

ECGRA DIRECT LOAN #002

CREDIT AGREEMENT

THIS CREDIT AGREEMENT is made this 22<sup>nd</sup> day of August, 2013, effective as of August 22, 2013, by and among the ERIE COUNTY GAMING REVENUE AUTHORITY, a body corporate and politic organized and existing under the provisions of the Pennsylvania Economic Development Financing Law, 73 P.S. §§ 371 et seq., with offices at 5240 Knowledge Parkway, Suite A, Erie, Pennsylvania ("ECGRA"); and the ENTERPRISE DEVELOPMENT FUND OF ERIE COUNTY, Inc., a 501(c)3 nonprofit corporation, organized and existing under the laws of the Commonwealth of Pennsylvania, with offices at 5240 Knowledge Parkway, Erie, Pennsylvania 16510 ("Borrower").

BACKGROUND

A. ECGRA wishes to fulfill part of its economic development mission by providing capital to businesses that are creating jobs and investing in Erie County.

B. Borrower has been certified as a Community Development Financial Institution ("CDFI") by the Community Development Financial Institutions Fund of the U.S. Department of Treasury and desires to borrow up to \$800,000 from ECGRA to fund business loans.

C. ECGRA is willing to lend \$800,000 to Borrower, subject to the terms and conditions hereof.

In consideration of the foregoing background and the promises and the agreements hereinafter set forth, and intending to be legally bound hereby, the parties hereto agree as follows:

SECTION I

DEFINITIONS

1.1. Definitions. When used in this Agreement, the following terms shall have the respective meanings set forth below.

"Advance" means a borrowing under the Commitment pursuant to Paragraph 2.6 hereof.

"Advance Date" means the date on which an Advance is made to the Borrower.

"Borrower" means the Enterprise Development Fund of Erie County, Inc.

"Business Day" means a day other than Saturday, Sunday or a legal holiday when the U.S. Postal Service is closed for delivery.

"CDFI" means an entity certified in accordance with the Community Development Banking and Financial Institutions Act of 1994 (Public Law 103-325, 108 STAT 2163).

"CDFI Note" means the promissory note in the aggregate principal amount of \$500,000 to be delivered by Borrower to ECGRA, as the same may be amended or modified or extended or restated from time to time.

"Closing Date" means the date of this Credit Agreement.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and all rules and regulations with respect thereto in effect from time to time.

"Commitment" means the maximum aggregate principal amount which ECGRA has agreed to advance under Section 2 hereof, which on the date hereof is Eight Hundred Thousand Dollars (\$800,000.00).

"Commitment Expiration Date" means the date that is the first anniversary of the Closing Date.

"Commitment Period" means that period of time from the Closing Date through the Commitment Expiration Date during which ECGRA shall make Advances to Borrower pursuant to Paragraph 2.6 hereof.

"Conversion Date" means (i) September 13, 2018, or (ii) the date on which the Commitment is terminated or the loan accelerated pursuant to Paragraph 7.2 hereof.

"Credit Agreement" means this Credit Agreement and all exhibits and schedules hereto, as each may be amended from time to time.

"Debt Service" means, for any period, all payments of principal, interest and fees required to be made on account of Funded Debt.

"Default" means an event, condition or circumstance the occurrence of which would, with the giving of notice or the passage of time or both, constitute an Event of Default.

"Direct Loan" means the maximum aggregate principal amount of indebtedness advanced by ECGRA under Section 2 of this Credit Agreement to the Borrower.

"Entity Equity" means Net Assets less any equity, preferred equity, subordinated debt, or other equity-equivalent financial instrument representing a redeemable third-party

investment in the Borrower not accounted for as a liability on the Borrower's statement of financial condition.

"Event of Default" means an event described in Paragraph 7.1 hereof.

"First Disbursement Date" means the date of the first disbursement of the Direct Loan to the Borrower, which shall be deemed to be the same as the date of ECGRA's first disbursement check.

"Funded Debt" means, as of the date of determination, the aggregate principal amount of all Indebtedness for:

- (i) borrowed money other than trade indebtedness incurred in the normal and ordinary course of business for value received, having a final maturity of one year or more from the date of determination;
- (ii) installment purchases of real or personal property having a term of one year or more; and
- (iii) guaranties of Funded Debt of others, without duplication.

"GAAP" means generally accepted accounting principles set forth in the Opinions of the Accounting Principles Board of the American Institute of Certified Public Accountants.

"Indebtedness" of any person means and includes all obligations of such person which, in accordance with GAAP, shall be classified on a balance sheet of such person as liabilities of such person and in any event shall include all (i) obligations of such person for borrowed money or which have been incurred in connection with acquisition of property or assets, (ii) obligations secured by any lien upon property or assets owned by such person, notwithstanding that such person has not assumed or become liable for the payment of such obligations, (iii) obligations created or arising under any installment or conditional sale or other title retention agreement with respect to property acquired by such person, notwithstanding the fact that the rights and remedies of the seller, ECGRA or lessor under such agreement in the event of default are limited to repossession or sale of property, (iv) guarantees and (v) letters of credit and letter of credit reimbursement obligations.

