

**THIS CONTRIBUTION AGREEMENT WILL BE SIGNED AT THE TIME OF THE
AWARD OF A GAMING LICENSE TO CONCORD KIAMESHA LLC**

AMENDED AND RESTATED PROPERTY CONTRIBUTION AGREEMENT

AMENDED AND RESTATED PROPERTY CONTRIBUTION AGREEMENT, dated as of _____, 2014 (this "*Agreement*"), made by and among BKC Casino Group LLC, a New York limited liability company ("*BKC*"), Mohegan Resorts New York, LLC, a Delaware limited liability company ("*MTGA*"), Concord Associates, L.P., a New York limited partnership (the "*Concord Contributor*") Concord Kiamesha LLC, a Delaware limited liability company (the "*Company*") and Marnell Concord LLC, a Nevada limited liability company ("*Marnell*").

RECITALS:

WHEREAS, the Company was formed for the purposes set forth in the Operating Agreement (as defined herein) under the provisions of the Delaware Limited Liability Act, 6 Del. C. 18-101 et. seq.;

WHEREAS, upon the Closing (as hereinafter defined) (a) the Members (as hereinafter defined) shall enter into that certain Operating Agreement of Concord Kiamesha LLC (the "*Operating Agreement*"), substantially in the form attached hereto as Exhibit A, and (b) the Casino Subsidiary Company (as hereinafter defined), the Hotel Subsidiary Company (as hereinafter defined) and Mohegan Gaming New York, LLC, an Affiliate of MTGA ("*MTGA Manager*") shall enter into the Management Services Agreement with respect to the Project substantially in the form attached hereto as Exhibit B (the "*Management Agreement*");

WHEREAS, BKC, MTGA and Marnell (the "*Members*") intend to engage in a transaction whereby the Company will own all of the membership interests of Concord Kiamesha Casino LLC and Concord Kiamesha Hotel LLC, each a Delaware limited liability company (the "*Casino Subsidiary Company*" and the "*Hotel Subsidiary Company*", respectively) and other entities that will, directly or indirectly, own and operate a gaming facility, hotel and other improvements and facilities in the Town of Thompson, New York, as more fully described in the Operating Agreement; and

WHEREAS, pursuant to the terms and conditions of this Agreement, Concord Contributor, a member of BKC, has agreed to transfer the Transferred Assets (as defined herein) and the Transferred Liabilities (as defined herein) to BKC which will contribute them to the Company on the Closing Date, subject to the Permitted Exceptions (as defined herein).

NOW, THEREFORE, in consideration of the premises, and of the representations, warranties, covenants and agreements set forth herein, the parties agree as follows.

**ARTICLE I
RECITALS AND DEFINITIONS**

1.1 Recitals. The foregoing recitals and all other preambles and recitals set forth herein are made part of this Agreement.

1.2 Defined Terms. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Operating Agreement.

**ARTICLE II
TRANSACTION DESCRIPTION AND CONTRIBUTION**

2.1 Closing Arrangements. The closing of the transactions contemplated by this Agreement (the "*Closing*") will take place at a mutually agreed upon location commencing at 10:00 a.m., local time on the third (3rd) Business Day following the date on which all of the conditions set forth in Article V have been satisfied or waived (other than any conditions that can only be satisfied as of the Closing, but subject to the satisfaction or waiver of such conditions), or at such other time as may be mutually agreed to by the parties (the "*Closing Date*"). As used in this Agreement, "*Business Day*" means any day except a Saturday, Sunday or day on which banking institutions are legally authorized to close in the City of New York.

2.2 Contribution and Execution of Operating Agreement and Management Agreement. On the terms and subject to the conditions set forth herein, at the Closing the following events shall occur in the order specified below:

(a) the Concord Contributor shall transfer the Transferred Assets and Transferred Liabilities to BKC, which will contribute them to the Company in accordance with Section 2.3 and Section 2.6 of this Agreement;

(c) Each of MTGA and Marnell shall contribute their respective Initial Capital Contributions to the Company;

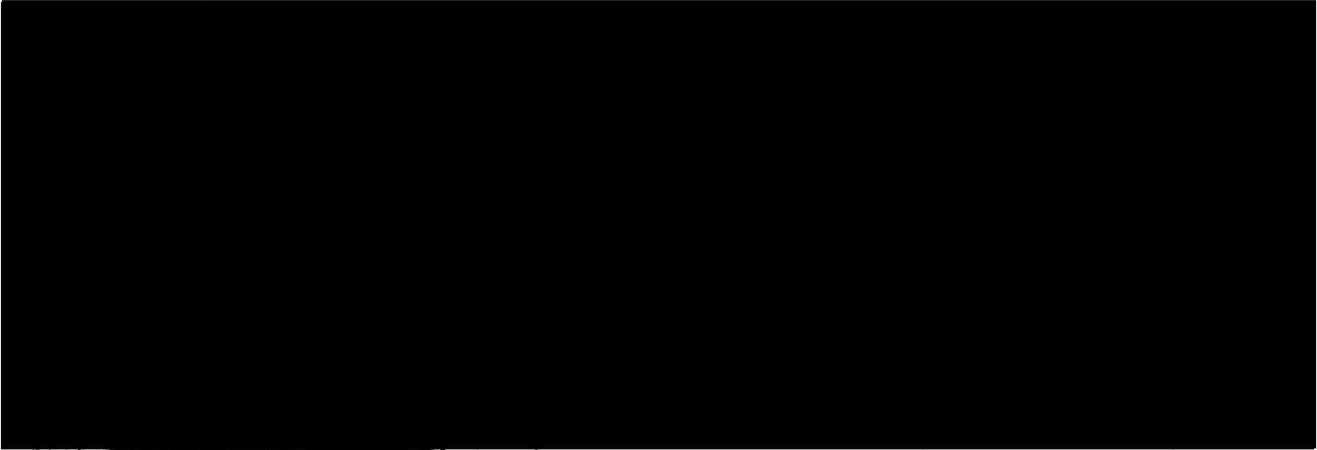
(d) the Members shall execute and deliver the Operating Agreement and, in accordance with the Operating Agreement, the Company shall issue to the Members their respective Membership Interests;

