

TORINO MARTIN
Form 4
December 28, 2012

FORM 4

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

OMB APPROVAL

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Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. See Instruction 1(b).

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person *
TORINO MARTIN

2. Issuer Name and Ticker or Trading Symbol
ABERDEEN EMERGING MARKETS TELECOMMUNICATIONS & INFRASTRUCTURE FUND, INC. [ETF]

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

Director 10% Owner
 Officer (give title below) Other (specify below)

(Last) (First) (Middle)

1735 MARKET ST, 32ND FL

(Street)

PHILADELPHIA, PA 19103

(City) (State) (Zip)

3. Date of Earliest Transaction (Month/Day/Year)

12/26/2012

4. If Amendment, Date Original Filed(Month/Day/Year)

6. Individual or Joint/Group Filing(Check Applicable Line)

Form filed by One Reporting Person
 Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)	4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)	5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Ownership (Instr. 4)
			Code	V	Amount		
Common Stock	12/26/2012		P		147.377	A	
					\$ 21.151		
					4,470.4	D	

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

SEC 1474 (9-02)

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned
(e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)	5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)	6. Date Exercisable and Expiration Date (Month/Day/Year)	7. Title and Amount of Underlying Securities (Instr. 3 and 4)	8. Price of Derivative Security (Instr. 5)	9. Number of Derivative Securities Owned Beneficially (Instr. 5)
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Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
TORINO MARTIN 1735 MARKET ST 32ND FL PHILADELPHIA, PA 19103	X			

Signatures

Matt Woodward as Attorney-in-fact for Martin
Torino
12/28/2012

__Signature of Reporting Person

Date

Explanation of Responses:

* If the form is filed by more than one reporting person, see Instruction 4(b)(v).

** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

Remarks:

This reporting person was awarded approximately 147.376759 shares of the Issuer pursuant to the Issuer's Director compensat

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, see Instruction 6 for procedure.

Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number. to the right to receive cash pursuant to Section 2.01 (such shares of Parent Common Stock and cash, together with any dividends or distributions with respect thereto, being hereinafter referred to as the Exchange Fund). For the purposes of such deposit, Parent shall assume that there will not be any fractional shares of Parent Common Stock. Parent shall make available to the Exchange Agent, from time to time as needed, cash sufficient to pay cash in lieu of fractional shares in accordance with Section 2.02(e). The Exchange Agent shall, pursuant to irrevocable instructions, deliver the Parent Common Stock contemplated to be issued pursuant to Section 2.01 out of the Exchange Fund. The Exchange Fund may not be used for any other purpose.

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(b) Exchange Procedures. As soon as reasonably practicable after the Effective Time, the Exchange Agent shall mail to each holder of record of a certificate or certificates (the Certificates) that immediately prior to the Effective Time represented outstanding shares of Company Common Stock whose shares were converted into the right to receive Merger Consideration pursuant to Section 2.01(c), (i) a letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates to the Exchange Agent and shall be in such form and have such other provisions as Parent may reasonably specify) and (ii) instructions for use in effecting the surrender of the Certificates in exchange for Merger Consideration. Upon surrender of a Certificate for cancellation to the Exchange Agent or to such other agent or agents as may be appointed by Parent, together with such letter of transmittal, duly executed, and such other documents as may reasonably be required by the Exchange Agent, the holder of such Certificate shall be entitled to receive in exchange therefor the amount of cash, if any, and the number of whole shares of Parent Common Stock, if any, which the aggregate number of shares of Company Common Stock previously represented by such Certificate shall have been converted pursuant to Section 2.01(c) into the right to receive, and the Certificate so surrendered shall forthwith be canceled. In the event of a transfer of ownership of Company Common Stock that is not registered in the transfer records of the Company, payment may be made to a person other than the person in whose name the Certificate so surrendered is registered, if such Certificate shall be properly endorsed or otherwise be in proper form for transfer and the person requesting such payment shall pay any transfer or other taxes required by reason of the payment to a person other than the registered holder of such Certificate or establish to the satisfaction of Parent that such tax has been paid or is not applicable. Until surrendered as contemplated by this Section 2.02, each Certificate shall be deemed at any time after the Effective Time to represent only the right to receive upon such surrender the Merger Consideration into which the shares of Company Common Stock theretofore represented by such Certificate have been converted pursuant to Section 2.01(c). No interest shall be paid or accrue on any cash payable upon surrender of any Certificate.

(c) Distributions with Respect to Unexchanged Shares. No dividends or other distributions with respect to Parent Common Stock with a record date on or after the Effective Time shall be paid to the holder of any Certificate formerly representing Company Common Stock with respect to the shares of Parent Common Stock issuable upon surrender thereof, and no cash payment in lieu of fractional shares shall be paid to any such holder pursuant to Section 2.02(e) until the surrender of such Certificate in accordance with this Article II. Subject to applicable Law, following surrender of any such Certificate, there shall be paid to the holder of the Certificate representing whole shares of Parent Common Stock issued in exchange therefor, without interest, (i) at the time of such surrender, the amount of any cash payable in lieu of a fractional share of Parent Common Stock to which such holder is entitled pursuant to Section 2.02(e) and the amount of dividends or other distributions with a record date after the Effective Time theretofore paid with respect to such whole shares of Parent Common Stock,

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and (ii) at the appropriate payment date, the amount of dividends or other distributions with a record date after the Effective Time but prior to such surrender and a payment date subsequent to such surrender payable with respect to such whole shares of Parent Common Stock.

(d) No Further Ownership Rights in Company Common Stock. The Merger Consideration paid (and issued) in accordance with the terms of this Article II upon conversion of any shares of Company Common Stock shall be deemed to have been paid (and issued) in full satisfaction of all rights pertaining to such shares of Company Common Stock, subject, however, to the Surviving Corporation's obligation to pay any dividends or make any other distributions with a record date prior to the Effective Time that may have been declared or made by the Company on such shares of Company Common Stock in accordance with the terms of this Agreement or prior to the date of this Agreement and which remain unpaid at the Effective Time, and after the Effective Time there shall be no further registration of transfers on the stock transfer books of the Surviving Corporation of shares of Company Common Stock that were outstanding immediately prior to the Effective Time. If, after the Effective Time, any Certificates formerly representing shares of Company Common Stock are presented to the Surviving Corporation or the Exchange Agent for any reason, they shall be canceled and exchanged as provided in this Article II.

(e) No Fractional Shares. (1) No certificates or scrip representing fractional shares of Parent Common Stock shall be issued upon the conversion of Company Common Stock pursuant to Section 2.01(c), and such fractional share interests shall not entitle the owner thereof to vote or to any rights of a holder of Parent Common Stock. For purposes of this Section 2.02(e), all fractional shares to which a single record holder would be entitled shall be aggregated and calculations shall be rounded to three decimal places.

(2) Except as otherwise provided in Section 2.02(e)(3), in lieu of any such fractional shares, each holder of Company Common Stock who would otherwise be entitled to such fractional shares shall be entitled to an amount in cash, without interest, rounded to the nearest cent, equal to the product of (A) the amount of the fractional share interest in a share of Parent Common Stock to which such holder is entitled under Section 2.01(c) (or would be entitled but for this Section 2.02(e)) and (B) an amount equal to the average of the closing sale prices for the Parent Common Stock on the NYSE, as reported in The Wall Street Journal, Northeastern edition, for each of the ten consecutive trading days ending with the second complete trading day prior to the Effective Time.

(3) Notwithstanding anything in this Agreement to the contrary, in the event that a Merger Consideration Adjustment is made in accordance with Section 2.01(e)(1), each holder of Company Common Stock who would otherwise be entitled, upon application of the Merger Consideration Adjustment, to a fractional share in accordance with this Section 2.02(e) shall not receive cash in lieu of such fractional share but instead shall be entitled only to receive one whole share of Parent Common Stock in lieu of such fractional share.

(f) Termination of Exchange Fund. Any portion of the Exchange Fund that remains undistributed to the holders of Company Common Stock for six months after the Effective Time shall be delivered to Parent, upon demand, and any holder of Company Common Stock who has not theretofore complied with this Article II shall thereafter look only to Parent and the Surviving Corporation for payment of its claim for Merger Consideration and any applicable dividends or distributions with respect to any Parent Common Stock constituting Merger Consideration as provided in Section 2.02(c).

(g) No Liability. None of Parent, Sub, the Company or the Exchange Agent shall be liable to any person in respect of any cash or any shares of Parent Common Stock (or dividends or distributions with respect thereto) delivered to a public official pursuant to any applicable abandoned property, escheat or similar Law. If any Certificate has not been surrendered prior to five years after the Effective Time (or immediately prior to such earlier date on which Merger Consideration in respect of such Certificate would otherwise escheat to or become the property of any Governmental Entity (as defined in Section 3.05(b)), any such cash, shares, dividends or distributions in respect of such Certificate shall, to the extent permitted by applicable Law, become the property of the Surviving Corporation, free and clear of all claims or interest of any person previously entitled thereto.

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(h) Investment of Exchange Fund. The Exchange Agent shall invest any cash included in the Exchange Fund, as directed by Parent, on a daily basis. Any interest and other income resulting from such investments shall be paid to Parent.

(i) Withholding Rights. Parent shall be entitled to deduct and withhold from the consideration otherwise payable to any holder of Company Common Stock pursuant to this Agreement such amounts as may be required to be deducted and withheld with respect to the making of such payment under the Code, or under any provision of state, local or foreign tax Law. To the extent that amounts are so withheld and paid over to the appropriate taxing authority, the Surviving Corporation will be treated as though it withheld an appropriate amount of the type of consideration otherwise payable pursuant to this Agreement to any holder of Company Common Stock, sold such consideration for an amount of cash equal to the fair market value of such consideration at the time of such deemed sale and paid such cash proceeds to the appropriate taxing authority.

(j) Income Tax Treatment. It is intended by the parties hereto that the Merger qualify as a reorganization within the meaning of Section 368(a) of the Code. The parties hereto hereby adopt this Agreement as a plan of reorganization within the meanings of Sections 1.368-2(g) and 1.368-3(a) of the U.S. Treasury Regulations promulgated under the Code.

SECTION 2.03. Elections. (a) Each person who, on or prior to the Election Date referred to in paragraph (b) below, is a record holder of shares of Company Common Stock shall be entitled, with respect to all or any portion of such shares, to make an unconditional Stock Election on or prior to such Election Date, on the basis hereinafter set forth.

(b) Parent shall prepare a form of election, which form shall be subject to the reasonable approval of the Company (the Form of Election) and shall be mailed with the Joint Proxy Statement to the record holders of Company Common Stock as of the record date for the Company Stockholders Meeting (as defined in Section 6.01(d)), which Form of Election shall be used by each record holder of shares of Company Common Stock who wishes to elect to receive the Stock Election Amount for any or all shares of Company Common Stock held by such holder. The Company shall use all reasonable efforts to make the Form of Election and the Joint Proxy Statement available to all persons who become record holders of Company Common Stock during the period between such record date and the Election Date. Any such holder's election to receive the Stock Election Amount shall have been properly made only if the Exchange Agent shall have received at its designated office, by 5:00 p.m., Pacific Coast time, on the business day (the Election Date) immediately preceding the date of the Company Stockholders Meeting, a Form of Election properly completed and signed and accompanied by Certificates for the shares of Company Common Stock to which such Form of Election relates, duly endorsed in blank or otherwise in form acceptable for transfer on the books of the Company (or accompanied by an appropriate guarantee of delivery of such Certificates as set forth in such Form of Election from a firm which is a member of a registered national securities exchange or of the National Association of Securities Dealers, Inc. or a commercial bank or trust company having an office or correspondent in the United States, provided such Certificates are in fact delivered to the Exchange Agent within three NYSE trading days after the date of execution of such guarantee of delivery). Failure to deliver Certificates covered by any guarantee of delivery within three NYSE trading days after the date of execution of such guarantee of delivery shall be deemed to invalidate any otherwise properly made Stock Election.

(c) Any Form of Election may be revoked by the stockholder who submitted such Form of Election to the Exchange Agent only by written notice received by the Exchange Agent (i) prior to 5:00 p.m., Pacific Coast time, on the Election Date or (ii) after such time, if (and only to the extent that) the Exchange Agent is legally required to permit revocations and only if the Effective Time shall not have occurred prior to such date. In addition, all Forms of Election shall automatically be revoked if the Exchange Agent is notified in writing by Parent and the Company that the Merger has been abandoned. If a Form of Election is revoked, the Certificate or Certificates (or guarantees of delivery, as appropriate) for the shares of Company Common Stock to which such Form of Election relates shall be promptly returned to the stockholder submitting the same to the Exchange Agent.

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(d) The determination of the Exchange Agent in its sole discretion shall be binding as to whether or not elections to receive the Stock Election Amount have been properly made or revoked pursuant to this Section 2.03 with respect to shares of Company Common Stock and when elections and revocations were received by it. If no Form of Election is received with respect to shares of Company Common Stock, or if the Exchange Agent determines that any election to receive the Stock Election Amount was not properly made with respect to shares of Company Common Stock, such shares shall be treated by the Exchange Agent as Non-Electing Shares at the Effective Time, and such shares shall be converted into the right to receive the Cash Election Price in accordance with Section 2.01(c)(3)(ii). The Exchange Agent shall also make all computations as to the proration contemplated by Section 2.01(e), and absent manifest error any such computation shall be conclusive and binding on the holders of shares of Company Common Stock. The Exchange Agent may, with the mutual agreement of Parent and the Company, make such rules as are consistent with this Section 2.03 for the implementation of the elections provided for herein as shall be necessary or desirable fully to effect such elections.

ARTICLE III

Representations and Warranties of the Company

Except as expressly set forth in that certain letter (with specific reference to the Section or Subsection of this Agreement to which the information stated in such disclosure relates and such other Sections or Subsections of this Agreement to the extent a matter is disclosed in such a way as to make its relevance to the information called for by such other Section or Subsection readily apparent), dated as of the date of this Agreement, from the Company to Parent and Sub (the Company Disclosure Letter) or in any Company SEC Document (as defined in Section 3.06) filed and publicly available prior to the date of this Agreement (the Filed Company SEC Documents), the Company represents and warrants to Parent and Sub that:

SECTION 3.01. Organization, Standing and Power. Each of the Company and each of its subsidiaries (the Company Subsidiaries) is duly organized or formed, validly existing and in good standing under the laws of the jurisdiction in which it is organized and has full corporate or limited liability company power and authority to conduct its businesses as presently conducted. The Company and each Company Subsidiary is duly qualified to do business in each jurisdiction where the nature of its business or the ownership or leasing of its properties make such qualification necessary or the failure to so qualify, individually or in the aggregate, has had or would reasonably be expected to have a Company Material Adverse Effect (as defined in Section 9.03). The Company has delivered to Parent true and complete copies of the articles of incorporation of the Company, as amended to the date of this Agreement (as so amended, the Company Charter), and the by-laws of the Company, as amended to the date of this Agreement (as so amended, the Company By-laws), and the comparable charter and organizational documents of each Company Subsidiary, in each case as amended to the date of this Agreement.

SECTION 3.02. Company Subsidiaries: Equity Interests. (a) Section 3.02(a) of the Company Disclosure Letter lists each Company Subsidiary and its jurisdiction of organization or formation. All the outstanding shares of capital stock of each Company Subsidiary have been validly issued and are fully paid and nonassessable and are owned by the Company, by another Company Subsidiary or by the Company and another Company Subsidiary, free and clear of all pledges, liens, charges, mortgages, encumbrances and security interests of any kind or nature whatsoever (collectively, Liens).

(b) Except for its interests in the Company Subsidiaries, the Company does not own, directly or indirectly, any capital stock, membership interest, partnership interest, joint venture interest or other equity interest in any person.

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SECTION 3.03. Capital Structure. (a) The authorized capital stock of the Company consists of 75,000,000 shares of Company Common Stock and 10,000,000 shares of preferred stock, par value \$0.01 per share. At the close of business on February 5, 2004, (i) 1,461,177.94 shares of Company Common Stock were issued and outstanding, (ii) 33,175 shares of Company Common Stock were held by the Company in its treasury

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and (iii) 35,415 shares of Company Common Stock were subject to outstanding Company Employee Stock Options (as defined in Section 6.04(d)) and no additional shares of Company Common Stock were reserved for issuance pursuant to the Company Stock Plan (as defined in Section 6.04(d)). Except as set forth above, at the close of business on February 5, 2004, no shares of capital stock or other voting securities of the Company were issued, reserved for issuance or outstanding, and since February 5, 2004, no shares of capital stock or other voting securities of the Company were issued by the Company, except for shares of Company Common Stock issued upon the exercise of Company Employee Stock Options outstanding as of February 5, 2004. There are no outstanding stock appreciation rights linked to the price of Company Common Stock and granted under the Company Stock Plan or otherwise. All outstanding shares of Company Common Stock are, and all such shares that may be issued prior to the Effective Time will be when issued, duly authorized, validly issued, fully paid and nonassessable and not subject to or issued in violation of any purchase option, call option, right of first refusal, preemptive right, subscription right or any similar right under any provision of the NRS, the Company Charter, the Company By-laws or any Contract (as defined in Section 3.05(a)) to which the Company is a party or otherwise bound. There are not any bonds, debentures, notes or other indebtedness of the Company having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which holders of Company Common Stock may vote (Voting Company Debt). Except as set forth above, as of the date of this Agreement, there are not any options, warrants, rights, convertible or exchangeable securities, phantom stock rights, stock appreciation rights, stock-based performance units, commitments, Contracts, arrangements or undertakings of any kind to which the Company or any Company Subsidiary is a party or by which any of them is bound (i) obligating the Company or any Company Subsidiary to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of capital stock or other equity interests in, or any security convertible or exercisable for or exchangeable into any capital stock of or other equity interest in, the Company or any Company Subsidiary or any Voting Company Debt, (ii) obligating the Company or any Company Subsidiary to issue, grant, extend or enter into any such option, warrant, call, right, security, commitment, Contract, arrangement or undertaking or (iii) that give any person the right to receive any economic benefit or right similar to or derived from the economic benefits and rights occurring to holders of Company Common Stock. As of the date of this Agreement, there are not any outstanding contractual obligations of the Company or any Company Subsidiary to repurchase, redeem or otherwise acquire any shares of capital stock of the Company or any Company Subsidiary.

(b) Section 3.03(b) of the Company Disclosure Letter sets forth a true, complete and correct list of all outstanding Company Employee Stock Options, the number of shares of Company Common Stock subject to each such Company Employee Stock Option, the grant dates, expiration dates and vesting schedule of each such Company Employee Stock Option and the names of the holders of each Company Employee Stock Option. All outstanding Company Employee Stock Options are evidenced by the Company Employee Stock Option agreements set forth in Section 3.03(b) of the Company Disclosure Letter, and no Company Employee Stock Option agreement contains terms that are inconsistent with, or in addition to, the terms contained therein. Each Company Employee Stock Option intended to qualify as an incentive stock option under Section 422 of the Code so qualifies and the exercise price of each other Company Employee Stock Option is not less than the fair market value of a share of Company Common Stock as determined on the date of grant of such Company Employee Stock Option.

SECTION 3.04. Authority; Execution and Delivery; Enforceability. (a) The Company has all requisite corporate power and authority to execute and deliver this Agreement and to consummate the Merger and the other Transactions to be performed or consummated by the Company in accordance with the terms of this Agreement. The execution and delivery by the Company of this Agreement and the consummation by the Company of the Merger and the other Transactions to be performed or consummated by the Company in accordance with the terms of this Agreement have been duly authorized by all necessary corporate action on the part of the Company, subject, in the case of the Merger, to receipt of the Company Stockholder Approval (as defined in Section 3.04(c)). The Company has duly executed and delivered this Agreement, and, assuming due authorization, execution and delivery of this Agreement by Parent and Sub, this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms.

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(b) The Board of Directors of the Company (the Company Board), at a meeting duly called and held, duly and unanimously adopted resolutions (i) adopting this Agreement and approving the Merger and the other Transactions to be performed or consummated by the Company in accordance with the terms of this Agreement, (ii) determining that the terms of the Merger and the other Transactions to be performed or consummated by the Company in accordance with the terms of this Agreement are fair to and in the best interests of the Company and its stockholders, (iii) directing that this Agreement be submitted to a vote at the Company Stockholders Meeting and (iv) recommending that the Company's stockholders approve this Agreement. The Company hereby confirms that (A) the Company does not qualify as a resident domestic corporation, as such term is defined in Section 78.427 of the NRS and used in Sections 78.438 through 78.444 of the NRS, and (B) to the Company's knowledge, no other state takeover statute or similar statute or regulation applies or purports to apply to the Company with respect to this Agreement, the Merger or any other Transaction to be performed or consummated by the Company in accordance with the terms of this Agreement.

(c) The only vote of holders of any class or series of the capital stock of the Company necessary to approve this Agreement and the Merger is the approval of this Agreement by a majority of the voting power of the holders of the outstanding Company Common Stock (the Company Stockholder Approval). The affirmative vote of the holders of Company Common Stock, or any of them, is not necessary to consummate any Transaction to be performed or consummated by the Company in accordance with the terms of this Agreement other than the Merger.

SECTION 3.05. No Conflicts: Consents. (a) The execution and delivery by the Company of this Agreement do not, and the consummation by the Company of the Merger and the other Transactions to be performed or consummated by the Company in accordance with the terms of this Agreement and compliance by the Company with the terms hereof will not, conflict with, or result in any violation of or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or to loss of a material benefit under, or to increased, additional, accelerated or guaranteed rights or entitlements of any person under, or result in the creation of any Lien upon any of the properties or assets of the Company or any Company Subsidiary under, any provision of (i) the Company Charter, the Company By-laws or the comparable charter or organizational documents of any Company Subsidiary, (ii) any contract, lease, license, indenture, note, bond, agreement, permit, concession, franchise or other instrument (a Contract) to which the Company or any Company Subsidiary is a party or by which any of their respective properties or assets is bound or (iii) subject to the filings and other matters referred to in Section 3.05(b), any judgment, order or decree (Judgment) or statute, law (including common law), ordinance, rule or regulation (Law) applicable to the Company or any Company Subsidiary or their respective properties or assets, other than, in the case of clauses (ii) and (iii) above, any such items that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect.

(b) No consent, approval, license, permit, order or authorization (Consent) of, or registration, declaration or filing with, or permit from, any Federal, state, local or foreign government or any court of competent jurisdiction, administrative agency or commission or other governmental authority or instrumentality, domestic or foreign (a Governmental Entity), is required to be obtained or made by the Company or any Company Subsidiary in connection with the execution, delivery and performance of this Agreement or the consummation of the Merger and the other Transactions to be performed or consummated by the Company in accordance with the terms of this Agreement, other than (i) compliance with and filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the HSR Act), (ii) the filing with the Securities and Exchange Commission (the SEC) of (A) the Joint Proxy Statement and (B) such reports under, or other applicable requirements of, the Securities Exchange Act of 1934, as amended (the Exchange Act), as may be required in connection with this Agreement, the Merger and the other Transactions to be performed or consummated by the Company in accordance with the terms of this Agreement, (iii) the filing of the Articles of Merger with the Secretary of State of the State of Nevada and appropriate documents with the relevant authorities of the other jurisdictions in which the Company is qualified to do business, (iv) compliance with and such filings as may be required under applicable Environmental Laws (as defined in Section 3.18(g)),

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(v) compliance with and such filings as may be required under applicable Gaming Laws (as defined in Section 3.13(b)) (including those promulgated by the Nevada Gaming Authorities (as defined in Section 3.13(b)), (vi) such filings as may be required in connection with the Taxes described in Section 6.09 and (vii) such other items that, individually or in the aggregate, have not had and would not reasonably be expected to have a Company Material Adverse Effect.

SECTION 3.06. Company SEC Documents: Undisclosed Liabilities. (a) The Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company with the SEC since January 1, 2003 pursuant to Sections 13(a) and 15(d) of the Exchange Act (the Company SEC Documents).

(b) As of its respective date, each Company SEC Document complied in all material respects with the requirements of the Exchange Act or the Securities Act of 1933, as amended (the Securities Act), as the case may be, and the rules and regulations of the SEC promulgated thereunder applicable to such Company SEC Document, and did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. Except to the extent that information contained in any Filed Company SEC Document has been revised or superseded by a later filed Filed Company SEC Document, none of the Company SEC Documents contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The consolidated financial statements of the Company included in the Company SEC Documents comply as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, have been prepared in accordance with generally accepted accounting principles (GAAP) (except, in the case of unaudited statements, as permitted by Form 10-Q of the SEC) applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and fairly present the consolidated financial position of the Company and its consolidated subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods shown (subject, in the case of unaudited statements, to normal year-end audit adjustments).

(c) Neither the Company nor any Company Subsidiary has any liabilities or obligations of any nature (whether accrued, absolute, contingent or otherwise) required by GAAP to be set forth on a consolidated balance sheet of the Company and its consolidated subsidiaries or in the notes thereto and that, individually or in the aggregate, would reasonably be expected to have a Company Material Adverse Effect.

(d) The effectiveness of any additional SEC disclosure requirement that, as of the date of this Agreement, have been formally proposed that are not yet in effect, is not expected by the Company to lead to any material change in the Company's disclosures as set forth in the Filed Company SEC Documents.

(e) None of the Company Subsidiaries is, or has at any time since January 1, 2002 been, subject to the reporting requirements of Sections 13(a) and 15(d) of the Exchange Act.

SECTION 3.07. Information Supplied. None of the information supplied or to be supplied by the Company for inclusion or incorporation by reference in (i) the registration statement on Form S-4 to be filed with the SEC by Parent in connection with the Share Issuance (the Form S-4) will, at the time the Form S-4 is filed with the SEC, at any time it is amended or supplemented or at the time it becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or (ii) the Joint Proxy Statement will, at the date it is first mailed to the Company's stockholders or Parent's stockholders or at the time of the Company Stockholders Meeting or the Parent Stockholders Meeting (as defined in Section 6.01(e)), contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Joint Proxy Statement will comply as to form in all material respects with the requirements of the Exchange Act and the rules

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and regulations thereunder, except that no representation is made by the Company with respect to statements made or incorporated by reference therein based on information supplied by Parent or Sub in writing for inclusion or incorporation by reference in the Form S-4 or the Joint Proxy Statement.

SECTION 3.08. Absence of Certain Changes or Events. From the date of the most recent audited financial statements included in the Filed Company SEC Documents to the date of this Agreement, the Company has conducted its business only in the ordinary course, and during such period there has not been:

(i) any state of facts, event, change, effect, development, condition or occurrence that, individually or in the aggregate, has had or would reasonably be expected to have a Company Material Adverse Effect;

(ii) any declaration, setting aside or payment of any dividend or other distribution (whether in cash, stock or property) with respect to any Company Common Stock or any repurchase for value by the Company of any Company Common Stock;

(iii) any split, combination or reclassification of any Company Common Stock or any issuance or the authorization of any issuance of any other securities in respect of, in lieu of or in substitution for shares of Company Common Stock;

(iv) (A) any granting by the Company or any Company Subsidiary to any Participant (as defined in Section 3.10(a)) of any loan or any increase in compensation, benefits, perquisites or any bonus or award, except in the ordinary course of business consistent with prior practice, (B) any payment of any bonus to any Participant or (C) any granting by the Company or any Company Subsidiary to any such Participant of any increase in severance, change in control or termination pay or benefits, in each case, except as was required under any employment, severance or termination agreements in effect as of the date of the most recent audited financial statements included in the Filed Company SEC Documents;

(v) any damage, destruction or loss, whether or not covered by insurance, that individually or in the aggregate has had or would reasonably be expected to have a Company Material Adverse Effect;

(vi) any change in accounting methods, principles or practices by the Company or any Company Subsidiary, except insofar as may have been required by a change in GAAP;

(vii) any material elections with respect to Taxes (as defined in Section 3.09) by the Company or any Company Subsidiary or settlement or compromise by the Company or any Company Subsidiary of any material Tax liability or refund;

(viii) any revaluation by the Company or any Company Subsidiary of any of the material assets of the Company or any Company Subsidiary; or

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(ix) any other action or inaction by the Company or any Company Subsidiary that would have violated Section 5.01(a) if taken after the date of this Agreement.

SECTION 3.09. Taxes. (a) As used in this Agreement:

Taxes shall mean all (i) Federal, state and local, domestic and foreign, taxes, assessments, duties or similar charges of any kind whatsoever, including all corporate franchise, income, sales, use, ad valorem, receipts, value added, profits, license, withholding, employment, excise, property, net worth, capital gains, transfer, stamp, documentary, social security, payroll, environmental, alternative minimum, occupation, recapture and other taxes, and including any interest, penalties and additions imposed with respect to such amounts; (ii) liability for the payment of any amounts of the type described in clause (i) as a result of being a member of an affiliated, consolidated, combined, unitary or aggregate group; and (iii) liability for the payment of any amounts as a result of an express or implied obligation to indemnify any other person with respect to the payment of any amounts of the type described in clause (i) or (ii).

Taxing Authority shall mean any Federal, state or local, domestic or foreign, governmental body (including any subdivision, agency or commission thereof), or any quasi-governmental body, in each case, exercising regulatory authority in respect of Taxes.

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Tax Return shall mean all returns, declarations of estimated tax payments, reports, estimates, information returns and statements, including any related or supporting information with respect to any of the foregoing, filed or to be filed with any Taxing Authority in connection with the determination, assessment, collection or administration of any Taxes.

(b) The Company and each Company Subsidiary has timely filed, or has caused to be timely filed on its behalf, all Federal, state and local, domestic and foreign, income and franchise Tax Returns and all other Tax Returns required to be filed by or on behalf of the Company and each Company Subsidiary in the manner prescribed by applicable law. All such Tax Returns are complete and correct in all material respects. The Company and each Company Subsidiary has timely paid (or Company has paid on any Company Subsidiary's behalf) all Taxes due from it with respect to the taxable periods covered by such Tax Returns and all other Taxes for which the Company and each Company Subsidiary is or might otherwise be liable, and, in accordance with GAAP, the most recent financial statements contained in the Filed Company SEC Documents reflects an adequate reserve for all Taxes payable by the Company and each Company Subsidiary for all taxable periods and portions thereof through the date of such balance sheet. Neither the Company nor any Company Subsidiary has requested any extension of time within which to file any Tax Return which Tax Return has not yet been filed. Neither the Company nor any Company Subsidiary has any liability for any Taxes of any person other than itself or any other affiliated group of which the Company is the parent (i) under Treasury Regulation Section 1.1502-6 (or any similar provision of Federal, state or local, domestic or foreign, law), (ii) as a transferee or successor or (iii) by contract or otherwise.

