

**COLE, SCHOTZ, MEISEL,  
FORMAN & LEONARD, P.A.**  
A Professional Corporation  
Court Plaza North  
25 Main Street  
P.O. Box 800  
Hackensack, New Jersey 07602-0800  
Michael D. Sirota, Esq.  
Warren A. Usatine, Esq.  
Ryan T. Jareck, Esq.  
Nicholas B. Vislocky, Esq.  
(201) 489-3000  
(201) 489-1536 Facsimile  
Attorneys for RIH Acquisitions NJ, LLC, *et al.*,  
Debtors-in-Possession

In re:  
  
RIH ACQUISITIONS NJ, LLC, *et al.*,<sup>1</sup>  
  
Debtors-in-Possession.

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY  
HONORABLE GLORIA M. BURNS  
CASE NO. 13-34483 (GMB)

Chapter 11  
(Jointly Administered)

**PLAN SUPPLEMENT TO DEBTORS' JOINT PLAN OF LIQUIDATION**

This supplement (the "**Plan Supplement**") is being filed in connection with the Joint Chapter 11 Plan of Liquidation of RIH Acquisitions NJ, LLC d/b/a The Atlantic Club Casino Hotel and RIH Propco NJ, LLC [Docket No. 355] (as it may be amended, the "**Plan**").<sup>2</sup> The documents contained in this Plan Supplement are integral to, and are a part of, the Plan, and if the Plan is confirmed, such documents will be approved in the Order confirming the Plan. The hearing to consider confirmation of the Plan is currently scheduled for April 14, 2014, at

<sup>1</sup> The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's federal identification number are: RIH Acquisitions NJ, LLC d/b/a The Atlantic Club Casino Hotel (1695) and RIH Propco NJ, LLC (5454).

<sup>2</sup> All capitalized terms used but not otherwise defined herein shall have the same meanings ascribed to them in the Plan.



10:00 a.m., before the Honorable Gloria M. Burns, Chief United States Bankruptcy Judge, at the United States Bankruptcy Court, Mitchell H. Cohen U.S. Courthouse, 400 Cooper Street, 4<sup>th</sup> Floor, Camden, New Jersey 08101. The Debtors reserve the right to alter, amend, modify, withdraw, or supplement any document in this Plan Supplement; provided that if any document in this Plan Supplement is altered, amended, modified or supplemented in any material respect, such document will be filed with the Bankruptcy Court.

Any party that wishes to obtain copies of the Plan, the Plan Supplement, documents referred to on the attached list, or the Disclosure Statement related to the Plan may download copies from the website maintained by the Debtors' claims, noticing and balloting agent, Kurtzman Carson Consultants LLC, at <http://www.kccllc.net/RIH> or on the Bankruptcy Court's internet website at <http://www.njb.uscourts.gov>. A login and password to the Bankruptcy Court's Public Access to Electronic Court Records ("**PACER**") are required to access this information and can be obtained through the PACER Service Center at <http://www.pacer.psc.uscourts.gov>.

Respectfully submitted,

COLE, SCHOTZ, MEISEL,  
FORMAN & LEONARD, P.A.  
Attorneys for RIH Acquisitions NJ, LLC, *et al.*,  
Debtors-in-Possession

By: /s/ Ryan T. Jareck  
Michael D. Sirota  
Warren A. Usatine  
Ryan T. Jareck  
Nicholas B. Vislocky

DATED: April 7, 2014

**PLAN SUPPLEMENT DOCUMENTS**

**Exhibit 1** – Liquidation Trust Agreement

# **EXHIBIT 1**

## LIQUIDATION TRUST AGREEMENT

This Liquidation Trust Agreement, dated as of April 7, 2014 (this “**Agreement**”), is entered into by and among RIH Acquisitions NJ, LLC d/b/a The Atlantic Club Casino Hotel and RIH Propco NJ, LLC, the within debtors and debtors-in-possession (the “**Debtors**”), and Alfred T. Giuliano, in his capacity as principal of Giuliano, Miller & Company, LLC (the “**Liquidation Trustee**”).

### RECITALS

A. On November 6, 2013, each of the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court (the “**Bankruptcy Case**”).

B. On or about February 28, 2014, the Debtors filed the Joint Plan of Liquidation (as may be amended and supplemented and as confirmed, the “**Plan**,” and the related disclosure statement, the “**Disclosure Statement**”).

