become a party hereto and, to the extent that rights and obligations hereunder have been assigned to such Assignee Lender pursuant to an assignment agreement between Lender and the Assignee Lender (an "Assignment Agreement"), shall have the rights and obligations of Lender hereunder and (ii) Lender, to the extent that its rights and obligations hereunder have been wholly assigned by it and wholly assumed by the Assignee Lender pursuant to such Assignment Agreement (which shall be on terms and conditions satisfactory to Lender), shall be released from its rights (other than its indemnification rights) and obligations hereunder. If requested by Lender, but subject to the prior approval of the City of Dubuque, Iowa (if required by Borrower's bylaws and/or the Schmitt Island Lease) and the Iowa Racing and Gaming Commission (if required by the Gaming Laws), Borrower shall execute and deliver to the Assignee Lender (and, as applicable, Lender) promissory note(s) in a form acceptable to Lender in the principal amount of the Assignee Lender's pro rata share of the Loans (and, as applicable, a promissory note in the principal amount of the pro rata share of the Loans retained by Lender). Each such promissory note shall be dated the effective date of such assignment. Upon receipt by Lender of such promissory note(s), Lender shall return to Borrower any prior and replaced promissory note held by it, and Lender shall promptly note in its records that such prior and replaced promissory note has been indefeasibly paid in full.

Notwithstanding anything to the contrary herein, the rights of Lender to make assignment of, and grant participations in, the Loans and Commitments shall be subject to the approval of any Gaming Authority, to the extent required by applicable Gaming Laws.

(d) Registration. Upon its receipt of an Assignment Agreement executed by an Lender and an Assignee Lender, Lender shall (i) promptly accept such Assignment Agreement and (ii) on the Assignment Effective Date determined pursuant thereto record the information contained therein in a register and give notice of such acceptance and recordation to Lenders and Borrower. Lender may, from time to time at its election, prepare and deliver to Lenders and Borrower a revised Schedule I reflecting the names, addresses and respective Commitments or Loans of all Lenders then parties hereto (and in any event Schedule I shall be deemed amended to reflect any assignment consummated pursuant to the terms of this Agreement or upon any Lender becoming a party to this Agreement by any other means).

(e) Confidentiality. Subject to Section 8.10, Lender may disclose the Credit Documents and any financial or other information relating to Borrower to each actual or potential Participant and any actual or potential Assignee Lender.

(f) Pledges to Federal Reserve Banks; Other Pledges of Notes. Notwithstanding any other provision of this Agreement, Lender may at any time assign all or a portion of its rights under this Agreement and the other Credit Documents, including, without limitation, to a Federal Reserve Bank or central bank. No such assignment shall relieve the assigning Lender from its obligations under this Agreement and the other Credit Documents. In the case of any Lender, such Lender may (i) assign or pledge all or any portion of the Loans held by it (and Notes evidencing such Loans) to the trustee under any indenture to which such Lender is a party in support of its obligations to the trustee for the benefit of the applicable trust beneficiaries, or (ii) pledge all or any portion of the Loans held by it (and Notes evidencing such Loans) to its lenders for collateral security purpose; provided, however, no such pledgee under clause (i) or (ii) shall become a Lender hereunder (by foreclosure, transfer in lieu of foreclosure or otherwise) unless and until it complies with the assignment provisions of this Agreement to become a Lender hereunder and has received all consents required hereunder.

(g) True Sale. All participations in the Obligations or any portion thereof, whether pursuant to provisions hereof or otherwise, are intended to be “true sales” for purposes of financial reporting in accordance with Statement of Financial Accounting Standards No. 140. Accordingly, any Lender that sells or is deemed to have sold a participation in the Obligations (including any participations in the Loans, any participations described in Section 8.5(b) above (each a “Participation Seller”) hereby agrees that if such Participation Seller receives any payment in respect of the Obligations to which such participation relates through the exercise of setoff or offset by such Participation Seller against Borrower or any other obligor, then such Participation Seller agrees to promptly pay to the participating party in such participation such participant’s *pro rata* share of such setoff or offset.

(h) Additional Forms. If required by applicable Governmental Rules or otherwise deemed prudent by Lender, Borrower and Lender shall prepare, execute and deliver a completed Form U-1 (or Form G-3, as applicable) for each Lender (and, if applicable, for each Participant, in which case the applicable Lender shall cause its Participant to satisfy the requirements of this Section).