(c) No Federal, state or local, domestic or foreign, Tax Return of the Company or any Company Subsidiary is under audit or examination by any Taxing Authority, and no written or unwritten notice of such an audit or examination has been received by the Company or any Company Subsidiary. Each material deficiency resulting from any audit or examination relating to Taxes by any Taxing Authority has been timely paid and there is no deficiency, refund litigation, proposed adjustment or matter in controversy with respect to any Taxes due and owing by the Company or any Company Subsidiary. No issues relating to Taxes were raised by the relevant Taxing Authority during any presently pending audit or examination, and no issues relating to Taxes were raised by the relevant Taxing Authority in any completed audit or examination that would reasonably be expected to recur in a later taxable period. The Company has delivered to Parent documents setting forth the dates of the most recent audits or examinations, if any, of the Company or any Company Subsidiary by any Taxing Authority in respect of Federal, state and local, domestic and foreign, Taxes for all taxable periods for which the statute of limitations has not yet expired. The Tax Returns of the Company and each Company Subsidiary have been examined by the Internal Revenue Service or other relevant Taxing Authority or the relevant statute of limitations has closed with respect to any Federal and state income Tax Returns for all years through 1999.

(d) There is no agreement or other document extending, or having the effect of extending, the period of assessment or collection of any Taxes and no power of attorney with respect to any Taxes has been executed or filed with any Taxing Authority by or on behalf of the Company or any Company Subsidiary.

(e) No material Liens for Taxes exist with respect to any assets or properties of the Company or any Company Subsidiary, except for statutory liens for Taxes not yet due.

(f) Except for agreements among the Company and any Company Subsidiary, copies of which have been delivered to Parent, neither the Company nor any Company Subsidiary is a party to or bound by any tax sharing agreement, tax indemnity obligation or similar agreement, arrangement or practice with respect to Taxes (including any advance pricing agreement, closing agreement or other agreement relating to Taxes with any Taxing Authority).

(g) The Company and each Company Subsidiary has complied in all material respects with all applicable statutes, ordinances, laws, rules and regulations relating to the payment and withholding of Taxes (including withholding of Taxes pursuant to Sections 1441, 1442, 3121 and 3402 of the Code or similar

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provisions under any Federal, state or local, domestic or foreign, laws) and has, within the time and the manner prescribed by law, withheld from and paid over to the proper Governmental Entities all amounts required to be so withheld and paid over under applicable Law.

(h) Neither the Company nor any Company Subsidiary has ever (i) made an election under Section 1362 of the Code to be treated as an S corporation for Federal income tax purposes or (ii) made a similar election under any comparable provision of any Federal, state, local, domestic or foreign, tax Law.

(i) Neither the Company nor any Company Subsidiary has constituted either a distributing corporation or a controlled corporation (within the meaning of Section 355(a)(1)(A) of the Code) in any distribution of stock qualifying or intended to qualify for tax-free treatment under Section 355 of the Code within the two-year period ending on the date of this Agreement.

(j) Neither the Company nor any Company Subsidiary is, or has ever been, a personal holding company within the meaning of Section 542 of the Code or a foreign personal holding company within the meaning of Section 552 of the Code.

SECTION 3.10. Absence of Changes in Benefit Plans. (a) From the date of the most recent audited financial statements included in the Filed Company SEC Documents to the date of this Agreement, neither the Company nor any Company Subsidiary has terminated, adopted, amended, modified or agreed to amend or modify (or announced an intention to amend or modify) any collective bargaining agreement or any bonus, pension, profit sharing, deferred compensation, incentive compensation, stock ownership, stock purchase, stock appreciation, restricted stock, stock option, phantom stock, performance, retirement, thrift, savings, stock bonus, cafeteria, paid time off, perquisite, fringe benefit, vacation, severance, disability, death benefit, hospitalization, medical or other welfare benefit or other plan, program, arrangement or understanding, whether oral or written, formal or informal, funded or unfunded (whether or not legally binding) maintained, contributed to or required to be maintained or contributed to by the Company or any Company Subsidiary or any other person or entity that, together with the Company or any Company Subsidiary, is treated as a single employer under Section 414(b), (c), (m) or (o) of the Code (each, a Commonly Controlled Entity), in each case providing benefits to any current or former employee, officer, director or independent contractor of the Company or any Company Subsidiary (each, a Participant) and whether or not subject to United States law (collectively, Company Benefit Plans) or has made any change in any actuarial or other assumption used to calculate funding obligations with respect to any Company Benefit Plan that is a Company Pension Plan (as defined in Section 3.11), or any change in the manner in which contributions to any such Company Pension Plan are made or the basis on which such contributions are determined, other than changes made pursuant to any collective bargaining agreement to which the Company or any Company Subsidiary is a party. Since December 31, 2002, the Company has not adopted, amended, modified or agreed to amend or modify (or announced an intention to amend or modify) any Company Benefit Plan so as to accelerate the vesting of any Company Employee Stock Option.

(b) As of the date of this Agreement there (i) is not any employment, deferred compensation, severance, change in control, termination, employee benefit, loan, indemnification, retention, stock repurchase, stock option, consulting or similar agreement, commitment or obligation between the Company or any Company Subsidiary, on the one hand, and any Participant, on the other hand, (ii) any agreement between the Company or any Company Subsidiary, on the one hand, and any Participant, on the other hand, the benefits of which are contingent, or the terms of which are materially altered, upon the occurrence of transactions involving the Company or any Company Subsidiary of the nature contemplated by this Agreement or (iii) any trust or insurance Contract or other agreement to fund or otherwise secure payment of any compensation or benefit to be provided to any Participant (all such agreements under this clause (b), collectively, Company Benefit Agreements).

SECTION 3.11. ERISA Compliance; Excess Parachute Payments. (a) Section 3.11(a) of the Company Disclosure Letter contains a list of all employee pension benefit plans (as defined in Section 3(2) of the

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Employee Retirement Income Security Act of 1974, as amended (ERISA) (Company Pension Plans), employee welfare benefit plans (as defined in Section 3(1) of ERISA) and all other material Company Benefit Plans maintained, or contributed to, by the Company or any Company Subsidiary for the benefit of any Participant. Each Company Benefit Plan (other than Company Multiemployer Pension Plans (as defined in Section 3.11(c)), and, to the knowledge of the Company, each Company Multiemployer Pension Plan has been administered in material compliance with its terms and applicable Law, and the terms of any applicable collective bargaining agreements. The Company has delivered to Parent true, complete and correct copies of (i) each Company Benefit Plan required to be listed on Section 3.11(a) of the Company Disclosure Letter and each Company Benefit Agreement (or, in the case of any unwritten Company Benefit Plans or Company Benefit Agreements, written descriptions thereof), (ii) the two most recent annual reports required to be filed, or such similar reports, statements, information returns or material correspondence filed with or delivered to any Governmental Entity, with respect to each Company Benefit Plan (including reports filed on Form 5500 with accompanying schedules and attachments), (iii) the most recent summary plan description prepared for each Company Benefit Plan, (iv) each trust agreement and group annuity contract and other documents relating to the funding or payment of benefits under any Company Benefit Plan, (v) the most recent determination or qualification letter issued by any Governmental Entity for each Company Benefit Plan intended to qualify for favorable tax treatment, as well as a true, correct and complete copy of each pending application for a determination letter, if applicable, and (vi) the two most recent actuarial valuations for each Company Benefit Plan. All Participant data necessary to administer each Company Benefit Plan, other than any Company Benefit Plan that is a Company Multiemployer Pension Plan, and Company Benefit Agreement is in the possession of the Company and is in a form that is sufficient for the proper administration of the Company Benefit Plans and Company Benefit Agreements in accordance with their terms and all applicable Laws and such data is complete and correct in all material respects.

(b) All Company Pension Plans (other than Company Multiemployer Pension Plans, and, to the knowledge of the Company, each Company Multiemployer Pension Plan have been the subject of determination letters from the Internal Revenue Service to the effect that such Company Pension Plans are qualified and exempt from Federal income taxes under Sections 401(a) and 501(a), respectively, of the Code, and no such determination letter has been revoked nor, to the knowledge of the Company, has revocation been threatened, nor has any such Company Pension Plan been amended since the date of its most recent determination letter or application therefor in any respect that would adversely affect its qualification or materially increase its costs or require security under Section 307 of ERISA. No Company Pension Plans are required to have been approved by any non-U.S. Governmental Entity.

(c) During the past six years neither the Company nor any Commonly Controlled Entity has maintained, contributed to or been obligated to maintain or contribute to, or has any actual or contingent liability under, any Company Benefit Plan that is subject to Title IV of ERISA, other than any Company Pension Plan that is a multiemployer plan within the meaning of Section 4001(a)(3) of ERISA (a Company Multiemployer Pension Plan). There have been no non-exempt prohibited transactions (as such term is defined in Section 406 of ERISA or Section 4975 of the Code) with respect to any Company Benefit Plan that is subject to ERISA or any other breach of fiduciary responsibility that could reasonably be expected to subject the Company, any Company Subsidiary or any officer of the Company or any Company Subsidiary or any of the Company Benefit Plans which are subject to ERISA, or, to the knowledge of the Company, any trusts created thereunder or any trustee or administrator thereof to the tax or penalty on prohibited transactions imposed by such Section 4975 or to any material liability under Section 502(i) or 502(1) of ERISA or to any other material liability for breach of fiduciary duty under ERISA or any other applicable Law. No Company Pension Plan or related trust has been terminated. Neither the Company nor any Company Subsidiary has incurred any liability that remains unsatisfied with respect to a complete withdrawal or a partial withdrawal (as such terms are defined in Sections 4203 and 4205, respectively, of ERISA) since the effective date of such Sections 4203 and 4205 with respect to any Multiemployer Pension Plan.

(d) With respect to any Company Benefit Plan that is an employee welfare benefit plan, whether or not subject to ERISA, (i) no such Company Benefit Plan is funded through a welfare benefits fund (as such term is

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defined in Section 419(e) of the Code), (ii) each such Company Benefit Plan that is a group health plan (as such term is defined in Section 5000(b)(1) of the Code), complies, in all material respects, with the applicable requirements of Section 4980B(f) of the Code or any similar state statute, (iii) no such Company Benefit Plan provides benefits after termination of employment, except where the cost thereof is borne entirely by the former employee (or his eligible dependents or beneficiaries) or as required by Section 4980B(f) of the Code or any similar state statute, (iv) each such Company Benefit Plan (including any such Plan covering retirees or other former employees) may be amended or terminated without material liability to the Company and the Company Subsidiary on or at any time after the Effective Time and (v) Section 3.11(d)(v) of the Company Disclosure Letter indicates whether each welfare plan is self-insured or insured through third-party coverage.

(e) No amount or other entitlement that could be received (whether in cash or property or the vesting of property) as a result of any of the transactions contemplated hereby (alone or in combination with any other event) by any Participant who is a disqualified individual (as such term is defined in final Treasury Regulation Section 1.280G-1) (each, a Disqualified Individual) under any Company Benefit Plan, Company Benefit Agreement or other compensation arrangement currently in effect would be characterized as an excess parachute payment (as such term is defined in Section 280G(b)(1) of the Code) and no such disqualified individual is entitled to receive any additional payment from the Company or any other person in the event that the excise tax required by Section 4999(a) of the Code is imposed on such disqualified individual.

(f) The execution and delivery by the Company of this Agreement do not, and the consummation of the Transactions and compliance with the terms hereof will not (either alone or in combination with any other event) (i) entitle any Participant to any additional compensation, severance or other benefits, (ii) accelerate the time of payment or vesting or trigger any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, increase the amount payable or trigger any other material obligation pursuant to, any Company Benefit Plan or Company Benefit Agreement or (iii) result in any breach or violation of, or a default (with or without notice or lapse of time or both) under, any Company Benefit Plan or Company Benefit Agreement.

(g) Since January 1, 2001, and through the date of this Agreement, neither the Company nor any Company Subsidiary has received notice of, and, to the knowledge of the Company, there are no (i) material pending termination proceedings or other suits, claims (except claims for benefits payable in the normal operation of the Company Benefit Plans), actions or proceedings against or involving or asserting any rights or claims to benefits under any Company Benefit Plan or Company Benefit Agreement or (ii) pending investigations (other than routine inquiries) by any Governmental Entity with respect to any Company Benefit Plan or Company Benefit Agreement. All contributions, premiums and benefit payments under or in connection with the Company Benefit Plans or Company Benefit Agreements that are required to have been made by the Company or any Company Subsidiary have been timely made, accrued or reserved for in all material respects.

(h) Neither the Company nor any Company Subsidiary has any material liability or obligations, including under or on account of a Company Benefit Plan or Company Benefit Agreement, arising out of the hiring of persons to provide services to the Company or any Company Subsidiary and treating such persons as consultants or independent contractors and not as employees of the Company or any Company Subsidiary.

SECTION 3.12. Litigation. There is no suit, claim, action, investigation or proceeding pending or, to the knowledge of the Company, threatened against the Company or any Company Subsidiary that, individually or in the aggregate, has had or would reasonably be expected to have a Company Material Adverse Effect, nor is there any Judgment outstanding against the Company or any Company Subsidiary that has had or would reasonably be expected to have a Company Material Adverse Effect.

SECTION 3.13. Compliance with Applicable Laws. (a) The Company and the Company Subsidiaries and their relevant personnel and operations are in compliance with all applicable Laws, including applicable Gaming Laws and Laws relating to occupational health and safety, except to the extent that the failure to be in compliance with any such Law has not had and would not reasonably be expected to have a Company Material

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Adverse Effect. Neither the Company nor any Company Subsidiary has received any written communication during the past two years from a Governmental Entity that alleges that the Company or a Company Subsidiary is not in compliance in any material respect with any applicable Law. The Company and the Company Subsidiaries have in effect all permits, licenses, variances, exemptions, authorizations, operating certificates, franchises, orders and approvals of all Governmental Entities (collectively, Permits), necessary or advisable for them to own, lease or operate their properties and assets and to carry on their businesses as now conducted, except for such Permits the absence of which has not had or would not reasonably be expected to have a Company Material Adverse Effect. There has occurred no violation of, default (with or without notice or lapse of time or both) under, or event giving to others any right of termination, amendment or cancellation of, with or without notice or lapse of time or both, any such Permit, except for any such violation, default or event which has not had or would not reasonably be expected to have a Company Material Adverse Effect. There is no event which, to the knowledge of the Company, would reasonably be expected to result in the revocation, cancellation, non-renewal or adverse modification of any such Permit, except for any such event that has not had or would not reasonably be expected to have a Company Material Adverse Effect. Notwithstanding the foregoing, this Section 3.13(a) does not relate to matters with respect to Taxes (which are the subject of Section 3.09), ERISA (which are the subject of Section 3.11), labor Laws (which are the subject of Section 3.16) or Environmental Laws (which are the subject of Section 3.18).

(b) The term Gaming Laws means, with respect to any person, any Federal, state or local statute, law, ordinance, rule, regulation, permit, consent, approval, license, judgment, order, decree, injunction or other authorization governing or relating to the current or contemplated casino and gaming activities and operations of such person and its subsidiaries, including the rules and regulations established by the Nevada State Gaming Control Board, the Nevada Gaming Commission, the Clark County Liquor and Gaming Licensing Board and the City of Las Vegas (collectively, the Nevada Gaming Authorities).

SECTION 3.14. Assets Other than Real Property Interests. The Company and the Company Subsidiaries have good and valid title to all of their respective properties and assets, in each case free and clear of all Liens, except (i) mechanics , carriers , workmen s, repairmen s or other like Liens arising or incurred in the ordinary course of business relating to obligations that are not delinquent or that are being contested by the Company or a Company Subsidiary and for which the Company or a Company Subsidiary has established adequate reserves, (ii) Liens for Taxes that are not due and payable or that may thereafter be paid without interest or penalty, (iii) Liens that secure debt obligations that are reflected as liabilities on the balance sheet of the Company and its consolidated subsidiaries as of December 31, 2003 contained in the Filed Company SEC Documents and the existence of which is referred to in the notes to such balance sheet, (iv) Liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business and (v) other imperfections of title or encumbrances, if any, that, individually or in the aggregate, do not materially impair, and would not reasonably be expected materially to impair, the continued use and operation of the assets to which they relate in the conduct of the business of the Company and the Company Subsidiaries as presently conducted. This Section 3.14 does not relate to real property or interests in real property, such items being the subject of Section 3.15, or to Intellectual Property, such items being the subject of Section 3.19.

SECTION 3.15. Real Property. Section 3.15 of the Company Disclosure Letter sets forth a complete list of all real property and interests in real property owned in fee by the Company or any Company Subsidiary (individually, an Owned Property). Section 3.15 of the Company Disclosure Letter sets forth a complete list of all real property and interests in real property leased by the Company or any Company Subsidiary (individually, a Leased Property) and any prime or underlying leases relating thereto. The Company or a Company Subsidiary has good and marketable fee title to all Owned Property and good and valid leasehold title to all Leased Property (an Owned Property or Leased Property being sometimes referred to herein, individually, as a Company Property), in each case subject only to (i) Liens described in clause (i), (ii), (iii) or (v) of Section 3.14, (ii) leases, subleases and similar agreements set forth in Section 3.15 of the Company Disclosure Letter, (iii) easements, covenants, rights-of-way and other similar restrictions of record (other than options or rights of first

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refusal or offer to purchase) or (iv) any conditions that would be shown by a current, accurate survey or physical inspection of any Company Property made on the date of this Agreement. Any material reciprocal easement or operating agreements with respect to Company Property are set forth in Section 3.15 of the Company Disclosure Letter.

SECTION 3.16. Labor Matters. Section 3.16 of the Company Disclosure Letter contains a list of each collective bargaining agreement between the Company or any Company Subsidiary and any labor union. Since January 1, 2001, neither the Company nor any Company Subsidiary has experienced any labor strikes, union organization attempts, requests for representation, work slowdowns or stoppages or disputes due to labor disagreements, and to the knowledge of the Company and the Company Subsidiaries there is currently no such action threatened against or affecting the Company or any Company Subsidiary. The Company and the Company Subsidiaries are each in compliance with all applicable Laws with respect to labor relations, employment and employment practices, occupational safety and health standards, terms and conditions of employment and wages and hours, human rights, pay equity and workers compensation, except to the extent that the failure to be in compliance with any such Law has not had and would not reasonably be expected to have a Company Material Adverse Effect, and is not engaged in any unfair labor practice. There is no unfair labor practice charge or complaint against the Company or any Company Subsidiary pending or, to the knowledge of the Company or any Company Subsidiary, threatened before the National Labor Relations Board or any comparable Federal, state, provincial or foreign agency or authority that would reasonably be expected to result in material liability to the Company. No grievance or arbitration proceeding arising out of a collective bargaining agreement is pending or, to the knowledge of the Company or any Company Subsidiary, threatened against the Company or any Company Subsidiary that would reasonably be expected to result in material liability to the Company.

SECTION 3.17. Contracts. (a) Neither the Company nor any Company Subsidiary is a party to or bound by any:

(i) employment agreement or employment contract;

(ii) covenant not to compete or other covenant restricting the business or operations of the Company or any Company Subsidiary;

(iii) Contract with any officer or director of the Company (other than employment agreements covered by clause (i) above);

(iv) Contract under which the Company or a Company Subsidiary has borrowed or agreed to borrow any money from, or issued any note, bond, debenture or other evidence of indebtedness to, any person or any other note, bond, debenture or other evidence of indebtedness of the Company or a Company Subsidiary in any such case which, individually, is in excess of \$1,000,000;

(v) Contract (including any so-called take-or-pay or keepwell agreements) under which (A) any person including the Company or a Company Subsidiary, has directly or indirectly guaranteed indebtedness, liabilities or obligations of the Company or a Company Subsidiary in excess of \$1,000,000 or (B) the Company or a Company Subsidiary has directly or indirectly guaranteed indebtedness, liabilities or obligations of any person, including the Company or another Company Subsidiary, in excess of \$1,000,000 (in each case other than endorsements for the purpose of collection in the ordinary course of business);

(vi) Contract under which the Company or a Company Subsidiary has, directly or indirectly, made any advance, loan, extension of credit or capital contribution to, or other investment in, any person in excess of \$1,000,000 (other than the Company or a Company Subsidiary and other than extensions of trade credit in the ordinary course of business);

(vii) Contract granting a Lien upon any Company Property or any other asset of the Company or any Company Subsidiary securing indebtedness or other obligations, in each case in excess of \$1,000,000;

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(viii) Contract providing for indemnification of any person in excess of \$1,000,000 with respect to material liabilities relating to any current or former business of the Company, a Company Subsidiary or any predecessor person;

(ix) a Contract not made in the ordinary course of business in which the amount involved exceeds \$1,000,000;

(x) (A) a Contract with a Governmental Entity in which the amount involved exceeds \$1,000,000 or (B) a material license or permit by or from any Governmental Entity;

(xi) currency exchange, interest rate exchange, commodity exchange or similar Contract;

(xii) a Contract for any joint venture, partnership or similar arrangement;

(xiii) a lease, sublease or similar agreement with respect to Company Property in which the amount involved exceeds \$1,000,000;

(xiv) a Contract under which the Company or a Company Subsidiary has agreed to purchase or lease any real property or any interest in real property for a purchase price in excess of \$1,000,000 or an annual rental in excess of \$1,000,000 or to construct any improvements on real property or a leasehold interest in real property for a contract sum in excess of \$1,000,000; or

(xv) a Contract other than as set forth above to which the Company or a Company Subsidiary is a party or by which it or any of its assets or businesses is bound or subject that is material to the business of the Company and the Company Subsidiaries or the use or operation of their assets and in which the amount involved exceeds \$10,000,000.

(b) All Contracts required to be listed in the Company Disclosure Letter (the Company Contracts) are valid, binding and enforceable against the Company or the applicable Company Subsidiary in accordance with their respective terms and, to the knowledge of the Company, are in full force and effect in all material respects. The Company or the applicable Company Subsidiary has performed all material obligations required to be performed by it to date under the Company Contracts, and it is not (with or without the lapse of time or the giving of notice, or both) in breach or default in any material respect thereunder and, to the knowledge of the Company, no other party to any Company Contract is (with or without the lapse of time or the giving of notice, or both) in breach or default in any material respect thereunder. None of the Company and the Company Subsidiaries has received any written notice of the intention of any party to terminate any Company Contract, and no party has, to the knowledge of the Company, any such intention. Complete and correct copies of all Company Contracts, together with all modifications and amendments thereto, have been previously delivered or made available to Parent.

SECTION 3.18. Environmental Matters. Except for such matters that individually or in the aggregate have not had, and would not reasonably be expected to have, a Company Material Adverse Effect:

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(a) the Company and each of the Company Subsidiaries are, and have been, in compliance with all Environmental Laws (as defined below), and neither the Company nor any of the Company Subsidiaries has received any (i) communication that alleges that the Company or any of the Company Subsidiaries is in violation of, or has liability under, any Environmental Law or (ii) written request for information pursuant to any Environmental Law;

(b) (i) the Company and each of the Company Subsidiaries have obtained and are in compliance with all Permits, licenses and governmental authorizations pursuant to Environmental Law (collectively Environmental Permits) necessary for their operations as currently conducted, (ii) all such Environmental Permits are valid and in good standing and (iii) neither the Company nor any of the Company Subsidiaries has been advised by any Governmental Entity of any actual or potential change in the status or terms and conditions of any Environmental Permit;

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(c) there are no Environmental Claims (as defined below) pending or, to the knowledge of the Company, threatened, against the Company or any of the Company Subsidiaries;

(d) there have been no Releases (as defined below) of any Hazardous Material (as defined below) that would reasonably be expected to form the basis of any Environmental Claim against the Company or any of the Company Subsidiaries or against any Person whose liabilities for such Environmental Claims the Company or any of the Company Subsidiaries has, or may have, retained or assumed, either contractually or by operation of law;

(e) there are no above-ground or underground storage tanks or known or suspected asbestos-containing materials on, under or about property owned, operated or leased by the Company or any Company Subsidiary, nor, to the knowledge of the Company, were there any underground storage tanks on, under or about any such property in the past; and

(f) (i) neither the Company nor any of the Company Subsidiaries has retained or assumed, either contractually or by operation of law, any liabilities or obligations that would reasonably be expected to form the basis of any Environmental Claim against the Company or any of the Company Subsidiaries, and (ii) to the knowledge of the Company, no Environmental Claims are pending against any Person whose liabilities for such Environmental Claims the Company or any of the Company Subsidiaries has, or may have, retained or assumed, either contractually or by operation of law.

(g) Definitions. As used in this Agreement:

(1) Environmental Claim means any and all administrative, regulatory or judicial actions, suits, orders, demands, directives, claims, liens, judgments, investigations, proceedings or written or oral notices of noncompliance or violation by or from any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief) arising out of, based on or resulting from (y) the presence or Release of, or exposure to, any Hazardous Materials at any location; or (z) the failure to comply with any Environmental Law;

(2) Environmental Laws means all applicable federal, state, local and foreign laws, rules, regulations, orders, decrees, judgments, legally binding agreements or Environmental Permits issued, promulgated or entered into by or with any Governmental Entity, relating to pollution, natural resources or protection of endangered or threatened species, human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata);

(3) Hazardous Materials means (y) any petroleum or petroleum products, radioactive materials or wastes, asbestos in any form, urea formaldehyde foam insulation and polychlorinated biphenyls; and (z) any other chemical, material, substance or waste that in relevant form or concentration is prohibited, limited or regulated under any Environmental Law; and

(4) Release means any actual or threatened release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into or through the environment (including ambient air, surface water, groundwater, land surface or subsurface strata) or within any building, structure, facility or fixture.

SECTION 3.19. Intellectual Property. The Company and the Company Subsidiaries own, or are validly licensed or otherwise have the right to use, all patents, patent rights, trademarks, trademark rights, trade names, trade name rights, service marks, service mark rights, copyrights and other proprietary intellectual property rights and computer programs (collectively, Intellectual Property Rights), other than such Intellectual Property Rights

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the absence of which have not had or would not reasonably be expected to have a Company Material Adverse Effect. No claims are pending or, to the knowledge of the Company, threatened that the Company or any Company Subsidiary is infringing or otherwise adversely affecting the rights of any person with regard to any Intellectual Property Right. To the knowledge of the Company, no person is infringing the rights of the Company or any Company Subsidiary with respect to any Intellectual Property Right.

SECTION 3.20. Brokers: Schedule of Fees and Expenses. No broker, investment banker, financial advisor or other person, other than Banc of America Securities LLC, the fees and expenses of which will be paid by the Company, is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the Merger and the other Transactions based upon arrangements made by or on behalf of the Company. The Company has furnished to Parent a true and complete copy of all agreements between the Company and Banc of America Securities LLC relating to the Merger and the other Transactions.

SECTION 3.21. Opinion of Financial Advisor. The Company has received the written opinion of Banc of America Securities LLC, dated the date of this Agreement, to the effect that, as of such date, the consideration to be received in the Merger by the holders of Company Common Stock, other than those holders receiving Merger Consideration in accordance with Sections 2.01(c)(1) and 2.01(c)(2), is fair to such holders from a financial point of view, a signed copy of which opinion has been (or will be promptly following the date of this Agreement) delivered to Parent.

ARTICLE IV

Representations and Warranties of Parent and Sub

Except as expressly set forth in that certain letter (with specific reference to the Section or Subsection of this Agreement to which the information stated in such disclosure relates and such other Sections or Subsections of this Agreement to the extent a matter is disclosed in such a way as to make its relevance to the information called for by such other Section or Subsection readily apparent), dated as of the date of this Agreement, from Parent and Sub to the Company (the Parent Disclosure Letter) or in any Parent SEC Document (as defined in Section 4.06) filed and publicly available prior to the date of this Agreement (the Filed Parent SEC Documents), Parent and Sub, jointly and severally, represent and warrant to the Company that:

SECTION 4.01. Organization, Standing and Power. Each of Parent and each Significant Subsidiary (as such term is defined in Regulation S-X) of Parent is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized and has full corporate power and authority to conduct its businesses as presently conducted. Parent and each Significant Subsidiary (each, a Parent Subsidiary) is duly qualified to do business in each jurisdiction where the nature of its business or the ownership or leasing of its properties make such qualification necessary or the failure to so qualify individually or in the aggregate has had or would reasonably be expected to have a Parent Material Adverse Effect (as defined in Section 9.03). Parent has delivered to the Company true and complete copies of the articles of incorporation of Parent, as amended to the date of this Agreement (as so amended, the Parent Charter), and the by-laws of Parent, as amended to the date of this Agreement (as so amended, the Parent By-laws).

SECTION 4.02. Sub: Parent Subsidiaries. (a) Since the date of its incorporation, Sub has not carried on any business or conducted any operations other than the execution of this Agreement, the performance of its obligations hereunder and matters ancillary thereto.

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(b) The authorized capital stock of Sub consists of 1,000 shares of common stock, par value \$1.00 per share, all of which have been validly issued, are fully paid and nonassessable and are owned by Parent free and clear of any Lien.

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(c) All the outstanding shares of capital stock of each other Parent Subsidiary (other than Marine District Development Company, LLC, which is a joint venture of which Parent is a 50% owner) have been validly issued and are fully paid and non-assessable and are owned by Parent, by another Parent Subsidiary or by Parent and another Parent Subsidiary.