C. The Plan provides for a liquidating trust (as so formed and administered in accordance with the terms of this Agreement, the “**Liquidation Trust**”) to liquidate and distribute the Liquidation Trust Assets to holders of general unsecured claims that are Allowed on the Effective Date or that become Allowed after the Effective Date.

D. This Agreement is being executed to establish and provide for the administration of the Liquidation Trust and the liquidation and distribution of Liquidation Trust Assets as contemplated by the Plan, and to otherwise facilitate the implementation of the Plan.

E. The Liquidation Trust is intended to qualify as a liquidating trust, within the meaning of Treas. Reg. § 301.7701-4(d)(26 C.F.R.), and further to be treated as a “grantor trust” for federal income tax purposes in accordance with Treas. Reg. § 1.674-4(a), and to be exempt from the requirements of the Investment Company Act of 1940 pursuant to Section 3(c)(5) and Sections 7(a) and 7(b) thereof.

**NOW, THEREFORE**, in consideration of the promises and the mutual covenants contained herein, the parties hereto agree as follows:

### **ARTICLE I DEFINITIONS**

1.1 Definitions Incorporated from the Plan. Other than the terms defined below or elsewhere in this Agreement, capitalized terms shall have the meaning assigned to them in the Plan.

1.2 Interpretation. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the provisions of this Agreement. Words denoting the singular number shall include the plural number and vice versa, and words denoting one gender shall include the other gender.

1.3 Particular Words. Reference in this Agreement to any Section or Article is, unless otherwise specified, to that such Section or Article under this Agreement. The words “hereof,” “herein,” “hereto” and similar terms shall refer to this Agreement and not to any particular Section or Article of this Agreement.

1.4 Other Definitions.

(a) “Beneficiaries” shall mean, collectively, the Holders of Allowed General Unsecured Claims under the Plan, or any successors to such Holders’ Allowed General Unsecured Claims or interests in the Liquidation Trust.

(b) “Cause” means, with respect to any Liquidation Trustee,

(i) such Liquidation Trustee’s conviction of a felony or any other crime involving moral turpitude;

(ii) any act or failure to act by such Liquidation Trustee involving actual dishonesty, fraud, misrepresentation, theft or embezzlement;

(iii) such Liquidation Trustee’s willful and repeated failure to substantially perform his/her duties under this Agreement; or

(iv) such Liquidation Trustee’s incapacity, such that s/he is unable to substantially perform his/her duties under this Agreement for more than ninety (90) consecutive days.

(c) “Settlors” shall mean the Holders of Allowed General Unsecured Claims under the Plan, or any successors to such Holders of Allowed General Unsecured Claims, referred to in Section 1.4(a) as the “Beneficiaries” of this Liquidation Trust.

(d) “Tax Code” means the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder.

(e) “Taxes” means all (a) federal, state, local, or foreign taxes, including, without limitation, all net income, alternative minimum, net worth or gross receipts, capital, value added, franchise, profits, estimated, property, transfer and sales or use taxes, and (b) interest, penalties, fines, additions to tax or additional amounts imposed by any Tax Authority or paid in connection with any item described in clause (a) hereof.

(f) “Liability for Taxes” As set forth in the Disclosure Statement for Debtors’ Joint Plan of Liquidation filed in this Case (No. 13-34483 (GMB)) the Settlers of the Liquidating Trust shall be the Holders of Allowed General Unsecured Claims under the Plan or any successors to such Holders, and based on their status as both Settlers and Beneficiaries under the Liquidation Trust, the Holders of Allowed General Unsecured Claims or any successors to such persons, shall be liable to make all payments of “Taxes” as set forth in this Article 1.4. See Treas. Regs. §§ 1.671-2(e)(1), 1.671-2(e)(3). The Trustee for the Liquidation Trust is neither liable for any failure on the part of the Trustee to withhold and pay over or otherwise make payment of any Taxes owed by the Beneficiaries nor shall distribute any assets from the

Liquidation Trust for the payment of the taxes for which the Beneficiaries are individually liable unless pursuant to Court order from a court having jurisdiction over the Liquidation Trust.