"Intangible Assets" means for the applicable entity, all assets of such entity which would be classified in accordance with GAAP as intangible assets, including without limitation, all franchises, licenses, permits, patents, patent applications, copyrights, trademarks, tradenames, goodwill, experimental or organization expenses and other like intangibles, the cash surrender value and other like intangibles of any life insurance policy, treasury stock and unamortized debt discount.

"Interest Rate" means the rate as set forth in the CDFI Note.

"Local Authorities" means individually and collectively the state and local governmental authorities and administrative agencies which govern the facilities owned or operated by Borrower.

"Material Adverse Effect" means either singly or in the aggregate, a material adverse effect on the business, financial condition or prospects of the Borrower as a result of any condition, circumstance or contingency arising after the date hereof.

"Maturity Date" means the date established in the CDFI note.

"Net Assets" means total assets less total liabilities as reported in the Borrower's statement of financial condition.

"Net Tangible Assets" of any corporation means, as of the date of determination, the gross book value, as shown by the books of such corporation (without giving effect to any write-up of any property or assets) in accordance with GAAP, of all its property and assets, both real and personal (exclusive of Intangible Assets), less the sum of: (i) reserves for depreciation, depletion, obsolescence and amortization of its properties and assets (other than properties and assets excluded as hereinafter provided) as shown by the books of such corporation (ii) reserves for deferred taxes resulting from the use of accelerated depreciation and all other proper reserves (other than general contingency reserves, reserves representing mere appropriations of surplus and reserves for deferred income taxes) which in accordance with GAAP should be set aside in connection with the business(es) conducted by such corporation, and (iii) indebtedness and other liabilities of such corporation other than (A) indebtedness for borrowed money, (B) reserves which have been deducted pursuant to the preceding clause (ii), and (C) general contingency reserves and reserves representing mere appropriations of surplus.

"Operating Expenses" means the costs incurred by the Borrower in the operation of a loan program including overall activities such as fundraising, administration, promotion, loan underwriting, monitoring, and basic technical assistance. Operating Expenses do not include loan fund interest nor special projects or services of the organization such as un-related training contracts, fiduciary responsibilities for other programs, and pass-through grants.

"Qualifying Loan" means a loan from Borrower to its customer meeting the criteria set forth in the commitment letter to Borrower.

"Repayment Period" means the time period of repayment established in the CDFI Note starting on the Conversion Date and ending on the Maturity Date.

"Secured Debt" means indebtedness the right to receive payment of which is secured, in whole or in part, by the grant or creation of a mortgage, lien, pledge, charge, security interest or other encumbrance of any kind (including a security interest created by any installment or conditional sale agreement, lease required to be capitalized under GAAP or other title retention agreement) or by a judgment or other inchoate right to assert a lien upon or in respect of property or assets of any character of the Borrower.

"Senior Funded Debt" of the Borrower means all Funded Debt other than Subordinated Debt.

"Subordinated Debt" means indebtedness of Borrower subordinated to the Direct Loan with subordination provisions in form and substance satisfactory to ECGRA.

"Total Assets" means, at any time, all assets of the Borrower, as defined in accordance with GAAP.

"Total Liabilities" means, at any time, all liabilities and deferred items, as defined in accordance with GAAP.

"WSJ Prime Rate" means, as of any date of determination, the rate of interest as reported in the Wall Street Journal's bank survey as the Prime Rate.

## SECTION 2

### CREDIT FACILITIES

2.1. The Facility. Subject to the provisions below, during the Commitment Period, ECGRA shall make Advances to Borrower up to an aggregate outstanding principal amount not to exceed \$800,000.00.

2.2. CDFI Note. The indebtedness of the Borrower to ECGRA under the Direct Loan will be evidenced by a CDFI Note executed by Borrower in favor of ECGRA. The original principal amount of the CDFI Note will be the amount of \$800,000.00; provided, however, that notwithstanding the face amount of such CDFI Note, Borrower's liability under the CDFI Note shall be limited at all times to its actual indebtedness, principal, interest and fees, then outstanding hereunder.

2.3. Use of Proceeds. Funds advanced under the Direct Loan shall be used solely to finance business loans as more fully described in an Agreement between ECGRA and the Borrower for Special Economic Development Assistance for Erie County intended to be executed of even date herewith with such terms being incorporated herein.

2.4. Repayment. Commencing with the Conversion Date, Borrower shall pay principal and interest as set forth in the CDFI Note until the Direct Loan is repaid in full. All principal and interest remaining unpaid shall be paid by the Borrower on the Maturity Date. The Borrower may repay all or part of the principal at any time as set forth in Paragraph 2.7 herein and the CDFI Note.