(e) the Casino Subsidiary Company, the Hotel Subsidiary Company and MTGA Manager shall execute and deliver the Management Agreement;

(f) the Casino Subsidiary Company and an Affiliate of Concord shall execute and deliver that certain License Agreement, dated as of _____, 2014, by and between the

Concord Contributor, as licensor, and the Casino Subsidiary Company and the Hotel Subsidiary Company, collectively, as licensee (the "Concord License Agreement"); and

(g) the Casino Subsidiary Company and the Hotel Subsidiary Company and an Affiliate of MTGA shall execute and deliver the MTGA License Agreement.



2.3 Transferred Assets. At the Closing and simultaneously with the execution of the Operating Agreement and the Management Agreement, the Concord Contributor shall contribute, transfer, assign, convey and deliver, directly or indirectly, to BKC which shall contribute, transfer, assign, convey and deliver, directly or indirectly to the Company (or its designee), and the Company (or its designee) hereby agrees to acquire, assume and accept delivery from BKC, upon the terms and subject to the conditions of this Agreement, all right, title and interest of BKC, as assignee of the Concord Contributor, of any nature whatsoever to and in the following (the "*Transferred Assets*"):

(a) the Property, and all buildings, structures and improvements located thereon, and the easements, rights, privileges and appurtenances belonging thereto;

(b) all of the membership and other equity interests in the Casino Subsidiary Company (the "*Casino Subsidiary Company Interests*") and all of the membership and other equity interests of the Hotel Subsidiary Company (the "*Hotel Subsidiary Company Interests*");

(c) all Licenses and Permits, including pending applications therefor or renewals thereof, and all transferable deposits, bonds and letters of credit given by or on behalf of the Concord Contributor relating thereto, and all amounts paid thereunder issued by any permitting, licensing, accrediting, certifying or planning and development agency or any other applicable Governmental Authority, in each case to the extent transferable by Law;

(d) all rights under contracts, leases and other agreements affecting or related to any of the Transferred Assets or the Transferred Liabilities, the Property, or the Project, including rights to receive payment, goods or services and to assert claims and take other actions, including all rights under the Pre-Approved Agreements;

(e) all documents used by the Concord Contributor in connection with, or relating to, the Transferred Assets, the Transferred Liabilities, the Property or the Project, including all plans, specifications, drawings, renderings, environmental studies or reports, soil studies or reports, marketing studies or reports, traffic studies or reports, feasibility studies or reports, and other studies and reports in the possession or control of the Concord Contributor and relating to, or prepared in connection with, the Transferred Assets or the Transferred Liabilities, the Property, or the Project, and all files, data, reports, plans, mailing lists, advertising and promotional materials, equipment maintenance records, warranty information, records of operations, standard forms of documents, manuals of operations or business procedures and other similar procedures;

(f) all machinery, equipment, furnishings, vehicles, spare parts, telephone lines and numbers, computers, facsimile machines and other telecommunication equipment, maintenance equipment, tools, signs and signage and other tangible personal property used or held for use at the Property or the Project, and all rights and claims under any and all transferable warranties extended by suppliers, vendors, contractors, manufacturers and licensors in relation thereto;

(g) all assignable insurance policies, and all insurance benefits, including rights and proceeds, received or receivable under any insurance policy written on or prior to the date of this Agreement arising from or relating to the Transferred Assets or Transferred Liabilities;

(h) all goodwill associated with the Project; and

(i) all other assets, properties and rights primarily used or held for use by the Concord Contributor in connection with the Property or the Project except for the Excluded Assets.

The Transferred Assets shall be subject only to the Permitted Exceptions as set forth in Exhibit C hereto, and such other matters as any title insurer licensed to do business by the State of New York shall be willing, without special premium, to omit as exceptions to coverage or to except with insurance against collection out of or enforcement against the Property.