8.6 Setoff; Limitations on Setoff; Security Interest.

(a) Setoffs By Lender. In addition to any rights and remedies of Lender provided by law, Lender and its Affiliates shall have the right, without prior notice to or consent of Borrower, any such notice and consent being expressly waived by Borrower to the extent permitted by applicable Governmental Rules, upon the occurrence and during the continuance of an Event of Default, to setoff or

offset and apply against the Obligations any amount owing from Lender or its Affiliates to Borrower. The aforesaid right of setoff or offset may be exercised by Lender or its Affiliates against Borrower or against any trustee in bankruptcy, debtor in possession, assignee for the benefit of creditors, receiver or execution, judgment or attachment creditor of Borrower or against anyone else claiming through or against Borrower or such trustee in bankruptcy, debtor in possession, assignee for the benefit of creditors, receiver, or execution, judgment or attachment creditor, notwithstanding the fact that such right of setoff or offset may not have been exercised by Lender at any prior time. Lender agrees promptly to notify Borrower after any such setoff or offset and application made by Lender; provided, that the failure to give such notice shall not affect the validity of such setoff or offset and application.

(b) Limitations on Setoff. Notwithstanding or anything to the contrary in this Agreement (including Section 8.6(a)) or any other Credit Document, Lender shall not have the right to setoff with respect to any Excluded Assets. To that end, in the event that any portion of moneys or funds of Borrower on deposit or held in any deposit accounts now or hereafter maintained with Lender constitute Excluded Assets, Lender shall not have the right to setoff against such portion thereof and, in the event that Lender effectuates a setoff with respect to any portion of Excluded Assets, Lender shall promptly refund such amounts to Borrower.

(c) Security Interest. As security for the Obligations, Borrower hereby grant to Lender, a continuing security interest in any and all deposit accounts or moneys of Borrower (to the extent such deposit accounts and/or moneys do not constitute Excluded Assets) now or hereafter maintained with Lender. Except as otherwise provided in Section 8.6(b) above, Lender shall have all of the rights of a secured party with respect to such security interest.

8.7 No Third-Party Rights. Nothing expressed in or to be implied from this Agreement is intended to give, or shall be construed to give, any Person, other than the parties hereto and their permitted successors and assigns hereunder, any benefit or legal or equitable right, remedy or claim under or by virtue of this Agreement or under or by virtue of any provision herein. Notwithstanding the foregoing, nothing in this Section shall limit the benefits provided to Lender under the Credit Documents.

8.8 Partial Invalidity. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law or any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

8.9 Jury Trial. EACH OF BORROWER AND LENDER TO THE FULLEST EXTENT PERMITTED BY APPLICABLE GOVERNMENTAL RULES, HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY AS TO ANY ISSUE RELATING HERETO IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT.

8.10 Confidentiality. Lender shall not disclose to any Person any Confidential Information, except that Lender may disclose any such information (a) to its own directors, officers, employees, auditors, counsel and other advisors and to its Affiliates, to the extent such Affiliates are required to have such information in connection with performance of Lender's obligations under this Agreement and the other Credit Documents; (b) which is otherwise known or available to the public or which is otherwise known to the receiving party prior to the time such Confidential Information was delivered to Lender;

(c) if required in any report, statement or testimony submitted to any Governmental Authority having or claiming to have jurisdiction over Lender; (d) if legally compelled or required in response to any summons or subpoena; (e) in connection with any enforcement by Lender of its rights under this Agreement or the other Credit Documents or any litigation among the parties relating to the Credit Documents or the transactions contemplated thereby; (f) to comply with any Requirement of Law applicable to Lender; (g) to any Assignee Lender or Participant, or any prospective Assignee Lender or Participant; provided that such actual or prospective Assignee Lender or Participant, or any prospective Assignee Lender or Participant, (i) agrees to be bound by the provisions of (or provisions substantially similar to) this Section 8.10 and (ii) is not in the same line of business as Borrower; provided, however, that any disclosure made in violation of this Agreement shall not affect the obligations of Lender under this Agreement and the other Credit Documents. Notwithstanding the foregoing, Lender, Participant and their respective representatives shall provide Borrower written notice, to the extent legally permissible, of any disclosure pursuant to subsections (c), (d), and/or (f) and shall reasonably assist Borrower in seeking a protective order or another appropriate remedy at the sole expense of Borrower. If Borrower fails to obtain (or determines not to seek) a protective order or other appropriate remedy, Lender, Participant and/or such representatives may, without liability hereunder, disclose all such confidential information as it is legally compelled to disclose