1.5 Meanings of Other Terms. Except where the context otherwise requires, words importing the masculine gender include the feminine and the neuter, if appropriate; words importing the singular number shall include the plural number and vice versa; and words importing persons shall include firms, associations, corporations and other entities. All references herein to Articles, Sections and other subdivisions, unless referring specifically to the Plan or provisions of the Bankruptcy Code; the Bankruptcy Rules; or other law, statute or regulation, refer to the corresponding Articles, Sections and other subdivisions of this Agreement, and the word “herein” and words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision of this Agreement. The term “including” shall mean “including, without limitation.”

## **ARTICLE II CREATION AND ADMINISTRATION OF LIQUIDATION TRUST**

### 2.1 Creation of Trust; Conversion.

(a) The Liquidation Trust shall be deemed to have been created effective as of the Effective Date of the Plan.

(b) The Liquidation Trust shall bear the name “Atlantic Club Casino Liquidation Trust,” and the Liquidation Trustee may, in connection with the exercise of his/her powers and duties hereunder, either use this name or such variation thereof as the Liquidation Trustee may from time to time approve.

### 2.2 Purpose of Liquidation Trust

(a) The Liquidation Trust will be established for the primary purpose of liquidating the Liquidation Trust Assets with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidation Trust. The Debtors will have no reversionary or further interest in, or with respect to, the Liquidation Trust Assets or the Liquidation Trust upon their transfer of the Liquidation Trust Assets to the Liquidation Trust on the Effective Date. For all federal income tax purposes, the beneficiaries of the Liquidation Trust will be treated as grantors and owners thereof and it is intended that the Liquidation Trust be classified as a liquidating trust under 26 C.F.R. § 301.7701-4 and operated and maintained by the Liquidation Trustee in compliance with IRS Revenue Procedure 94-45, 1994-2 C.B. 684 and Treas. Reg. § 1.671-4(a) and that the Liquidation Trust is owned by the Beneficiaries. For federal income tax purposes, in forming and transferring the assets of the Debtors to the Liquidation Trust, the Beneficiaries shall be treated as if they had first received a distribution of an undivided interest in each asset of the Debtors eventually transferred into the Liquidation Trust Assets and then having contributed their entire undivided co-ownership interests in the assets of the Debtors to the Liquidation Trust. It is the intent of the Beneficiaries that the Liquidation Trust not be treated as a “partnership” or “joint venture” for federal income tax purposes, but instead as multiple grantors of a grantor trust, and therefore as undivided co-owners of the assets of the Liquidation Trust.

(b) The Liquidation Trust will use reasonable efforts to attempt to liquidate the non-Cash Liquidation Trust Assets and to undertake the other functions reserved for the Liquidation Trust after the Effective Date. At the direction of, and in the sole discretion of the Liquidation Trustee, the Liquidation Trust shall make distributions of any Liquidation Trust Assets consisting of Cash to the beneficiaries in accordance with the Plan. The Liquidation Trust will not be deemed a successor in interest of the Debtors for any purpose other than as specifically set forth herein or in the Liquidation Trust Agreement. The Liquidation Trust is intended to qualify as a “grantor trust” for federal income tax purposes with the beneficiaries treated as grantors and owners of the trust.

(c) The right and power of the Liquidation Trustee to invest the Liquidation Trust Assets transferred to the Liquidation Trust, the proceeds thereof, or any income earned by the Liquidation Trust, shall be limited to the right and power to invest such Liquidation Trust Assets (pending distributions in accordance with the Plan) shall be limited to include only those investments that a liquidating trust, within the meaning of Treas. Reg. § 301.7701-4(d), may be permitted to hold, pursuant to the Treasury Regulations, or any modification in the IRS guidelines, whether set forth in IRS rulings, other IRS pronouncements, or otherwise.

### 2.3 Status of Liquidation Trust and the Liquidation Trustee

(a) Subject to the terms of the Confirmation Order, the Liquidation Trust, other than for federal, state and local taxes, shall be the successor-in-interest to the Debtors with respect to any Liquidation Trust Assets.

(b) From and after the Effective Date, the Liquidation Trust, acting under the supervision of the Liquidation Trustee, will be the representative of the Estates as that term is used in Section 1123(b)(3)(B) of the Bankruptcy Code and shall have the rights and powers provided in the Bankruptcy Code in addition to any rights and powers granted in the Plan.

(c) All Causes of Action are preserved and retained and may be enforced by the Liquidation Trust pursuant to Section 1123(b)(3)(B) of the Bankruptcy Code.