2.4 Excluded Assets. Nothing herein contained shall be deemed to sell, transfer, assign, convey or deliver the Excluded Assets to the Company, and the Concord Contributor is not contributing, transferring, assigning, conveying or delivering to BKC and shall retain the Excluded Assets, and neither the Company nor any of its Subsidiaries shall own any direct or indirect interest in the Excluded Assets or have any Liability therefor. “*Excluded Assets*” shall mean all right, title and interest of the Concord Contributor of any nature whatsoever to and in the following assets, properties and rights:

(a) any capital stock or other equity interests in the Concord Contributor or any Person and any securities convertible into or exchangeable or exercisable for any capital stock or other equity interests in the Concord Contributor or any other Person;

(b) the right to in and to the “Concord” name or any trademarks, trade names, service marks, brand logos, label designs, product identification, decals, artwork and copyrights of the Concord Contributor and/or its Affiliates (which rights will be licensed to the Casino Subsidiary Company and the Hotel Subsidiary Company pursuant to the License Agreement);

(c) any excess development rights that are not required for development of the Project;

(d) any litigation currently being prosecuted by Concord Contributor; and

(e) and any other real property that does not constitute the Property.

2.5 Condition of Conveyance. Without limiting any provisions of this Agreement relating to the sale, transfer, assignment, conveyance or delivery of the Transferred Assets, the Transferred Assets shall be contributed, transferred, assigned, conveyed and delivered by the Concord Contributor to BKC, and then by BKC to the Company, by appropriate instruments of transfer, bills of sale, endorsements, assignments and deeds, in recordable form as appropriate, and otherwise all in form and substance reasonably satisfactory to the Company and MTGA.

2.6 Transferred Liabilities. The Company hereby agrees to assume, and agrees to pay, perform and discharge when due from and after the date of this Agreement, the Transferred Liabilities, in each case upon the terms and subject to the conditions of this Agreement, and from and after the date of this Agreement the Concord Contributor and BKC shall have no Liability therefor or in connection therewith. “*Transferred Liabilities*” shall mean all debts, liabilities, commitments or other obligations (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or not yet due) and including all costs, fees and expenses relating thereto (collectively, “*Liabilities*”) of BKC and/or the Concord Contributor relating to, arising under or encumbering the Transferred Assets, the Property or the Project to the extent such Liabilities either (a) arise from and after the date of this Agreement or (b) are reflected in the Capital Budget.

2.7 Excluded Liabilities. The Company shall not assume, and shall be deemed not to have assumed, any liabilities of the Concord Contributor, the Company or the Subsidiary Companies other than the Transferred Liabilities (all such other liabilities, the “*Excluded Liabilities*”), and neither the Company nor any of its Subsidiaries shall have any liability therefor or in connection therewith. The Excluded Liabilities shall include, without limitation, any claims or litigation in respect of the ownership and control of the Company, the Subsidiary Companies, the Project or the Property prior to the Closing.

ARTICLE III REPRESENTATIONS AND WARRANTIES

3.1 Mutual Representations and Warranties.

(a) Each party represents and warrants to each other party that (i) such party is duly organized, validly existing and in good standing under the laws of the state in which it is

organized and, if required by Laws, is authorized to transact business in the State of New York, (ii) all transactions contemplated by this Agreement to be performed by it have been duly authorized by all necessary action, including without limitation, that of its general partner(s), committee(s), trustee(s), beneficiaries, directors and/or shareholder(s), as the case may be, as required, (iii) the consummation of such transactions shall not result in a breach or violation of, or a default under, its partnership agreement, limited liability company agreement, trust agreement, charter or by-laws, as the case may be, any agreement by which such party or any of such party's properties or any of its partners, beneficiaries, trustees or shareholders, as the case may be, is or are bound, or any statute, regulation, order or other law to which such party or any of its partners, members, trustees, beneficiaries or shareholders, as the case may be, is or are subject and (iv) this Agreement is binding upon, and enforceable against, such party in accordance with its terms.

3.2 Additional Representations and Warranties. BKC and the Concord Contributor (which term, as used in this Section 3.2, shall include the Subject Entities, as hereinafter defined) jointly and severally, represent and warrant to MTGA as follows:

(1) Permits and Approvals. The Concord Contributor has obtained from the Town of Thompson all material Permits necessary to develop and construct the Project on the Property, including, without limitation, the Approved Site Plan, but excluding certain building and other permits which shall be obtained during the ordinary course of construction of the Project, and all of such items have been issued and are valid and in full force and effect. All of the foregoing are assignable and transferable to the Company without the consent or approval of any person or entity.

(2) Consents and Approval. No consent, waiver, authorization, permit, or approval by any third party or governmental entity, which heretofore has not been obtained, is required in connection with the execution and delivery by the Concord Contributor of this Agreement or the performance by the Concord Contributor of the obligations to be performed under this Agreement by the Concord Contributor.

(3) Leases. Except as set forth on Exhibit D attached to this Agreement and made a part hereof, there are no leases or occupancy agreements affecting the Property.

(4) Title. The Concord Contributor owns fee simple title to the Property free and clear of liens other than the Permitted Exceptions.

(5) Compliance with Laws. The Concord Contributor has not received any written notice from any governmental agency or authority that the Property (or any portion thereof) is in violation of (i) any of the requirements of restrictive covenants or other encumbrances affecting the Property (or any portion thereof) and (ii) any laws bearing on the ownership, operation or use of the Property, including, without limitation, those relating to environmental conditions, health, safety, building, fire, zoning, accessibility and land use.