8.11 Counterparts. This Agreement may be executed in any number of identical counterparts, any set of which signed by all the parties hereto shall be deemed to constitute a complete, executed original for all purposes. Transmission by facsimile, "pdf" or similar electronic copy of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart. Any party hereto may request an original counterpart of any party delivering such electronic counterpart.

8.12 Consent to Jurisdiction. Each of the parties to this Agreement irrevocably submits to the non-exclusive jurisdiction of the courts of the State of Iowa and the courts of the United States of America located in Iowa and agrees that any legal action, suit or proceeding arising out of or relating to this Agreement or any of the other Credit Documents may be brought against such party in any such courts. Final judgment against any party in any such action, suit or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment, a certified or exemplified copy of which shall be conclusive evidence of the judgment, or in any other manner provided by law. Nothing in this Section 8.12 shall affect the right of any party to commence legal proceedings or otherwise sue any other party in any other appropriate jurisdiction, or concurrently in more than one jurisdiction, or to serve process, pleadings and other papers upon any other party in any manner authorized by the laws of any such jurisdiction. Borrower agrees that process served either personally or by registered mail shall, to the extent permitted by law, constitute adequate service of process in any such suit. Each of the parties to this Agreement irrevocably waives to the fullest extent permitted by applicable Governmental Rules (a) any objection which it may have now or in the future to the laying of the venue of any such action, suit or proceeding in any court referred to in the first sentence above; (b) any claim that any such action, suit or proceeding has been brought in an inconvenient forum; (c) its right of removal of any matter commenced by any other party in the courts of the State of Iowa to any court of the United States of America; (d) any immunity which it or its assets may have in respect of its obligations under this Agreement or any other Credit Document from any suit, execution, attachment (whether provisional or final, in aid of execution, before judgment or otherwise) or other legal process; and (e) any right it may have to require the moving party in any suit, action or proceeding brought in any of the courts referred to above arising out of or in connection with this Agreement or any other Credit Document to post security for the costs of any party or to post a bond or to take similar action.

8.13 Relationship of Parties. The relationship between Borrower, on the one hand, and Lender, on the other, is, and at all times shall remain, solely that of borrower and lender. Lender shall not under any circumstances be construed to be partners or joint venturers of Borrower or any of its Affiliates; nor shall Lender under any circumstances be deemed to be in a relationship of confidence or trust or a fiduciary relationship with Borrower or any of its Affiliates, or to owe any fiduciary duty to Borrower or any of its Affiliates. Lender does not undertake or assume any responsibility or duty to Borrower or any of its Affiliates to select, review, inspect, supervise, pass judgment upon or otherwise inform Borrower or any of its Affiliates of any matter in connection with its or their property, any security held by Lender or the operations of Borrower or any of its Affiliates. Borrower and each of its Affiliates shall rely entirely on their own judgment with respect to such matters, and any review, inspection, supervision, exercise of judgment or supply of information undertaken or assumed by Lender in connection with such matters is solely for the protection of Lender and neither Borrower nor any of its Affiliates is entitled to rely thereon.

8.14 Time Is of the Essence. Time is of the essence as to each term or provision of this Agreement and each of the other Credit Documents.

8.15 Waiver of Punitive Damages. Notwithstanding anything to the contrary contained in this Agreement, each party hereby agrees that it shall not seek from the other party punitive, exemplary, indirect, special or consequential damages under any theory of liability; provided, however, that in no event shall reasonable attorneys' fees and expenses be considered punitive, exemplary, indirect, special or consequential damages for purposes of this Section.

8.16 USA PATRIOT Act. Lender hereby notifies Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies Borrower, which information includes the name and address of Borrower and other information that will allow Lender to identify Borrower in accordance with the Patriot Act.