2.5. Interest.

(a) In the absence of an Event of Default or Default hereunder, the outstanding balance of the Direct Loan will bear interest and be repaid as set forth in the CDFI Note. Interest will be calculated on the basis of the actual number of days elapsed and a year of 360 days.

(b) Notwithstanding the foregoing, upon the occurrence and during the continuance of an Event of Default or Default hereunder, before and after judgment, Borrower hereby agrees to pay to ECGRA interest on the outstanding principal balance of the Direct Loan and, to the extent permitted by law, overdue interest with respect thereto, as set forth in the CDFI Note.

2.6. Advances.

(a) ECGRA shall make no more than one Advance to Borrower during each calendar quarter. Borrower shall give ECGRA at least ten (10) Business Days' prior written notice of each requested Advance under the Commitment, specifying the date, amount and purpose thereof. Such notice shall be certified by an authorized officer of Borrower and shall contain the following information and representations, which shall be deemed affirmed and true and correct as of the date of the requested Advance:

(i) the aggregate amount of the requested Advance, which shall be at least Two Hundred Fifty Thousand Dollars (\$250,000.00), or the un-borrowed balance of the Commitment, whichever is less;

(ii) statements that the representations and warranties set forth in Section 3 hereof are true and correct as of the date thereof; no Event of Default or Default hereunder has occurred and is then continuing; and that there has been no material adverse change in Borrower's financial condition, operations or business since the date of the quarterly and audited annual financial statements most recently delivered by Borrower to ECGRA pursuant to Paragraphs 5.3 and 5.4 of this Credit Agreement.

(b) Each request for an Advance pursuant to this Paragraph 2.6 shall be irrevocable and binding on the Borrower.

2.7. Early Repayment.

(a) Borrower may repay the outstanding principal balance under the Direct Loan at any time. Any early repayment is subject to a fee established in the CDFI Note.

(b) Prepayments prior to the Maturity Date may not be re-borrowed. Partial prepayments will be applied first to accrued interest and then to the principal amount

outstanding. Any prepayment shall be in an amount equal to or in excess of Fifty Thousand Dollars (\$50,000.00).

### SECTION 3

#### REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants, as follows:

3.1. Organization and Good Standing. Borrower is duly organized and existing and in good standing, under the laws of the state of its incorporation, has the power and authority to carry on its business as now conducted, and is qualified to do business in all other states in which the nature of its business or the ownership of its properties requires such qualification.

3.2. Accreditation: Certification. All representations and warranties, certifications and/or statements by Borrower are true and correct as of the date hereof, and Borrower is currently certified as a CDFI by the U.S. Department of Treasury.

3.3. Power and Authority: Validity of Credit Agreement. Borrower has the corporate power and authority under the laws of the Commonwealth and under its articles of incorporation and by-laws to enter into and perform this Credit Agreement, the CDFI Note, and all other agreements, documents and actions required hereunder; and all actions (corporate or otherwise) necessary or appropriate for Borrower's execution and performance of this Credit Agreement, the CDFI Note, and all other agreements, documents and actions required hereunder have been taken, and, upon their execution, the same will constitute the valid and binding obligations of Borrower to the extent it is a party thereto, enforceable in accordance with their terms.

3.4. No Violation of Laws or Agreements. The making and performance of this Credit Agreement, the CDFI Note, and the other documents, agreements and actions required of Borrower hereunder will not violate any provisions of any law or regulation, federal, state or local, or the respective articles of incorporation and by-laws of Borrower or result in any breach or violation of, or constitute a default under, any agreement or instruments by which either Borrower or its respective property may be bound.

3.5. Compliance. Borrower is in compliance in all material respects with all applicable laws and regulations, federal, state and local (including without limitation those administered by the Local Authorities) material to the conduct of its business and operations; Borrower possesses all the franchises, permits, licenses, certificates of compliance and approval and grants of authority necessary or required in the conduct of its respective business, and the same are valid, binding, enforceable and subsisting without any defaults thereunder or enforceable adverse limitations thereon and are not subject to any proceedings or claims opposing the issuance, development or use thereof or contesting the validity thereof, and no authorization, consent, approval, waiver, license or formal exemptions from, nor any filing, declaration or registration with, any court or consents, governmental agency or regulatory authority (federal, state or local) or non-governmental entity, under the terms of contracts or

otherwise, is required by reason of or in connection with Borrower's execution and performance of this Credit Agreement, the CDFI Note, and all other agreements, documents and actions required hereunder.

3.6. Litigation. There are no actions, suits, proceedings or claims which are pending or, to the best of Borrower's knowledge or information, threatened against Borrower which, if adversely resolved, would have a Material Adverse Effect.