(6) Litigation. There is not now pending, nor to the best of the Concord Contributor's knowledge, has there been threatened, any claims, causes of action or other litigation or proceedings against or affecting the Concord Contributor before or by any federal

or state court, commission, regulatory body, administrative agency or other governmental body, domestic or foreign, wherein an unfavorable ruling, decision or finding may reasonably be expected to have a Material Adverse Effect (as defined below), would interfere with the Concord Contributor's ability to consummate the transactions contemplated by this Agreement, or would affect the use and development of the Property, except for (i) any claims, causes of action or other litigation or proceedings pending or threatened by Empire Resorts, Inc. or its Affiliates and by Entertainment Properties Trust or its Affiliates and (ii) possible claims for workers' compensation, personal injury or property damage which are covered by insurance maintained by the Concord Contributor, and (iii) claims and mechanics' liens of contractors which will be satisfied or bonded at or prior to the Closing.

(7) Condemnation. There is no existing, pending or to the best of the Concord Contributor's knowledge, threatened (a) condemnation of all or any part of the Property, (b) widening, change of grade or limitation on use of streets abutting the Property except in accordance with the Project, (c) special tax or assessment to be levied against the Property, (d) change in the zoning classification of the Property, or (e) change in the tax assessment of the Property; provided, that the Concord Contributor has been informed that the sewer tax applicable to the Property shall be reassessed.

(8) Purchase Options. The Concord Contributor has not entered into any presently effective contracts regarding the sale, conveyance, transfer or disposition of the Property (except for this Agreement). The Concord Contributor has not granted to anyone, and no one possesses, any option to purchase or right of first refusal to purchase Property.

(9) Brokers and Finders. Neither the Concord Contributor nor any of its officers, directors or employees has employed any broker or finder or incurred any liability for any brokerage fees, commissions or finders fees in connection with the transactions contemplated in this Agreement.

(10) Foreign Person. The Concord Contributor is not a "foreign person" as defined by Internal Revenue Code Section 1445.

(11) Reserved.

(12) Financial Information. All financial statements and other information previously furnished by Concord Contributor or any of its Affiliates or the Company or any of its Subsidiaries to MTGA in connection with the negotiation and execution of this Agreement are true, complete and correct in all material respects and fairly present the financial conditions of the subjects thereof as of the respective dates thereof and do not fail to state any material fact necessary to make such statements or information not misleading. No Material Adverse Change has occurred since the furnishing of such statements and information.

(13) Taxes. The Company and each of its Subsidiaries have prepared and timely filed or delivered (taking into account any extension of time within which to file validly obtained) all tax returns required to be filed or delivered by or on behalf of any of them and all such tax returns are complete and accurate, (ii) the Company and each of its Subsidiaries have paid all taxes that are required to be paid by any of them, except with respect to matters for

which adequate reserves have been established and which are being contested in good faith, (iii) all taxes that the Company or any of its Subsidiaries is obligated to withhold from amounts owing to any employee, creditor or third party have been properly withheld and deposited or paid over to the proper governmental authority in a timely manner, (iv) neither the Company nor any of its Subsidiaries has executed any currently effective waiver of any statute of limitations period applicable to any tax return which period has not yet expired, (v) the tax returns of the Company and each of its Subsidiaries have been examined by the Internal Revenue Service (the "IRS") or the relevant state, local or foreign taxing authority (or the period for assessment of the taxes in respect of which such tax returns were required to be filed has expired), (vi) all deficiencies asserted or assessments made as a result of any examinations have been paid in full (vii) none of the tax returns referred to in clause (i) are currently under any audit, suit, proceeding, examination or assessment by the IRS or the relevant state, local or foreign taxing authority and there are not pending or, to the knowledge of the Company, threatened in writing, any audits, examinations, investigations or other proceedings in respect of taxes, (viii) no closing agreements, private letter rulings, or technical advance memoranda have been entered into or issued by, or analogous agreement or rulings under foreign, state or local Law have been entered into or issued by, any taxing authority with respect to the Company or any Subsidiary, and neither the Company nor any of its Subsidiaries has outstanding any ruling request, request for consent to change a method of accounting or subpoena with or from a taxing authority in connection with any tax matter, (ix) there are no liens for taxes on any of the assets of the Company or any of its Subsidiaries other than Permitted Liens, (x) no claim has been made in the last six years in writing by an authority in a jurisdiction where the Company or any Subsidiary does not file tax returns that the Company or any Subsidiary is or may be subject to taxation by that jurisdiction or should have been included in a combined or consolidated return of that jurisdiction, (xi) neither the Company nor any of its Subsidiaries has any liability for the taxes of any person under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Laws), as a transferee or successor, by contract, or otherwise or is a party to, is bound by or has any obligation under any tax sharing or tax indemnity agreement or similar contract or agreement, (xii) Raceway Corp. has not been a "controlled corporation" or a "distributing corporation" in any distribution occurring during the three-year period ending on the date hereof that was purported or intended to be governed by Section 355 of the Code (or any similar provision of state, local or foreign Laws), (xiii) neither the Company nor any of its Subsidiaries (including current or former subsidiaries) has participated in a "listed transaction" within the meaning of Treasury Regulation Section 1.6011-4(b); (xiv) the Company and each of its Subsidiaries (other than Raceway Corp.) has been treated as a partnership or "disregarded as an entity separate from its owner" within the meaning of Treasury Regulation Section 301.7701-3 for federal, income tax purposes since the date of its formation, and no election has been made for the Company or any Subsidiary to be taxed as a corporation; (xv) no property of Company or any of its Subsidiaries is "tax-exempt use property" within the meaning of Section 168(h) of Code or "tax-exempt bond financed property" within the meaning of Section 168(g) of the Code, and none of the Company or any of its Subsidiaries is a party to any lease made pursuant to Section 168(f)(8) of the Internal Revenue Code of 1954, and (xvi) Raceway Corp. will not be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any taxable period (or portion thereof) after the Effective Date as a result of any (A) adjustment required by reason of a change in method of accounting under Section 481(c) of the Code (or any corresponding or similar provision of state, local or foreign