8.17 Effect of Amendment and Restatement.

(a) On and as of the Phase II Closing Date, the Existing Loan Agreement shall be amended, restated and superseded in its entirety by this Agreement. The parties hereto acknowledge and agree that (i) this Agreement and the other Credit Documents, whether executed and delivered in connection herewith or otherwise, do not constitute a novation, payment or reborrowing, or termination of the "Obligations" (as defined in the Existing Loan Agreement) as in effect prior to the Phase II Closing Date and (ii) such "Obligations" are in all respects continuing (as amended and restated hereby) with only the terms thereof being modified as provided in this Agreement. Each reference to the "Credit Agreement" in any Credit Document shall be deemed to be a reference to this Agreement.

(b) Borrower hereby confirms that each Credit Document to which it is a party or otherwise bound and all Collateral encumbered thereby will continue to guarantee or secure, as the case may be, to the fullest extent possible in accordance with the Credit Documents, the payment and performance of all "Obligations" under each of the Credit Documents to which it is a party (in each case as such terms are defined in the applicable Credit Document).

(c) Borrower acknowledges and agrees that (i) any of the Credit Documents to which it is a party or is otherwise bound shall continue in full force and effect and that all of its obligations thereunder shall be valid, enforceable, ratified and confirmed in all respects and shall not be impaired or

limited by the execution or effectiveness of this Agreement, and (ii) all security interests (including hypothecs) created under any of the Security Documents shall continue in full force and effect pursuant to the terms of such Security Document.

(d) Lender severally agrees to continue its Loans (as defined in the Existing Loan Agreement) (such loans, collectively, “Existing Loans”) outstanding immediately prior to the effectiveness of the amendment and restatement of the Existing Loan Agreement on the Phase II Closing Date as Loans hereunder, and as of the Phase II Closing Date such Existing Loans shall be automatically deemed to constitute Loans outstanding under this Agreement.

8.178.18 Notice. **IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.**

[Remainder of Page Intentionally Left Blank, Signature Page Follows.]

IN WITNESS WHEREOF, Borrower and Lender have caused this Amended and Restated Credit Agreement to be executed as of the day and year first above written.

BORROWER:

**DUBUQUE RACING ASSOCIATION, LTD.,
AN IOWA NON-PROFIT CORPORATION**

By: _____
Name: Alex Dixon
Title: President and Chief Executive Officer

LENDER:

MIDWEST ONE BANK

By: _____
Name: Wayne Breckon
Title: First Vice President, Senior Commercial Banker

SCHEDULE I
EXISTING CHANGE ORDERS

DRAFT

SCHEDULE 4.1(g)
LITIGATION

DRAFT

SCHEDULE 4.1(h)(i)
REAL PROPERTY

Lot 1 of CHAPLAIN SCHMITT ISLAND in the City of Dubuque, Iowa, according to the Plat recorded as Instrument #2023-7679, records of Dubuque County, Iowa.

Lots 2 and 3 of CHAPLAIN SCHMITT ISLAND in the City of Dubuque, Iowa, according to the Plat recorded as Instrument #2023-7679, records of Dubuque County, Iowa.

DRAFT

SCHEDULE 4.1(k)
MULTI-EMPLOYER PLANS

NONE.

DRAFT

SCHEDULE 4.1(o)
SUBSIDIARIES

NONE.

DRAFT

SCHEDULE 4.1(u)
INSURANCE

DRAFT

SCHEDULE 4.1(v)
AGREEMENTS WITH AFFILIATES

DRAFT

SCHEDULE 4.1(~~aa~~)
bb)
PHASE I CLOSING DATE CONTRACTORS

DRAFT

SCHEDULE 4.1(cc)
PHASE II CLOSING DATE CONTRACTORS

DRAFT

SCHEDULE 5.1(d)
INSURANCE REQUIREMENTS

DRAFT

SCHEDULE 5.2(a)
EXISTING INDEBTEDNESS

DRAFT

SCHEDULE 5.2(b)
EXISTING LIENS

DRAFT

SCHEDULE 5.2(e)
INVESTMENTS

DRAFT

EXHIBIT A
EXECUTED SCHMITT ISLAND TERM LOAN NOTE

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EXHIBIT B
EXECUTED PHASE I NOTE

DRAFT

EXHIBIT C
PHASE II NOTE

DRAFT

EXHIBIT D
LINE OF CREDIT NOTE

DRAFT

EXHIBIT E
COMPLIANCE CERTIFICATE

DRAFT