SECTION 4.03. Capital Structure. The authorized capital stock of Parent consists of 200,000,000 shares of Parent Common Stock and 5,000,000 shares of preferred stock, par value \$0.01 per share. At the close of business on February 5, 2004 (or, in the case of clause (iv) below, on December 31, 2003), (i) 65,086,471 shares of Parent Common Stock were issued and outstanding, (ii) no shares of Parent Common Stock were held by Parent in its treasury, (iii) 7,617,524 shares of Parent Common Stock were subject to outstanding options to purchase Parent Common Stock granted under any stock option plan of Parent (a Parent Employee Stock Option) and (iv) 187,122 additional shares of Parent Common Stock were reserved for issuance pursuant to stock option plans of Parent. Except as set forth above, at the close of business on February 5, 2004 (or, in the case of clause (iv) in the immediately preceding sentence, on December 31, 2003), no shares of capital stock or other voting securities of Parent were issued, reserved for issuance or outstanding, and since February 5, 2004, no shares of capital stock or other voting securities of Parent were issued by Parent, except for shares of Parent Common Stock issued upon the exercise of Parent Employee Stock Options outstanding as of February 5, 2004. There are no outstanding stock appreciation rights linked to the price of Parent Common Stock that were not granted in tandem with a related Parent Employee Stock Option. All outstanding shares of Parent Common Stock are, and all such shares that may be issued prior to the Effective Time will be when issued, duly authorized, validly issued, fully paid and nonassessable and not subject to or issued in violation of any purchase option, call option, right of first refusal, preemptive right, subscription right or any similar right under any provision of the NRS, the Parent Charter, the Parent By-laws or any Contract to which Parent is a party or otherwise bound. There are not any bonds, debentures, notes or other indebtedness of Parent having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which holders of Parent Common Stock may vote (Voting Parent Debt). Except as set forth above, as of the date of this Agreement, there are not any options, warrants, rights, convertible or exchangeable securities, phantom stock rights, stock appreciation rights, stock-based performance units, commitments, Contracts, arrangements or undertakings of any kind to which Parent or any Parent Subsidiary is a party or by which any of them is bound (i) obligating Parent or any Parent Subsidiary to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of capital stock or other equity interests in, or any security convertible or exercisable for or exchangeable into any capital stock of or other equity interest in, Parent or any Parent Subsidiary or any Voting Parent Debt, (ii) obligating Parent or any Parent Subsidiary to issue, grant, extend or enter into any such option, warrant, call, right, security, commitment, Contract, arrangement or undertaking or (iii) that give any person the right to receive any economic benefit or right similar to or derived from the economic benefits and rights occurring to holders of Parent Common Stock. As of the date of this Agreement, there are not any outstanding contractual obligations of Parent or any Parent Subsidiary to repurchase, redeem or otherwise acquire any shares of capital stock of Parent or any Parent Subsidiary.

SECTION 4.04. Authority; Execution and Delivery; Enforceability. (a) Each of Parent and Sub has all requisite corporate power and authority to execute and deliver this Agreement and to consummate the Merger and the other Transactions. The execution and delivery by each of Parent and Sub of this Agreement and the consummation by it of the Merger and the other Transactions have been duly authorized by all necessary corporate action on the part of Parent and Sub. Parent, as sole stockholder of Sub, has approved this Agreement. Each of Parent and Sub has duly executed and delivered this Agreement, and, assuming due authorization, execution and delivery of this Agreement by the Company, this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms.

(b) The Board of Directors of Parent (the Parent Board), at a meeting duly called and held, duly and unanimously adopted resolutions (i) approving this Agreement, the Merger and the Share Issuance, (ii) directing that the Share Issuance be submitted to a vote at the Parent Stockholders Meeting and (iii) recommending that Parent's stockholders approve the Share Issuance.

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(c) The only vote of holders of any class or series of capital stock of Parent necessary to approve the Share Issuance is the approval by the holders of a majority of the stockholders of Parent present and voting, in accordance with the requirements of the NYSE (the Parent Stockholder Approval). The affirmative vote of the holders of capital stock of Parent, or any of them, is not necessary to consummate any Transaction other than the Share Issuance.

SECTION 4.05. No Conflicts; Consents. (a) The execution and delivery by each of Parent and Sub of this Agreement do not, and the consummation by Parent and Sub of the Merger and the other Transactions and compliance by Parent and Sub with the terms hereof will not, conflict with, or result in any violation of or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or to loss of a material benefit under, or to increased, additional, accelerated or guaranteed rights or entitlements of any person under, or result in the creation of any Lien upon any of the properties or assets of Parent or any of its subsidiaries under, any provision of (i) the Parent Charter, the Parent By-laws or the charter or organizational documents of any Parent Subsidiary, (ii) any Contract to which Parent or any Parent Subsidiary is a party or by which any of their respective properties or assets is bound or (iii) subject to the filings and other matters referred to in Section 4.04(b), any Judgment or Law applicable to Parent or any Parent Subsidiary or their respective properties or assets, other than, in the case of clauses (ii) and (iii) above, any such items that, individually or in the aggregate, have not had and would not reasonably be expected to have a Parent Material Adverse Effect.

(b) No Consent of, or registration, declaration or filing with, or permit from, any Governmental Entity is required to be obtained or made by Parent or any Parent Subsidiary in connection with the execution, delivery and performance of this Agreement or the consummation of the Transactions, other than (i) compliance with and filings under the HSR Act, (ii) the filing with the SEC of (A) the Form S-4 and the Joint Proxy Statement and (B) such reports under, or other applicable requirements of, the Exchange Act, as may be required in connection with this Agreement, the Merger and the other Transactions, (iii) the filing of the Articles of Merger with the Secretary of State of the State of Nevada, (iv) compliance with and such filings as may be required under applicable Environmental Laws, (v) compliance with and such filings as may be required under applicable Gaming Laws (including those promulgated by the Nevada Gaming Authorities), (vi) such filings as may be required in connection with the Taxes described in Section 6.09 and (vii) such other items that, individually or in the aggregate, have not had and would not reasonably be expected to have a Parent Material Adverse Effect.

SECTION 4.06. Parent SEC Documents; Undisclosed Liabilities. (a) Parent has filed all reports, schedules, forms, statements and other documents required to be filed by Parent with the SEC since January 1, 2003 pursuant to Sections 13(a) and 15(d) of the Exchange Act (the Parent SEC Documents).

(b) As of its respective date, each Parent SEC Document complied in all material respects with the requirements of the Exchange Act or the Securities Act, as the case may be, and the rules and regulations of the SEC promulgated thereunder applicable to such Parent SEC Document, and did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. Except to the extent that information contained in any Filed Parent SEC Document has been revised or superseded by a later filed Filed Parent SEC Document, none of the Parent SEC Documents contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The consolidated financial statements of Parent included in the Parent SEC Documents comply as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, have been prepared in accordance with GAAP (except, in the case of unaudited statements, as permitted by Form 10-Q of the SEC) applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and fairly present the consolidated financial position of Parent and its consolidated subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods shown (subject, in the case of unaudited statements, to normal year-end audit adjustments).

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(c) Neither Parent nor any Parent Subsidiary has any liabilities or obligations of any nature (whether accrued, absolute, contingent or otherwise) required by GAAP to be set forth on a consolidated balance sheet of Parent and its consolidated subsidiaries or in the notes thereto and that, individually or in the aggregate, would reasonably be expected to have a Parent Material Adverse Effect.

(d) The effectiveness of any additional SEC disclosure requirement that, as of the date of this Agreement, have been formally proposed that are not yet in effect, is not expected by Parent to lead to any material change in Parent's disclosures as set forth in the Filed Parent SEC Documents.

SECTION 4.07. Information Supplied. None of the information supplied or to be supplied by Parent or Sub for inclusion or incorporation by reference in (i) the Form S-4 will, at the time the Form S-4 is filed with the SEC, at any time it is amended or supplemented or at the time it becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or (ii) the Joint Proxy Statement will, at the date it is first mailed to the Company's stockholders or Parent's stockholders or at the time of the Company Stockholders Meeting or the Parent Stockholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Form S-4 will comply as to form in all material respects with the requirements of the Securities Act and the rules and regulations thereunder, except that no representation is made by Parent or Sub with respect to statements made therein based on information supplied by the Company for inclusion therein or incorporation by reference therein. The Joint Proxy Statement will comply as to form in all material respects with the requirements of the Exchange Act and the rules and regulations thereunder, except that no representation is made by Parent with respect to statements made or incorporated by reference therein based on information supplied by the Company in writing for inclusion or incorporation by reference in the Form S-4 or the Joint Proxy Statement.

SECTION 4.08. Absence of Certain Changes or Events. From the date of the most recent audited financial statements included in the Filed Parent SEC Documents to the date of this Agreement, (i) Parent has conducted its business only in the ordinary course and (ii) there has not been any state of facts, event, change, effect, development, condition or occurrence that, individually or in the aggregate, has had or would reasonably be expected to have a Parent Material Adverse Effect.

SECTION 4.09. Litigation. There is no suit, action or proceeding pending or, to the knowledge of Parent, threatened against Parent or any Parent Subsidiary that, individually or in the aggregate, has had or would reasonably be expected to have a Parent Material Adverse Effect, nor is there any Judgment outstanding against Parent or any Parent Subsidiary that has had or would reasonably be expected to have a Parent Material Adverse Effect.

SECTION 4.10. Compliance with Applicable Laws. Parent and the Parent Subsidiaries and their relevant personnel and operations are in compliance with all applicable Laws, including applicable Gaming Laws and Laws relating to occupational health and safety, except to the extent that the failure to be in compliance with any such Law has not had and would not reasonably be expected to have a Parent Material Adverse Effect. Neither Parent nor any Parent Subsidiary has received any written communication during the past two years from a Governmental Entity that alleges that Parent or a Parent Subsidiary is not in compliance in any material respect with any applicable Law. Parent and the Parent Subsidiaries have in effect all Permits necessary or advisable for them to own, lease or operate their properties and assets and to carry on their businesses as now conducted, except for such Permits the absence of which has not had and would not reasonably be expected to have a Parent Material Adverse Effect. There has occurred no violation of, default (with or without notice or lapse of time or both) under, or event giving to others any right of termination, amendment or cancellation of, with or without notice or lapse of time or both, any such Permit, except for any such violation, default or event which has not had or would not reasonably be expected to have a Parent Material Adverse Effect. There is no event which, to the knowledge of Parent, would reasonably be expected to result in the revocation, cancellation, non-renewal or adverse modification of any such Permit.

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SECTION 4.11. Brokers: Schedule of Fees and Expenses. No broker, investment banker, financial advisor or other person, other than Deutsche Bank Group, the fees and expenses of which will be paid by Parent, is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the Merger and the other Transactions based upon arrangements made by or on behalf of Parent or Sub.

ARTICLE V

Covenants Relating to Conduct of Business

SECTION 5.01. Conduct of Business. (a) Conduct of Business by the Company. Except for matters set forth in Section 5.01(a) of the Company Disclosure Letter or otherwise expressly permitted by this Agreement, from the date of this Agreement to the Effective Time the Company shall, and shall cause each Company Subsidiary to, conduct its business in the usual, regular and ordinary course in substantially the same manner as previously conducted and use all reasonable efforts to preserve intact its current business organization, keep available the services of its current officers and employees and keep its relationships with customers, suppliers, licensors, licensees, distributors and others having business dealings with them to the end that its goodwill and ongoing business shall be unimpaired at the Effective Time. In addition, and without limiting the generality of the foregoing, except for matters set forth in Section 5.01(a) of the Company Disclosure Letter or otherwise expressly permitted by this Agreement, from the date of this Agreement to the Effective Time, the Company shall not, and shall not permit any Company Subsidiary to, do any of the following without the prior written consent of Parent, which consent shall not be unreasonably withheld or delayed:

(i) (A) declare, set aside or pay any dividends on, or make any other distributions in respect of, any of its capital stock, other than the \$3.50 per share dividend declared prior to the date of this Agreement or dividends and distributions by a direct or indirect wholly owned Company Subsidiary to its parent, (B) split, combine or reclassify any of its capital stock or issue or authorize the issuance of any other securities in respect of, in lieu of or in substitution for shares of its capital stock, or (C) purchase, redeem or otherwise acquire any (1) shares of capital stock of the Company or any Company Subsidiary, (2) any other securities thereof or any rights, warrants or options to acquire any such shares or other securities or (3) any options, warrants, rights, securities, units, commitments, Contracts, arrangements or undertakings of any kind that give any person the right to receive any economic benefits and rights accruing to holders of capital stock of the Company or any Company Subsidiary;

(ii) issue, deliver, sell or grant (A) any shares of its capital stock, (B) any Voting Company Debt or other voting securities, (C) any securities convertible into or exchangeable for, or any options, warrants or rights to acquire, any such shares, Voting Company Debt, voting securities or convertible or exchangeable securities, (D) any phantom stock, phantom stock rights, stock appreciation rights or stock-based performance units or (E) any options, warrants, rights, securities, units, commitments, Contracts, arrangements or undertakings of any kind that give any person the right to receive any economic benefits and rights accruing to holders of capital stock of the Company or any Company Subsidiary, other than the issuance of Company Common Stock upon the exercise of Company Employee Stock Options outstanding on the date of this Agreement and in accordance with their present terms;

(iii) amend its articles of incorporation, by-laws or other comparable charter or organizational documents;

(iv) acquire or agree to acquire (A) by merging or consolidating with, or by purchasing a substantial portion of the assets of, or by any other manner, any equity interest in or business or any corporation, partnership, joint venture, association or other business organization or division thereof or (B) any assets that are material, individually or in the aggregate, to the Company and the Company Subsidiaries, taken as a whole, except purchases of inventory in the ordinary course of business consistent with past practice;

(v) (A) grant to any Participant any loan or increase in compensation, benefits, perquisites or any bonus or award, or pay any bonus to any such person, except to the extent required under employment agreements

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in effect as of the date of this Agreement as set forth in Section 3.10(b) of the Company Disclosure Letter, (B) grant to any Participant any increase in severance, change in control or termination pay or benefits, except to the extent required under any agreement in effect as of the date of this Agreement, as set forth in Section 3.10(b) of the Company Disclosure Letter, (C) enter into any employment, change in control, loan, retention, consulting, indemnification, severance, termination or similar agreement with any Participant, (D) take any action to fund or in any other way secure the payment of compensation or benefits under any Company Benefit Plan or Company Benefit Agreement, (E) establish, adopt, enter into, terminate or amend any collective bargaining agreement, Company Benefit Plan or Company Benefit Agreement or (F) take any action to accelerate any rights or benefits, including vesting and payment, or make any material determinations, under any collective bargaining agreement, Company Benefit Plan or Company Benefit Agreement;

(vi) make any change in accounting methods, principles or practices materially affecting the reported consolidated assets, liabilities or results of operations of the Company, except insofar as may have been required by a change in GAAP;

(vii) sell, lease (as lessor), license or otherwise dispose of or subject to any Lien any properties or assets that have a fair value, individually, in excess of \$250,000 or, in the aggregate, in excess of \$2,500,000;

(viii) other than with respect to any credit facility or line of credit existing prior to the date of this Agreement, copies of which have been previously delivered or made available to Parent, (A) incur any indebtedness for borrowed money or guarantee any such indebtedness of another person, issue or sell any debt securities or warrants or other rights to acquire any debt securities of the Company or any Company Subsidiary, guarantee any debt securities of another person, enter into any keep well or other agreement to maintain any financial statement condition of another person or enter into any arrangement having the economic effect of any of the foregoing, except for short-term borrowings incurred in the ordinary course of business consistent with past practice, or (B) make any loans, advances or capital contributions to, or investments in, any other person, other than to or in the Company or any direct or indirect wholly owned Company Subsidiary;

(ix) make or agree to make any new capital expenditure or expenditures that, in the aggregate, would exceed the aggregate amount budgeted in the Company's 2004 budget previously delivered to Parent;

(x) make any material Tax election or settle or compromise any material Tax liability or refund;

(xi) (A) pay, discharge or satisfy any claims, liabilities or obligations (absolute, accrued, asserted or unasserted, contingent or otherwise), other than the payment, discharge or satisfaction in respect of any credit facility or line of credit existing prior to the date of this Agreement, copies of which have been previously delivered or made available to Parent, or the payment, discharge or satisfaction, in the ordinary course of business consistent with past practice or in accordance with their terms, of liabilities reflected or reserved against in, or contemplated by, the most recent consolidated financial statements (or the notes thereto) of the Company included in the Company SEC Documents or incurred in the ordinary course of business consistent with past practice, (B) cancel any indebtedness in excess of \$50,000 owed to the Company or waive any claims or rights of substantial value of the Company or (C) waive the benefits of, or agree to modify in any manner, any confidentiality, standstill or similar agreement to which the Company or any Company Subsidiary is a party;

(xii) enter into any Contract not set forth above having a duration of more than one year and total payment obligations of the Company in excess of \$1,000,000 (other than (A) the renewal, on substantially similar terms, of any Contract existing on the date of this Agreement and (B) Contracts entered into in respect of capital expenditures permitted by Section 5.01(a)(ix)); or

(xiii) authorize any of, or commit or agree to take any of, the foregoing actions.

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(b) Other Actions. The Company and Parent shall not, and shall not permit any of their respective subsidiaries to, take any action that would, or that would reasonably be expected to, result in (i) any of the representations and warranties of such party set forth in this Agreement that is qualified as to materiality becoming untrue, (ii) any of such representations and warranties that is not so qualified becoming untrue in any material respect or (iii) any condition to the Merger set forth in Article VII not being satisfied.

(c) Advice of Changes. The Company and Parent shall promptly advise the other orally and in writing of any state of facts, event, change, effect, development, condition or occurrence that, individually or in the aggregate, has had or would reasonably be expected to have a Material Adverse Effect on such party.

SECTION 5.02. No Solicitation. (a) The Company shall not, nor shall it authorize or permit any Company Subsidiary to, nor shall it authorize or permit any officer, director or employee of, or any investment banker, attorney or other advisor or representative (collectively, Representatives) of, the Company or any Company Subsidiary to, (i) directly or indirectly solicit, initiate or encourage the submission of, any Company Takeover Proposal (as defined in Section 5.02(e)), (ii) enter into any agreement with respect to any Company Takeover Proposal or (iii) directly or indirectly participate in any discussions or negotiations regarding, or furnish to any person any information with respect to, or take any other action to facilitate any inquiries or the making of any proposal that constitutes, or may reasonably be expected to lead to, any Company Takeover Proposal; provided, however, that prior to receipt of the Company Stockholder Approval, the Company may, in response to an unsolicited bona fide Company Takeover Proposal which did not result from a breach of this Section 5.02(a) and which the Company Board determines, in good faith, after consultation with outside counsel and financial advisors, may reasonably be expected to lead to a Superior Company Proposal (as defined in Section 5.02(e)), and subject to compliance with Section 5.02(c), (x) furnish information with respect to the Company to the person making such Company Takeover Proposal and its Representatives pursuant to a customary confidentiality agreement not less restrictive of the other party than the Confidentiality Agreement (as defined in Section 6.02) and (y) participate in discussions or negotiations with such person and its Representatives regarding any Company Takeover Proposal. Without limiting the foregoing, it is agreed that any violation of the restrictions set forth in the preceding sentence by any Representative of the Company or any Company Subsidiary, whether or not such person is purporting to act on behalf of the Company or any Company Subsidiary or otherwise, shall be deemed to be a breach of this Section 5.02(a) by the Company.

(b) Neither the Company Board nor any committee thereof shall (i) withdraw or modify in a manner adverse to Parent or Sub, or publicly propose to withdraw or modify in a manner adverse to Parent or Sub, the approval or recommendation by the Company Board of this Agreement or the Merger, (ii) approve any letter of intent, agreement in principle, acquisition agreement or similar agreement relating to any Company Takeover Proposal or (iii) approve or recommend, or publicly propose to approve or recommend, any Company Takeover Proposal. Notwithstanding the foregoing, if, prior to receipt of the Company Stockholder Approval, (v) the Company Board has received a Superior Company Proposal, (w) as a result thereof the Company Board shall have determined in good faith, after consultation with outside counsel, that it is required for the purpose of fulfilling its fiduciary duties under applicable Law, (x) the Company has notified Parent in writing of the determination described in clause (w) above, (y) at least three business days following receipt by Parent of the notice received in clause (x) above, and taking into account any revised proposal made by Parent since receipt of the notice referred to in clause (x) above, the Company Board determines that such Superior Company Proposal remains a Superior Company Proposal in accordance with clause (w) above, and (z) the Company is in compliance with this Section 5.02, the Company Board may withdraw or modify its approval or recommendation of the Merger and this Agreement.

(c) The Company promptly shall advise Parent orally and in writing of any Company Takeover Proposal or any inquiry with respect to or that would reasonably be expected to lead to any Company Takeover Proposal, the identity of the person making any such Company Takeover Proposal or inquiry and the material terms of any such Company Takeover Proposal or inquiry. The Company shall (i) keep Parent informed of the status (including any change to the terms thereof) of any such Company Takeover Proposal or inquiry and

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(ii) provide to Parent as soon as practicable after receipt or delivery thereof with copies of the Company Takeover Proposal (including any amendments or supplements thereto) and all such other material information provided in writing to the Company by the party making such Company Takeover Proposal.

(d) Nothing contained in this Section 5.02 shall prohibit the Company from taking and disclosing to its stockholders a position contemplated by Rule 14e-2(a) promulgated under the Exchange Act or from making any required disclosure to the Company's stockholders if, in the good faith judgment of the Company Board, after consultation with outside counsel, failure so to disclose would be inconsistent with the fulfillment of its fiduciary duties or any other obligations under applicable Law.

(e) For purposes of this Agreement:

Company Takeover Proposal means (i) any proposal or offer for a merger, consolidation, dissolution, recapitalization or other business combination involving the Company, (ii) any proposal for the issuance by the Company of over 30% of its equity securities as consideration for the assets or securities of another person or (iii) any proposal or offer to acquire in any manner, directly or indirectly, over 30% of the equity securities or consolidated total assets of the Company, in each case other than the Merger.

Superior Company Proposal means any proposal made by a third party to acquire substantially all the equity securities or assets of the Company, pursuant to a tender or exchange offer, a merger, a consolidation, a liquidation or dissolution, a recapitalization, a sale of all or substantially all its assets or otherwise, on terms which the Company Board determines in good faith, after consultation with the Company's outside legal counsel and financial advisors, to be more favorable from a financial point of view to the holders of the Company Common Stock than the Merger, taking into account all the terms and conditions of such proposal and this Agreement (including any proposal by Parent to amend the terms of the Merger) and the Transactions; provided that the Company Board shall not so determine that any such proposal is a Superior Company Proposal prior to the time that is 36 hours after the time at which the Company has complied in all material respects with Section 5.02(c) with respect to such proposal.

ARTICLE VI

Additional Agreements

SECTION 6.01. Preparation of the Form S-4 and the Joint Proxy Statement: Stockholders Meetings. (a) As soon as practicable following the date of this Agreement, the Company and Parent shall prepare and file with the SEC a joint proxy statement (the Joint Proxy Statement) in preliminary form and Parent shall prepare and file with the SEC the Form S-4, in which the Joint Proxy Statement will be included as a prospectus, and each of the Company and Parent shall use its reasonable efforts to respond as promptly as practicable to any comments of the SEC with respect thereto. Each of the Company and Parent shall use its reasonable efforts to have the Form S-4 declared effective under the Securities Act as promptly as practicable after such filing. Parent shall also take any action (other than qualifying to do business in any jurisdiction in which it is not now so qualified) required to be taken under any applicable state securities laws in connection with the issuance of Parent Common Stock in the Merger and under the Company Stock Plan and the Company shall furnish all information concerning the Company and the holders of the Company Common Stock and rights to acquire Company Common Stock pursuant to the Company Stock Plan as may be reasonably requested in connection with any such action. The parties shall notify each other promptly of the receipt of any comments from the SEC or its staff and of any request by the SEC or its staff for amendments or supplements to the Joint Proxy Statement or the Form S-4 or for additional information and shall supply each other with copies of all correspondence between such or any of its representatives, on the one hand, and the SEC or its staff, on the other hand, with respect to the Joint Proxy Statement, the Form S-4 or the Merger.

(b) If, at any time prior to the receipt of the Company Stockholder Approval or the Parent Stockholder Approval, any event occurs with respect to the Company or any Company Subsidiary, or any change occurs with

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respect to other information supplied by the Company for inclusion in the Joint Proxy Statement or the Form S-4, which is required to be described in an amendment of, or a supplement to, the Joint Proxy Statement or the Form S-4, the Company shall promptly notify Parent of such event, and the Company and Parent shall cooperate in the prompt filing with the SEC of any necessary amendment or supplement to the Joint Proxy Statement and the Form S-4 and, as required by Law, in disseminating the information contained in such amendment or supplement to the Company's stockholders.

(c) If, at any time prior to the receipt of the Company Stockholder Approval or the Parent Stockholder Approval, any event occurs with respect to Parent or any Parent Subsidiary, or change occurs with respect to other information supplied by Parent for inclusion in the Joint Proxy Statement or the Form S-4, which is required to be described in an amendment of, or a supplement to, the Joint Proxy Statement or the Form S-4, Parent shall promptly notify the Company of such event, and Parent and the Company shall cooperate in the prompt filing with the SEC of any necessary amendment or supplement to the Joint Proxy Statement and the Form S-4 and, as required by Law, in disseminating the information contained in such amendment or supplement to the Company's stockholders.

(d) The Company shall, as soon as practicable following the date of this Agreement, duly call, give notice of, convene and hold a meeting of its stockholders (the Company Stockholders Meeting) for the purpose of seeking the Company Stockholder Approval. The Company shall use its reasonable efforts to cause the Joint Proxy Statement to be mailed to the Company's stockholders as promptly as practicable after the date of this Agreement. The Company shall, through the Company Board, recommend to its stockholders that they give the Company Stockholder Approval, except to the extent that the Company Board shall have withdrawn or modified its approval or recommendation of this Agreement or the Merger as permitted by the last sentence of Section 5.02(b). Without limiting the generality of the foregoing, the Company agrees that its obligations pursuant to the first sentence of this Section 6.01(d) shall not be affected by the commencement, public proposal, public disclosure or communication to the Company of any Company Takeover Proposal; it being understood and agreed among Parent, Sub and the Company that in the event that, prior to the date of the Company Stockholders Meeting, the Company withdraws or modifies its approval or recommendation of the Merger and this Agreement in accordance with the last sentence of Section 5.02(b), then for purposes of the first sentence of this Section 6.01(d), the term Company Stockholder Approval shall mean both (i) the approval of this Agreement by a majority of the voting power of the holders of the outstanding Company Common Stock and (ii) the approval of this Agreement by a majority of the voting power of the holders of the outstanding Company Common Stock present and duly voted (in person or by proxy) at the Company Stockholders Meeting, exclusive of those votes taken in respect of the shares of Company Common Stock held by Michael J. Gaughan, Jerry Herbst and Franklin Toti.

(e) Parent shall, as soon as practicable following the date of this Agreement, duly call, give notice of, convene and hold a meeting of its stockholders (the Parent Stockholders Meeting) for the purpose of seeking the Parent Stockholder Approval. Parent shall use its reasonable efforts to cause the Joint Proxy Statement to be mailed to Parent's stockholders as promptly as practicable after the date of this Agreement. Parent shall, through the Parent Board, recommend to its stockholders that they give the Parent Stockholder Approval.

(f) The Company shall use all reasonable efforts to cause to be delivered to Parent a letter of PricewaterhouseCoopers LLP, the Company's independent public accountants, dated a date within two business days before the date on which the Form S-4 shall become effective and addressed to Parent, in form and substance reasonably satisfactory to Parent and customary in scope and substance for letters delivered by independent public accountants in connection with registration statements similar to the Form S-4.

(g) Parent shall use all reasonable efforts to cause to be delivered to the Company a letter of Deloitte & Touche LLP, Parent's independent public accountants, dated a date within two business days before the date on which the Form S-4 shall become effective and addressed to the Company, in form and substance reasonably satisfactory to the Company and customary in scope and substance for letters delivered by independent public accountants in connection with registration statements similar to the Form S-4.

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SECTION 6.02. Access to Information; Confidentiality. Each of the Company and Parent shall, and shall cause each of its respective subsidiaries to, afford to the other party and to the officers, employees, accountants, counsel, financial advisors and other representatives of such other party, reasonable access during normal business hours during the period prior to the Effective Time to all their respective properties, books, contracts, commitments, personnel and records and, during such period, each of the Company and Parent shall, and shall cause each of its respective subsidiaries to, furnish promptly to the other party (a) a copy of each report, schedule, registration statement and other document filed by it during such period pursuant to the requirements of Federal or state securities laws and (b) all other information concerning its business, properties and personnel as such other party may reasonably request. All information exchanged pursuant to this Section 6.02 shall be subject to the confidentiality agreement dated February 2, 2004 between the Company and Parent (the Confidentiality Agreement).

SECTION 6.03. Reasonable Efforts; Notification. (a) Upon the terms and subject to the conditions set forth in this Agreement, each of the parties shall use all reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other parties in doing, all things necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the Merger and the other Transactions to be performed or consummated by such party in accordance with the terms of this Agreement, including (i) in the case of Parent, the obtaining of all necessary approvals under any applicable Gaming Laws required in connection with this Agreement, the Merger and the other Transactions, (ii) the obtaining of all necessary actions or nonactions, waivers, consents and approvals from Governmental Entities and the making of all necessary registrations and filings (including filings with Governmental Entities, if any) and the taking of all reasonable steps as may be necessary to obtain an approval or waiver from, or to avoid an action or proceeding by, any Governmental Entity, (iii) the obtaining of all necessary consents, approvals or waivers from third parties, (iv) the defending of any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the consummation of the Transactions to be performed or consummated by such party in accordance with the terms of this Agreement, including seeking to have any stay or temporary restraining order entered by any court or other Governmental Entity vacated or reversed and (v) the execution and delivery of any additional instruments necessary to consummate the Transactions to be performed or consummated by such party in accordance with the terms of this Agreement and to fully carry out the purposes of this Agreement. In connection with and without limiting the foregoing, the Company and the Company Board shall (x) take all reasonable action necessary to ensure that no state takeover statute or similar statute or regulation is or becomes applicable to any Transaction or this Agreement and (y) if any state takeover statute or similar statute or regulation becomes applicable to any Transaction or this Agreement, take all reasonable action necessary to ensure that the Merger and the other Transactions may be consummated as promptly as practicable on the terms contemplated by this Agreement and otherwise to minimize the effect of such statute or regulation on the Merger and the other Transactions.