Tax Law) prior to the Effective Date, (B) “closing agreement” as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or foreign Law) entered into prior to the Effective Date, or (C) installment sale or intercompany transaction made prior to the Effective Date. For the avoidance of doubt, references to Subsidiaries in this representation (13) shall include the Subsidiary Companies.

(14) Subsidiaries. As of the Closing, all of the outstanding membership interests in each of the Casino Subsidiary Company and the Hotel Subsidiary Company will have been validly issued, fully paid and non-assessable and owned by the Company free and clear of all Liens. Except as expressly set forth herein, there are no outstanding subscriptions, options, calls, contracts, commitments, understandings, restrictions, arrangements, rights or warrants, including any right of conversion or exchange under any outstanding security, instrument or other agreement, obligating the Company or any of its Subsidiaries to issue, deliver or sell, or cause to be issued, delivered or sold, additional stock, membership interests or other equity interests (or securities convertible into stock, membership interests or other equity interests) or obligating the Company or any of its Subsidiaries to grant, extend or enter into any such agreement or commitment; it being understood that the representation set forth in this sentence does not apply to any direct or indirect stock, membership interests or other equity interest in a Member. As of the Closing, each Subsidiary of the Company will be (i) duly organized and validly existing in the state of its formation, and (ii) duly qualified to do business and in good standing in each jurisdiction where the nature of its business requires such qualification and where failure to do so could not reasonably be expected to result in a Material Adverse Change.

As used in this Agreement, the term “*Material Adverse Effect*” shall mean an effect that would prevent, materially delay or materially impair the use, utility or value of the Project or the Property, the ability of the Company or its Subsidiaries to obtain or maintain in full force and effect any material License or Permit or the ability of the Company to develop, construct and operate the Project on the Property, or would have a material adverse effect on the financial condition or prospects of the Company or its Subsidiaries.

Except as set forth in this Agreement, the Concord Contributor has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past or present, of, as to, concerning or with respect to the Property. Additionally, no Person acting on behalf of the Concord Contributor is authorized to make, and by execution hereof each of the other parties acknowledge that no person has made, on behalf of the Concord Contributor, any representation, agreement, statement, warranty, guaranty or promise regarding the Property or the transactions contemplated herein other than the representations, agreements, statements, warranties, guaranties and promises contained in this Agreement, and no such other representation, warranty, agreement, guaranty, statement or promise, if any, made by any person acting on behalf of the Concord Contributor shall be valid or binding upon the Concord Contributor unless specifically set forth herein.

3.3 The representations and warranties of BKC and the Concord Contributor set forth in this Article 3 shall survive the execution and delivery of this Agreement.

ARTICLE IV COVENANTS

4.1 Interim Covenants. From the date hereof until the Closing, except (x) as required or expressly permitted pursuant to this Agreement or (y) with the prior written consent of MTGA, each of the Concord Contributor and the Company shall, and shall cause their respective Affiliates to:

- (a) use commercially reasonable efforts to maintain the Transferred Assets;
- (b) use commercially reasonable efforts to preserve the goodwill and business relationships in connection with the Project;
- (c) comply with all applicable Laws with respect to the Project in all material respects and perform in all material respects all of its obligations under any transferred contracts;
- (d) maintain the Books and Records in the ordinary course of business, and not change any of the financial accounting methods, practices or material policies used with respect to the Project or the Company or any Subsidiary Company;
- (e) not sell, pledge, lease, dispose of, transfer or otherwise authorize, in a single transaction or series of related transactions, any of the Transferred Assets;
- (f) not incur any material Liabilities that are Assumed Liabilities or that are or will be Liabilities of the Company or any of the Subsidiary Companies (together, the “*Subject Entities*”);
- (g) not (i) amend or propose to amend the articles of incorporation or bylaws or other equivalent organizational documents of any Subject Entity, or (ii) split, combine or reclassify, or repurchase, redeem or otherwise acquire, any outstanding capital stock or equity interests in any Subject Entity;
- (h) cause the Subject Entities not to (i) declare or pay any dividends or declare or make any other distributions of any kind, (ii) incur or become contingently liable with respect to any indebtedness for borrowed money or (iii) adopt a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization;
- (i) except as may be required by a change in Law, not (A) settle or compromise any liability for taxes, (B) make, change or revoke any tax election, (C) settle or compromise any tax proceeding or agree to any adjustment of any tax attribute, (D) surrender any claim for a refund of taxes, (E) file any amended tax return or request any tax ruling, or (F) enter into a closing agreement, in each case with respect to the Transferred Assets, the Transferred Liabilities, the Project or any Subject Entity;
- (j) use all commercially reasonable efforts to cause the conditions specified in Section 5.1 to be satisfied in a timely manner, and not take any action that is intended or would reasonably be expected to, individually or in the aggregate, either prevent or materially delay the satisfaction of any conditions specified in Section 5.1; and