### 2.4 Retention of Professionals

(a) The Liquidation Trust shall have the right to retain such professionals as are necessary and proper to discharge its functions in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court.

(b) The Liquidation Trustee shall adopt reasonable policies regarding the billing practices, hourly rates, discounts and required budget practices of professionals retained to provide services to the Liquidation Trust to ensure the Liquidation Trust receives cost-effective, efficient representation in the best interests of the beneficiaries of the Liquidation Trust.

### 2.5 Transfer of Liquidation Trust Assets

(a) On or prior to the Effective Date, the Debtors will execute this Agreement and will take all other steps necessary to establish the Liquidation Trust. On the Effective Date,



and in accordance with and pursuant to the terms of the Plan, the Debtors will transfer to the Liquidation Trust, for and on behalf of the Beneficiaries, all of their rights, title and interests in all of the Liquidation Trust Assets free and clear of all Claims and interests and under the control of the Liquidation Trustee. To the extent necessary, the Debtors are authorized and directed to take all necessary actions to effectuate the transfer of such rights, title and interests to the Liquidation Trust. The Liquidation Trust Assets shall be administered in accordance with this Agreement and the Plan. The Liquidation Trustee shall be selected prior to the Effective Date and shall be compensated for its services from the Liquidation Trust Assets.

(b) The Liquidation Trustee shall be appointed and shall serve as the sole director and officer of the Debtors until the Plan is fully and finally implemented. All other directors and officers of the Debtors existing as of the Effective Date shall be released and discharged of any further duties and responsibilities in such capacity.

2.6 Rights, Powers and Privileges. The Liquidation Trustee, together with its representatives and professionals, in such capacity, shall be vested with any and all powers and authority necessary to implement the Plan and wind up the business and affairs of the Debtors, including, without limitation: (i) serving as the sole officer and director of each of the Debtors; (ii) liquidating and/or abandoning Liquidation Trust Assets; (iii) investing Cash; (iv) taking all steps to execute all instruments and documents necessary to effectuate distributions out of the Reserves; (v) paying Allowed Administrative Expense Claims, Allowed Professional Compensation and Reimbursement Claims, Allowed Priority Non-Tax Claims, Allowed Priority Tax Claims and Allowed Miscellaneous Secured Claims as contemplated by the Plan; (vi) employing, retaining, terminating or replacing professionals to represent it with respect to its responsibilities or otherwise effectuating the Plan to the extent necessary; (vii) paying any and all reasonable fees and expenses of the Liquidation Trust; (viii) administering, including filing tax returns; (ix) requesting an expedited determination of any unpaid tax liability under Section 505 of the Bankruptcy Code; (x) representing the interests of the Debtors or the Liquidation Trust before any taxing authority in all matters, including any action, suit, proceeding or audit; (xi) taking all steps reasonably necessary and practicable to terminate the corporate existence of the Debtors; (xii) interfacing and taking all necessary actions required of the Debtors with the regulatory and gaming authorities and carrying out the applicable gaming regulatory obligations set forth more fully in Article XII of the Plan; (xiv) exercising such other powers as may be vested in it pursuant to order of the Bankruptcy Court or the Plan, or as it reasonably deems to be necessary and proper to carry out the provisions and the intent of the Plan; (xv) maintaining the full right, power, and discretion to manage the Liquidation Trust Assets, and execute, acknowledge and deliver any and all instruments with respect thereto, as it deems appropriate or necessary in its discretion and to effectuate its obligations under the Plan and the Liquidation Trust Agreement; (xvi) administering the collection, prosecution, settlement and/or abandonment of the Causes of Action and the Other Causes of Action in its sole discretion on behalf of and for the benefit of the beneficiaries of the Liquidation Trust; (xvii) administering, compromising, settling, and/or resolving General Unsecured Claims without approval of the Bankruptcy Court or litigate to Final Order if necessary any Disputed General Unsecured Claims; (xviii) administering, compromising, settling, resolving and making Distributions to the Holders of Claims other than General Unsecured Claims to the extent such Claims are not Allowed prior to the Effective Date without approval of the Bankruptcy Court or litigate to Final Order if necessary any Disputed Claims; (xix) making interim and final Distributions to Holders of

Allowed General Unsecured Claims; (xx) filing all tax and regulatory forms, returns, reports and other documents required under the law with respect to the Liquidation Trust; and (xxi) filing suit or any appropriate motion for relief in the Bankruptcy Court or in any other court of competent jurisdiction to resolve any disagreement, conflict, dispute or ambiguity in connection with the exercise of its rights, powers, or duties.