3.7. Accuracy of Information: Full Disclosure.

(a) All information furnished to ECGRA concerning the financial condition of Borrower, including Borrower's annual financial statement for the period ending June 30, 2012, and interim financial statements dated April 30, 2013, copies of which have been furnished to ECGRA, has been prepared in accordance with GAAP and fairly present the financial condition of Borrower as of the dates and for the periods covered and discloses all liabilities of Borrower and there has been no material adverse change in the financial condition or business of Borrower from the date of such statements to the date hereof; and

(b) All financial statements and other documents furnished by Borrower to ECGRA in connection with this Credit Agreement and the CDFI Note do not and will not contain any untrue statement of material fact or omit to state a material fact necessary in order to make the statements contained therein not misleading. Borrower has disclosed to ECGRA in writing any and all facts which materially and adversely affect the business, properties, operations or condition, financial or otherwise, of Borrower or Borrower's ability to perform its obligations under this Credit Agreement and the CDFI Note.

3.8. Taxes and Assessments. (a) Borrower has filed all required tax returns or has filed for extensions of time for the filing thereof, and has paid all applicable federal, state and local taxes, other than taxes not yet due or which may be paid hereafter without penalty; provided that no such taxes shall be required to be paid if they are being contested in good faith by appropriate proceedings and are covered by appropriate reserves maintained in cash or cash equivalents; and (b) Borrower has no knowledge of any deficiency or additional assessment in connection therewith not provided for in the financial statements required hereunder.

3.9. Indebtedness. Borrower has no presently outstanding Indebtedness or obligations including contingent obligations and obligations under leases of property from others, except the Advances hereunder and the other Indebtedness and obligations described in Borrower's financial statements which have been furnished to ECGRA from time to time pursuant to Paragraph 5.3 and Paragraph 5.4 hereof.

3.10. Solvency. To the best of Borrower's knowledge, Borrower is, and after receipt and application of the first Advance will be, solvent such that it is able to realize upon its assets and pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business. Borrower (i) does not intend to, and does not believe that it will, incur debts or liabilities beyond its ability to pay as such debts and liabilities mature, and (ii) is not engaged in a business or transaction, or about to engage in a business or



transaction, for which its property would constitute unreasonably small capital after giving due consideration to the prevailing practice and industry in which it is engaged. For purposes of this Paragraph 3.10, in computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, in light of all the facts and circumstances existing at such time, represents the amount that reasonably can be expected to become an actual matured liability of Borrower.

3.11. Investment Company Act. Borrower is not directly or indirectly controlled by or acting on behalf of any person which is an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

3.12 Criminal Convictions. Except as previously disclosed in writing to ECGRA, neither the Borrower nor any director, officer or person employed or engaged by the Borrower in a senior management capacity has been convicted by any court of any felony or any misdemeanor involving theft, dishonesty, deception, false swearing, or the filing or submission of any false or misleading information to any agency of government.

#### SECTION 4

#### CONDITIONS

4.1. First Advance. The obligation of ECGRA to make the first Advance shall be subject to ECGRA's receipt of the following documents, each in form and substance satisfactory to ECGRA:

- (a) Credit Agreement. This Credit Agreement duly executed by the Borrower and ECGRA.
- (b) Promissory Note. The CDFI Note duly executed by Borrower.
- (c) Authorization Documents. A certified copy of resolutions of the Board of Directors of Borrower authorizing Borrower's execution and full performance of this Credit Agreement, the CDFI Note, and all other documents and actions required hereunder, and an incumbency certificate setting forth the officers of Borrower and those persons authorized to execute this Credit Agreement and related documents.
- (d) Opinion of Counsel. An opinion letter from counsel for Borrower in the form approved by ECGRA counsel.
- (e) Advance Request. A completed Advance Request Form in a form required under Paragraph 2.6 (a), hereof, and any other documents or information reasonably required by ECGRA in connection therewith.
- (f) Searches. Uniform Commercial Code, tax and judgment lien searches against Borrower in those offices and jurisdictions as ECGRA shall reasonably request.

(g) Other Documents. Such additional documents as ECGRA reasonably may request.

4.2. Subsequent Advances. The obligation of ECGRA to make additional Advances under the Commitment shall be subject to ECGRA's receipt of an Advance Request from the Borrower.

4.3. Additional Condition to ECGRA Obligations. It shall be a condition to ECGRA's obligation hereunder to make any Advance that the representations and warranties set forth herein shall be true and correct as if made on the date of such Advance, that no Event of Default or Default shall have occurred and be continuing on the date of such Advance or be caused by such Advance, and there shall have been no material adverse change in Borrower's financial condition or business since the date hereof.

## SECTION 5

### AFFIRMATIVE COVENANTS

Borrower covenants and agrees that so long as the Commitment of ECGRA to Borrower or any indebtedness of Borrower to ECGRA is outstanding, Borrower will:

5.1. Existence and Good Standing. Preserve and maintain its existence as a corporation, and its good standing in all states in which it conducts business and the validity of all its franchises, licenses, permits, certificates of compliance or grants of authority required in the conduct of its business.