(k) not enter into any agreement (whether written or oral) to do any of the foregoing, or to authorize or publicly announce an intention to do any of the foregoing.

4.2 Access to Information. From the date of this Agreement until the Closing, Concord Contributor shall, and shall cause its Affiliates to, give MTGA and its representatives reasonable access during normal business hours to the properties, books and records relating to the Project, the Subject Entities or the Transferred Assets and furnish them with such information and documents in its possession relating to the Project, the Subject Entities or the Transferred Assets as MTGA may from time to time reasonably request, including for purposes of MTGA's completion of its due diligence as described in Section 5.1(g) hereof.

4.3 Notice of Certain Events.

(a) Subject to applicable Law, Concord Contributor shall consult in good faith on a reasonably regular basis with MTGA to report significant developments, the status of business relationship related to the Project and other matters related to the Project reasonably requested by MTGA pursuant to procedures reasonably requested by MTGA; provided that no such consultation shall affect the representations, warranties, covenants, agreements or obligations of the parties (or remedies with respect thereto) or the conditions to the obligations of the parties under this Agreement or the Operating Agreement.

(b) Concord Contributor shall promptly notify MTGA of:

(1) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement or the Operating Agreement;

(2) any notice or other communication from any Governmental Authority of a material nature in connection with the transactions contemplated by this Agreement or the Operating Agreement;

(3) any material proceeding commenced or, to its knowledge, threatened against, relating to or involving or otherwise affecting Louis R. Cappelli ("Cappelli"), the Concord Contributor, the Subject Entities or the Project; and

(4) any inaccuracy of any representation or warranty or breach of covenant or agreement contained in this Agreement or in the representations and warranties of Concord set out in Article 3 of this Agreement at any time during the term hereof, that could reasonably be expected to cause a condition set forth in Article V not to be satisfied.

4.4 Negotiations with Others. Until the Closing or the earlier termination of this Agreement, the Concord Contributor will not and will cause its Affiliates and representatives not to, directly or indirectly, without the written consent of MTGA, initiate discussions or engage in negotiations concerning, or discuss, with any Person any proposal regarding the management of the Project, except (i) MTGA and its representatives and (ii) in connection with the Project Financing,

4.5 Publicity. So long as this Agreement is in effect and except as required by applicable Law, the parties will use reasonable efforts to consult with each other before issuing any press release or making any public announcement concerning this Agreement, the transactions contemplated hereby or by the Operating Agreement, the Project or the Company, provided that without the prior written consent of MTGA, neither BKC, the Concord Contributor nor any of their Affiliates shall issue a press release or make a public statement referring to this Agreement, MTGA or Mohegan Sun.

4.6 Agency Communications. Each party shall keep MTGA and Concord Contributor reasonably informed of any communication received by it or any of its Affiliates from, or given by such party to, any Agency, and permit MTGA and Concord Contributor to review any communication to be given by it or any of its Affiliates to any Agency.

4.7 Modifications to Operating Agreement and Management Agreement. Prior to the Closing, each party shall agree to any conforming or ministerial changes to the form of Operating Agreement or Management Agreement as shall be reasonably requested by the other party, including minor modifications to the tax allocation provisions in the Operating Agreement.

ARTICLE V CLOSING CONDITIONS

5.1 Conditions for MTGA. The obligations of MTGA to consummate the Closing are subject to the satisfaction or waiver in writing by MTGA, at or before the Closing, of each of the following conditions:

(a) The closing and initial funding of the Project Financing shall have occurred;

(b) The following agreements or documents, in form and substance satisfactory to MTGA, shall have been duly executed and delivered by each party thereto (other than MTGA or any of its Affiliates):

- (1) The Project Financing Documents;
- (2) The Pre-Approved Agreements;
- (3) The Concord License Agreement;
- (4) The MTGA License Agreement;
- (5) The loan and security documents relating to the [Hotel Financing];

(7) All other documents, instruments and agreements referenced in the Operating Agreement and required or contemplated to be executed and delivered upon or prior to the execution and delivery of the Operating Agreement.

(c) The Members shall have completed and delivered the Capital Budget, the Plans and Specifications, and the Construction Schedule, each in form and substance satisfactory to MTGA.