2.7 Title to Liquidating Trust Assets. Upon the transfer of Liquidation Trust Assets, the Liquidation Trust shall succeed to all of the Debtors' right, title and interest in the Liquidation Trust Assets, and the Debtors will have no further rights or interest in or with respect to the Liquidation Trust Assets, nor shall they have any rights or interest in any other Liquidation Trust Assets or the Liquidation Trust.

2.8 Safekeeping of Liquidation Trust Assets. All Liquidation Trust Assets shall, until distributed or paid over as provided herein or in the Plan, be held for the benefit of the Beneficiaries in accordance with the Plan and this Agreement. The Liquidation Trustee shall be under no liability for interest or producing income on any moneys received by it under this Agreement and held for distribution or payment to the Beneficiaries, except as such interest or income shall actually be received by the Liquidation Trustee.

2.9 No Reversion to Debtors; Distribution of Remaining Assets

(a) In no event shall any part of the Liquidation Trust Assets revert to or be distributed to or for the benefit of any Debtor.

(b) To the extent that after satisfaction in full of all of the costs and expenses of the administration of the Liquidation Trust, after all Disputed Claims have been either Allowed or disallowed, after all Allowed Claims have been paid pursuant to the Plan, after satisfaction of all other obligations or liabilities of the Liquidation Trust incurred or assumed in accordance with the Plan, after the Liquidation Trust has made the maximum distribution of distributable cash in respect of the beneficiaries of the Liquidation Trust to the extent reasonably practicable, and after the affairs of the Liquidation Trust have been finally wound up and concluded in accordance with the provisions of Section 12.1 hereof and section 3808 of the Trust Act, there shall remain any Liquidation Trust Assets, the Liquidation Trust shall distribute such remaining Liquidation Trust Assets to an organization, selected by the Liquidation Trustee, described in section 501(c)(3) of the Tax Code and exempt from U.S. federal income tax under section 501(a) of the Tax Code that is unrelated to the Debtors, the Liquidation Trust or the Liquidation Trustee.

2.10 Fiscal Year. Except for the first and last years of the Liquidation Trust, the Fiscal Year of the Liquidation Trust shall be the calendar year. For the first and last years of the Liquidation Trust, the Fiscal Year of the Liquidation Trust shall be such portion of the calendar year that the Liquidation Trust is in existence. The terms fiscal quarter, or similar references, as used in this Liquidation Trust Agreement, shall have a correlative meaning.

2.11 Insurance. The Liquidation Trust shall maintain customary insurance coverage, including any appropriate tail coverage, for the protection of the Liquidation Trustee and may

procure insurance coverage for such employees as the Liquidation Trustee may determine in its discretion, and the cost thereof shall be borne by the Liquidation Trust.

#### 2.12 Books and Records

(a) Subject to the regulatory requirements dealing with the storage and retention of the Debtors' digital and hard copy records addressed in Article XII, Section 6 of the Plan, after the Effective Date, the Liquidation Trustee shall cause to be stored and maintained books and records for the period commencing on the date hereof through the termination of the Liquidation Trust, containing such information concerning the Liquidation Trust Assets, the conduct of the affairs of the Liquidation Trust and rights and treatment of the beneficiaries of the Liquidation Trust, in such detail and for such periods of time as may be necessary to enable the Liquidation Trust to make full and proper accounting in respect thereof and to comply with applicable provisions of law. Such books and records shall be maintained on a modified cash or other comprehensive basis of accounting necessary to facilitate compliance with the tax reporting requirements of the Liquidation Trust.

(b) No Beneficiary of the Liquidation Trust shall have the right to obtain from the Liquidation Trust any of its books or records except as expressly provided in this Liquidation Trust Agreement or as may otherwise be expressly permitted by the Liquidating Trustee.

2.13 No Interest or Accruals. Except as otherwise may be expressly provided in the Plan, holders of Claims shall not be entitled to interest on the distributions provided for in this Liquidation Trust Agreement, regardless of whether such distributions are deliverable on or at any specified time after the Effective Date.