(b) The Company shall give prompt notice to Parent, and Parent or Sub shall give prompt notice to the Company, of (i) any representation or warranty made by it contained in this Agreement that is qualified as to materiality becoming untrue or inaccurate in any respect or any such representation or warranty that is not so qualified becoming untrue or inaccurate in any material respect or (ii) the failure by it to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied by it under this Agreement; provided, however, that no such notification shall affect the representations, warranties, covenants or agreements of the parties or the conditions to the obligations of the parties under this Agreement.

(c) Nothing in Section 6.03(a) shall require Parent to dispose of any of its assets or to limit its freedom of action with respect to any of its businesses, or to consent to any disposition of the Company's assets or limits on the Company's freedom of action with respect to any of its businesses, or to commit or agree to any of the foregoing, and nothing in Section 6.03(a) shall authorize the Company to commit or agree to any of the foregoing, to obtain any consents, approvals, permits or authorizations or to remove any impediments to the Merger relating solely to the HSR Act or other antitrust, competition or premerger notification, trade regulation law, regulation or order (Antitrust Laws) or to avoid the entry of, or to effect the dissolution of, any injunction, temporary restraining order or other order in any suit or proceeding relating solely to Antitrust Laws.

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SECTION 6.04. Company Stock Options. (a) Except as otherwise agreed in writing between Parent and any holder of Company Employee Stock Options, Parent shall not assume any Company Employee Stock Options that are not intended to qualify as incentive stock options within the meaning of Section 422 of the Code (Company ISOs) in connection with the transactions contemplated by this Agreement. Accordingly, as soon as reasonably practicable following the date of this Agreement, the Company Board (or, if appropriate, any committee administering the Company Stock Plan) shall adopt such resolutions or take such other actions as may be required to:

(i) provide that each outstanding Company Employee Stock Option that is not a Company ISO (a Company NQSO) that is outstanding immediately prior to the Effective Time shall be canceled immediately prior to the Effective Time, whether vested or unvested, with the holder thereof becoming entitled to receive an amount of cash equal to the excess, if any, of \$550 in cash over the per share exercise price of such Company NQSO, multiplied by the number of shares of Company Common Stock subject to such Company NQSO, subject to any applicable withholding of taxes; and

(ii) adjust the terms of all outstanding Company ISOs to provide that, at the Effective Time, each Company ISO outstanding immediately prior to the Effective Time shall be deemed to constitute an option to acquire, on the same terms and conditions as were applicable under such Company ISO, 32.8025 shares of Parent Common Stock at a price per share equal to \$3.04855 (each, as so adjusted, an Adjusted Option); provided, however, that the foregoing shall be adjusted to the minimum extent necessary to comply with Section 424(a) of the Code;

(iii) make such other changes to the Company Stock Plan as the Company and Parent shall mutually agree.

(b) At the Effective Time, and subject to compliance by the Company with Section 6.04(a), Parent shall assume all the obligations of the Company under the Company Stock Plan, each outstanding Adjusted Option and the agreements evidencing the grants thereof. As soon as practicable after the Effective Time, Parent shall deliver to the holders of Adjusted Options appropriate notices setting forth such holders' rights pursuant to the Company Stock Plan and indicating that the agreements evidencing the grants of such Adjusted Options shall continue in effect on the same terms and conditions (subject to the adjustments required by this Section 6.04 after giving effect to the Merger). Parent shall comply with the terms of the Company Stock Plan and ensure, to the extent required by, and subject to the provisions of, the Company Stock Plan, that the Adjusted Options continue to qualify as incentive stock options after the Effective Time.

(c) Parent shall take all corporate action necessary to reserve for issuance a sufficient number of shares of Parent Common Stock for delivery upon exercise of the Adjusted Options assumed in accordance with this Section 6.04. As soon as reasonably practicable after the Effective Time, Parent shall file a registration statement on Form S-8 (or any successor or other appropriate form) with respect to the shares of Parent Common Stock subject to such Adjusted Options and shall use all reasonable efforts to maintain the effectiveness of such registration statement or registration statements (and maintain the current status of the prospectus or prospectuses contained therein) for so long as such Adjusted Options remain outstanding.

(d) In this Agreement:

Company Employee Stock Option means any option to purchase Company Common Stock granted under the Company Stock Plan or otherwise.

Company Stock Plan means the Company 1996 Stock Incentive Plan.

(e) Prior to the Effective Time, Parent shall take all such steps as may be required to cause any acquisition of shares of Parent Common Stock (including any Adjusted Options) in connection with the Merger by any holder of Company Common Stock who is subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to Parent to be exempt under Rule 16b-3 promulgated under the Exchange Act.

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SECTION 6.05. **Benefit Plans.** (a) Parent shall cause the Surviving Corporation to maintain for a period of one year after the Effective Time the Company Benefit Plans as in effect on the date of this Agreement as set forth on the Company Disclosure Letter (other than the Company Stock Plan and any other Company Benefit Plan that provides benefits based on the value of Company Common Stock) or to provide benefits (excluding benefits attributable to equity-based plans or grants) to each current employee of the Company and the Company Subsidiaries that are at least as favorable in the aggregate to such employees as those in effect on the date of this Agreement.

(b) From and after the Effective Time, Parent shall, and shall cause the Surviving Corporation to honor in accordance with their respective terms (as in effect on the date of this Agreement), all the Company's employment, severance and termination agreements, plans and policies disclosed in the Company Disclosure Letter.

(c) With respect to any employee benefit plan, program or arrangement maintained by Parent or any Parent Subsidiary (including any severance plan), for all purposes of determining eligibility to participate and vesting but not for purposes of benefit accrual, service with the Company or any Company Subsidiary shall be treated as service with Parent or any Parent Subsidiary; provided, however, that such service need not be recognized to the extent that such recognition would result in any duplication of benefits.

(d) Parent shall waive, or cause to be waived, any pre-existing condition limitation under any welfare benefit plan maintained by Parent or any of its affiliates (other than the Company) in which employees of the Company and the Company Subsidiaries (and their eligible dependents) will be eligible to participate from and after the Effective Time, except to the extent that such pre-existing condition limitation would have been applicable under the comparable Company welfare benefit plan immediately prior to the Effective Time. Parent shall recognize, or cause to be recognized, the dollar amount of all expenses incurred by each Company employee (and his or her eligible dependents) during the calendar year in which the Effective Time occurs for purposes of satisfying such year's deductible and co-payment limitations under the relevant welfare benefit plans in which they will be eligible to participate from and after the Effective Time.

SECTION 6.06. **Indemnification.** (a) Parent shall, to the fullest extent permitted by Law, cause the Surviving Corporation to honor all the Company's obligations to indemnify (including any obligations to advance funds for expenses) the current or former directors or officers of the Company for acts or omissions by such directors and officers occurring prior to the Effective Time to the extent that such obligations of the Company exist on the date of this Agreement, whether pursuant to the Company Charter, the Company By-laws, individual indemnity agreements or otherwise, and such obligations shall survive the Merger and shall continue in full force and effect in accordance with the terms of the Company Charter, the Company By-laws and such individual indemnity agreements from the Effective Time until the expiration of the applicable statute of limitations with respect to any claims against such directors or officers arising out of such acts or omissions.

(b) For a period of six years after the Effective Time, Parent shall cause to be maintained in effect the current policies of directors' and officers' liability insurance maintained by the Company (provided that Parent may substitute therefor policies with reputable and financially sound carriers of at least the same coverage and amounts containing terms and conditions which are no less advantageous) with respect to claims arising from or related to facts or events which occurred at or before the Effective Time; provided, however, that Parent shall not be obligated to make annual premium payments for such insurance to the extent such premiums exceed 175% of the annual premiums paid as of the date hereof by the Company for such insurance (such 175% amount, the Maximum Premium). If such insurance coverage cannot be obtained at all, or can only be obtained at an annual premium in excess of the Maximum Premium, Parent shall maintain the most advantageous policies of directors' and officers' insurance obtainable for an annual premium equal to the Maximum Premium. The Company represents to Parent that the Maximum Premium is \$270,156.25.

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SECTION 6.07. Fees and Expenses. (a) Except as provided below, all fees and expenses incurred in connection with the Merger shall be paid by the party incurring such fees or expenses, whether or not the Merger is consummated, except that expenses incurred in connection with filing, printing and mailing the Joint Proxy Statement and the Form S-4 shall be shared equally by Parent and the Company.

(b) If (i) after the date of this Agreement, any person makes a Company Takeover Proposal or amends a Company Takeover Proposal made prior to the date of this Agreement, (ii) this Agreement is terminated by either the Company or Parent pursuant to Section 8.01(b)(i) or 8.01(b)(iii) or by Parent pursuant to Section 8.01(c) and (iii) within 30 months after the date of this Agreement the Company enters into a definitive agreement to consummate, or consummates, the transactions contemplated by a Company Takeover Proposal, then the Company shall pay to Parent by wire transfer of same-day funds a fee of \$30,000,000 (the Break-up Fee), which fee shall be payable and shall be paid on the date of consummation of such transactions. Solely for the purposes of Section 6.07(b)(iii), the term Company Takeover Proposal shall have the meaning assigned to such term in Section 5.02(e), except that all references to 30% shall be changed to 40% . The Company acknowledges that the agreements contained in this Section 6.07(b) are an integral part of the transaction contemplated by this Agreement, and that, without these agreements, Parent would not enter into this Agreement; accordingly, if the Company fails promptly to pay the Break-up Fee, and, in order to obtain such payment, Parent commences a suit that results in a judgment against the Company for the Break-up Fee, the Company shall pay to Parent interest on the Break-up Fee from and including the date payment of the Break-up Fee was due to but excluding the date of actual payment at the prime rate of Bank of America, National Association in effect on the date such payment was required to be made, together with reasonable legal fees and expenses incurred in connection with such suit.

SECTION 6.08. Public Announcements. Parent and Sub, on the one hand, and the Company, on the other hand, shall consult with each other before issuing, and provide each other reasonable opportunity to review and comment upon, any press release or other public statements with respect to the Merger and the other Transactions and shall not issue any such press release or make any such public statement prior to such consultation, except as may be required by applicable Law, court process or by obligations pursuant to any listing agreement with any national securities exchange.

SECTION 6.09. Transfer Taxes. All stock transfer, real estate transfer, documentary, stamp, recording and other similar Taxes (including interest, penalties and additions to any such Taxes) (Transfer Taxes) incurred in connection with the Transactions shall be paid by either Sub or the Surviving Corporation, and the Company shall cooperate with Sub and Parent in preparing, executing and filing any Tax Returns with respect to such Transfer Taxes.

SECTION 6.10. Affiliates. Promptly following the date of execution of this Agreement, the Company shall deliver to Parent a letter identifying all persons who are expected by the Company to be, at the date of the Company Stockholders Meeting, affiliates of the Company for purposes of Rule 145 under the Securities Act. The Company shall use all reasonable efforts to cause each such person to deliver to Parent on or prior to the date of mailing of the Joint Proxy Statement a written agreement substantially in the form attached as Exhibit A.

SECTION 6.11. Stock Exchange Listing. Parent shall use all reasonable efforts to cause the shares of Parent Common Stock to be issued in the Merger to be approved for listing on the NYSE, subject to official notice of issuance, prior to the Closing Date.

SECTION 6.12. Tax Treatment. The parties intend the Merger to qualify as a reorganization under Section 368(a) of the Code. Each party and its affiliates shall use all reasonable efforts to cause the Merger to so qualify and to obtain the opinions of Gibson, Dunn & Crutcher LLP and Cravath, Swaine & Moore LLP to the effect that the Merger will be treated for U.S. Federal income tax purposes as a reorganization within the meaning of Section 368(a) of the Code and that Parent, Sub and the Company will each be a party to that reorganization within the meaning of Section 368(b) of the Code. For purposes of the tax opinions described in

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Sections 7.02(e) and 7.03(d) of this Agreement, each of Parent and the Company will provide customary representation letters, substantially in the form attached hereto as Exhibits B and C each dated on or about the date that is two business days prior to the date the Joint Proxy Statement is mailed to the stockholders of Parent and the Company and reissued as of the Closing Date. Each of Parent, Sub and the Company and each of their respective affiliates shall not take any action and shall not fail to take any action or suffer to exist any condition which action or failure to act or condition would prevent, or would reasonably be likely to prevent, the Merger from qualifying as a reorganization within the meaning of Section 368(a) of the Code.

SECTION 6.13. Stockholder Litigation. The Company shall give Parent the opportunity to participate in the defense or settlement of any stockholder litigation against the Company and its directors relating to the Merger or any other Transaction; provided, however, that no such settlement shall be agreed to without Parent's consent.

SECTION 6.14. Parent Board. Parent shall take all actions reasonably necessary to (a) cause Peter M. Thomas to be elected to the Parent Board on or prior to the Closing Date and (b) as soon as reasonably practicable after the Closing Date and following the receipt of any necessary regulatory approvals, (i) expand the Parent Board to create two vacant positions and (ii) appoint, as directors to fill the vacant positions on the Parent Board established pursuant to the immediately preceding clause (i), each of Michael J. Gaughan and a designee of Michael J. Gaughan satisfactory to Parent; provided, however, that to the extent that Peter M. Thomas is not elected to the Parent Board on or prior to the Closing Date, Parent shall take all actions reasonably necessary as soon as reasonably practicable after the Closing Date and following the receipt of any necessary regulatory approvals to (x) expand the Parent Board to create one additional vacant position and (y) appoint, as a director to fill the vacant position on the Parent Board established pursuant to the immediately preceding clause (x), a second designee of Michael J. Gaughan satisfactory to Parent.

ARTICLE VII

Conditions Precedent

SECTION 7.01. Conditions to Each Party's Obligation To Effect The Merger. The respective obligation of each party to effect the Merger is subject to the satisfaction or waiver on or prior to the Closing Date of the following conditions:

(a) Stockholder Approvals. The Company shall have obtained the Company Stockholder Approval and Parent shall have obtained the Parent Stockholder Approval.

(b) NYSE Listing. The shares of Parent Company Stock issuable to the Company's stockholders pursuant to this Agreement shall have been approved for listing on the NYSE, subject to official notice of issuance.

(c) Consents, Approvals and Authorizations. All consents, approvals, orders or authorizations from, and all declarations, filings and registrations with, any Governmental Entity, including all necessary approvals under any applicable Gaming Laws, required to consummate the Merger and the other Transactions shall have been obtained or made without the imposition of any material conditions, and the waiting period (and any extension thereof) applicable to the Merger under the HSR Act shall have expired or been terminated.

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(d) No Injunctions or Restraints. No temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal restraint or prohibition preventing the consummation of the Merger shall be in effect; provided, however, that prior to asserting this condition, subject to Section 6.03, each of the parties shall have used its reasonable efforts to prevent the entry of any such injunction or other order and to appeal as promptly as possible any such injunction or other order that may be entered.

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(e) Form S-4. The Form S-4 shall have become effective under the Securities Act and shall not be the subject of any stop order or proceedings seeking a stop order, and Parent shall have received all state securities or blue sky authorizations necessary to issue Parent Common Stock pursuant to the Merger.

(f) No Litigation. There shall not be pending or threatened any suit, action or proceeding by any Governmental Entity or any other person, in each case that has a reasonable likelihood of success, (i) challenging the acquisition by Parent or Sub of any Company Common Stock, seeking to restrain or prohibit the consummation of the Merger or any other Transaction or seeking to obtain from the Company, Parent or Sub any damages that are material in relation to the Company and the Company Subsidiaries taken as a whole, (ii) seeking to prohibit or limit the ownership or operation by the Company, Parent or any of their respective subsidiaries of any material portion of the business or assets of the Company, Parent or any of their respective subsidiaries or to compel the Company, Parent or any of their respective subsidiaries to dispose of or hold separate any material portion of the business or assets of the Company, Parent or any of their respective subsidiaries, as a result of the Merger or any other Transaction, (iii) seeking to impose limitations on the ability of Parent to acquire or hold, or exercise full rights of ownership of, any shares of Company Common Stock, including the right to vote the Company Common Stock purchased by it on all matters properly presented to the stockholders of the Company, (iv) seeking to prohibit Parent or any of its subsidiaries from effectively controlling in any material respect the business or operations of the Company and the Company Subsidiaries or (v) which otherwise is reasonably likely to have a Company Material Adverse Effect or a Parent Material Adverse Effect.

SECTION 7.02. Conditions to Obligations of Parent and Sub. The obligations of Parent and Sub to effect the Merger are further subject to the following conditions:

(a) Representations and Warranties. The representations and warranties of the Company in this Agreement that are qualified as to materiality shall be true and correct and those not so qualified shall be true and correct in all material respects, as of the date of this Agreement and as of the Closing Date as though made on the Closing Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties qualified as to materiality shall be true and correct, and those not so qualified shall be true and correct in all material respects, on and as of such earlier date). Parent shall have received a certificate signed on behalf of the Company by an executive officer of the Company to such effect.

(b) Performance of Obligations of the Company. The Company shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing Date, and Parent shall have received a certificate signed on behalf of the Company by an executive officer of the Company to such effect.

(c) Absence of Company Material Adverse Effect. Except as disclosed in the Company Disclosure Letter, since the date of this Agreement there shall not have been any state of facts, event, change, effect, development, condition or occurrence that, individually or in the aggregate, has had or would reasonably be expected to have a Company Material Adverse Effect.

(d) Letters from Company Affiliates. Parent shall have received from each person named in the letter referred to in Section 6.10 an executed copy of an agreement substantially in the form of Exhibit A.

(e) Tax Opinion. Parent shall have received a written opinion, dated as of the Closing Date, from Cravath, Swaine & Moore LLP, counsel to Parent, to the effect that the Merger will be treated for federal income tax purposes as a reorganization within the meaning of Section 368(a) of the Code, and that Parent, Sub and the Company will each be a party to that reorganization within the meaning of Section 368(b) of the Code; it

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being understood that in rendering such opinion, such tax counsel shall be entitled to rely upon customary representations provided by the parties hereto substantially in the form attached hereto as Exhibit B.

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SECTION 7.03. Conditions to Obligation of the Company. The obligation of the Company to effect the Merger is further subject to the following conditions:

(a) Representations and Warranties. The representations and warranties of Parent and Sub in this Agreement that are qualified as to materiality shall be true and correct and those not so qualified shall be true and correct in all material respects, as of the date of this Agreement and on the Closing Date as though made on the Closing Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties qualified as to materiality shall be true and correct, and those not so qualified shall be true and correct in all material respects, on and as of such earlier date). The Company shall have received a certificate signed on behalf of Parent by an executive officer of Parent to such effect.

(b) Performance of Obligations of Parent and Sub. Parent and Sub shall have performed in all material respects all obligations required to be performed by them under this Agreement at or prior to the Closing Date, and the Company shall have received a certificate signed on behalf of Parent by an executive officer of Parent to such effect.

(c) Absence of Parent Material Adverse Effect. Except as disclosed in the Parent Disclosure Letter, since the date of this Agreement there shall not have been any state of facts, event, change, effect, development, condition or occurrence that, individually or in the aggregate, has had or would reasonably be expected to have a Parent Material Adverse Effect.

(d) Tax Opinion. The Company shall have received a written opinion, dated as of the Closing Date, from Gibson, Dunn & Crutcher LLP, counsel to the Company, to the effect that the Merger will be treated for federal income tax purposes as a reorganization within the meaning of Section 368(a) of the Code, and that Parent, Sub and the Company will each be a party to that reorganization within the meaning of Section 368(b) of the Code; it being understood that in rendering such opinion, such tax counsel shall be entitled to rely upon customary representations provided by the parties hereto substantially in the form attached hereto as Exhibit C.

SECTION 7.04. Frustration of Closing Conditions. None of the Company, Parent or Sub may rely on the failure of any condition set forth in Section 7.01, 7.02 or 7.03, as the case may be, to be satisfied if such failure was caused by such party's failure to use all reasonable efforts to consummate the Merger and the other Transactions to be performed or consummated by such party in accordance with the terms of this Agreement as required by and subject to Section 6.03.

ARTICLE VIII

Termination, Amendment and Waiver

SECTION 8.01. Termination. This Agreement may be terminated at any time prior to the Effective Time, whether before or after receipt of the Company Stockholder Approval:

(a) by mutual written consent of Parent, Sub and the Company;

(b) by either Parent or the Company:

(i) if the Merger is not consummated on or before January 31, 2005 (the Outside Date), unless the failure to consummate the Merger is the result of a willful and material breach of this Agreement by the party seeking to terminate this Agreement; provided, however, that if, as of the Outside Date, any hearing with respect to any necessary approval under applicable Gaming Laws shall have been scheduled for a date after the Outside Date or any such hearing is pending, then the Outside Date shall mean April 30, 2005;

(ii) if any Governmental Entity issues an order, decree or ruling or takes any other action permanently enjoining, restraining or otherwise prohibiting the Merger and such order, decree, ruling or other action shall have become final and nonappealable;

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(iii) if, upon a vote at a duly held meeting to obtain the Company Stockholder Approval, the Company Stockholder Approval is not obtained; it being understood and agreed among Parent, Sub and the Company that in the event that, prior to the date of the Company Stockholders Meeting, the Company withdraws or modifies its approval or recommendation of the Merger and this Agreement in accordance with the last sentence of Section 5.02(b), then the term Company Stockholder Approval shall mean both (i) the approval of this Agreement by a majority of the voting power of the holders of the outstanding Company Common Stock and (ii) the approval of this Agreement by a majority of the voting power of the holders of the outstanding Company Common Stock present and duly voted (in person or by proxy) at the Company Stockholders Meeting, exclusive of those votes taken in respect of the shares of Company Common Stock held by Michael J. Gaughan, Jerry Herbst and Franklin Toti; or

(iv) if, upon a vote at a duly held meeting to obtain the Parent Stockholder Approval, the Parent Stockholder Approval is not obtained;

(c) by Parent, if the Company breaches or fails to perform in any material respect any of its representations, warranties or covenants contained in this Agreement, which breach or failure to perform (i) would give rise to the failure of a condition set forth in Section 7.02(a) or 7.02(b), and (ii) cannot be or has not been cured within 30 days after the giving of written notice to the Company of such breach;

(d) by Parent, if the aggregate number of shares of Parent Common Stock required to be issued by Parent in accordance with Section 2.01(c)(3) (as determined in accordance with Section 2.01(e) without regard to the second proviso contained in Section 2.01(e)(1)) would exceed the Stock Cap; or

(e) by the Company, if Parent breaches or fails to perform in any material respect of any of its representations, warranties or covenants contained in this Agreement, which breach or failure to perform (i) would give rise to the failure of a condition set forth in Section 7.03(a) or 7.03(b), and (ii) cannot be or has not been cured within 30 days after the giving of written notice to Parent of such breach.

SECTION 8.02. Effect of Termination. In the event of termination of this Agreement by either the Company or Parent as provided in Section 8.01, this Agreement shall forthwith become void and have no effect, without any liability or obligation on the part of Parent, Sub or the Company, other than Section 3.20, Section 4.11, the last sentence of Section 6.02, Section 6.07, this Section 8.02 and Article IX, which provisions shall survive such termination, and except to the extent that such termination results from the willful and material breach by a party of any representation, warranty or covenant set forth in this Agreement.

SECTION 8.03. Amendment. This Agreement may be amended by the parties at any time before or after receipt of the Company Stockholder Approval or the Parent Stockholder Approval; provided, however, that (i) after receipt of the Company Stockholder Approval or the Parent Stockholder Approval, there shall be made no amendment that by law (or, in the case of the Parent Stockholder Approval, by the regulations established by the NYSE) requires further approval by the stockholders of the Company or Parent without the further approval of such stockholders, (ii) no amendment shall be made to this Agreement after the Effective Time and (iii) except as provided above no amendment of this Agreement by the Company shall require the approval of the stockholders of the Company. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties.

SECTION 8.04. Extension; Waiver. At any time prior to the Effective Time, the parties may (a) extend the time for the performance of any of the obligations or other acts of the other parties, (b) waive any inaccuracies in the representations and warranties of the other parties contained in this Agreement or in any document delivered pursuant to this Agreement or (c) subject to the proviso in Section 8.03, waive compliance by the other parties with any of the agreements or conditions contained in this Agreement. Subject to the proviso in Section 8.03, no extension or waiver by the Company shall require the approval of the stockholders of the Company. Any agreement on the part of a party to any such

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extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party. The failure of any party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights.

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SECTION 8.05. Procedure for Termination, Amendment, Extension or Waiver. A termination of this Agreement pursuant to Section 8.01, an amendment of this Agreement pursuant to Section 8.03 or an extension or waiver pursuant to Section 8.04 shall, in order to be effective, require in the case of Sub or the Company, action by its Board of Directors or the duly authorized designee of its Board of Directors. Termination of this Agreement prior to the Effective Time shall not require the approval of the stockholders of the Company.

ARTICLE IX

General Provisions

SECTION 9.01. Nonsurvival of Representations and Warranties. None of the representations and warranties in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the Effective Time. This Section 9.01 shall not limit any covenant or agreement of the parties which by its terms contemplates performance after the Effective Time.

SECTION 9.02. Notices. All notices, requests, claims, demands and other communications under this Agreement shall be in writing and shall be deemed given (i) upon personal delivery, (ii) one business day after being sent via a nationally recognized overnight courier service if overnight courier service is requested or (iii) upon receipt of electronic or other confirmation of transmission if sent via facsimile, in each case at the addresses or fax numbers (or at such other address or fax number for a party as shall be specified by like notice) set forth below:

(a) if to Parent or Sub, to

Boyd Gaming Corporation

2950 Industrial Road

Las Vegas, NV 89109

Attention: General Counsel

Fax No.: (702) 792-7335

with a copy to:

Cravath, Swaine & Moore LLP

Worldwide Plaza

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825 Eighth Avenue

New York, NY 10019

Attention: Peter S. Wilson, Esq.

Mark I. Greene, Esq.

Fax No.: (212) 474-3700

(b) if to the Company, to

Coast Casinos, Inc.

4500 West Tropicana Avenue

Las Vegas, NV 89103

Attention: President

Fax No.: (702) 365-7566

with a copy to:

Gibson, Dunn & Crutcher, LLP

333 South Grand Avenue

Los Angeles, CA 90071

Attention: Karen E. Bertero, Esq.

Fax No.: (213) 229-7520

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SECTION 9.03. Definitions. For purposes of this Agreement:

An affiliate of any person means another person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first person.

Knowledge of the Company means, with respect to any matter in question, the actual knowledge of the Company's executive officers and general counsel.

Knowledge of Parent means, with respect to any matter in question, the actual knowledge of Parent's executive officers.

Material Adverse Effect on a person means a material adverse effect on (i) the business, assets, financial condition or results of operations of such person and its subsidiaries, taken as a whole, (ii) the ability of such person to perform its obligations under this Agreement or (iii) the ability of such person to consummate the Merger and the other Transactions to be performed or consummated by such person, other than any state of facts, event, change, effect, development, condition or occurrence relating (A) to the economy in general, (B) to such person's industry in general and not specifically relating to such person or such person's subsidiaries and (C) with respect to the Company and Parent, primarily to the entering into by the Company of this Agreement with Parent as opposed to any other third party.

A person means any individual, firm, corporation, partnership, company, limited liability company, trust, joint venture, association, Governmental Entity or other entity.

A subsidiary of any person means another person, an amount of the voting securities, other voting ownership or voting partnership interests of which is sufficient to elect at least a majority of its Board of Directors or other governing body (or, if there are no such voting interests, 50% or more of the equity interests of which) is owned directly or indirectly by such first person.

SECTION 9.04. Interpretation: Disclosure Letters. When a reference is made in this Agreement to a Section or Subsection, such reference shall be to a Section or Subsection of this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation".

SECTION 9.05. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule or Law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

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SECTION 9.06. Counterparts: Facsimile. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties. Facsimile transmission of any signed original document and/or retransmission of any signed facsimile transmission will be deemed the same as delivery of an original. At the request of any party, the parties will confirm facsimile transmission by signing a duplicate original document.

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SECTION 9.07. Entire Agreement: No Third-Party Beneficiaries. This Agreement, taken together with the Company Disclosure Letter, (a) constitute the entire agreement and supersede all prior agreements and understandings, both written and oral, among the parties with respect to the Merger and (b) except for Section 6.06, are not intended to confer upon any person other than the parties hereto any rights or remedies hereunder. Notwithstanding clause (b) of the immediately preceding sentence, following the Effective Time (i) the provisions of Article II shall be enforceable by holders of Certificates, (ii) the provisions of Section 6.14(a) shall be enforceable by Peter M. Thomas and (iii) the provisions of Section 6.14(b) shall be enforceable by Michael J. Gaughan.

SECTION 9.08. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Nevada, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof.

SECTION 9.09. Assignment. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned, in whole or in part, by operation of law or otherwise by any of the parties without the prior written consent of the other parties, except that Sub may assign, in its sole discretion, any of or all its rights, interests and obligations under this Agreement to Parent or to any direct or indirect wholly owned subsidiary of Parent, but no such assignment shall relieve Sub of any of its obligations under this Agreement. Any purported assignment without such consent shall be void. Subject to the preceding sentences, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

SECTION 9.10. Enforcement. The parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any Nevada state court or any Federal court located in the County of Clark in the State of Nevada, this being in addition to any other remedy to which they are entitled at law or in equity. In addition, each of the parties hereto (a) consents to submit itself to the personal jurisdiction of any Nevada state court or any Federal court located in the County of Clark in the State of Nevada in the event any dispute arises out of this Agreement or the Merger, (b) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, (c) agrees that it will not bring any action relating to this Agreement or the Merger in any court other than any Nevada state court or any Federal court sitting in the County of Clark in the State of Nevada and (d) waives any right to trial by jury with respect to any action related to or arising out of this Agreement or the Merger.