(d) The Company shall have received, with respect to the Property, (i) an owner's title insurance policy (with endorsements and affirmative insurance as requested by MTGA), indicating that there are no outstanding mechanics' liens with respect to the Property and no mortgages on the Property (other than in connection with the Bond Financing and the Hotel Financing) and subject only to the Permitted Exceptions and such other title exceptions approved by MTGA, and (ii) an ALTA survey certified to the Company.

(e) all Licenses required in connection with the ownership and operation of the Project shall have been obtained, on a permanent or conditional basis (provided that any such conditions shall be acceptable to MTGA).



(g) No Governmental Authority of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, injunction or other order (whether temporary, preliminary or permanent) which is in effect and has the effect of making the transactions contemplated by this Agreement or the Operating Agreement illegal or otherwise restraining or prohibiting consummation of such transactions.

(h) The representations and warranties of Concord Contributor set out in Article 3 hereof shall be true, complete and correct in all material respects as of the date hereof and as of the Closing Date.

(i) All other covenants and obligations of BKC and Concord Contributor set forth in Article II of this Agreement and elsewhere in this Agreement shall have been performed.

ARTICLE VI TERMINATION

6.1 Termination of Obligations. All obligations and duties of the parties to consummate the transactions contemplated hereby prior to the Closing may only be terminated as follows:

(a) by mutual written consent of BKC and MTGA;

(c) by either BKC or MTGA, if a court or other Governmental Authority of competent jurisdiction shall have issued a final order or taken any other nonappealable final action, in each case, having the effect of permanently restraining, enjoining or otherwise prohibiting the transactions contemplated hereby.

ARTICLE VII TITLE

7.1 Title to Property. Upon the Closing, the Concord Contributor shall convey good and valid fee and leasehold title to the Property free and clear of all easement, encroachment, security interest, pledge, mortgage, lien (including, without limitation, environmental, tax and ERISA liens), charge, judgment, claim, encumbrance, proxy, voting trust or voting agreement (collectively, "*Liens*") other than the Permitted Exceptions.

7.2 Title Policy. On the Closing Date herewith, the Company shall have received, with respect to the Property, (i) an owner's and lessee's title insurance policy insuring fee simple and leasehold title to the Property subject only to the Permitted Exceptions and such other title exceptions approved by the Company in its sole discretion, with the following endorsements to the extent available in the State of New York for an owner's policy: ALTA 9, land same as survey, access, tax parcel, and non-imputation, and (ii) an ALTA survey certified to the Company.

ARTICLE VIII ALLOCATIONS

8.1 Allocations. The Concord Contributor shall be entitled to all income produced from the operation of the Property which is allocable to the period prior to the date of this Agreement and shall be responsible for all expenses allocable to that period. The Company shall be entitled to all income and responsible for all expenses allocable to the period beginning at 12:01 A.M. on the date hereof. As of the date of this Agreement, all items of income and expense listed below with respect to the Property shall be prorated in accordance with the foregoing principles and the rules for the specific items set forth hereafter shall be computed and apportioned between the Company and the Concord Contributor as of the date hereof on a per diem and on a 365-day year basis, which agreement shall survive the execution and delivery of

this Agreement, except to the extent that any of the following items are being reimbursed to or credited to BKC as part of its Initial Capital Contribution:

- (A) real estate taxes, water charges and sewer rents, if any, on the basis of the fiscal period for which assessed, except that if there is a water meter on the Property, apportionment shall be based on the last available reading, subject to adjustment after the date hereof when the next reading is available;
- (B) value of fuel stored on the Property, at the price then charged by Concord Contributor's supplier, including any taxes;
- (C) charges under transferable Licenses, or permitted renewals or replacements thereof; and
- (D) charges with respect to insurance premiums under the assigned insurance policies, if any.

If the consummation of the transactions contemplated hereby shall occur before a new tax rate is fixed, the apportionment of taxes shall be upon the basis of the old tax rate for the preceding period applied to latest assessed valuation. Promptly after the new tax rate is fixed, the apportionment of taxes shall be recomputed. Any discrepancy resulting from such recomputation and any errors or omissions in computing apportionments shall be promptly corrected, which obligations shall survive the execution and delivery of this Agreement.

The provisions of this Section 8.1 shall survive the execution and delivery of this Agreement for a period of one hundred eighty (180) days at which time there will be a one time readjustment, if necessary.

8.2 Expenses. The Company shall be responsible for all premiums and fees for title examination and title insurance obtained pursuant to Section 7.2 of this Agreement and all related charges, the costs and expenses associated with obtaining the ALTA survey pursuant to Section 7.2 of this Agreement, ensuring the completion of all environmental remediation on the Property including any related expenses thereto and curing any violations that exist on the Property including any related expenses thereto, any recording fees for documentation to be recorded in connection with the direct or indirect transfer to the Company of the Transferred Assets or Transferred Liabilities, and any irrecoverable excise, sales, use, transfer, real property transfer, documentary, stamp or similar taxes ("*Transfer Taxes*") resulting from the direct or indirect transfer to the Company of the Transferred Assets or Transferred Liabilities, all to the extent set forth in the Capital Budget. The parties hereto shall reasonably cooperate to minimize the aggregate amount of Transfer Taxes. Each Member of the Company shall be responsible for the costs and expenses associated with the due diligence performed by such Member and the costs and expenses of its respective legal counsel, advisors and other professionals employed by such Member in connection with the direct or indirect transfer to the Company of the Transferred Assets or Transferred Liabilities and the admission of such Person as a Member of the Company.