5.2. Accreditation: Certification. Preserve and maintain its designation by the U.S. Department of Treasury as an accredited CDFI; notify ECGRA in writing within five (5) Business Days of any material change in Borrower's financial condition or business as described in its accreditation application; preserve and maintain its certification by the U.S. Department of Treasury as a CDFI and notify ECGRA in writing within five Business Days of any change in Borrower's certification by the U.S. Department of Treasury as a CDFI at any time before the Maturity Date.

5.3. Quarterly Financial Statements. Furnish to ECGRA within forty-five (45) days after the end of each of the first three quarterly periods in each of its fiscal years unaudited quarterly consolidated financial statements prepared by management, in a form acceptable to ECGRA, including (i) a consolidated balance sheet, (ii) a consolidated statement of income and (iii) a statement of cash flows, prepared in accordance with GAAP consistently applied, together with a certificate executed by the chief executive and chief financial officers of the Borrower stating that the financial statements fairly present the financial condition of Borrower as of the date and for the periods covered and that as of the date of such certificate there exists no violation of any provision of this Credit Agreement or the happening of any Event of Default or Default.

5.4. Annual Financial Statements. Furnish to ECGRA within one hundred twenty (120) days after the close of each fiscal year commencing with fiscal 2013 audited consolidated annual financial statements with footnotes, including the financial statements and information required under Paragraph 5.3 hereof, which consolidated financial statements shall be prepared in accordance with GAAP and shall be accompanied by an unqualified opinion (except with respect to changes in GAAP as to which Borrower's independent certified public accountants have concurred) by an independent certified public accounting firm satisfactory to ECGRA.

5.5. Books and Records. Keep and maintain satisfactory and adequate books and records of accounts in accordance with GAAP and make or cause the same to be made available to ECGRA at any reasonable time upon reasonable notice for inspection and to make extracts thereof and permit the ECGRA Executive Director to discuss contents of same with senior officers of Borrower, and also with outside auditors and accountants of Borrower and ECGRA.

5.6. Insurance. Keep and maintain all of its property and assets in good order and repair and fully covered by insurance with reputable and financially sound insurance companies against such hazards and in such amounts as is customary in the industry.

5.7. Litigation: Event of Default. Notify ECGRA in writing within five (5) Business Days of the institution of any litigation, the commencement of any administrative proceedings or the happening of any event which could have a Material Adverse Effect or the occurrence of any Event of Default or Default hereunder.

5.8. Taxes. Pay and discharge all taxes, assessments or other governmental charges or levies imposed on it or any of its property or assets prior to the date on which any penalty for non-payment or late payment is incurred, unless the same are (a) currently being contested in good faith by appropriate proceedings, diligently prosecuted and (b) are covered by appropriate reserves maintained in cash or cash equivalents in accordance with GAAP.

5.9. Compliance: Notification. Comply in all material respects with all local, state and federal laws and regulations applicable to its business, including without limitation the Federal Securities Act of 1933 and all laws and regulations of the Local Authorities, and the provisions and requirements of all franchises, permits, certificates of compliance and approval issued by regulatory authorities and other like grants of authority held by Borrower; and notify ECGRA immediately in detail of any actual or alleged failure to comply with or perform, breach, violation or default under any such laws or regulations or under the terms of any of such franchises or licenses, grants of authority, or of the occurrence or existence of any facts or circumstances which with the passage of time, the giving of notice or otherwise could create such a breach, violation or default or could occasion the termination of any of such franchises or grants of authority.

5.10. Net Assets. Maintain Net Assets equal to or exceeding thirty five percent (35%) of Borrower's Total Assets.

5.11. Entity Equity. Maintain Entity Equity equal to or exceeding twenty percent (20%) of Borrower's Total Assets.

5.12. Loan Loss Reserve. Maintain a loan loss reserve equal to or exceeding three percent (3%) of Borrower's outstanding loans.

5.13. Guaranties. Disclose in the Borrower's annual audit, all guaranties or assumptions or agreements to assume or agree to become liable in any way, either directly or indirectly, for any additional indebtedness or liability of others except to endorse checks or drafts in the ordinary course of business.

5.14. Liens and Encumbrances. Disclose in the Borrower's annual audit all liens, security interests, or any other encumbrances.

5.15. Acquisitions and Investments. Disclose in Borrower's annual audit all acquisitions (including without limitation by way of share exchange) of any part or amount of the capital stock or assets of, or any investments in any other firm or corporation; or the entering into any new business activities or ventures not directly related to its present business; or merger or consolidation with or into any other firm or corporation; or creation of any subsidiary corporations.

5.16. Capital Liquidity. Maintain unrestricted cash and cash equivalents and marketable securities plus sixty percent (60%) of current loans receivable shall be equal to or greater than current liabilities. (i.e. cash + cash equivalents + 0.60 of current loans > or = current liabilities). Loan loss reserves shall be considered "cash" for the purposes of calculating capital liquidity.

5.17. Operating Liquidity. Maintain unrestricted cash and cash equivalents and marketable securities equal to or exceeding three (3) months of operating expense.