[The remainder of this page has been left blank intentionally. Signature page follows.]

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IN WITNESS WHEREOF, Parent, Sub and the Company have duly executed this Agreement, all as of the date first written above.

BOYD GAMING CORPORATION,

by /s/ WILLIAM S. BOYD

Name: William S. Boyd
Title: Chairman and Chief Executive Officer

BGC, INC.,

by /s/ WILLIAM S. BOYD

Name: William S. Boyd
Title: President

COAST CASINOS, INC.,

by /s/ MICHAEL J. GAUGHAN

Name: Michael J. Gaughan
Title: Chairman and Chief Executive Officer

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EXHIBIT A

Form of Affiliate Letter

Ladies and Gentlemen:

The undersigned refers to the Agreement and Plan of Merger (the Merger Agreement) dated as of February 6, 2004, among Boyd Gaming Corporation, a Nevada corporation, BGC, Inc., a Nevada corporation and a wholly owned subsidiary of Boyd Gaming Corporation, and Coast Casinos, Inc., a Nevada corporation. Capitalized terms used but not defined in this letter have the meanings give such terms in the Merger Agreement.

The undersigned, a holder of shares of Company Common Stock, is entitled to receive in connection with the Merger shares of Parent Common Stock. The undersigned acknowledges that the undersigned may be deemed an affiliate of the Company within the meaning of Rule 145 (Rule 145) promulgated under the Securities Act, although nothing contained herein should be construed as an admission of such fact.

If in fact the undersigned were an affiliate under the Securities Act, the undersigned's ability to sell, assign or transfer the Parent Common Stock received by the undersigned in exchange for any shares of Company Common Stock pursuant to the Merger may be restricted unless such sale, assignment, or transfer is registered under the Securities Act or an exemption from such registration is available. The undersigned (i) understands that such exemptions are limited and (ii) has obtained advice of counsel as to the nature and conditions of such exemptions, including information with respect to the applicability to the sale of such securities of Rules 144 and 145(d) promulgated under the Securities Act. The undersigned understands that Parent will not be required to maintain the effectiveness of any registration statement under the Securities Act for purposes of resale of Parent Common Stock by the undersigned.

The undersigned hereby represents to and covenants with Parent that the undersigned will not sell, assign or transfer any of the Parent Common Stock received by the undersigned in exchange for shares of Company Common Stock pursuant to the Merger except (i) pursuant to an effective registration statement under the Securities Act, (ii) in conformity with the volume and other limitations of Rule 144 or (iii) in a transaction that, in the opinion of independent counsel reasonably satisfactory to Parent or as described in a no-action or interpretive letter from the Staff of the SEC, is not required to be registered under the Securities Act.

In the event of a sale or other disposition by the undersigned pursuant to Rule 145, of Parent Common Stock received by the undersigned in the Merger, the undersigned will supply Parent with evidence of compliance with such Rule, in the form of a letter in the form of Annex I hereto and the opinion of counsel or no-action letter referred to above. The undersigned understands that Parent may instruct its transfer agent to withhold the transfer of any Parent Common Stock disposed of by the undersigned, but that upon receipt of such evidence of compliance the transfer agent shall effectuate the transfer of the Parent Common Stock sold as indicated in the letter.

The undersigned acknowledges and agrees that appropriate legends will be placed on certificates representing Parent Common Stock received by the undersigned in the Merger or held by a transferee thereof, which legends will be removed by delivery of substitute certificates upon receipt of an opinion in form and substance reasonably satisfactory to Parent from independent counsel reasonably satisfactory to Parent to the effect that such legends are no longer required for purposes of the Securities Act.

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The undersigned acknowledges that (i) the undersigned has carefully read this letter and understands the requirements hereof and the limitations imposed upon the distribution, sale, transfer or other disposition of Parent Common Stock and (ii) the receipt by Parent of this letter is an inducement and a condition to Parent's obligations to consummate the Merger.

This Agreement shall only become effective as of the Effective Time of the Merger.

Very truly yours,

Dated:

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ANNEX I TO

EXHIBIT A

[Name]

On [], the undersigned sold the securities of Boyd Gaming Corporation (Parent) described below in the space provided for that purpose (the Securities). The Securities were received by the undersigned in connection with the merger of BGC, Inc., a Nevada corporation and a wholly owned subsidiary of Parent, with Coast Casinos, Inc., a Nevada corporation.

Based upon the most recent report or statement filed by Parent with the Securities and Exchange Commission, the Securities sold by the undersigned were within the prescribed limitations set forth in paragraph (e) of Rule 144 promulgated under the Securities Act of 1933, as amended (the Securities Act).

The undersigned represents that the Securities were sold in brokers transactions , within the meaning of Section 4(4) of the Securities Act or in transactions with a market maker as that term is defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended. The undersigned further represents that the undersigned has not solicited or arranged for the solicitation of orders to buy the Securities, and that the undersigned has not made any payment in connection with the offer or sale of the Securities to any person other than to the broker who executed the order in respect of such sale.

Very truly yours,

[Space to be provided for description of the Securities]

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EXHIBIT B & C

Representation Letters

[Letterhead of Coast Casinos, Inc.]

[DATE]

Cravath, Swaine & Moore LLP

Worldwide Plaza

825 Eighth Avenue

New York, NY 10019

Gibson, Dunn & Crutcher LLP

333 South Grand Avenue

Los Angeles, CA 90071

Ladies and Gentlemen:

In connection with the opinions to be delivered pursuant to Sections 7.02(e) and 7.03(d) of the Agreement and Plan of Merger dated as of February 6, 2004 (the Merger Agreement), among Boyd Gaming Corporation, a Nevada corporation (Parent), BGC, Inc., a Nevada corporation and a wholly owned subsidiary of Parent (Sub), and Coast Casinos, Inc., a Nevada corporation (the Company), whereby the Company will merge with and into Sub (the Merger) with Sub becoming the Surviving Corporation, and in connection with the filing with the Securities and Exchange Commission of the registration statement on Form S-4 in which the Joint Proxy Statement will be included as a prospectus (the Registration Statement), each as amended or supplemented through the date hereof, the undersigned certifies and represents on behalf of the Company, after due inquiry and investigation, as follows (any capitalized term used but not defined herein shall have the meaning given to such term in the Merger Agreement):

1. The facts relating to the Merger as described in the Merger Agreement, the Registration Statement and the other documents described in the Registration Statement are, insofar as such facts pertain to the Company are true, correct and complete in all material respects. The Merger will be consummated in accordance with the Merger Agreement.

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2. The formulas set forth in the Merger Agreement pursuant to which each issued and outstanding share Company Common Stock will be converted as outlined in Section 2.01 of the Merger Agreement are the result of arm's length bargaining.

3. If cash payments are made to holders of Company Common Stock in lieu of fractional shares of Parent Common Stock that would otherwise be issued to such holders in the Merger, such payments will be made for the purpose of saving Parent the expense and inconvenience of issuing and transferring fractional shares of Parent Common Stock and will not represent separately bargained-for consideration. The total cash consideration that will be paid in the Merger to the Company stockholders in lieu of fractional shares of Parent Common Stock will not exceed one percent (1%) of the total consideration that will be issued in the Merger to the Company stockholders in exchange for their shares of Company Common Stock. The fractional share interests of each Company stockholder will be aggregated, and no Company stockholder will receive cash for fractional share interests in an amount equal to or greater than the value of one full share of Parent Common Stock.

4. Neither the Company nor any person related to the Company (as defined in Treasury Regulation Section 1.368-1(e)) has acquired or has any plan or intention to acquire any Company Common Stock in contemplation of the Merger, or otherwise as part of a plan of which the Merger is a part. A person is considered related to the Company under Treasury Regulation Section 1.368-1(e) if: (i) the Company and the corporation in question are members of the same affiliated group as defined in Section 1504 of the Code (determined without regard to Section 1504(b)) or (ii) a purchase of the stock of the Company by the corporation in question or the purchase of the stock of the corporation in question by the Company would be treated as a distribution in redemption of the stock of the first corporation under Section 304(a)(2) of the Code (determined without regard

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to Treasury Regulation Section 1.1502-80(b)). In addition, a corporation will be treated as related to the Company if a relationship described in the preceding sentence exists immediately before or immediately after the Merger.

5. The Company has not made, and does not have any plan or intention to make, any distributions prior to, in contemplation of or otherwise in connection with, the Merger to holders of Company Common Stock (other than dividends made in the ordinary course of business and other than payment of cash to holders of Dissenter Shares as set forth in Paragraph 17 of this letter).

6. Immediately following the Merger, the Surviving Corporation will hold (i) at least 90% of the fair market value of the net assets and at least 70% of the fair market value of the gross assets that were held by the Company immediately prior to the Merger and (ii) at least 90% of the fair market value of the net assets and at least 70% of the fair market value of the gross assets that were held by Sub immediately prior to the Merger. For purposes of this representation, amounts paid to stockholders who receive cash or other property (including cash in lieu of fractional shares of Parent Common Stock and cash paid to dissenting stockholders) provided, directly or indirectly, by the Company or Sub in connection with the Merger, assets of the Company or Sub used to pay its respective reorganization expenses (including transfer taxes, if any) and all redemptions and distributions made by the Company (other than dividends made in the ordinary course of business) immediately preceding, or in contemplation of, the Merger will be included as assets held by the Company or Sub, respectively, immediately prior to the Merger.

7. Except as otherwise specifically contemplated under the Merger Agreement, the Company will pay its expenses, if any, incurred in connection with the Merger. The Company has neither paid nor assumed (directly or indirectly), or agreed to pay or assume (directly or indirectly), any expense or other liability, whether fixed or contingent, incurred or to be incurred by any holder of Company Common Stock in connection with or as part of the Merger or any related transactions.

8. Except as otherwise specifically contemplated under the Merger Agreement, immediately prior to the time of the Merger, the Company will not have outstanding any warrants, options, convertible securities or any other type of right pursuant to which any person could acquire Company Common Stock. Simultaneously with the Merger, all outstanding options and related stock appreciation rights, if any, to purchase or acquire share of Company Common Stock granted under employee incentive or benefits plans, programs or arrangements and non-employee director plans presently maintained by the Company, together with all other outstanding awards granted under such plans, will be canceled or converted into similar instruments of Parent.

9. No assets of the Company have been sold, transferred or otherwise disposed of which would prevent Parent from continuing the historic business of the Company or from using a significant portion of the historic business assets of the Company in a business following the Merger (as such terms are defined in Treasury Regulation Section 1.368-1(d)).

10. The Company is not an investment company as defined in Section 368(a)(2)(F)(iii) and (iv) of the Code.

11. The Company will not take, and, to the best knowledge of the management of the Company, there is no plan or intention by stockholders of the Company to take, any position on any Federal, state or local income or franchise tax return, or take any other tax reporting position, that is inconsistent with the treatment of the Merger as a reorganization within the meaning of Section 368(a) of the Code, unless otherwise required by a determination (as defined in Section 1313(a)(1) of the Code) or by applicable state or local tax law (and then only to the extent required by such applicable state or local tax law).

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12. None of the compensation received by any stockholder-employee or stockholder-independent contractor of the Company in respect of periods at or prior to the Effective Time (including pursuant to any

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consulting agreement) represents separate consideration for, or is allocable to, any of the Company Common Stock. None of the Parent Common Stock that will be received by any stockholder-employee or stockholder-independent contractor of the Company in the Merger represents separately bargained-for consideration which is allocable to any employment agreement or arrangement. The compensation paid to any stockholder-employee or stockholder-independent contractor will be for services actually rendered and will be determined by bargaining at arms length.

13. There is no intercorporate indebtedness existing between Parent (or any of its subsidiaries, including Sub) and the Company (or any of its subsidiaries) that was issued, acquired or will be settled at a discount.

14. The liabilities of Company assumed by Sub and the liabilities to which the transferred assets of the Company are subject were incurred by the Company in the ordinary course of business.

15. The Company is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of Section 368(a)(3)(A) of the Code.

16. On the date of the Merger, the fair market value of the assets of the Company will exceed the sum of its liabilities, plus the amount of liabilities, if any, to which such assets are subject.

17. Provided that this representation does not result in a violation of the representation set forth in Paragraph 6 of this letter, the Company will pay holders of Dissenter Shares the value of their shares out of the Company's own funds and not out of funds provided, directly or indirectly, by Parent.

18. At least 40% of the value of the Adjusted Merger Consideration (as determined as of the Closing Date) will be comprised of shares of Parent Common Stock. For purposes of this representation, shares of Parent Common Stock issued in the Merger shall be valued in the manner set forth in Section 2.01(e) of the Merger Agreement.

19. All obligations to pay holders of Dissenter Shares the value of their shares under applicable law are obligations of the Company or the Surviving Corporation.

20. The Merger is being undertaken for purposes of enhancing the business of the Company and for other good and valid business purposes of the Company.

21. The Merger Agreement, the Registration Statement and the other documents described in the Registration Statement represent the entire understanding of the Company with respect to the Merger.

22. The undersigned is authorized to make all the representations set forth herein on behalf of the Company.

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The undersigned acknowledges that (i) your opinions will be based on the accuracy of the representations set forth herein and on the accuracy of the representations and warranties and the satisfaction of the covenants and obligations contained in the Merger Agreement and the various other documents related thereto, and (ii) your opinions will be subject to certain limitations and qualifications including that it may not be relied upon if any such representations or warranties are not accurate or if any of such covenants or obligations are not satisfied in all material respects.

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The undersigned acknowledges that your opinions will not address any tax consequences of the Merger or any action taken in connection therewith except as expressly set forth in such opinions.

Very truly yours,

Coast Casinos, Inc.

by _____

Name:
Title:

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[Letterhead of Boyd Gaming Corporation]

[DATE]

Cravath, Swaine & Moore LLP

Worldwide Plaza

825 Eighth Avenue

New York, NY 10019

Gibson, Dunn & Crutcher LLP

333 South Grand Avenue

Los Angeles, CA 90071

Ladies and Gentlemen:

In connection with the opinions to be delivered pursuant to Sections 7.02(e) and 7.03(d) of the Agreement and Plan of Merger dated as of February 6, 2004 (the Merger Agreement), among Boyd Gaming Corporation, a Nevada corporation (Parent), BGC, Inc., a Nevada corporation and a wholly owned subsidiary of Parent (Sub), and Coast Casinos, Inc., a Nevada corporation (the Company), whereby the Company will merge with and into Sub (the Merger) with Sub becoming the Surviving Corporation, and in connection with the filing with the Securities and Exchange Commission of the registration statement on Form S-4 in which the Joint Proxy Statement will be included as a prospectus (the Registration Statement), each as amended or supplemented through the date hereof, the undersigned certifies and represents on behalf of Parent and Sub, after due inquiry and investigation, as follows (any capitalized term used but not defined herein shall have the meaning given to such term in the Merger Agreement):

1. The facts relating to the Merger as described in the Merger Agreement, the Registration Statement and the other documents described in the Registration Statement are, insofar as such facts pertain to Parent and Sub, true, correct and complete in all material respects. The Merger will be consummated in accordance with the Merger Agreement.
2. The formulas set forth in the Merger Agreement pursuant to which each issued and outstanding share of Company Common Stock will be converted as outlined in Section 2.01 of the Merger Agreement are the result of arm's length bargaining.
3. Prior to the Merger, Parent will own at least 80% of the total combined voting power of all classes of Sub stock entitled to vote and at least 80% of the total number of shares of all other classes of Sub stock.

4. If cash payments are made to holders of Company Common Stock in lieu of fractional shares of Parent Common Stock that would otherwise be issued to such holders in the Merger, such payments will be made for the purpose of saving Parent the expense and inconvenience of issuing and transferring fractional shares of Parent Common Stock and will not represent separately bargained for consideration. The total cash consideration that will be paid in the Merger to Company stockholders in lieu of fractional shares of Parent Common Stock will not exceed one percent (1%) of the total consideration that will be issued in the Merger to Company stockholders in exchange for their shares of Company Common Stock. The fractional share interests of each Company stockholder will be aggregated, and no Company stockholder will receive cash for fractional share interests in an amount equal to or greater than the value of one full share of Parent Common Stock.

5. At least 40% of the value of the Adjusted Merger Consideration (as determined as of the Closing Date) will be comprised of shares of Parent Common Stock. For purposes of this representation, shares of Parent Common Stock issued in the Merger shall be valued in the manner set forth in Section 2.01(e) of the Merger Agreement.

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6. Parent has no plan or intention to, and will not in connection with the Merger, acquire or redeem any of the Parent Common Stock issued in the Merger, either directly or through any transaction, agreement or arrangement with any other person, provided however, that Parent may adopt or continue an open market stock repurchase program that satisfies the requirements of Revenue Ruling 99-58, 1999-2 C.B. 701. To the best knowledge of the management of Parent, no person related to Parent (as defined in Treasury Regulation Section 1.368-1(e)) has a plan or intention to, nor will in connection with the Merger, acquire or redeem any of the Parent Common Stock issued in the Merger, either directly or through any transaction, agreement or arrangement with any other person. A person is considered related to the Parent under Treasury Regulation Section 1.368-1(e) if: (i) Parent and the corporation in question are members of the same affiliated group as defined in Section 1504 of the Code (determined without regard to Section 1504(b)) or (ii) a purchase of the stock of Parent by the corporation in question or the purchase of the stock of the corporation in question by Parent would be treated as a distribution in redemption of the stock of the first corporation under Section 304(a)(2) of the Code (determined without regard to Treasury Regulation Section 1.1502-80(b)). In addition, a corporation will be treated as related to Parent if a relationship described in the preceding sentence: (i) exists immediately before or immediately after the Merger or (ii) the relationship is created in connection with the Merger. For purposes of this representation letter, a person is considered to own or acquire stock owned or acquired (as the case may be) by a partnership in which such person is a partner in proportion to such person's interest in the partnership.

7. Parent does not have any plan or intention to make any distributions after, but in connection with, the Merger to holders of Parent Common Stock (other than dividends made in the ordinary course of business).

8. Neither Parent nor Sub (nor any other subsidiary of Parent) has acquired or, except as a result of the Merger, will acquire, or has owned in the past five years, any Company Common Stock.

9. Immediately following the Merger, the Surviving Corporation will hold (i) at least 90% of the fair market value of the net assets and at least 70% of the fair market value of the gross assets that were held by the Company immediately prior to the Merger and (ii) at least 90% of the fair market value of the net assets and at least 70% of the fair market value of the gross assets that were held by Sub immediately prior to the Merger. For purposes of this representation, amounts paid to stockholders who receive cash or other property (including cash in lieu of fractional shares of Parent Common Stock and cash paid to dissenting stockholders) provided, directly or indirectly, by the Company or Sub in connection with the Merger, assets of the Company or Sub used to pay its respective reorganization expenses (including transfer taxes, if any) and all redemptions and distributions made by the Company (other than dividends made in the ordinary course of business) immediately preceding, or in contemplation of, the Merger will be included as assets held by the Company or Sub, respectively, immediately prior to the Merger.

10. Parent has no plan or intention, following the Merger, to liquidate the Surviving Corporation, merge the Surviving Corporation with or into another corporation in which the Surviving Corporation is not the survivor, sell or otherwise dispose of any of the stock of the Surviving Corporation, cause the Surviving Corporation to distribute to Parent or any of its subsidiaries any assets of the Surviving Corporation or the proceeds of any borrowings incurred by the Surviving Corporation or cause the Surviving Corporation to sell or otherwise dispose of any of the assets held by the Surviving Corporation at the time of the Merger or any of the assets of Sub acquired by the Surviving Corporation in the Merger, except for dispositions made in the ordinary course of business and transfers of assets permitted under Section 368(a)(2)(C) of the Code or Treasury Regulation Section 1.368-2(k). Parent may transfer the stock of Sub to a controlled subsidiary of Parent (as defined in Section 368(c) of the Code) after the Merger in a manner permitted under Section 368(a)(2)(C) of the Code or Treasury Regulation Section 1.368-2(k).

11. Except as otherwise specifically contemplated under the Merger Agreement, Parent and Sub will pay their respective expenses, if any, incurred in connection with the Merger.

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12. Following the Merger, Parent intends to cause the Surviving Corporation to continue the historic business of the Company or to use a significant portion of the historic business assets of the Company in a business (as such terms are defined in Treasury Regulation Section 1.368-1(d)).

13. Neither Parent nor Sub is an investment company as defined in Section 368(a)(2)(F)(iii) and (iv) of the Code.

14. Neither Parent nor Sub will take any position on any Federal, state or local income or franchise tax return, or take any other tax reporting position, that is inconsistent with the treatment of the Merger as a reorganization within the meaning of Section 368(a) of the Code, unless otherwise required by a determination (as defined in Section 1313(a)(1) of the Code) or by applicable state or local tax law (and then only to the extent required by such applicable state or local tax law).

15. None of the compensation received by any stockholder-employee or stockholder-independent contractor of the Company in respect of periods after the Effective Time (including pursuant to any consulting agreement) represents separate consideration for, or is allocable to, any of its Company Common Stock. None of the Parent Common Stock that will be received by any stockholder-employee or stockholder-independent contractor of the Company in the Merger represents separately bargained-for consideration which is allocable to any employment agreement or arrangement. The compensation paid to any stockholder-employee or stockholder-independent contractor will be for services actually rendered and will be determined by bargaining at arm's length.

16. There is no intercorporate indebtedness existing between Parent (or any of its subsidiaries, including Sub) and Company (or any of its subsidiaries) that was issued, acquired or will be settled at a discount.

17. Neither Parent nor Sub is under the jurisdiction of a court in a Title 11 or similar case within the meaning of Section 368(a)(3)(A) of the Code.

18. Parent will not reimburse the Company, directly or indirectly, for any payments made by the Company to holders of Dissenter Shares in connection with the Merger.

19. Sub is a corporation newly formed for the purpose of participating in the Merger, and at no time prior to the Merger has it had assets (other than nominal assets contributed upon the formation of Sub, which assets will be held by the Surviving Corporation following the Merger) or business operations.

20. No stock of Sub will be issued in the Merger.

21. The Merger is being undertaken for purposes of enhancing the business of Parent and for other good and valid business purposes of Parent.

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22. The Merger Agreement, the Registration Statement and the other documents described in the Registration Statement represent the entire understanding of Parent and Sub with respect to the Merger.

23. The undersigned is authorized to make all the representations set forth herein on behalf of Parent and Sub.

The undersigned acknowledges that (i) your opinions will be based on the accuracy of the representations set forth herein and on the accuracy of the representations and warranties and the satisfaction of the covenants and obligations contained in the Merger Agreement and the various other documents related thereto, and (ii) your opinions will be subject to certain limitations and qualifications including that it may not be relied upon if any such representations or warranties are not accurate or if any of such covenants or obligations are not satisfied in all material respects.

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The undersigned acknowledges that your opinions will not address any tax consequences of the Merger or any action taken in connection therewith except as expressly set forth in such opinions.

Very truly yours,

Boyd Gaming Corporation

by _____

Name:
Title:

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ANNEX B

February 6, 2004

Board of Directors

Boyd Gaming Corporation

2950 Industrial Drive

Las Vegas, NV 89109

Ladies and Gentlemen:

Deutsche Bank Securities Inc. (*Deutsche Bank*) has acted as financial advisor to Boyd Gaming Corporation (*Boyd Gaming*) in connection with the proposed merger of Boyd Gaming and Coast Casinos, Inc. (the *Company*) pursuant to the Agreement and Plan of Merger, dated as of February 6, 2004 among the Company, Boyd Gaming and BGC, Inc., a wholly owned subsidiary of Boyd Gaming (*Sub*) (the *Merger Agreement*), which provides, among other things, for the merger of the Company with and into Sub (the *Transaction*), as a result of which the Company will become a wholly owned subsidiary of Boyd Gaming. As set forth more fully in the Merger Agreement, as a result of the Transaction, (a) each share of the Common Stock, par value \$1.00 per share, of the Company (*Company Common Stock*) held by Michael J. Gaughan and Franklin Toti will be converted into the right to receive 32.8025 shares (the *Fixed Stock Consideration*) of Common Stock, par value \$0.01 per share, of Boyd Gaming (*Boyd Common Stock*), (b) each share of the Company Common Stock held by Jerry Herbst will be converted into the right to receive \$550.00 in cash (the *Herbst Cash Consideration*), and (c) each share of Company Common Stock held by stockholders other than Michael J. Gaughan, Franklin Toti and Jerry Herbst will be converted into the right to receive, at the option of the holder (subject to certain pro-ratio procedures), (i) 32.8025 shares of Boyd Common Stock (the *Stock Election Consideration*), or (ii) \$550.00 per share in cash (the *Cash Election Consideration*). The Stock Election Consideration and the Cash Election Consideration may be adjusted pursuant to the Merger Agreement, provided that the total Stock Election Consideration shall not exceed the Stock Cap (as defined in the Merger Agreement) and the Cash Election Consideration shall not exceed the Cash Cap (as defined in the Merger Agreement). The Fixed Stock Consideration, the Herbst Cash Consideration, the Stock Election Consideration (including any adjustment made thereto in accordance with the Merger Agreement) and the Cash Election Consideration (including any adjustment made thereto in accordance with the Merger Agreement) shall collectively be referred to as the Merger Consideration. The terms and conditions of the Transaction are more fully set forth in the Merger Agreement.

You have requested Deutsche Bank's opinion, as investment bankers, as to the fairness, from a financial point of view, to Boyd Gaming of the Merger Consideration.

In connection with Deutsche Bank's role as financial advisor to Boyd Gaming, and in arriving at its opinion, Deutsche Bank has reviewed certain publicly available financial and other information concerning the Company and Boyd Gaming and certain internal analyses and other information furnished to it by the Company and Boyd Gaming. Deutsche Bank has also held discussions with members of the senior managements of the Company and Boyd Gaming regarding the businesses and prospects of their respective companies and the joint prospects of a combined company. In addition, Deutsche Bank has (i) reviewed the reported prices and trading activity for Boyd Common Stock, (ii) compared certain financial and stock market information for the Company and Boyd Gaming with similar information for certain other companies whose securities are publicly traded, (iii) reviewed the financial terms of certain recent business combinations which it deemed comparable in whole or in part, (iv) reviewed the terms of the Merger Agreement, the Stockholders Agreement (as defined in the Merger

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Agreement) and certain related documents, and (v) performed such other studies and analyses and considered such other factors as it deemed appropriate.

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Boyd Gaming Corporation

February 6, 2004

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Deutsche Bank has not assumed responsibility for independent verification of, and has not independently verified, any information, whether publicly available or furnished to it, concerning the Company or Boyd Gaming, including, without limitation, any financial information, forecasts or projections considered in connection with the rendering of its opinion. Accordingly, for purposes of its opinion, Deutsche Bank has assumed and relied upon the accuracy and completeness of all such information and Deutsche Bank has not conducted a physical inspection of any of the properties or assets, and has not prepared or obtained any independent evaluation or appraisal of any of the assets or liabilities, of the Company or Boyd Gaming. With respect to the financial forecasts and projections made available to Deutsche Bank and used in its analyses, Deutsche Bank has assumed that they have been reasonably prepared on bases reflecting the best currently available estimates and judgments of the management of the Company or Boyd Gaming, as the case may be, as to the matters covered thereby. In rendering its opinion, Deutsche Bank expresses no view as to the reasonableness of such forecasts and projections or the assumptions on which they are based. Deutsche Bank's opinion is necessarily based upon economic, market and other conditions as in effect on, and the information made available to it as of, the date hereof.

For purposes of rendering its opinion, Deutsche Bank has assumed that, in all respects material to its analysis, the representations and warranties of Boyd Gaming, Sub and the Company contained in the Merger Agreement are true and correct, Boyd Gaming, Sub and the Company will each perform all of the covenants and agreements to be performed by it under the Merger Agreement and all conditions to the obligations of each of Boyd Gaming, Sub and the Company to consummate the Transaction will be satisfied without any waiver thereof. Deutsche Bank has also assumed that all material governmental, regulatory or other approvals and consents required in connection with the consummation of the Transaction will be obtained and that in connection with obtaining any necessary governmental, regulatory or other approvals and consents, or any amendments, modifications or waivers to any agreements, instruments or orders to which either Boyd Gaming or the Company is a party or is subject or by which it is bound, no limitations, restrictions or conditions will be imposed or amendments, modifications or waivers made that would have a material adverse effect on Boyd Gaming or the Company or materially reduce the contemplated benefits of the Transaction to Boyd Gaming. In addition, you have informed Deutsche Bank, and accordingly for purposes of rendering its opinion Deutsche Bank has assumed, that the Transaction will be a tax-free reorganization to Boyd Gaming.

This opinion is addressed to, and for the use and benefit of, the Board of Directors of Boyd Gaming and is not a recommendation to the stockholders of Boyd Gaming to approve the issuance of shares of Boyd Common Stock in the Transaction. This opinion is limited to the fairness, from a financial point of view, to Boyd Gaming of the Merger Consideration, and Deutsche Bank expresses no opinion as to the merits of the underlying decision by Boyd Gaming to engage in the Transaction. This opinion does not in any manner address the prices at which shares of Boyd Common Stock will trade after the announcement or consummation of the Transaction.

Deutsche Bank will be paid a fee for its services as financial advisor to Boyd Gaming in connection with the Transaction which is contingent upon consummation of the Transaction. We are an affiliate of Deutsche Bank AG (together with its affiliates, the DB Group). One or more members of the DB Group have, from time to time, provided investment banking, commercial banking (including extension of credit) and other financial services to Boyd Gaming and the Company or their affiliates for which it has received compensation, including (1) the Company's February 2002 \$125MM 9.50% senior subordinated notes issuance for which a member of the DB Group acted as co-manager, (2) the Company's September 2003 \$300MM senior secured credit facility for which a member of the DB Group acted as syndication agent, (3) Boyd Gaming's March 2002 \$250MM 8.75% senior subordinated notes offering for which a member of the DB Group acted as joint book-running manager, (4) Boyd Gaming's June 2002 \$500MM senior secured credit facility for which a member of the DB Group acted as co-documentation agent, and (5) Boyd Gaming's December 2002 \$300MM 7.75% senior subordinated notes offering for which a member of the DB Group acted as joint book-running manager. One or more members of the

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DB Group have agreed to provide financing to Boyd Gaming in connection with the Transaction some of which funds are expected to be used to pay off existing loans made by members of the DB Group to the Company and to Boyd Gaming. In the ordinary course of business, members of the DB Group may actively trade in the securities and other instruments and obligations of Boyd Gaming and the Company for their own accounts and for the accounts of their customers. Accordingly, the DB Group may at any time hold a long or short position in such securities, instruments and obligations.