ARTICLE IX MISCELLANEOUS

9.1 Amendment. No amendment or waiver of any provision of this Agreement will be effective with respect to any party unless made in writing and signed by an officer of a duly authorized representative of such party.

9.2 Waiver. The conditions to each party's obligation to consummate the transactions contemplated by this Agreement are for the sole benefit of such party and may be waived by such party in whole or in part to the extent permitted by applicable Law. No waiver will be effective unless it is in a writing signed by a duly authorized officer of the waiving party that makes express reference to the provision or provisions subject to such waiver.

9.3 Governing Law. This Agreement and rights and obligations of the parties hereto with respect to the subject matter hereof will be interpreted and enforced in accordance with, and governed exclusively by, the laws of the State of New York, excluding the conflicts of law provisions thereof.

9.4 Successors and Assigns. This Agreement will be binding upon and inure to the benefit of the parties hereto and their permitted successors, heirs, and assigns. This Agreement is for the sole benefit of the parties hereto and, except as otherwise contemplated herein, nothing herein expressed or implied shall give or be construed to give any Person, other than the parties hereto, any legal or equitable rights hereunder.

9.5 Headings. The headings of the articles, sections and paragraphs of this Agreement have been inserted for convenience of reference only and do not constitute a part of this Agreement.

9.6 Counterparts. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, with the same effect as if all parties had signed the same documents, each of which will be considered an original, but all such counterparts together will constitute but one and the same Agreement.

9.7 Notices. Any notice or communication which may be or is required to be given pursuant to the terms of this Agreement shall be in writing and shall be sent to the respective party at the addresses set forth below, by hand, by certified mail, postage prepaid and return receipt requested, or by a nationally recognized overnight courier service that provides tracing and proof of receipt of items mailed. Notices shall be effective upon the date of receipt or refusal of receipt. Any party may change the address to which notices to it shall be sent by a notice sent in accordance with the requirements of this Section 9.7.

To the Company or BKC:	BKC Casino Group LLC c/o Cappelli Organization 7 Renaissance Square, 4th Floor White Plains, New York 10601 Attention: Louis R. Cappelli
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With a copy to: DelBello Donnellan Weingarten
Wise & Wiederkehr, LLP
One North Lexington Avenue
White Plains, New York 10601
Attention: Alfred E. Donnellan, Esq.

To MTGA: Mohegan Resorts New York, LLC
One Mohegan Sun Boulevard
Uncasville, Connecticut 06382
Attention: Chief Executive Officer
Attention: President

With a copy to: Mohegan Tribe of Indians of Connecticut
5 Crow Hill Road
Uncasville, CT 06382
Attention: Attorney General

To Concord Contributor: Concord Associates, L.P.
c/o Cappelli Organization
7 Renaissance Square, 4th Floor
White Plains, New York 10601

Attention: Louis R. Cappelli

With a copy to: DelBello Donnellan Weingarten
Wise & Wiederkehr, LLP
One North Lexington Avenue
White Plains, New York 10601
Attention: Alfred E. Donnellan, Esq.

To Marnell: Marnell Concord LLC
222 Via Marnell Way
Las Vegas, Nevada 89119
Attention: Greg Wells

9.8 Submission to Jurisdiction; Remedies. Each party hereto irrevocably submits to the jurisdiction of the state and federal courts located in the State of New York for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby. Each party hereto irrevocably and unconditionally waives trial by jury and irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in the state and federal courts located in the State of New York, and hereby further irrevocably and

unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum. No party hereto, or any Affiliate, agent, officer, partner, employee, member, representative, director or shareholder of any party shall be liable, responsible or accountable in damages or otherwise to any other party under this Agreement for special, consequential or punitive damages.

9.9 Entire Agreement. This Agreement represents and constitutes the entire agreement between the parties with respect to the subject matter hereof, and this Agreement amends, restates and supersedes in all respects the Property Contribution Agreement, dated as of May 5, 2011, by and between Cappelli Concord LLC, Mohegan Resorts New York, LLC, Concord Associates, L.P., and Concord Kiamesha Holding LLC.

[Signature pages follow]

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the parties hereto as of the date first herein above written.

BKC Casino Group LLC

By: _____
Name: Louis R. Cappelli
Title: Manager

Concord Kiamesha LLC
By: Cappelli Concord LLC, Manager

By: _____
Name: Louis R. Cappelli
Title: Manager

Concord Associates, L.P.
By: Convention Hotels LLC, General Partner
By: Catskill Resort Group, Managing Member

By: _____
Name: Louis R. Cappelli
Title: Manager

Mohegan Resorts New York, LLC

By: _____
Name: Mitchell Grossinger Etes
Title: President

Marnell Concord LLC

By: _____
Name:
Title: