

Memorandum of Understanding

17 June 2014

This Memorandum of Understanding executed by Upstate Theater Coalition for a Fairgame LLC, see Appendix A, (“Fairgame”), 432 State Street, Schenectady, NY 12305, Bethel Woods Center for the Arts (“Bethel Woods”), 200 PO Box 222, Liberty, NY, Bardavon 1869 Opera House, Inc. (“Bardavon”), 35 Market Street, Poughkeepsie, NY 12601-3214 (Bethel Woods and Bardavon being collectively referred to as the “Venues”), and Nevele-R, LLC, a Delaware limited liability company, Government Center, Fifth Floor, Ellenville, NY 12428 (“Casino Developer”).

The parties recognizes that New York State is in the process of selecting live gaming operators for each of three regions in the state and that the New York State Gaming Commission has made clear the need for applicant gaming operators to “actively support the mission and operation of impacted live entertainment venues...”

It is the intent of the Casino Developer to construct and operate a Gaming Facility without an indoor entertainment facility but an outdoor facility with no fixed seating and an occupancy of under 1000 with occasional summer non-headline shows (the “Entertainment Facility”). It is also the intent of the Casino Developer to use the Entertainment Facility for live non-headline performance entertainment events about [12] times per year. This agreement is based on the

foregoing intent and should the casino venue size, seats, number of events per year increase or include regular headliners, the parties will negotiate an amendment of the understanding reflected herein, and any more formal agreement reflecting such understanding, to offset the effect on the Venues of an expansion by Casino Developer in the number of entertainment events or the capacity of the Entertainment Facility (including construction of one or more new or additional facilities).

Recognizing that it is not the intent of the Casino Developer to cause harm to the live entertainment facilities at the Venues, the following actions are to be put into place and acknowledged in the Casino Developer's application for a New York Gaming Facility License and will continue during the entire life of the Casino Developer's (or its assigns) license (if awarded) and any renewals thereof, unless earlier terminated in accordance with the provisions hereof:

- 1) Casino Developer shall give written notice to the Venues of any and all offers it intends to submit for the appearance at the Entertainment Facility of a performing artist or group before Casino Developer makes such offer, which notice shall include the name of the performer or group, the tentative dates of the performance and the proposed compensation arrangement. If either of the Venues advises Casino Developer and the other Venue that it intends to submit its own offer (which may be materially different than the offer the Casino Developer

intended to make) for an appearance by such performing artist or group at its Venue, Casino Developer will not proceed with its offer. If the Venue offer is not made or, if made, is rejected, the Venue making or intending the offer will promptly so advise Casino Developer and the other Venue, and Casino Developer may make an offer to the artist or group, but it may not make such offer for a performance which would take place before or within 120 days after the last of the date or dates on which the Venue making the offer was seeking to have the artist or group appear.

2) Casino Developer, if awarded, a New York Gaming Facility License, will promote events of the Venues and use its gaming “loyalty” programs to purchase and distribute tickets for admission to events at the Venues.

3) Casino Developer and the Venues will establish joint marketing agreements, including agreements covering such matters as program sponsorships, ticketing kiosks, lodging package programs, etc.

4) Casino Developer will support the Venues, with a quarterly payment to Fairgame (to be divided among and paid to the Venues and Fairgame in accordance with the agreement among the Venues and Fairgame) as follows: 1 ~ Stand Alone: If Nevele is the “stand alone winner ” (i.e. the only casino licensee) in Region 1, then payments to FairGame would be

\$500,000 per annum. 2 ~ Outside of Orange County: Should Nevele be awarded a license in Ulster County, and a second Region 1 license is awarded outside of Orange County, then payments to Fairgame would be \$200,000 per annum. 3 ~ Inside of Orange County: Should Nevele be awarded a license in Ulster County, and a second Region 1 license is awarded in Orange County, then payments to Fairgame would be \$100,000 per annum.

Should the Casino Developer expand its Entertainment Facility, construct one or more new facilities any of which have more than 600 fixed seats or arrange for regular headline live performance events in a year, the Casino Developer will promptly notify the other parties hereto of such planned activities and all parties will promptly thereafter negotiate an additional amount (but not less than \$1,000,000 per year), to be paid to Fairgame each year commencing with the year that such plans are realized in whole or in part. In determining the additional amount, the parties shall consider the anticipated negative impact of such activities on each Venue based upon, among other factors, (i) the increase in the capacity of the Entertainment Facility and/or increase in the number of annual live performances, (ii) the proposed use of such expanded or new facilities, and (iii) the distance of the Entertainment Facility from the location of each Venue. The agreed amount will be divided among and paid to the Venues and Fairgame in such manner as the Venues and Fairgame may agree, taking into account the anticipated negative impact on each Venue based upon the foregoing

factors. If the parties are unable to agree on the additional amount or the Venues and Fairgame are unable to agree on the allocation of the agreed amount, the dispute shall be resolved by arbitration among the applicable parties in New York City before an impartial arbitrator or tribunal.


The parties understand that the agreement contemplated hereby is not exclusive and that any of Fairgame, Bethel Woods and Bardavon may enter into agreements with other applicants for a New York Gaming Facility License.

It is the intent of the parties to incorporate the understanding of the parties hereto into a more formal agreement, including the foregoing terms and provisions, as well as such other terms and conditions as may be normal and customary in the industry with regard to similar agreements. Until such more formal agreement is prepared and executed, this Memorandum shall be binding and enforceable upon the parties, it being understood this Memorandum shall be of no force or effect if Casino Developer is not awarded a New York Gaming Facility License and each of the Venues may terminate this Memorandum as to it, if it believes, in the exercise of its reasonable judgment, that the agreement contemplated by this Memorandum could be detrimental to its mission or operations.

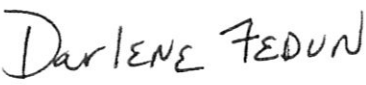
If any provision of this Memorandum shall be determined by any applicable New York State Gaming Facility regulatory authority or other applicable authority to be inconsistent or in

violation of applicable laws or regulations, the parties shall negotiate in good faith to amend this Memorandum to bring it into compliance with applicable laws or regulations, while preserving the general intentions of the parties expressed hereunder.

UPSTATE THEATER COALITION FOR A FAIRGAME LLC

By:  _____


BETHEL WOODS CENTER FOR THE ARTS

By:  _____

BARDAVON 1869 OPERA HOUSE, INC.

By:  _____

NEVELE-R, LLC

By:  _____