Based upon and subject to the foregoing, it is Deutsche Bank's opinion as investment bankers that, as of the date hereof, the Merger Consideration is fair, from a financial point of view, to Boyd Gaming.

Very truly yours,

/s/ DEUTSCHE BANK SECURITIES INC.

DEUTSCHE BANK SECURITIES INC.

Boyd Gaming Corporation

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ANNEX C

February 6, 2004

Board of Directors

Coast Casinos, Inc.

4500 West Tropicana Avenue

Las Vegas, NV 89103

Members of the Board of Directors:

You have requested our opinion as to the fairness from a financial point of view to the stockholders of Coast Casinos, Inc. (the Company), other than Michael J. Gaughan, Jerry Herbst and Franklin Toti (collectively, the Principal Stockholders), of the consideration proposed to be received by such stockholders in connection with the proposed merger (the Merger) of the Company with a wholly owned subsidiary of Boyd Gaming Corporation (the Purchaser). Pursuant to the terms of the Agreement and Plan of Merger, to be dated as of February 6, 2004 (the Agreement), to be entered into among the Company, the Purchaser and BGC, Inc. (the Acquisition Sub), the Company will become a wholly owned subsidiary of the Purchaser, and stockholders of the Company, other than the Principal Stockholders, will receive for each share of common stock, par value \$0.01 per share, of the Company (the Company Common Stock) held by them, other than shares held by the Company, the Purchaser or the Acquisition Sub or as to which dissenters' or appraisal rights have been perfected, consideration equal to either (i) \$550 per share in cash (the Cash Consideration) or (ii) 32.8025 shares of common stock, par value \$0.01 per share, of the Purchaser (the Purchaser Common Stock), subject to adjustment as provided in the Agreement (the Stock Consideration) and, together with the Cash Consideration and any cash payable in lieu of fractional shares of Parent Common Stock, collectively referred to as the Merger Consideration). The Company's stockholders, other than the Principal Stockholders, may elect with respect to each share of Company Common Stock to receive the Cash Consideration or the Stock Consideration, and the Cash Consideration and the Stock Consideration will be allocated among such stockholders in accordance with such elections, subject to certain allocation and proration procedures contained in the Agreement (as to which we express no opinion). The Agreement provides that the aggregate Cash Consideration issued to the stockholders, other than the Principal Stockholders, will not exceed \$336,170,274.88 and the aggregate Stock Consideration will not exceed 1,009,194 shares of Purchaser Common Stock, subject to certain adjustments set forth in the Agreement. Pursuant to the Agreement, Michael J. Gaughan and Franklin Toti will receive for each share of Company Common Stock held by them 32.8025 shares of Parent Common Stock, and Jerry Herbst will receive for each share of Company Common Stock held by him \$550 in cash. The terms and conditions of the Merger are more fully set out in the Agreement.

For purposes of the opinion set forth herein, we have:

- (i) reviewed certain publicly available financial statements and other business and financial information of the Company and the Purchaser, respectively;
- (ii) reviewed certain internal financial statements and other financial and operating data concerning the Company and the Purchaser, respectively;

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- (iii) analyzed certain financial forecasts prepared by the managements of the Company and the Purchaser, respectively;
- (iv) reviewed and discussed with senior executives of the Company and the Purchaser their views of certain strategic, financial and operational benefits anticipated from the Merger;
- (v) discussed the past and current operations, financial condition and prospects of the Company with senior executives of the Company and discussed the past and current operations, financial condition and prospects of the Purchaser with senior executives of the Purchaser;
- (vi) reviewed the pro forma impact of the Merger on the Purchaser's earnings per share, cash flow, consolidated capitalization and financial ratios;
- (vii) reviewed the reported prices and trading activity for the Purchaser Common Stock;

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Board of Directors

Coast Casinos, Inc.

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- (viii) compared the financial performance of the Company and the Purchaser and the prices and trading activity of the Purchaser Common Stock with that of certain other publicly traded companies we deemed relevant;
- (ix) compared certain financial terms of the Merger to financial terms, to the extent publicly available, of certain other business combination transactions we deemed relevant;
- (x) participated in discussions among representatives of the Company and the Purchaser and their financial and legal advisors;
- (xi) reviewed the February 6, 2004 draft of the Agreement (the Draft Agreement) and certain related documents; and
- (xii) performed such other analyses and considered such other factors as we have deemed appropriate.

We have assumed and relied upon, without independent verification, the accuracy and completeness of the financial and other information reviewed by us for the purposes of this opinion. With respect to the financial forecasts, including information relating to certain strategic, financial and operational benefits anticipated from the Merger, we have assumed that they have been reasonably prepared on bases reflecting the best currently available estimates and good faith judgments of the future financial performance of the Company and the Purchaser. We have not made any independent valuation or appraisal of the assets or liabilities of the Company, nor have we been furnished with any such appraisals.

We have assumed that the final executed Agreement will not differ in any material respect from the Draft Agreement reviewed by us, and that the Merger will be consummated as provided in the Draft Agreement, with full satisfaction of all covenants and conditions set forth in the Draft Agreement and without any waivers thereof. We have also assumed that in connection with the receipt of the regulatory approvals required to consummate the Merger, no conditions will be imposed upon the Company or the Purchaser that would have a material adverse effect on the Purchaser, the Company or the benefits expected to be derived by the Merger.

We were not authorized to and did not solicit any expressions of interest from any other parties with respect to the sale of all or any part of the Company or any other alternative transaction. Consequently, no opinion is expressed as to whether any alternative transaction might produce consideration for the Company's stockholders in an amount in excess of that contemplated in the Merger.

We have acted as sole financial advisor to the Board of Directors of the Company in connection with the Merger and will receive a fee for our services, portions of which are contingent upon the rendering of this opinion and the consummation of the Merger. We or our affiliates have provided and may in the future provide financial advisory and financing services to the Company and the Purchaser and have received or may in the future receive fees for the rendering of these services. Bank of America, N.A., an affiliate of ours, serves as agent bank and is a lender under the Company's senior credit facility and is a lender under the Purchaser's senior credit facility and has received fees for the rendering of such services. In the ordinary course of our businesses, we and our affiliates may actively trade the debt and equity securities or loans of the Company

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and the Purchaser for our own account or for the accounts of customers, and accordingly, we or our affiliates may at any time hold long or short positions in such securities or loans.

It is understood that this letter is for the benefit and use of the Board of Directors of the Company in connection with and for purposes of its evaluation of the Merger. However, this opinion may not be disclosed, referred to, or communicated (in whole or in part) to any third party for any purpose whatsoever except with our prior written consent in each instance. This opinion may be included in its entirety in any filing made by the

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Board of Directors

Coast Casinos, Inc.

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Company in respect of the Merger with the Securities and Exchange Commission, so long as this opinion is reproduced in such filing in full and any description of or reference to us or summary of this opinion and the related analysis in such filing is in a form reasonably acceptable to us and our counsel. In furnishing this opinion, we do not admit that we are experts within the meaning of the term "experts" as used in the Securities Act of 1933, as amended (the "Securities Act"), and the rules and regulations promulgated thereunder, nor do we admit that this opinion constitutes a report or valuation within the meaning of Section 11 of the Securities Act. Our opinion is necessarily based on economic, market and other conditions as in effect on, and the information made available to us as of, the date hereof. It should be understood that subsequent developments may affect this opinion and we do not have any obligation to update, revise, or reaffirm this opinion. This opinion does not in any manner address the prices at which the Purchaser Common Stock will trade following the execution of the Agreement or consummation of the Merger. In addition, we express no opinion or recommendation as to how the stockholders of the Company and the Purchaser should vote at the stockholders' meetings held in connection with the Merger.

Based upon and subject to the foregoing, including the various assumptions and limitations set forth herein, we are of the opinion on the date hereof that the Merger Consideration to be received by the Company's stockholders, other than the Principal Stockholders, in the proposed Merger is fair from a financial point of view to the Company's stockholders, other than the Principal Stockholders.

Very truly yours,

/s/ BANC OF AMERICA SECURITIES LLC

BANC OF AMERICA SECURITIES LLC

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ANNEX D

NEVADA REVISED STATUTES, 92A.300 THROUGH 92A.500

RIGHTS OF DISSENTING OWNERS

NRS 92A.300 Definitions. As used in NRS 92A.300 to 92A.500, inclusive, unless the context otherwise requires, the words and terms defined in NRS 92A.305 to 92A.335, inclusive, have the meanings ascribed to them in those sections.

NRS 92A.305 Beneficial stockholder defined. Beneficial stockholder means a person who is a beneficial owner of shares held in a voting trust or by a nominee as the stockholder of record.

NRS 92A.310 Corporate action defined. Corporate action means the action of a domestic corporation.

NRS 92A.315 Dissenter defined. Dissenter means a stockholder who is entitled to dissent from a domestic corporation's action under NRS 92A.380 and who exercises that right when and in the manner required by NRS 92A.400 to 92A.480, inclusive.

NRS 92A.320 Fair value defined. Fair value, with respect to a dissenter's shares, means the value of the shares immediately before the effectuation of the corporate action to which he objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable.

NRS 92A.325 Stockholder defined. Stockholder means a stockholder of record or a beneficial stockholder of a domestic corporation.

NRS 92A.330 Stockholder of record defined. Stockholder of record means the person in whose name shares are registered in the records of a domestic corporation or the beneficial owner of shares to the extent of the rights granted by a nominee's certificate on file with the domestic corporation.

NRS 92A.335 Subject corporation defined. Subject corporation means the domestic corporation which is the issuer of the shares held by a dissenter before the corporate action creating the dissenter's rights becomes effective or the surviving or acquiring entity of that issuer after the corporate action becomes effective.

NRS 92A.340 Computation of interest. Interest payable pursuant to NRS 92A.300 to 92A.500, inclusive, must be computed from the effective date of the action until the date of payment, at the average rate currently paid by the entity on its principal bank loans or, if it has no bank loans,

at a rate that is fair and equitable under all of the circumstances.

NRS 92A.350 Rights of dissenting partner of domestic limited partnership. A partnership agreement of a domestic limited partnership or, unless otherwise provided in the partnership agreement, an agreement of merger or exchange, may provide that contractual rights with respect to the partnership interest of a dissenting general or limited partner of a domestic limited partnership are available for any class or group of partnership interests in connection with any merger or exchange in which the domestic limited partnership is a constituent entity.

NRS 92A.360 Rights of dissenting member of domestic limited-liability company. The articles of organization or operating agreement of a domestic limited-liability company or, unless otherwise provided in the articles of organization or operating agreement, an agreement of merger or exchange, may provide that contractual rights with respect to the interest of a dissenting member are available in connection with any merger or exchange in which the domestic limited-liability company is a constituent entity.

NRS 92A.370 Rights of dissenting member of domestic nonprofit corporation.

1. Except as otherwise provided in subsection 2, and unless otherwise provided in the articles or bylaws, any member of any constituent domestic nonprofit corporation who voted against the merger may, without prior

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notice, but within 30 days after the effective date of the merger, resign from membership and is thereby excused from all contractual obligations to the constituent or surviving corporations which did not occur before his resignation and is thereby entitled to those rights, if any, which would have existed if there had been no merger and the membership had been terminated or the member had been expelled.

2. Unless otherwise provided in its articles of incorporation or bylaws, no member of a domestic nonprofit corporation, including, but not limited to, a cooperative corporation, which supplies services described in chapter 704 of NRS to its members only, and no person who is a member of a domestic nonprofit corporation as a condition of or by reason of the ownership of an interest in real property, may resign and dissent pursuant to subsection 1.

NRS 92A.380 Right of stockholder to dissent from certain corporate actions and to obtain payment for shares.

1. Except as otherwise provided in NRS 92A.370 and 92A.390, any stockholder is entitled to dissent from, and obtain payment of the fair value of his shares in the event of any of the following corporate actions:

(a) Consummation of a conversion or plan of merger to which the domestic corporation is a constituent entity:

(1) If approval by the stockholders is required for the conversion or merger by NRS 92A.120 to 92A.160, inclusive, or the articles of incorporation, regardless of whether the stockholder is entitled to vote on the conversion or plan of merger; or

(2) If the domestic corporation is a subsidiary and is merged with its parent pursuant to NRS 92A.180.

(b) Consummation of a plan of exchange to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be acquired, if his shares are to be acquired in the plan of exchange.

(c) Any corporate action taken pursuant to a vote of the stockholders to the extent that the articles of incorporation, bylaws or a resolution of the board of directors provides that voting or nonvoting stockholders are entitled to dissent and obtain payment for their shares.

2. A stockholder who is entitled to dissent and obtain payment pursuant to NRS 92A.300 to 92A.500, inclusive, may not challenge the corporate action creating his entitlement unless the action is unlawful or fraudulent with respect to him or the domestic corporation.

NRS 92A.390 Limitations on right of dissent: Stockholders of certain classes or series; action of stockholders not required for plan of merger.

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1. There is no right of dissent with respect to a plan of merger or exchange in favor of stockholders of any class or series which, at the record date fixed to determine the stockholders entitled to receive notice of and to vote at the meeting at which the plan of merger or exchange is to be acted on, were either listed on a national securities exchange, included in the national market system by the National Association of Securities Dealers, Inc., or held by at least 2,000 stockholders of record, unless:

(a) The articles of incorporation of the corporation issuing the shares provide otherwise; or

(b) The holders of the class or series are required under the plan of merger or exchange to accept for the shares anything except:

(1) Cash, owner's interests or owner's interests and cash in lieu of fractional owner's interests of:

(I) The surviving or acquiring entity; or

(II) Any other entity which, at the effective date of the plan of merger or exchange, were either listed on a national securities exchange, included in the national market system by the National Association of Securities Dealers, Inc., or held of record by a least 2,000 holders of owner's interests of record; or

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(2) A combination of cash and owner's interests of the kind described in sub-subparagraphs (I) and (II) of subparagraph (1) of paragraph (b).

2. There is no right of dissent for any holders of stock of the surviving domestic corporation if the plan of merger does not require action of the stockholders of the surviving domestic corporation under NRS 92A.130.

NRS 92A.400 Limitations on right of dissent: Assertion as to portions only to shares registered to stockholder; assertion by beneficial stockholder.

1. A stockholder of record may assert dissenter's rights as to fewer than all of the shares registered in his name only if he dissents with respect to all shares beneficially owned by any one person and notifies the subject corporation in writing of the name and address of each person on whose behalf he asserts dissenter's rights. The rights of a partial dissenter under this subsection are determined as if the shares as to which he dissents and his other shares were registered in the names of different stockholders.

2. A beneficial stockholder may assert dissenter's rights as to shares held on his behalf only if:

(a) He submits to the subject corporation the written consent of the stockholder of record to the dissent not later than the time the beneficial stockholder asserts dissenter's rights; and

(b) He does so with respect to all shares of which he is the beneficial stockholder or over which he has power to direct the vote.

NRS 92A.410 Notification of stockholders regarding right of dissent.

1. If a proposed corporate action creating dissenters' rights is submitted to a vote at a stockholders' meeting, the notice of the meeting must state that stockholders are or may be entitled to assert dissenters' rights under NRS 92A.300 to 92A.500, inclusive, and be accompanied by a copy of those sections.

2. If the corporate action creating dissenters' rights is taken by written consent of the stockholders or without a vote of the stockholders, the domestic corporation shall notify in writing all stockholders entitled to assert dissenters' rights that the action was taken and send them the dissenter's notice described in NRS 92A.430.

NRS 92A.420 Prerequisites to demand for payment for shares.

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1. If a proposed corporate action creating dissenters' rights is submitted to a vote at a stockholders' meeting, a stockholder who wishes to assert dissenters' rights:

(a) Must deliver to the subject corporation, before the vote is taken, written notice of his intent to demand payment for his shares if the proposed action is effectuated; and

(b) Must not vote his shares in favor of the proposed action.

2. A stockholder who does not satisfy the requirements of subsection 1 and NRS 92A.400 is not entitled to payment for his shares under this chapter.

NRS 92A.430 Dissenter's notice: Delivery to stockholders entitled to assert rights; contents.

1. If a proposed corporate action creating dissenters' rights is authorized at a stockholders' meeting, the subject corporation shall deliver a written dissenter's notice to all stockholders who satisfied the requirements to assert those rights.

2. The dissenter's notice must be sent no later than 10 days after the effectuation of the corporate action, and must:

(a) State where the demand for payment must be sent and where and when certificates, if any, for shares must be deposited;

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(b) Inform the holders of shares not represented by certificates to what extent the transfer of the shares will be restricted after the demand for payment is received;

(c) Supply a form for demanding payment that includes the date of the first announcement to the news media or to the stockholders of the terms of the proposed action and requires that the person asserting dissenter's rights certify whether or not he acquired beneficial ownership of the shares before that date;

(d) Set a date by which the subject corporation must receive the demand for payment, which may not be less than 30 nor more than 60 days after the date the notice is delivered; and

(e) Be accompanied by a copy of NRS 92A.300 to 92A.500, inclusive.

NRS 92A.440 Demand for payment and deposit of certificates; retention of rights of stockholder.

1. A stockholder to whom a dissenter's notice is sent must:

(a) Demand payment;

(b) Certify whether he or the beneficial owner on whose behalf he is dissenting, as the case may be, acquired beneficial ownership of the shares before the date required to be set forth in the dissenter's notice for this certification; and

(c) Deposit his certificates, if any, in accordance with the terms of the notice.

2. The stockholder who demands payment and deposits his certificates, if any, before the proposed corporate action is taken retains all other rights of a stockholder until those rights are cancelled or modified by the taking of the proposed corporate action.

3. The stockholder who does not demand payment or deposit his certificates where required, each by the date set forth in the dissenter's notice, is not entitled to payment for his shares under this chapter.

NRS 92A.450 Uncertificated shares: Authority to restrict transfer after demand for payment; retention of rights of stockholder.

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1. The subject corporation may restrict the transfer of shares not represented by a certificate from the date the demand for their payment is received.

2. The person for whom dissenter's rights are asserted as to shares not represented by a certificate retains all other rights of a stockholder until those rights are cancelled or modified by the taking of the proposed corporate action.

NRS 92A.460 Payment for shares: General requirements.

1. Except as otherwise provided in NRS 92A.470, within 30 days after receipt of a demand for payment, the subject corporation shall pay each dissenter who complied with NRS 92A.440 the amount the subject corporation estimates to be the fair value of his shares, plus accrued interest. The obligation of the subject corporation under this subsection may be enforced by the district court:

(a) Of the county where the corporation's registered office is located; or

(b) At the election of any dissenter residing or having its registered office in this state, of the county where the dissenter resides or has its registered office. The court shall dispose of the complaint promptly.

2. The payment must be accompanied by:

(a) The subject corporation's balance sheet as of the end of a fiscal year ending not more than 16 months before the date of payment, a statement of income for that year, a statement of changes in the stockholders' equity for that year and the latest available interim financial statements, if any;

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(b) A statement of the subject corporation's estimate of the fair value of the shares;

(c) An explanation of how the interest was calculated;

(d) A statement of the dissenter's rights to demand payment under NRS 92A.480; and

(e) A copy of NRS 92A.300 to 92A.500, inclusive.

NRS 92A.470 Payment for shares: Shares acquired on or after date of dissenter's notice.

1. A subject corporation may elect to withhold payment from a dissenter unless he was the beneficial owner of the shares before the date set forth in the dissenter's notice as the date of the first announcement to the news media or to the stockholders of the terms of the proposed action.

2. To the extent the subject corporation elects to withhold payment, after taking the proposed action, it shall estimate the fair value of the shares, plus accrued interest, and shall offer to pay this amount to each dissenter who agrees to accept it in full satisfaction of his demand. The subject corporation shall send with its offer a statement of its estimate of the fair value of the shares, an explanation of how the interest was calculated, and a statement of the dissenter's right to demand payment pursuant to NRS 92A.480.

NRS 92A.480 Dissenter's estimate of fair value: Notification of subject corporation; demand for payment of estimate.

1. A dissenter may notify the subject corporation in writing of his own estimate of the fair value of his shares and the amount of interest due, and demand payment of his estimate, less any payment pursuant to NRS 92A.460, or reject the offer pursuant to NRS 92A.470 and demand payment of the fair value of his shares and interest due, if he believes that the amount paid pursuant to NRS 92A.460 or offered pursuant to NRS 92A.470 is less than the fair value of his shares or that the interest due is incorrectly calculated.

2. A dissenter waives his right to demand payment pursuant to this section unless he notifies the subject corporation of his demand in writing within 30 days after the subject corporation made or offered payment for his shares.

NRS 92A.490 Legal proceeding to determine fair value: Duties of subject corporation; powers of court; rights of dissenter.

1. If a demand for payment remains unsettled, the subject corporation shall commence a proceeding within 60 days after receiving the demand and petition the court to determine the fair value of the shares and accrued interest. If the subject corporation does not commence the proceeding within the 60-day period, it shall pay each dissenter whose demand remains unsettled the amount demanded.

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2. A subject corporation shall commence the proceeding in the district court of the county where its registered office is located. If the subject corporation is a foreign entity without a resident agent in the state, it shall commence the proceeding in the county where the registered office of the domestic corporation merged with or whose shares were acquired by the foreign entity was located.

3. The subject corporation shall make all dissenters, whether or not residents of Nevada, whose demands remain unsettled, parties to the proceeding as in an action against their shares. All parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

4. The jurisdiction of the court in which the proceeding is commenced under subsection 2 is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers have the powers described in the order appointing them, or any amendment thereto. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

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5. Each dissenter who is made a party to the proceeding is entitled to a judgment:

(a) For the amount, if any, by which the court finds the fair value of his shares, plus interest, exceeds the amount paid by the subject corporation;
or

(b) For the fair value, plus accrued interest, of his after-acquired shares for which the subject corporation elected to withhold payment pursuant to NRS 92A.470.

NRS 92A.500 Legal proceeding to determine fair value: Assessment of costs and fees.

1. The court in a proceeding to determine fair value shall determine all of the costs of the proceeding, including the reasonable compensation and expenses of any appraisers appointed by the court. The court shall assess the costs against the subject corporation, except that the court may assess costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously or not in good faith in demanding payment.

2. The court may also assess the fees and expenses of the counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the subject corporation and in favor of all dissenters if the court finds the subject corporation did not substantially comply with the requirements of NRS 92A.300 to 92A.500, inclusive; or

(b) Against either the subject corporation or a dissenter in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously or not in good faith with respect to the rights provided by NRS 92A.300 to 92A.500, inclusive.

3. If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the subject corporation, the court may award to those counsel reasonable fees to be paid out of the amounts awarded to the dissenters who were benefited.

4. In a proceeding commenced pursuant to NRS 92A.460, the court may assess the costs against the subject corporation, except that the court may assess costs against all or some of the dissenters who are parties to the proceeding, in amounts the court finds equitable, to the extent the court finds that such parties did not act in good faith in instituting the proceeding.

5. This section does not preclude any party in a proceeding commenced pursuant to NRS 92A.460 or 92A.490 from applying the provisions of N.R.C.P. 68 or NRS 17.115.

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ANNEX E

BOYD GAMING CORPORATION

AUDIT COMMITTEE CHARTER

(As amended and restated by the Board on October 23, 2003)

I. Authority and Purpose

The Audit Committee of Boyd Gaming Corporation (the Company) is appointed by the Company's Board of Directors (the Board) to assist the Board with the oversight of (A) the integrity of the Company's financial statements, (B) the Company's compliance with legal and regulatory requirements, (C) the qualifications and independence of the Company's independent auditors, and (D) the performance of the Company's auditors and internal audit function. The Audit Committee (the Committee) shall undertake those specific duties and responsibilities listed below and such other duties as the Board shall from time to time prescribe. All powers of the Committee are subject to the restrictions designated in the Company's Bylaws and applicable law.

II. Statement of Policy

The Committee shall oversee the accounting and financial reporting processes of the Company and audits of the financial statements of the Company. In so doing, the Committee shall endeavor to maintain free and open means of communication between the directors, the independent auditors and the financial management of the Company. In addition, the Committee shall review the policies and procedures adopted by the Company to fulfill its responsibilities regarding the fair and accurate presentation of financial statements in accordance with generally accepted accounting principles and applicable rules and regulations of the Securities and Exchange Commission and the New York Stock Exchange (the NYSE) audit committee requirements.

III. Committee Membership

The Committee shall consist of no fewer than three members. Each member of the Committee shall meet the independence requirements of the New York Stock Exchange, any other regulatory requirements, and the standards established by the Board from time to time.

Committee members shall be elected by the Board at the annual meeting of the Board of Directors and shall serve until their successors shall be duly elected and qualified. Committee members may be removed at any time by vote of the Board.

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Members of the Committee shall not simultaneously serve on the audit committees of more than three public companies, unless the Board determines that such simultaneous service would not impair the ability of such member to effectively serve on the Committee and discloses such determination in the Company's annual proxy statement.

At least one member of the Committee shall be an audit committee financial expert, as defined by Item 401(h) of Regulation S-K, having (A) an understanding of generally accepted accounting principles and financial statements, (B) the ability to assess the general application of such principles in connection with the accounting for estimates, accruals and reserves, (C) experience preparing, auditing, analyzing or evaluating financial statements that present the breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the Company's financial statements (or experience actively supervising one or more persons engaged in such activities), (D) an understanding on internal controls and procedures for financial reporting and (E) an understanding of audit committee functions.

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Each member of the Committee shall be financially literate, as determined by the Board in its business judgment or must become financially literate within a reasonable period of time after his or her appointment to the Committee. At least one member shall have accounting or related financial management expertise, as the Board interprets such qualification in its business judgment.

IV. Structure and Meetings.

The Committee shall conduct its business in accordance with this Charter, the Company's Bylaws and any direction by the whole Board.

The Committee chairperson shall be designated by the Board, or, if it does not do so, the Committee members shall elect a chairperson by a vote of the majority of the full Committee.

The Committee will meet at least four (4) times each year. The Committee may establish its own schedule, which it will provide to the Board in advance. The Chair or a majority of the members of the Committee may call meetings of the Committee upon such notice as is required for special Board meetings in accordance with the Company's Bylaws. The Committee shall conduct periodic separate executive sessions with management, with the Company's chief internal audit executive, and with the independent auditor. A majority of the Committee, but not less than two members shall constitute a quorum for the transaction of business. Unless the Committee by resolution determines otherwise, any action required or permitted to be taken by the Committee may be taken without a meeting if all members of the Committee consent thereto in writing and the writing or writings are filed with the minutes of the proceedings of the Committee. As necessary or desirable, the Chairman of the Committee may require that any other Director, officer or employee of the Company, or other persons whose advice and counsel are sought by the Committee, be present at meetings of the Committee. Members of the Committee may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another, and such participation shall constitute presence at such meeting.

The Committee chairperson will preside at each meeting and, in consultation with the other members of the Committee, will set the frequency and length of each meeting and the agenda of items to be addressed at each meeting. The chairperson of the Committee shall ensure that the agenda for each meeting is circulated to each Committee member in advance of the meeting. The Chair of the Committee (or other member designated by the Chair or the Committee in the Chair's absence) shall regularly report to the full Board on its proceedings and any actions that it takes. The Committee will maintain written minutes of its meetings, which minutes will be maintained with the books and records of the Company.

V. Duties and Responsibilities

The Committee's policies and procedures should remain flexible, in order to best react to changing conditions and to ensure to the Board and the Company's stockholders that the corporate accounting and reporting practices of the Company are in accordance with all requirements and are of the highest quality.

In meeting its responsibilities, the Committee is expected to:

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A. Appoint and be directly responsible for the compensation, retention, and oversight of the work of any registered public accounting firm engaged (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the Company, and each such firm shall report directly to the Committee. The Committee shall be directly responsible for the pre-approval of all non-audit services performed by the independent auditors. The Committee shall have the sole authority to approve all audit engagement fees and terms, as well as all significant non-audit engagements with the independent auditors. Consideration shall be given to whether the independent auditors performance of such non-audit services is compatible with the

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auditor's independence. The Committee may delegate to one or more designated Committee members the authority to grant pre-approvals required for such services. The decisions of any Committee member to whom authority is delegated hereunder shall be presented to the Committee at each of its scheduled meetings. The Board will seek shareholder ratification of the independent auditor selected by the Committee at the Company's annual meeting of shareholders.

B. Review the rationale for employing audit firms other than the principal independent auditors; and, where an additional audit firm has been employed, review the coordination of audit efforts to assure completeness of coverage, reduction of redundant efforts, and the effective use of audit resources.

C. Review the independence of the independent auditors, including a review of management consulting services, and related fees, provided by the independent auditors. The Committee shall require the independent auditors at least annually to provide a formal written statement delineating all relationships between the independent auditors and the Company consistent with the NYSE audit committee requirements and request information from the independent auditors and management to determine the presence or absence of a conflict of interest. The Committee shall actively engage the auditors in a dialogue with respect to any disclosed relationships or services that may impact the objectivity and independence of the auditors. The Committee shall take, or recommend that the full Board take, appropriate action in response to the auditors' report to satisfy itself of the auditors' independence.

D. Obtain and review, at least annually, a report by the independent auditors describing: the firm's internal quality-control procedures; any material issues raised by the most recent internal quality-control review, or peer review, of the firm, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, respecting one or more independent audits carried out by the firm, and any steps taken to deal with any such issues; and (to assess the auditor's independence) all relationships between the independent auditor and the Company.

E. Evaluate the Company's independent auditor's qualifications, performance and independence. This evaluation shall include the review and evaluation of the lead partner of the independent auditor. In making its evaluation, the Committee shall take into account the opinions of management and the internal auditors. In addition to assuring the regular rotation of the lead audit partner as required by law, the Committee shall further consider whether, in order to assure continuing auditor independence, there shall be regular rotation of the audit firm itself. The Committee shall present its conclusions with respect to the independent auditor to the Board.