5.18. Other Information. Provide ECGRA with any other documents and information, financial or otherwise, reasonably requested by ECGRA from time to time.

5.19. Management Changes. Notify ECGRA in writing within thirty (30) days of any change in, including internal transfers of, the key management personnel.

5.20. Programmatic Conditions. Comply with the terms and conditions of an Agreement between ECGRA and the Borrower for Special Economic Development Assistance for Erie County, as amended, intended to be executed of even date herewith.

5.21. Contractor Responsibility. Included in and made a part of this Agreement is Exhibit "A", a clause pertaining to Contractor Responsibility.

5.22. Contractor Integrity. The Borrower represents, warrants and covenants that it currently has no interest and shall not acquire any interest, direct or indirect, which would

conflict in any manner or degree with the performance of its obligations hereunder. Included in and made a part of this Agreement is Exhibit "B", a clause pertaining to Contractor Integrity.

5.23. Nondiscrimination/Sexual Harassment. The Borrower will not discriminate against or intimidate any employee or any applicant for employment because of gender, race, creed, or color, in any manner, including but not limited to the following activities: employment; upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

## SECTION 6

### NEGATIVE COVENANTS

So long as the Commitment or any indebtedness of Borrower to ECGRA remains outstanding hereunder, Borrower covenants and agrees that without ECGRA's prior written consent, it will not:

6.1. Transfer of Assets: Liquidation.

(a) Sell, lease, transfer or otherwise dispose of all or any portion of its assets, real or personal, in excess of \$100,000.00, other than such transactions in the normal and ordinary course of business for value received; or

(b) discontinue, liquidate, or change in any material respect any substantial part of its operations or business(es).

6.2. Net Revenue. Permit annual expenses to exceed adjusted annual revenues.

6.3. Portfolio Performance. Permit loan delinquencies to exceed twenty (20%) percent of outstanding loan balances.

6.4. Margin Securities. Use any of the proceeds of the Direct Loan, directly or indirectly, to purchase or carry margin securities within the meaning of Regulation U of the Board of Governors of the Federal Reserve System; or engage as its principal business, in the extension of credit for purchasing or carrying such securities.

6.5. Name Change. The Borrower will not change its name unless prior written notification has been sent to ECGRA.

## SECTION 7

### DEFAULT

7.1. Events of Default. Each of the following events shall be an Event of Default hereunder:

(a) If Borrower shall fail to pay when due any installment of principal, interest, fees, costs, expenses or any other sum payable to ECGRA hereunder or otherwise, and such default shall continue uncured for sixty (60) days after written notice thereof to Borrower given by ECGRA;

(b) If any representation or warranty made herein or in connection herewith or in any statement, certificate or other document furnished hereunder is false or misleading in any material respect when made, and such default shall continue uncured for sixty (60) days after written notice thereof to Borrower given by ECGRA.

(c) If Borrower shall default in the performance of any other agreement or covenant contained herein (other than as provided in subparagraphs (a) or (b) above) or in any document executed or delivered in connection herewith, and such default shall continue uncured for sixty (60) days after written notice thereof to Borrower given by ECGRA.

(d) If custody or control of any substantial part of the property of Borrower shall be assumed by any governmental agency or any court of competent jurisdiction at the instance of any governmental agency; if any material license or franchise shall be suspended, revoked or otherwise terminated; if any governmental regulatory authority or judicial body shall make any other final non-appealable determination the effect of which would be to affect materially and adversely the operations of Borrower as now conducted; if Borrower misuses Direct Loan proceeds by violation of operating restrictions; or if Borrower fails to comply with the material conditions of any government or private grants and the non-compliance results in the termination or revocation of such grant;

(e) If Borrower becomes insolvent, bankrupt or generally fails to pay its debts as such debts become due; is adjudicated insolvent or bankrupt; admits in writing its inability to pay its debts; or shall suffer a custodian, receiver or trustee for all or substantially all of its property to be appointed and if appointed without its consent, not be discharged within sixty (60) days; makes an assignment for the benefit of creditors; or suffers proceedings under any law related to bankruptcy, insolvency, liquidation or the reorganization, readjustment or the release of debtors to be instituted against it and if contested by it not dismissed or stayed within sixty (60) days; if proceedings under any law related to bankruptcy, insolvency, liquidation, or the reorganization, readjustment or the release of debtors is instituted or commenced by Borrower if any order for relief is entered relating to any of the foregoing proceedings; if Borrower shall call a meeting of its creditors with a view to arranging a composition or adjustment of its debts; or if Borrower shall by any act or failure to act indicate its consent to, approval of or acquiescence in any of the foregoing;

(f) If any judgment, writ, warrant or attachment or execution or similar process which calls for payment or presents liability in excess of \$100,000.00 shall be rendered, issued or levied against Borrower or its respective property and such process shall not be paid, waived, stayed, vacated, discharged, settled, satisfied or fully bonded within sixty (60) days after its issuance or levy; or

(g) If Borrower defaults and fails to cure within applicable cure period, under any agreement or instrument evidencing the Borrower's indebtedness to another lender.