F. Review with management and the independent auditors the scope and responsibilities of an internal audit department, the coordination of effort between the internal and independent audit functions to assure completeness of coverage, reduction of redundant efforts and effective use of audit resources, and monitor progress under the internal audit plan during the year and its results. Review with management the appointment, replacement, reassignment or dismissal of the Company's chief internal audit executive. Discuss the budget and staffing of the internal audit function with management, the chief internal audit executive, and the independent auditors. Review with management and the Company's chief internal audit executive any significant findings and recommendations of the Company's chief internal audit executive, together with management's responses thereto, any significant difficulties encountered in the course of the internal audit, including any restrictions on the scope of work or access to required information, and any significant changes required in the chief internal audit executive's audit plan.

G. Review and discuss with management and the independent auditor, before release, the Company's annual audited financial statements and quarterly financial statements, including the related notes and the Company's disclosures under Management's Discussion and Analysis of Financial Condition and Results of Operations. Make a recommendation to the Board whether or not the audited financial statements should be included in the Company's Annual Report on Form 10-K.

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H. Review and discuss with management earnings press releases and financial information and earnings guidance provided to analysts and rating agencies.

I. In consultation with the independent auditors, the internal audit department and management, consider and review at the completion of the annual examinations and such other times as the Committee may deem appropriate:

- (1) The independent auditors' audit of the financial statements and their report thereon.
- (2) The independent auditors' reports regarding critical accounting policies, alternative treatments of financial information and other material written communications between the independent auditors and management.
- (3) Any significant changes required in the independent auditors' audit scope and plan.
- (4) Any audit problems or difficulties and management's response. The Committee shall review any difficulties encountered during the course of the audit, including any restrictions on the scope of the independent auditor's activities or on access to requested information and any significant disagreements with management. Among the items the Committee may review are: any accounting adjustments that were noted or proposed by the auditor but were passed (as immaterial or otherwise); any communications between the audit team and the audit firm's national office respecting auditing or accounting issues presented by the engagement; and any management or internal control letter issued, or proposed to be issued, by the audit firm to the Company. The review should also include discussion of the responsibilities, budget and staffing of the Company's internal audit function.
- (5) The effect or potential effect of any regulatory regime, accounting initiatives or off-balance sheet structures on the Company's financial statements.
- (6) Any correspondence with regulators or governmental agencies and any employee complaints or published reports that raise material issues regarding the Company's financial statements or accounting policies.
- (7) Other matters related to the conduct of the audit, which are to be communicated to the Committee under generally accepted auditing standards.
- (8) Discuss with the independent auditors the matters required to be discussed by Statement on Auditing Standards No. 61, as modified or supplemented.
- (9) Obtain from the independent auditor assurance that it has complied with Section 10A of the Securities Exchange Act of 1934.

J. On a quarterly basis, review and discuss with the independent auditor, management (including the Company's Chief Executive Officer and Chief Financial Officer) and the Company's chief internal audit executive the following:

- (1) The principal executive officer and principal financial officer certifications required to be made in connection with the Company's periodic reports under the Act and the Sarbanes-Oxley Act of 2002.
- (2) All significant deficiencies in the design or operation of internal controls which could adversely affect the Company's ability to record, process, summarize and report financial data, including any material weaknesses in internal controls identified by the Company's independent auditor or the internal audit department.
- (3) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls.

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- (4) Any significant changes in internal controls or in other factors that could significantly affect internal controls, including any corrective actions with regard to significant deficiencies and material weaknesses.
- K. Annually, obtain a written report from management on the effectiveness of internal controls over financial reporting, including controls designed to prevent or mitigate financial statement fraud, and review the effectiveness of internal controls with management, the Company's chief internal audit executive and the independent auditor.
- L. Establish procedures for:
- (1) The receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls or auditing matters.
- (2) The confidential, anonymous submission by employees of the Company of concerns regarding questionable accounting or auditing matters.
- (3) The receipt and treatment of any evidence of a violation of the securities laws or breach of fiduciary duty brought to the Committee's attention by the Company's in-house or external securities counsel.
- M. Review and approve any contracts or transactions greater than \$100,000 and up to \$500,000 (individually or together in the aggregate if part of a series of related transactions) entered into between the Company and any director, officer or employee of the Company or an affiliate of any such director, officer or employee (Related Party Transactions), other than employment and compensation-related agreements or any purchases of products from the Company by such individuals in the ordinary course as a retail customer. Review with management, as appropriate, any Related Party Transactions up to \$100,000.
- N. Discuss policies with respect to risk assessment and risk management. The Committee shall discuss the Company's major financial risk exposures and the steps management has taken to monitor and control such exposures. The Committee shall discuss guidelines and policies to govern the policies by which risk assessment and management is undertaken.
- O. Set clear hiring policies for employees or former employees of the independent auditors.
- P. Review policies and procedures with respect to officers' expense accounts and perquisites, including their use of corporate assets, and consider the results of any review of these areas by the independent auditors or the internal audit department.
- Q. Prepare the audit committee report in the Company's proxy statement in accordance with SEC requirements.

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R. Report regularly to the Board. Such report shall review any issues that arise with respect to the quality or integrity of the Company's financial statements, the Company's compliance with legal or regulatory requirements, the performance and independence of the Company's independent auditors, or the performance of the internal audit function. While the fundamental responsibility for the Company's financial statements and disclosures rests with management and the independent auditor, the Committee shall review: (1) major issues regarding accounting principles and financial statement presentations, including any significant changes in the Company's situation or application of accounting principles, and major issues as to the adequacy of the Company's internal controls and any special audit steps adopted in light of material control deficiencies; (2) analyses prepared by management or the independent auditor setting forth significant financial reporting issues and justifications made in connection with the preparation of the financial statements, including analyses of the effects of alternative GAAP methods on the financial statements; (3) the effect of regulatory and accounting

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initiatives as well as off-balance sheet structures, on the financial statements of the Company; and (4) the type and presentation of information to be included in earnings press releases (paying particular attention to any use of pro forma or adjusted non-GAAP information), as well as review of financial information and earnings guidance provided to analysts and rating agencies.

S. Address or take action with respect to any other matter specifically delegated to the Committee from time to time by the Board.

VI. Performance Evaluation

The Committee shall annually review and assess the adequacy of this Charter and recommend any proposed changes to the Board for approval. The Committee shall also perform an annual evaluation of its own performance. In conducting this review, the Committee shall address all matters that it considers relevant to its performance, including at least the following: the adequacy, appropriateness and quality of the information and recommendations presented by the Committee to the Board, the manner in which they were discussed or debated, and whether the number and length of meetings of the Committee were adequate for the Committee to complete its work in a thorough and thoughtful manner.

VII. Committee Resources

The Committee shall have the power to conduct or authorize investigations into any matters within the Committee's scope of responsibilities. The Committee shall be empowered, without the approval of the Board, to engage and compensate independent legal, accounting and other advisors, as it determines necessary to carry out its duties. The Committee shall receive appropriate funding, as determined by the Committee, from the Company for payment of: (A) compensation to any registered public accounting firm engaged for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the Company; (B) compensation to any advisor employed by the Committee; and (C) ordinary administrative expenses of the Committee that are necessary or appropriate in carrying out its duties.

The Committee functions set forth in NYSE Rule Section 303A(7) are the sole responsibility of the Audit Committee and may not be allocated to a different committee. The Committee may form and delegate authority to subcommittees when appropriate.

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ANNEX F

BOYD GAMING CORPORATION

2002 STOCK INCENTIVE PLAN

(AMENDED AND RESTATED)

1. Purposes of the Plan. The purposes of this Stock Incentive Plan are to attract and retain the best available personnel, to provide additional incentive to Employees, Directors and Consultants and to promote the success of the Company's business.

2. Definitions. As used herein, the following definitions shall apply:

(a) Administrator means the Board or any of the Committees appointed to administer the Plan.

(b) Affiliate and Associate shall have the respective meanings ascribed to such terms in Rule 12b-2 promulgated under the Exchange Act.

(c) Applicable Laws means the legal requirements relating to the administration of stock incentive plans, if any, under applicable provisions of federal securities laws, state corporate and securities laws, the Code, the rules of any applicable stock exchange or national market system, and the rules of any foreign jurisdiction applicable to Awards granted to residents therein.

(d) Assumed means that (i) pursuant to a Corporate Transaction defined in Section 2(q)(i), 2(q)(ii) or 2(q)(iii), the contractual obligations represented by the Award are assumed by the successor entity or its Parent in connection with the Corporate Transaction or (ii) pursuant to a Corporate Transaction defined in Section 2(q)(iv) or 2(q)(v) the Award is affirmed by the Company. The Award shall not be deemed Assumed for purposes of terminating the Award (in the case of a Corporate Transaction) if pursuant to a Corporate Transaction the Award is replaced with a comparable award with respect to shares of capital stock of the successor entity or its Parent.

(e) Award means the grant of an Option, SAR, Dividend Equivalent Right, Restricted Stock, Performance Unit, Performance Share, or other right or benefit under the Plan.

(f) Award Agreement means the written agreement evidencing the grant of an Award executed by the Company and the Grantee, including any amendments thereto.

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(g) Board means the Board of Directors of the Company.

(h) Boyd Family means William S. Boyd, his spouse, any direct descendant or spouse of such descendant, or any direct descendant of such spouse, and any trust or other estate in which each person who has a beneficial interest, directly or indirectly through one or more intermediaries in capital stock of the Company is one of the foregoing persons. The members of the Boyd Family shall be deemed to beneficially own any capital stock of a corporation held by any other corporation (the parent corporation) so long as the members of the Boyd Family beneficially own, directly or indirectly through one or more intermediaries, in the aggregate 50% or more of the total voting power of the capital stock of the parent corporation.

(i) Change in Control means a change in ownership or control of the Company effected through either of the following transactions:

(i) the direct or indirect acquisition by any person or related group of persons (other than an acquisition from or by the Company, by a Company-sponsored employee benefit plan or by a person that directly or indirectly controls, is controlled by, or is under common control with, the Company or a Permitted Holder) of beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act) of securities possessing more than fifty percent (50%) of the total combined voting power of the Company's outstanding securities pursuant to a tender or exchange offer made directly to the Company's stockholders which a majority of the Continuing Directors who are not Affiliates or Associates of the offeror do not recommend such stockholders accept, or

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(ii) a change in the composition of the Board over a period of thirty-six (36) months or less such that a majority of the Board members (rounded up to the next whole number) ceases, by reason of one or more contested elections for Board membership, to be comprised of individuals who are Continuing Directors.

(j) Code means the Internal Revenue Code of 1986, as amended.

(k) Committee means any committee appointed by the Board to administer the Plan.

(l) Common Stock means the common stock of the Company.

(m) Company means Boyd Gaming Corporation, a Nevada corporation.

(n) Consultant means any person (other than an Employee or a Director, solely with respect to rendering services in such person's capacity as a Director) who is engaged by the Company or a Related Entity to render consulting or advisory services as an independent contractor and is compensated for such services.

(o) Continuing Directors means members of the Board who either (i) have been Board members continuously for a period of at least thirty-six (36) months or (ii) have been Board members for less than thirty-six (36) months and were elected or nominated for election as Board members by at least a majority of the Board members described in clause (i) who were still in office at the time such election or nomination was approved by the Board.

(p) Continuous Service means that the provision of services to the Company or a Related Entity in any capacity of Employee, Director or Consultant, is not interrupted or terminated. Continuous Service shall not be considered interrupted in the case of (i) any approved leave of absence, (ii) transfers among the Company or any Related Entity, or any successor, in any capacity of Employee, Director or Consultant, or (iii) any change in status as long as the individual remains in the service of the Company or a Related Entity in any capacity of Employee, Director or Consultant (except as otherwise provided in the Award Agreement). An approved leave of absence shall include sick leave, military leave, or any other authorized personal leave. For purposes of each Incentive Stock Option granted under the Plan, if such leave exceeds ninety (90) days, and reemployment upon expiration of such leave is not guaranteed by statute or contract, then the Incentive Stock Option shall be treated as a Non-Qualified Stock Option on the day that is three (3) months and one (1) day following the expiration of such ninety (90) day period.

(q) Corporate Transaction means any of the following transactions:

(i) a merger or consolidation in which the Company is not the surviving entity, except for a transaction the principal purpose of which is to change the state in which the Company is incorporated;

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(ii) the sale, transfer or other disposition of all or substantially all of the assets of the Company (including the capital stock of the Company's subsidiary corporations);

(iii) the complete liquidation or dissolution of the Company;

(iv) any reverse merger in which the Company is the surviving entity but in which securities possessing more than fifty percent (50%) of the total combined voting power of the Company's outstanding securities are transferred to a person or persons different from those who held such securities immediately prior to such merger; or

(v) acquisition in a single or series of related transactions by any person or related group of persons (other than the Company or by a Company-sponsored employee benefit plan or a Permitted Holder) of beneficial ownership (within the meaning of Rule 13d-3 of the Exchange Act) of securities possessing more than fifty percent (50%) of the total combined voting power of the Company's outstanding securities but excluding any such transaction or series of related transactions that the Administrator determines shall not be a Corporate Transaction.

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- (r) Covered Employee means an Employee who is a covered employee under Section 162(m)(3) of the Code.
- (s) Director means a member of the Board or the board of directors of any Related Entity.
- (t) Disability means as defined under the long-term disability policy of the Company or the Related Entity to which the Grantee provides services regardless of whether the Grantee is covered by such policy. If the Company or the Related Entity to which the Grantee provides service does not have a long-term disability plan in place, Disability means that a Grantee is unable to carry out the responsibilities and functions of the position held by the Grantee by reason of any medically determinable physical or mental impairment for a period of not less than ninety (90) consecutive days. A Grantee will not be considered to have incurred a Disability unless he or she furnishes proof of such impairment sufficient to satisfy the Administrator in its discretion.
- (u) Dividend Equivalent Right means a right entitling the Grantee to compensation measured by dividends paid with respect to Common Stock.
- (v) Employee means any person, including an Officer or Director, who is an employee of the Company or any Related Entity. The payment of a director's fee by the Company or a Related Entity shall not be sufficient to constitute employment by the Company.
- (w) Exchange Act means the Securities Exchange Act of 1934, as amended.
- (x) Fair Market Value means, as of any date, the value of Common Stock determined as follows:
- (i) If the Common Stock is listed on any established stock exchange or a national market system, including without limitation The New York Stock Exchange, The Nasdaq National Market or The Nasdaq SmallCap Market of The Nasdaq Stock Market, its Fair Market Value shall be the closing sales price for such stock (or the closing bid, if no sales were reported) as quoted on such exchange or system on the date of determination (or, if no closing sales price or closing bid was reported on that date, as applicable, on the last trading date such closing sales price or closing bid was reported), as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable;
- (ii) If the Common Stock is regularly quoted on an automated quotation system (including the OTC Bulletin Board) or by a recognized securities dealer, but selling prices are not reported, the Fair Market Value of a Share of Common Stock shall be the mean between the high bid and low asked prices for the Common Stock on date of determination (or, if no such prices were reported on that date, on the last date such prices were reported), as reported in *The Wall Street Journal* or such other source as the Administrator deems reliable; or
- (iii) In the absence of an established market for the Common Stock of the type described in (i) and (ii), above, the Fair Market Value thereof shall be determined by the Administrator in good faith.
- (y) Grantee means an Employee, Director or Consultant who receives an Award under the Plan.

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(z) Immediate Family means any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, any person sharing the Grantee's household (other than a tenant or employee), a trust in which these persons (or the Grantee) have more than fifty percent (50%) of the beneficial interest, a foundation in which these persons (or the Grantee) control the management of assets, and any other entity in which these persons (or the Grantee) own more than fifty percent (50%) of the voting interests.

(aa) Incentive Stock Option means an Option intended to qualify as an incentive stock option within the meaning of Section 422 of the Code.

(bb) Non-Qualified Stock Option means an Option not intended to qualify as an Incentive Stock Option.

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- (cc) Officer means a person who is an officer of the Company within the meaning of Section 16 of the Exchange Act and the rules and regulations promulgated thereunder.
- (dd) Option means a stock option to purchase Shares pursuant to an Award Agreement granted under the Plan.
- (ee) Parent means a parent corporation, whether now or hereafter existing, as defined in Section 424(e) of the Code.
- (ff) Performance-Based Compensation means compensation qualifying as performance-based compensation under Section 162(m) of the Code.
- (gg) Performance Shares means Shares or an Award denominated in Shares which may be earned in whole or in part upon attainment of performance criteria established by the Administrator.
- (hh) Performance Units means an Award which may be earned in whole or in part upon attainment of performance criteria established by the Administrator and which may be settled for cash, Shares or other securities or a combination of cash, Shares or other securities as established by the Administrator.
- (ii) Permitted Holders means the Boyd Family and any group (as such term is used in Section 13(d) and 14(d) of the Exchange Act) comprised solely of members of the Boyd Family.
- (jj) Plan means this 2002 Stock Incentive Plan.
- (kk) Related Entity means any Parent or Subsidiary of the Company and any business, corporation, partnership, limited liability company or other entity in which the Company or a Parent or a Subsidiary of the Company holds a substantial ownership interest, directly or indirectly.
- (ll) Restricted Stock means Shares issued under the Plan to the Grantee for such consideration, if any, and subject to such restrictions on transfer, rights of first refusal, repurchase provisions, forfeiture provisions, and other terms and conditions as established by the Administrator.
- (mm) Rule 16b-3 means Rule 16b-3 promulgated under the Exchange Act or any successor thereto.
- (nn) SAR means a stock appreciation right entitling the Grantee to Shares or cash compensation, as established by the Administrator, measured by appreciation in the value of Common Stock.

(oo) Share means a share of the Common Stock.

(pp) Subsidiary means a subsidiary corporation, whether now or hereafter existing, as defined in Section 424(f) of the Code.

3. Stock Subject to the Plan.

(a) Subject to the provisions of Section 10, below, the maximum aggregate number of Shares which may be issued pursuant to all Awards (including Incentive Stock Options) is 7,000,000 Shares. The Shares to be issued pursuant to Awards may be authorized, but unissued, or reacquired Common Stock.

(b) Any Shares covered by an Award (or portion of an Award) which is forfeited or canceled, expires or is settled in cash (in a cash payment by the Company), shall be deemed not to have been issued for purposes of determining the maximum aggregate number of Shares which may be issued under the Plan. Shares that actually have been issued under the Plan pursuant to an Award shall not be returned to the Plan and shall not become available for future issuance under the Plan, except that if unvested Shares are forfeited, or repurchased by the Company at their original purchase price, such Shares shall become available for future grant under the Plan.

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4. Administration of the Plan.

(a) Plan Administrator.

(i) Administration with Respect to Directors and Officers. With respect to grants of Awards to Directors or Employees who are also Officers or Directors of the Company, the Plan shall be administered by (A) the Board or (B) a Committee designated by the Board, which Committee shall be constituted in such a manner as to satisfy the Applicable Laws and to permit such grants and related transactions under the Plan to be exempt from Section 16(b) of the Exchange Act in accordance with Rule 16b-3. Once appointed, such Committee shall continue to serve in its designated capacity until otherwise directed by the Board.

(ii) Administration With Respect to Consultants and Other Employees. With respect to grants of Awards to Employees or Consultants who are neither Directors nor Officers of the Company, the Plan shall be administered by (A) the Board or (B) a Committee designated by the Board, which Committee shall be constituted in such a manner as to satisfy the Applicable Laws. Once appointed, such Committee shall continue to serve in its designated capacity until otherwise directed by the Board. The Board may authorize one or more Officers to grant such Awards and may limit such authority as the Board determines from time to time.

(iii) Administration With Respect to Covered Employees. Notwithstanding the foregoing, grants of Awards to any Covered Employee intended to qualify as Performance-Based Compensation shall be made only by a Committee (or subcommittee of a Committee) which is comprised solely of two or more Directors eligible to serve on a committee making Awards qualifying as Performance-Based Compensation. In the case of such Awards granted to Covered Employees, references to the Administrator or to a Committee shall be deemed to be references to such Committee or subcommittee.

(iv) Administration Errors. In the event an Award is granted in a manner inconsistent with the provisions of this subsection (a), such Award shall be presumptively valid as of its grant date to the extent permitted by the Applicable Laws.

(b) Powers of the Administrator. Subject to Applicable Laws and the provisions of the Plan (including any other powers given to the Administrator hereunder), and except as otherwise provided by the Board, the Administrator shall have the authority, in its discretion:

(i) to select the Employees, Directors and Consultants to whom Awards may be granted from time to time hereunder;

(ii) to determine whether and to what extent Awards are granted hereunder;

(iii) to determine the number of Shares or the amount of other consideration to be covered by each Award granted hereunder;

(iv) to approve forms of Award Agreements for use under the Plan;

(v) to determine the terms and conditions of any Award granted hereunder;

(vi) to amend the terms of any outstanding Award granted under the Plan, provided that any amendment that would adversely affect the Grantee's rights under an outstanding Award shall not be made without the Grantee's written consent;

(vii) to construe and interpret the terms of the Plan and Awards, including without limitation, any notice of award or Award Agreement, granted pursuant to the Plan;

(viii) to establish additional terms, conditions, rules or procedures to accommodate the rules or laws of applicable foreign jurisdictions and to afford Grantees favorable treatment under such rules or laws; provided, however, that no Award shall be granted under any such additional terms, conditions, rules or procedures with terms or conditions which are inconsistent with the provisions of the Plan; and

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(ix) to take such other action, not inconsistent with the terms of the Plan, as the Administrator deems appropriate.

(c) Effect of Administrator's Decision. All decisions, determinations and interpretations of the Administrator shall be conclusive and binding on all persons.

5. Eligibility. Awards other than Incentive Stock Options may be granted to Employees, Directors and Consultants. Incentive Stock Options may be granted only to Employees of the Company, a Parent or a Subsidiary of the Company. An Employee, Director or Consultant who has been granted an Award may, if otherwise eligible, be granted additional Awards. Awards may be granted to such Employees, Directors or Consultants who are residing in foreign jurisdictions as the Administrator may determine from time to time.

6. Terms and Conditions of Awards.

(a) Type of Awards. The Administrator is authorized under the Plan to award any type of arrangement to an Employee, Director or Consultant that is not inconsistent with the provisions of the Plan and that by its terms involves or might involve the issuance of (i) Shares, (ii) an Option, a SAR, or similar right with a fixed or variable price related to the Fair Market Value of the Shares and with an exercise or conversion privilege related to the passage of time, the occurrence of one or more events, or the satisfaction of performance criteria or other conditions, or (iii) any other security with the value derived from the value of the Shares. Such awards include, without limitation, Options, SARs, sales or bonuses of Restricted Stock, Dividend Equivalent Rights, Performance Units or Performance Shares, and an Award may consist of one such security or benefit, or two (2) or more of them in any combination or alternative.

(b) Designation of Award. Each Award shall be designated in the Award Agreement. In the case of an Option, the Option shall be designated as either an Incentive Stock Option or a Non-Qualified Stock Option. However, notwithstanding such designation, to the extent that the aggregate Fair Market Value of Shares subject to Options designated as Incentive Stock Options which become exercisable for the first time by a Grantee during any calendar year (under all plans of the Company or any Parent or Subsidiary of the Company) exceeds \$100,000, such excess Options, to the extent of the Shares covered thereby in excess of the foregoing limitation, shall be treated as Non-Qualified Stock Options. For this purpose, Incentive Stock Options shall be taken into account in the order in which they were granted, and the Fair Market Value of the Shares shall be determined as of the grant date of the relevant Option.

(c) Conditions of Award. Subject to the terms of the Plan, the Administrator shall determine the provisions, terms, and conditions of each Award including, but not limited to, the Award vesting schedule, repurchase provisions, rights of first refusal, forfeiture provisions, form of payment (cash, Shares, or other consideration) upon settlement of the Award, payment contingencies, and satisfaction of any performance criteria. The performance criteria established by the Administrator may be based on any one of, or combination of, increase in share price, earnings per share, total stockholder return, return on equity, return on assets, return on investment, net operating income, cash flow, revenue, economic value added, personal management objectives, or other measure of performance selected by the Administrator. Partial achievement of the specified criteria may result in a payment or vesting corresponding to the degree of achievement as specified in the Award Agreement.

(d) Acquisitions and Other Transactions. The Administrator may issue Awards under the Plan in settlement, assumption or substitution for, outstanding awards or obligations to grant future awards in connection with the Company or a Related Entity acquiring another entity, an interest in another entity or an additional interest in a Related Entity whether by merger, stock purchase, asset purchase or other form of transaction.

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(e) Deferral of Award Payment. The Administrator may establish one or more programs under the Plan to permit selected Grantees the opportunity to elect to defer receipt of consideration upon exercise of an Award, satisfaction of performance criteria, or other event that absent the election would entitle the Grantee to payment or receipt of Shares or other consideration under an Award (but only to the extent that

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such deferral programs would not result in an accounting compensation charge unless otherwise determined by the Administrator). The Administrator may establish the election procedures, the timing of such elections, the mechanisms for payments of, and accrual of interest or other earnings, if any, on amounts, Shares or other consideration so deferred, and such other terms, conditions, rules and procedures that the Administrator deems advisable for the administration of any such deferral program.

(f) Separate Programs. The Administrator may establish one or more separate programs under the Plan for the purpose of issuing particular forms of Awards to one or more classes of Grantees on such terms and conditions as determined by the Administrator from time to time.

(g) Individual Option and SAR Limit. The maximum number of Shares with respect to which Options and SARs may be granted to any Grantee in any fiscal year of the Company shall be five hundred thousand (500,000) Shares. The foregoing limitation shall be adjusted proportionately in connection with any change in the Company's capitalization pursuant to Section 10, below. To the extent required by Section 162(m) of the Code or the regulations thereunder, in applying the foregoing limitation with respect to a Grantee, if any Option or SAR is canceled, the canceled Option or SAR shall continue to count against the maximum number of Shares with respect to which Options and SARs may be granted to the Grantee. For this purpose, the repricing of an Option (or in the case of a SAR, the base amount on which the stock appreciation is calculated is reduced to reflect a reduction in the Fair Market Value of the Common Stock) shall be treated as the cancellation of the existing Option or SAR and the grant of a new Option or SAR.

(h) Early Exercise. The Award Agreement may, but need not, include a provision whereby the Grantee may elect at any time while an Employee, Director or Consultant to exercise any part or all of the Award prior to full vesting of the Award. Any unvested Shares received pursuant to such exercise may be subject to a repurchase right in favor of the Company or a Related Entity or to any other restriction the Administrator determines to be appropriate.

(i) Term of Award. The term of each Award shall be the term stated in the Award Agreement, provided, however, that the term of an Incentive Stock Option shall be no more than ten (10) years from the date of grant thereof. However, in the case of an Incentive Stock Option granted to a Grantee who, at the time the Option is granted, owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary of the Company, the term of the Incentive Stock Option shall be five (5) years from the date of grant thereof or such shorter term as may be provided in the Award Agreement.

(j) Transferability of Awards. Incentive Stock Options may not be sold, pledged, assigned, hypothecated, transferred, or disposed of in any manner other than by will or by the laws of descent or distribution and may be exercised, during the lifetime of the Grantee, only by the Grantee; provided, however, that the Grantee may designate a beneficiary of the Grantee's Incentive Stock Option in the event of the Grantee's death on a beneficiary designation form provided by the Administrator. Other Awards shall be transferred by will and by the laws of descent and distribution, and during the lifetime of the Grantee, by gift and or pursuant to a domestic relations order to members of the Grantee's Immediate Family to the extent and in the manner determined by the Administrator.

(k) Time of Granting Awards. The date of grant of an Award shall for all purposes be the date on which the Administrator makes the determination to grant such Award, or such other date as is determined by the Administrator. Notice of the grant determination shall be given to each Employee, Director or Consultant to whom an Award is so granted within a reasonable time after the date of such grant.

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7. Award Exercise or Purchase Price, Consideration and Taxes.

(a) Exercise or Purchase Price. The exercise or purchase price, if any, for an Award shall be as follows:

(i) In the case of an Incentive Stock Option:

(A) granted to an Employee who, at the time of the grant of such Incentive Stock Option owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary of the Company, the per Share exercise price shall be not less than one hundred ten percent (110%) of the Fair Market Value per Share on the date of grant; or

(B) granted to any Employee other than an Employee described in the preceding paragraph, the per Share exercise price shall be not less than one hundred percent (100%) of the Fair Market Value per Share on the date of grant.

(ii) In the case of a Non-Qualified Stock Option, the per Share exercise price shall be not less than eighty-five percent (85%) of the Fair Market Value per Share on the date of grant unless otherwise determined by the Administrator.

(iii) In the case of Awards intended to qualify as Performance-Based Compensation, the exercise or purchase price, if any, shall be not less than one hundred percent (100%) of the Fair Market Value per Share on the date of grant.

(iv) In the case of other Awards, such price as is determined by the Administrator.

(v) Notwithstanding the foregoing provisions of this Section 7(a), in the case of an Award issued pursuant to Section 6(d), above, the exercise or purchase price for the Award shall be determined in accordance with the principles of Section 424(a) of the Code.

(b) Consideration. Subject to Applicable Laws, the consideration to be paid for the Shares to be issued upon exercise or purchase of an Award including the method of payment, shall be determined by the Administrator (and, in the case of an Incentive Stock Option, shall be determined at the time of grant). In addition to any other types of consideration the Administrator may determine, the Administrator is authorized to accept as consideration for Shares issued under the Plan the following:

(i) cash;

(ii) check;

(iii) delivery of Grantee's promissory note with such recourse, interest, security, and redemption provisions as the Administrator determines as appropriate;

(iv) surrender of Shares or delivery of a properly executed form of attestation of ownership of Shares as the Administrator may require (including withholding of Shares otherwise deliverable upon exercise of the Award) which have a Fair Market Value on the date of surrender or attestation equal to the aggregate exercise price of the Shares as to which said Award shall be exercised (but only to the extent that such exercise of the Award would not result in an accounting compensation charge with respect to the Shares used to pay the exercise price unless otherwise determined by the Administrator);

(v) with respect to Options, payment through a broker-dealer sale and remittance procedure pursuant to which the Grantee (A) shall provide written instructions to a Company designated brokerage firm to effect the immediate sale of some or all of the purchased Shares and remit to the Company, out of the sale proceeds available on the settlement date, sufficient funds to cover the aggregate exercise price payable for the purchased Shares (including all applicable taxes) and (B) shall provide written directives to the Company to deliver the certificates for the purchased Shares directly to such brokerage firm in order to complete the sale transaction; or

(vi) any combination of the foregoing methods of payment.