7.2. Remedies. Upon the happening of any Event of Default and at any time thereafter, at the election of ECGRA, and by sixty (60) days written notice to Borrower, which shall be given by ECGRA (except if an Event of Default described in Paragraph 7.1 (e) shall occur in which case acceleration shall occur automatically without notice), ECGRA may declare the entire unpaid balance, principal, interest and fees, of all indebtedness of Borrower to ECGRA to be immediately due and payable. Upon an Event of Default, the Commitment shall immediately and automatically terminate and ECGRA shall have no further obligation to make any Advances and the immediate right to enforce or realize on any collateral security granted therefore in any manner or order it deems expedient without regard to any equitable principles of marshaling or otherwise. In addition to any rights granted hereunder or in any documents delivered in connection herewith, ECGRA shall have all the rights and remedies granted by any applicable law, all of which shall be cumulative in nature.

## SECTION 8

### SUBORDINATION AND COLLATERAL

8.1 Subordination. The CDFI Note is a fully subordinated debt of the Borrower, which ECGRA and the Borrower understand to be equivalent to preferred equity for accounting purposes.

(a) The CDFI Note is subordinate to all existing debt of the Borrower. The Borrower contemplates obtaining additional senior debt during the term of this Credit Agreement and Repayment Period. Except in the event of an uncured Event of Default, ECGRA will immediately upon request subordinate the CDFI Note to future debt of the Borrower.

(b) The CDFI Note shares an equal subordinate position with other equity equivalent investments. The Borrower also contemplates additional equity subordinate investments during the term of this Credit Agreement and Repayment Period. ECGRA will share an equal subordinate position with future CDFI Note investors, with the limitation that the Borrower's Entity Equity is not less than twenty percent (20%) of its total Assets.

(c) The Borrower will give fifteen (15) days written notice to ECGRA before entering into any new agreements for senior debt or equity subordinate investments.

(d) The Borrower will indicate all debt and equity subordinates on its quarterly financial statements and describe them in its annual audited financial statements.

8.2 Collateral. The CDFI Note constitutes a general obligation of the Borrower. ECGRA shall not take a lien, mortgage or other form of secured interest in the Assets of the Borrower except as provided for in the Event of Default.

## SECTION 9

### MISCELLANEOUS

9.1 Indemnification and Release Provisions. Borrower hereby agrees to indemnify and defend ECGRA and its directors, officers, agents, employees and counsel from, and hold each of them harmless against, any and all losses, liabilities (including without limitation settlement costs and amounts, transfer taxes, documentary taxes, or assessments or charges made by any governmental authority), claims, damages, interest judgments, costs, or expenses, including without limitation fees, disbursements and expenses of counsel, incurred by any of them arising out of or in connection with or by reason of this Credit Agreement, the Commitment, the making of the Direct Loan, including without limitation, any and all losses, liabilities, claims, damages, interests, judgments, costs or expenses relating to or arising under any environmental law or regulation or the application of any such law or regulation to any of Borrower's properties or assets. Borrower hereby releases ECGRA and its directors, officers, agents, employees and counsel from any and all claims for loss, damages, costs or expenses caused or alleged to be caused by any act or omission on the part of any of them. All obligations provided for in this Section 9.1 shall survive any termination of this Credit Agreement or the Commitment and the repayment of the Direct Loan.

9.2. Binding and Governing Law. This Credit Agreement and all documents executed hereunder shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns and shall be governed as to their validity, interpretation and effect by the laws of the Commonwealth of Pennsylvania.

9.3. Survival. All agreements, representations, warranties and covenants of Borrower contained herein or in any documentation required hereunder shall survive the execution of this Credit Agreement and the making of the Direct Loan hereunder, and except as provided in Section 9.1, will continue in full force and effect as long as any indebtedness or other obligation of Borrower to ECGRA remains outstanding.

9.4. No Waiver: Delay. No delay by ECGRA in the exercise of any power, right or remedy shall, under any circumstances, constitute or be deemed to be a waiver, express or implied, of the same and no course of dealing between the parties hereto shall constitute a waiver of ECGRA's powers, rights or remedies. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.



9.5. Modification: Waiver. Except as otherwise provided in this Credit Agreement, no modification or amendment hereof, or waiver or consent hereunder, shall be effective unless made in a writing signed by appropriate officers of the parties hereto.

9.6. Headings. The various headings in this Credit Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Credit Agreement or any provision hereof.

9.7. Notices. Any notice, request or consent required hereunder or in connection herewith shall be deemed satisfactorily given if in writing (including facsimile transmissions) and delivered by hand or by a recognized overnight delivery service or mailed (registered or certified mail) to the parties at their respective addresses or telecopier number set forth below or such other addresses or telecopier numbers as may be given by any party to the others in writing:

if to Borrower:

Enterprise Development Fund of Erie County  
5240 Knowledge Parkway  
Erie, PA 16510  
Attention: President  
FAX: (814) 897-0205

if to ECGRA:

Erie County Gaming Revenue Authority  
5240 Knowledge Parkway, Suite A  
Erie, PA 16510  
Attention: Executive Director  
FAX: (814) 897-2691

9.8. Severability. If any provision of this Credit Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Credit Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

9.9. Counterparts. This Credit Agreement may be executed in any number of counterparts with the same effect as if all the signatures on such counterparts appeared on one document, and each such counterpart shall be deemed to be an original.

9.0. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION

BASED HEREON OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS CREDIT AGREEMENT OR THE CDFI NOTE OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ECGRA OR AGENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR ECGRA ENTERING INTO THIS CREDIT AGREEMENT.

9.11. CONFESSION OF JUDGMENT. IF THERE EXISTS AN EVENT OF DEFAULT AS DEFINED IN THIS CREDIT AGREEMENT WHICH REMAINS UNCURED SIXTY (60) DAYS AFTER WRITTEN NOTICE THEREOF IS GIVEN BY ECGRA TO THE BORROWER (OF WHICH AN AFFIDAVIT ON BEHALF OF ECGRA SHALL BE SUFFICIENT EVIDENCE) BORROWER HEREBY IRREVOCABLY AUTHORIZES AND EMPOWERS ANY ATTORNEY OR ATTORNEYS OR THE PROTHONOTARY OR CLERK OF ANY COURT IN THE COMMONWEALTH OF PENNSYLVANIA, OR ELSEWHERE, TO APPEAR FOR AND CONFESS JUDGMENT AGAINST BORROWER FOR THE AMOUNT FOR WHICH BORROWER MAY BE OR BECOME LIABLE TO ECGRA UNDER THIS CREDIT AGREEMENT OR THE CDFI NOTE AS EVIDENCED BY AN AFFIDAVIT SIGNED BY AN OFFICER OF ECGRA SETTING FORTH THE AMOUNT THEN DUE, PLUS ATTORNEYS' FEES AND COSTS OF SUIT, WITH RELEASE OF ERRORS AND WITHOUT RIGHT OF APPEAL AND FOR SO DOING THIS CREDIT AGREEMENT OR A COPY HEREOF VERIFIED BY AFFIDAVIT SHALL BE SUFFICIENT WARRANT, IT BEING AGREED THAT THE FOREGOING AUTHORIZATION IS A POWER COUPLED WITH AN INTEREST. BORROWER WAIVES THE RIGHT TO ANY STAY OF EXECUTION AND THE BENEFIT OF ALL EXEMPTION LAWS NOW OR HEREAFTER IN EFFECT. NO SINGLE EXERCISE OF THE FOREGOING WARRANT AND POWER TO CONFESS JUDGMENT SHALL BE DEEMED TO EXHAUST THE POWER, WHETHER OR NOT ANY SUCH EXERCISE SHALL BE HELD TO BE INVALID, VOIDABLE OR VOID, BUT THE POWER SHALL CONTINUE UNDIMINISHED AND MAY BE EXERCISED FROM TIME TO TIME AS OFTEN AS ECGRA SHALL ELECT UNTIL ALL OBLIGATIONS OF BORROWER TO ECGRA HAVE BEEN PAID IN FULL.

9.12. ACKNOWLEDGMENTS. BORROWER ACKNOWLEDGES THAT IT HAS HAD THE ASSISTANCE OF COUNSEL IN THE REVIEW AND EXECUTION OF THIS CREDIT AGREEMENT AND, SPECIFICALLY, PARAGRAPHS 9.0 AND 9.11 HEREOF, AND FURTHER ACKNOWLEDGES THAT THE MEANING AND EFFECT OF THE FOREGOING WAIVER OF JURY TRIAL AND CONFESSION OF JUDGMENT HAVE BEEN FULLY EXPLAINED TO BORROWER BY SUCH COUNSEL.

*(signatures on next page)*

IN WITNESS WHEREOF, the undersigned, by their duly authorized officers, have executed this Credit Agreement the day and year first above written.

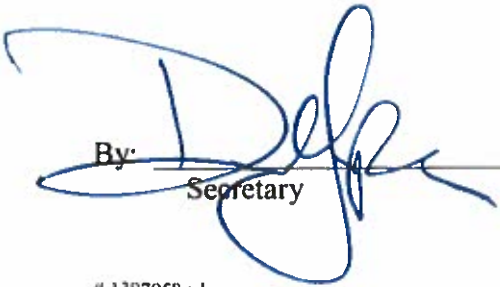
ATTEST:

ENTERPRISE DEVELOPMENT FUND OF ERIE COUNTY, INC.


By:  Secretary

By:  John R. Elliott

Title: President

By:  Secretary

ERIE COUNTY GAMING REVENUE AUTHORITY

By:  Perry Wood

Title: Executive Director

# 1397958.v1