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(c) Taxes. No Shares shall be delivered under the Plan to any Grantee or other person until such Grantee or other person has made arrangements acceptable to the Administrator for the satisfaction of any foreign, federal, state, or local income and employment tax withholding obligations, including, without limitation, obligations incident to the receipt of Shares or the disqualifying disposition of Shares received on exercise of an Incentive Stock Option. Upon exercise of an Award the Company shall withhold or collect from Grantee an amount sufficient to satisfy such tax obligations.

8. Exercise of Award.

(a) Procedure for Exercise; Rights as a Stockholder.

(i) Any Award granted hereunder shall be exercisable at such times and under such conditions as determined by the Administrator under the terms of the Plan and specified in the Award Agreement.

(ii) An Award shall be deemed to be exercised when written notice of such exercise has been given to the Company in accordance with the terms of the Award by the person entitled to exercise the Award and full payment for the Shares with respect to which the Award is exercised, including, to the extent selected, use of the broker-dealer sale and remittance procedure to pay the purchase price as provided in Section 7(b)(v). Until the issuance (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company) of the stock certificate evidencing such Shares, no right to vote or receive dividends or any other rights as a stockholder shall exist with respect to Shares subject to an Award, notwithstanding the exercise of an Option or other Award. The Company shall issue (or cause to be issued) such stock certificate promptly upon exercise of the Award. No adjustment will be made for a dividend or other right for which the record date is prior to the date the stock certificate is issued, except as provided in the Award Agreement or Section 10, below.

(b) Exercise of Award Following Termination of Continuous Service.

(i) An Award may not be exercised after the termination date of such Award set forth in the Award Agreement and may be exercised following the termination of a Grantee's Continuous Service only to the extent provided in the Award Agreement.

(ii) Where the Award Agreement permits a Grantee to exercise an Award following the termination of the Grantee's Continuous Service for a specified period, the Award shall terminate to the extent not exercised on the last day of the specified period or the last day of the original term of the Award, whichever occurs first.

(iii) Any Award designated as an Incentive Stock Option to the extent not exercised within the time permitted by law for the exercise of Incentive Stock Options following the termination of a Grantee's Continuous Service shall convert automatically to a Non-Qualified Stock Option and thereafter shall be exercisable as such to the extent exercisable by its terms for the period specified in the Award Agreement.

9. Conditions Upon Issuance of Shares.

(a) Shares shall not be issued pursuant to the exercise of an Award unless the exercise of such Award and the issuance and delivery of such Shares pursuant thereto shall comply with all Applicable Laws, and shall be further subject to the approval of counsel for the Company with respect to such compliance.

(b) As a condition to the exercise of an Award, the Company may require the person exercising such Award to represent and warrant at the time of any such exercise that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required by any Applicable Laws.

10. Adjustments Upon Changes in Capitalization. Subject to any required action by the stockholders of the Company, the number of Shares covered by each outstanding Award, and the number of Shares which have

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been authorized for issuance under the Plan but as to which no Awards have yet been granted or which have been returned to the Plan, the exercise or purchase price of each such outstanding Award, the maximum number of Shares with respect to which Options and SARs may be granted to any Grantee in any fiscal year of the Company, as well as any other terms that the Administrator determines require adjustment shall be proportionately adjusted for (i) any increase or decrease in the number of issued Shares resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the Shares, or similar transaction affecting the Shares, (ii) any other increase or decrease in the number of issued Shares effected without receipt of consideration by the Company, or (iii) as the Administrator may determine in its discretion, any other transaction with respect to Common Stock to which Section 424(a) of the Code applies or a similar transaction; provided, however that conversion of any convertible securities of the Company shall not be deemed to have been effected without receipt of consideration. Such adjustment shall be made by the Administrator and its determination shall be final, binding and conclusive. Except as the Administrator determines, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason hereof shall be made with respect to, the number or price of Shares subject to an Award.

11. Corporate Transactions/Changes in Control.

(a) Effective upon the consummation of a Corporate Transaction, all outstanding Awards under the Plan shall terminate. However, all such Awards shall not terminate to the extent they are Assumed in connection with the Corporate Transaction.

(b) The Administrator shall have the authority, exercisable either in advance of any actual or anticipated Corporate Transaction or Change in Control or at the time of an actual Corporate Transaction or Change in Control and exercisable at the time of the grant of an Award under the Plan or any time while an Award remains outstanding, to provide for the full or partial automatic vesting and exercisability of one or more outstanding unvested Awards under the Plan and the release from restrictions on transfer and repurchase or forfeiture rights of such Awards in connection with a Corporate Transaction or Change in Control, on such terms and conditions as the Administrator may specify. The Administrator also shall have the authority to condition any such Award vesting and exercisability or release from such limitations upon the subsequent termination of the Continuous Service of the Grantee within a specified period following the effective date of the Corporate Transaction or Change in Control.

(c) The portion of any Incentive Stock Option accelerated under this Section 11 in connection with a Corporate Transaction or Change in Control shall remain exercisable as an Incentive Stock Option under the Code only to the extent the \$100,000 dollar limitation of Section 422(d) of the Code is not exceeded. To the extent such dollar limitation is exceeded, the accelerated excess portion of such Option shall be exercisable as a Non-Qualified Stock Option.

12. Effective Date and Term of Plan. The Plan shall become effective upon the earlier to occur of its adoption by the Board or its approval by the stockholders of the Company. It shall continue in effect for a term of ten (10) years unless sooner terminated. Subject to Section 17, below, and Applicable Laws, Awards may be granted under the Plan upon its becoming effective.

13. Amendment, Suspension or Termination of the Plan.

(a) The Board may at any time amend, suspend or terminate the Plan. To the extent necessary to comply with Applicable Laws, the Company shall obtain stockholder approval of any Plan amendment in such a manner and to such a degree as required.

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(b) No Award may be granted during any suspension of the Plan or after termination of the Plan.

(c) No amendment, suspension or termination of the Plan (including termination of the Plan under Section 12, above) shall adversely affect any rights under Awards already granted to a Grantee, unless consented to by the Grantee.

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14. Reservation of Shares.

(a) The Company, during the term of the Plan, will at all times reserve and keep available such number of Shares as shall be sufficient to satisfy the requirements of the Plan.

(b) The inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares hereunder, shall relieve the Company of any liability in respect of the failure to issue or sell such Shares as to which such requisite authority shall not have been obtained.

15. No Effect on Terms of Employment/Consulting Relationship. The Plan shall not confer upon any Grantee any right with respect to the Grantee's Continuous Service, nor shall it interfere in any way with his or her right or the Company's right to terminate the Grantee's Continuous Service at any time, with or without cause, and with or without notice.

16. No Effect on Retirement and Other Benefit Plans. Except as specifically provided in a retirement or other benefit plan of the Company or a Related Entity, Awards shall not be deemed compensation for purposes of computing benefits or contributions under any retirement plan of the Company or a Related Entity, and shall not affect any benefits under any other benefit plan of any kind or any benefit plan subsequently instituted under which the availability or amount of benefits is related to level of compensation. The Plan is not a Retirement Plan or Welfare Plan under the Employee Retirement Income Security Act of 1974, as amended.

17. Stockholder Approval. The grant of Incentive Stock Options under the Plan shall be subject to approval by the stockholders of the Company within twelve (12) months before or after the date the Plan is adopted excluding Incentive Stock Options issued in substitution for outstanding Incentive Stock Options pursuant to Section 424(a) of the Code. Such stockholder approval shall be obtained in the degree and manner required under Applicable Laws. The Administrator may grant Incentive Stock Options under the Plan prior to approval by the stockholders, but until such approval is obtained, no such Incentive Stock Option shall be exercisable. In the event that stockholder approval is not obtained within the twelve (12) month period provided above, all Incentive Stock Options previously granted under the Plan shall be exercisable as Non-Qualified Stock Options.

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ANNEX G

COAST CASINOS, INC. AUDIT COMMITTEE CHARTER

A. Purpose of Committee

The purpose of the Audit Committee (the **Committee**) of the Board of Directors (the **Board**) of Coast Casinos, Inc. (the **Company**) (and the Special Committee for Coast Hotels and Casinos, Inc.) is to:

1. represent and assist the Board in the oversight of (a) the accounting, reporting and financial practices of the Company and its subsidiaries, including the integrity of the financial reporting process and financial statements of the Company, (b) the review of the financial reporting controls of the Company, (c) the independence, qualifications and performance of the Company's external auditors, (d) gaming regulatory compliance reports required by Regulations 6 and 6A of the Nevada Gaming Commission Regulations, and

2. prepare any report the Committee is required by Securities and Exchange Commission (**SEC**) rules to be include in the Company's annual proxy statement.

B. Committee Structure and Operations

The Committee shall be composed of a minimum of three directors, with all members of the Committee to be independent, according to the independence standards set forth on Exhibit A. The Board shall appoint members of the Committee, including a Director to serve as Committee Chair. The Committee Members shall serve until replaced by another independent director as determined by a majority vote of the Board of Directors. At least one member of the Committee shall, in the judgment of the Board, be an audit committee financial expert as defined by the SEC.

The Committee shall meet at least four times per year, either in person or telephonically with additional meetings to occur as deemed necessary or desirable by the Committee or the Committee Chair. The Committee may meet separately in executive session with such officers or employees of the Company and the principal firm of independent public accountants (**External Auditor**) as the Committee deems appropriate to carry out its requirements under relevant statutes, regulations and rules. A majority of the members of the Committee shall constitute a quorum for the Committee to act in the discharge of its duties. The Committee shall keep minutes of meetings (other than executive sessions) and shall make those minutes available for review by the Board of Directors.

C. Committee Duties and Responsibilities

The following are the duties and responsibilities of the Committee:

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External Audit Functions

1. Appoint and retain, establish compensation for, evaluate and terminate when appropriate, the External Auditors, which shall report directly to the Committee.
2. Pre-approve all audit and permissible non-audit services to be performed by the External Auditor and establish policies and procedures for the engagement of the External Auditor to provide those services.
3. Consider, at least annually, the independence of the External Auditor, including whether the External Auditor's performance of permissible non-audit services is compatible with the External Auditor's independence.
4. Review and discuss with the External Auditor the scope of the audit, the results of the annual audit examination by the External Auditor and any difficulties the External Auditor encountered in the course of the audit work.
5. Receive and review reports from the External Auditor, as required by Section 10A(k) of the Securities Exchange Act of 1934 and other communications required under Generally Accepted Auditing Standards.

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Financial Reporting

6. Review and discuss with management and the External Auditor the annual audited financial statements and quarterly financial statements prior to filing, including:

a. an analysis of the External Auditor's judgment as to the quality of the Company's accounting principles, setting forth significant financial reporting issues and judgments made in connection with the preparation of the financial statements; and

b. any significant changes in the Company's selection or application of accounting principles and financial statement presentations.

7. Recommend to the Board, based on the reviews and discussions with management and the External Auditor, whether the financial statements should be included in the annual report on the Form 10-K;

Other

8. Review and approve, if appropriate, related party transactions between the Company and any Director or the Chief Executive Officer of the Company. For purposes of this paragraph a related party transaction is one in which a Director or Chief Executive Officer or their spouse, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law or any person living in the same home with the Director or Chief Executive Officer:

a. has a significant financial or other beneficial interest in one of the Company's suppliers, customers or competitors;

b. engages in a significant personal business transaction involving the Company for profit or gain;

c. participates in any sale, loan or gift of Company property.

9. Establish procedures regarding the receipt, retention and treatment of complaints regarding the Company's accounting, internal accounting controls or auditing matters including the confidential and anonymous submission of concerns by Company employees regarding accounting or auditing matters.

D. Resources and Authority of the Committee

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1. The Committee shall have the authority to appoint and retain such outside legal counsel, accountants, experts and other advisors as the Committee in its sole discretion deems appropriate to assist it in the performance of its functions. The Committee shall have the sole authority to approve the terms of any such retention and the appropriate fees to be paid.

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EXHIBIT A

DEFINITION OF INDEPENDENT

(1) **Independent**. Each member of the audit committee shall have no relationship to the Company that may interfere with the exercise of their independence from management and the Company (Independent);

(2) **Independence Requirement of Audit Committee Members**. In addition to the definition of Independent provided in (1) above, the following restrictions shall apply to every audit committee member:

- (a) *Employees*. A director who is an employee (including non-employee executive officers) of the Company or any of its affiliates may not serve on the audit committee until three years following the termination of his or her employment. In the event the employment relationship is with a former parent or predecessor of the Company, the director could serve on the audit committee after three years following the termination of the relationship between the Company and the former parent or predecessor.
- (b) *Business Relationship*. A director (i) who is a partner, controlling shareholder, or executive officer of an organization that has a business relationship with the Company, or (ii) who has a direct business relationship with the Company (e.g., a consultant) may serve on the audit committee only if the Company's Board determines in its business judgment that the relationship does not interfere with the director's exercise of independent judgment. In making a determination regarding the independence of a director pursuant to this paragraph, the Board should consider, among other things, the materiality of the relationship to the Company, to the director, and, if applicable, to the organization with which the Company is affiliated.

Business Relationships can include commercial, industrial, banking, consulting, legal, accounting and other relationships. A director can have this relationship directly with the Company, or the director can be a partner, officer or employee of an organization that has such a relationship. The director may serve on the audit committee without the above-referenced Board of Directors' determination after three years following the termination of, as applicable, either (1) the relationship between the organization with which the director is affiliated and the Company, (2) the relationship between the director and his or her partnership status, shareholder interest or executive officer position, or (3) the direct business relationship between the director and the Company.

Affiliate includes a subsidiary, sibling company, predecessor company, parent company or former parent company.

- (c) *Cross Compensation Committee Link*. A director who is employed as an executive of another corporation where any of the Company's executives serves on that corporation's compensation committee may not serve on the audit committee.
- (d) *Immediate Family*. A director who is an Immediate Family member of an individual who is an executive officer of the Company or any of its affiliates cannot serve on the audit committee until three years following the termination of such employment relationship.

Immediate Family includes a person's spouse, parents, children, siblings, mothers-in-law and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and anyone (other than employees) who shares such persons home.

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PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 20. Indemnification of Directors and Officers.

Under Sections 78,7502, 78.751 and 78.752 of the Nevada Revised Statutes, Boyd Gaming has broad powers to indemnify and insure its directors and officers against liabilities they may incur in their capacities as such.

Article IX of Boyd Gaming's Restated Articles of Incorporation and Article 10 of Boyd Gaming's Restated By-laws provide for indemnification of its directors, officers, employees and other agents to the maximum extent permitted by law. Boyd Gaming also has entered into Indemnification Agreements with its executive officers and directors and provides indemnity insurance pursuant to which directors and officers are indemnified or insured against liability or loss under certain circumstances which may include liability, or related loss under the Securities Act and the Exchange Act.

Item 21. Exhibits and Financial Statement Schedules.

(a) Exhibits:

- 2.1 Partnership Interest Purchase Agreement, dated as of January 20, 2004, by and among Harrah's Shreveport/Bossier City Investment Company LLC, Harrah's Bossier City Investment Company, LLC, Red River Entertainment of Shreveport Partnership in Commendam, Boyd Shreveport, L.L.C., Boyd Red River, L.L.C. and Boyd Gaming Corporation.(23)
- 2.2 Agreement and Plan of Merger dated as of February 6, 2004, among Boyd Gaming Corporation, BGC, Inc. and Coast Casinos, Inc.(24)
- 3.1 Restated Articles of Incorporation.(2)
- 3.2 Restated By-laws.(7)
- 3.3 Certificate of Amendment of Articles of Incorporation.(6)
- 3.4 Certificate of Amendment of Articles of Incorporation.(11)
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- 4.2 Form of Indenture relating to \$200,000,000 aggregate principal amount of 9¼% Senior Notes due 2009, dated as of July 26, 2001, by and among the Registrant, as Issuer, certain subsidiaries of the Registrant, as Guarantors, and The Bank of New York, as Trustee, including the Form of Note.(14)
- 4.3 Registration Rights Agreement, dated as of April 8, 2002, by and between the Registrant, as Issuer, and the Initial Purchasers named therein.(17)
- 4.4 Form of Indenture relating to \$250,000,000 aggregate principal amount of 8.75% Senior Subordinated Notes due 2012, dated as of April 8, 2002, by and between the Registrant, as Issuer, and Wells Fargo Bank, National Association, as Trustee, including the Form

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of Note.(17)

- 4.5 Registration Rights Agreement, dated as of December 30, 2002, by and between the Registrant, as Issuer, and the Initial Purchasers named therein.(20)
- 4.6 Form of Indenture relating to \$300,000,000 aggregate principal amount of 7.75% Senior Subordinated Notes due 2012, dated as of December 30, 2002, by and between the Registrant, as Issuer, and Wells Fargo Bank, National Association, as Trustee, including the Form of Note.(20)
- 5.1 Opinion of Lionel Sawyer & Collins regarding the legality of the securities being issued.**

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8.1	Opinion of Cravath, Swaine & Moore LLP at to tax matters.**
8.2	Opinion of Gibson, Dunn & Crutcher LLP as to tax matters.**
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10.4	Lease Agreement dated June 7, 1971, by and among Anthony Antonacci, Margaret Fay Simon and Bank of Nevada, as Co-Trustees under Peter Albert Simon's Last Will and Testament, and related Assignment of Lease dated February 25, 1985 to Sam-Will, Inc. and Fremont Hotel, Inc.(1)
10.5	Lease Agreement dated July 25, 1973, by and between California Hotel and Casino and William Peccole, as Trustee of the Peter Peccole 1970 Trust.(4)
10.6	Lease Agreement dated July 1, 1974, by and among Fremont Hotel, Inc. and Bank of Nevada, Leon H. Rockwell, Jr. and Margorie Rockwell Riley.(1)
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10.14	401(k) Profit Sharing Plan and Trust.(1)
10.15	Joint Venture Agreement of Stardust A.C., dated as of May 29, 1996, by and between MAC, Corp., a New Jersey Corporation, which is a wholly owned subsidiary of Mirage Resorts Incorporated, a Nevada Corporation, and Grand K, Inc., a Nevada Corporation, which is a wholly owned subsidiary of the Registrant. (Certain portions of this exhibit have been omitted and filed separately with the Securities and Exchange Commission pursuant to a request for confidential treatment for this Agreement).(5)
10.16	Amended and Restated Joint Venture Agreement of Stardust A.C.(3)
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10.18	2000 Executive Management Incentive Plan.(10)
10.19	1996 Stock Incentive Plan (as amended on May 25, 2000).(11)
10.20	Second Amended and Restated Joint Venture Agreement with Marina District Development Company dated as of August 31, 2000.(12)
10.21	Contribution and Adoption Agreement by and among Marina District Development Holding Co., LLC, MAC, Corp. and Boyd Atlantic City, Inc. effective as of December 13, 2000.(13)

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10.22	Guaranty of Performance and Completion dated December 13, 2000.(13)
10.23	2002 Stock Incentive Plan.(16)
10.24	Second Amended and Restated Credit Agreement dated as of June 24, 2002, among the Registrant as the Borrower, certain commercial lending institutions as the Lenders, Canadian Imperial Bank of Commerce as the Administrative Agent, Bank of America, National Association and Wells Fargo Bank, N.A. as Co-Syndication Agents and Credit Lyonnais New York Branch and Deutsche Bank Securities, Inc. as Co-Documentation Agents.(18)
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10.27	Letter agreement between MAC, Corp. and Boyd Atlantic City, Inc. dated February 21, 2003 related to an increase in scope of construction of Borgata.(19)
10.28	Annual Incentive Plan.(19)
10.29	Letter agreement between MAC, Corp. and Boyd Atlantic City, Inc. dated May 30, 2003 related to an increase in scope of construction of Borgata.(21)
10.30	First Amendment to Second Amended and Restated Credit Agreement dated as of June 30, 2003, and effective as of July 31, 2003, by and among the Registrant as the Borrower, and certain commercial lending institutions named therein.(21)
10.31	Supplemental Indenture, relating to the 9.25% senior notes due 2009, among Boyd Louisiana Racing, Inc., a subsidiary of Boyd Gaming, and The Bank of New York, as trustee under the indenture, dated as of April 30, 2003.(22)
10.32	Supplemental Indenture, relating to the 9.25% senior notes due 2009, among Boyd Racing, L.L.C., a subsidiary of Boyd Gaming, and The Bank of New York, as trustee under the indenture, dated as of April 30, 2003.(22)
10.33	Stockholders Agreement dated as of February 6, 2004, among Boyd Gaming Corporation and the stockholders of Coast Casinos, Inc. party thereto.(25)
23.1	Consent of Deloitte & Touche LLP.*
23.2	Consent of PricewaterhouseCoopers LLP.*
23.3	Consent of Lionel Sawyer & Collins (contained in Exhibit 5 opinion).**
23.4	Consent of Cravath, Swaine & Moore LLP (contained in Exhibit 8.1 opinion).**
23.5	Consent of Gibson, Dunn & Crutcher LLP (contained in Exhibit 8.2 opinion).**
24	Power of Attorney (included in Part II to this Registration Statement).**
99.1	Press Release dated February 9, 2004.(26)
99.2	Analyst Script dated February 9, 2004.(26)
99.3	Consent of Deutsche Bank Securities Inc.*
99.4	Consent of Banc of America Securities LLC (contained in Annex C to the Joint Proxy Statement/Prospectus).*
99.5	Consent of Peter M. Thomas.**
99.6	Consent of Michael J. Gaughan.**
99.7	Form of Proxy (Boyd Gaming).**
99.8	Form of Proxy (Coast Casinos).**

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99.9	Form of Election and Letter of Transmittal and related documentation.*
99.10	Form of Letter of Transmittal for stockholders making no election.**
99.11	Form of Boyd Gaming Meeting Admissions Ticket.**
99.12	CIBC Gaming Lodging and Leisure Conference Slides. (27)
99.13	Press Release dated March 19, 2004. (28)

* Filed together with this Amendment No. 1 to the Registration Statement on Form S-4.

** Previously filed.

- (1) Incorporated by reference to the Registrant's Registration Statement on Form S-1, File No. 33-51672, of California Hotel and Casino and California Hotel Finance Corporation, which became effective on November 18, 1992.
- (2) Incorporated by reference to the Registrant's Registration Statement on Form S-1, File No. 33-64006, which became effective on October 15, 1993.
- (3) Incorporated by reference to Exhibit 10.55 of the Registrant's Quarterly Report on Form 10-Q for the quarter ended June 30, 1998.
- (4) Incorporated by reference to the Registrant's Annual Report on Form 10-K for the year ended June 30, 1995.
- (5) Incorporated by reference to Exhibit 10.1 of the Registrant's Current Report on Form 8-K dated June 7, 1996.
- (6) Incorporated by reference to Exhibit 3.1 of the Registrant's Quarterly Report on Form 10-Q for the quarter ended December 31, 1996.
- (7) Incorporated by reference to Exhibit 3.2 of the Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 1999.
- (8) Incorporated by reference to the Registrant's Registration Statement on Form S-8, File No. 333-79895, dated June 3, 1999.
- (9) Incorporated by reference to the Registrant's Quarterly Report on Form 10-Q for the quarter ended June 30, 1999.
- (10) Incorporated by reference to Appendix A of the Registrant's Definitive Proxy Statement filed with the Commission on April 21, 2000.
- (11) Incorporated by reference to the Registrant's Quarterly Report on Form 10-Q for the quarter ended June 30, 2000.
- (12) Incorporated by reference to the Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2000.
- (13) Incorporated by reference to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2000.
- (14) Incorporated by reference to the Registrant's Registration Statement on Form S-4, File No. 333-69566, which was declared effective on December 5, 2001.
- (15) Incorporated by reference to Exhibit 21.1 of the Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 2002.
- (16) Incorporated by reference to Exhibit A of the Registrant's Definitive Proxy Statement filed with the Commission on April 12, 2002.
- (17) Incorporated by reference to the Registrant's Registration Statement on Form S-4, File No. 333-89774, which was declared effective on June 19, 2002.
- (18) Incorporated by reference to Exhibit 10.31 of the Registrant's Current Report on Form 8-K dated June 27, 2002.
- (19) Incorporated by reference to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2002.
- (20) Incorporated by reference to the Registrant's Registration Statement on Form S-4, File No. 333-103023, which was declared effective on May 15, 2003.
- (21) Incorporated by reference to Exhibit 10.30 of the Registrant's Quarterly Report on Form 10-Q for the quarter ended June 30, 2003.
- (22) Incorporated by reference to the Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2003.
- (23) Incorporated by reference to Exhibit 2.1 of the Registrant's Current Report on Form 8-K dated January 20, 2004.

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- (24) Incorporated by reference to Exhibit 2.1 of the Registrant's Current Report on Form 8-K dated February 9, 2004.
- (25) Incorporated by reference to Exhibit 99.1 of the Registrant's Current Report on Form 8-K dated February 9, 2004.
- (26) Exhibits 99.1 and 99.2 were filed pursuant to Rule 425 on February 9, 2004 and are incorporated by reference.
- (27) Exhibit 99.12 was filed pursuant to Rule 425 on March 16, 2004 and is incorporated by reference.
- (28) Exhibit 99.13 was filed pursuant to Rule 425 on March 19, 2004 and is incorporated by reference.

Item 22. Undertakings.

(a) (1) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(2) The undersigned registrant hereby undertakes as follows: that prior to any public reoffering of the securities registered hereunder through use of a prospectus which is a part of this registration statement, by any person or party who is deemed to be an underwriter within the meaning of Rule 145(c), the issuer undertakes that such reoffering prospectus will contain the information called for by the applicable registration form with respect to reofferings by persons who may be deemed underwriters, in addition to the information called for by the other items of the applicable form.

(3) The registrant undertakes that every prospectus: (i) that is filed pursuant to paragraph (2) immediately preceding or (ii) that purports to meet the requirements of Section 10(a)(3) of the Securities Act of 1933 and is used in connection with an offering of securities subject to Rule 415, will be filed as a part of an amendment to the registration statement and will not be used until such amendment is effective, and that, for purposes of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(4) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

(b) The undersigned registrant hereby undertakes to respond to requests for information that is incorporated by reference into the prospectus pursuant to Item 4, 10(b), 11 or 13 of this form, within one business day of receipt of such request, and to send the incorporated documents by first class mail or other equally prompt means. This includes information contained in documents filed subsequent to the effective date of the registration statement through the date of responding to the request.

(c) The undersigned registrant hereby undertakes to supply by means of a post-effective amendment all information concerning a transaction, and the company being acquired involved therein, that was not subject of and included in the registration statement when it became effective.

*

Vice President and Controller (Principal
Accounting Officer)

March 29, 2004

Jeffrey G. Santoro

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<u>Signature</u>	<u>Title</u>	<u>Date</u>
*	Director	March 29, 2004
<hr/>		
Frederick J. Schwab		
*	Director	March 29, 2004
<hr/>		
Michael O. Maffie		
*	Director	March 29, 2004
<hr/>		
Maj. Gen. Billy G. McCoy, Ret. USAF		
*	Director	March 29, 2004
<hr/>		
Perry B. Whitt		
*	Director	March 29, 2004
<hr/>		
Luther W. Mack, Jr.		
*	Director	March 29, 2004
<hr/>		
Veronica J. Wilson		

*By: /s/ ELLIS LANDAU

Ellis Landau

Attorney-in-fact

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- (4) Incorporated by reference to the Registrant's Annual Report on Form 10-K for the year ended June 30, 1995.
- (5) Incorporated by reference to Exhibit 10.1 of the Registrant's Current Report on Form 8-K dated June 7, 1996.
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- (12) Incorporated by reference to the Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2000.
- (13) Incorporated by reference to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2000.
- (14) Incorporated by reference to the Registrant's Registration Statement on Form S-4, File No. 333-69566, which was declared effective on December 5, 2001.
- (15) Incorporated by reference to Exhibit 21.1 of the Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 2002.
- (16) Incorporated by reference to Exhibit A of the Registrant's Definitive Proxy Statement filed with the Commission on April 12, 2002.
- (17) Incorporated by reference to the Registrant's Registration Statement on Form S-4, File No. 333-89774, which was declared effective on June 19, 2002.
- (18) Incorporated by reference to Exhibit 10.31 of the Registrant's Current Report on Form 8-K dated June 27, 2002.
- (19) Incorporated by reference to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2002.
- (20) Incorporated by reference to the Registrant's Registration Statement on Form S-4, File No. 333-103023, which was declared effective on May 15, 2003.
- (21) Incorporated by reference to Exhibit 10.30 of the Registrant's Quarterly Report on Form 10-Q for the quarter ended June 30, 2003.
- (22) Incorporated by reference to the Registrant's Quarterly Report on Form 10-Q for the quarter ended September 30, 2003.
- (23) Incorporated by reference to Exhibit 2.1 of the Registrant's Current Report on Form 8-K dated January 20, 2004.
- (24) Incorporated by reference to Exhibit 2.1 of the Registrant's Current Report on Form 8-K dated February 9, 2004.
- (25) Incorporated by reference to Exhibit 99.1 of the Registrant's Current Report on Form 8-K dated February 9, 2004.
- (26) Exhibits 99.1 and 99.2 were filed pursuant to Rule 425 on February 9, 2004 and are incorporated by reference.
- (27) Exhibit 99.12 was filed pursuant to Rule 425 on March 16, 2004 and is incorporated by reference.
- (28) Exhibit 99.13 was filed pursuant to Rule 425 on March 19, 2004 and is incorporated by reference.