2.14 Court Approval of Liquidation Trustee Actions. Except as provided in the Plan or otherwise specified in this Agreement, the Liquidation Trustee need not obtain an order or approval of the Court in the exercise of any power, rights or discretion conferred hereunder, or account to the Court, including with respect to the sale of assets or the settlement of controversies. The Liquidation Trustee shall exercise its business judgment for the benefit of the Beneficiaries in order to maximize the value of the Liquidation Trust Assets and Distributions, giving due regard to the cost, risk and delay of any course of action. Notwithstanding the foregoing, the Liquidation Trustee may submit to the Court any question or questions regarding which the Liquidation Trustee may desire to have explicit approval of the Court for the taking of any specific action proposed to be taken by the Liquidation Trustee with respect to the Liquidation Trust Assets, the Liquidation Trust, this Agreement, the Plan or the Debtors, including the administration and Distribution of the Liquidation Trust Assets. The Court shall retain jurisdiction for such purposes and shall approve or disapprove any such proposed action upon motion.

2.15 Confidentiality. The Liquidation Trustee shall, during the period that it serves as Liquidation Trustee under this Agreement and for a period of twelve (12) months following the termination of this Agreement or its removal or resignation hereunder, hold strictly confidential and not use for personal gain any material, non-public information of or pertaining to any entity to which any of the Liquidation Trust Assets relates or which it has become aware of in its capacity as Liquidation Trustee.

**ARTICLE III**  
**DISTRIBUTIONS TO HOLDERS OF ADMINISTRATIVE, PRIORITY AND OTHER CLAIMS AND RESERVES**

3.1 Professional Compensation and Reimbursement Claims. Any Holders of Professional Compensation and Reimbursement Claims who properly file final Fee Applications that are approved by the Bankruptcy Court will be paid in full in such amounts as are Allowed by the Bankruptcy Court either (a) seven (7) days after such Professional Compensation and Reimbursement Claim becomes an Allowed Professional Compensation and Reimbursement Claim, or as soon thereafter as is practicable, or (b) upon such other terms as may be mutually agreed upon between such Holder of an Allowed Professional Compensation and Reimbursement Claim and the Debtors or Liquidation Trust, on and after the Effective Date.

3.2 Administrative Expense Claims. Unless the Holder of an Allowed Administrative Expense Claim agrees otherwise, Allowed Administrative Expense Claims shall be paid in full in Cash in satisfaction, settlement and release of and in exchange for such Allowed Administrative Expense Claim either (i) as soon as reasonably practicable after the Effective Date or (ii) if the Administrative Expense Claim is not Allowed as of the Effective Date, within thirty (30) days after the date on which such Administrative Expense Claim becomes an Allowed Administrative Expense Claim; provided, however, that Allowed Administrative Expense Claims representing obligations incurred in the ordinary course of business of the Debtors may be paid by the Debtors and/or the Liquidation Trust in the ordinary course, consistent with past practice of the Debtors and in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents relating to, such transactions, without further action by the Holders of such Allowed Administrative Expense Claims or further approval by the Bankruptcy Court.

3.3 Allowed Priority Tax Claims. Each Holder of an Allowed Priority Tax Claim shall receive in full satisfaction of such Allowed Priority Tax Claim (i) payment in Cash equal to the unpaid portion of such Allowed Priority Tax Claim on the Effective Date, (ii) over a period through the fifth anniversary of the Petition Date, deferred cash payments in an aggregate amount equal to such Allowed Priority Tax Claim, plus interest on such aggregate amount over such period or (iii) such other treatment as to which the applicable Debtor, as the case may be, and such Holder shall have agreed upon in writing.

3.4 DIP Credit Agreement Claims. All DIP Credit Agreement Claims have been paid in full in Cash and satisfied in full prior to the date hereof.

3.5 Allowed Miscellaneous Secured Claims. The Holder of each Allowed Miscellaneous Secured Claim shall receive at the discretion of the Liquidation Trustee from the Plan assets: (i) Cash in an amount equal to the lesser of (a) the amount of the Allowed Miscellaneous Secured Claim and (b) the value of the Debtors' property securing such Allowed Miscellaneous Secured Claim or (ii) the property securing such Allowed Miscellaneous Secured Claim.

3.6 Allowed Priority Non-Tax Claims. Except to the extent that a Holder of an Allowed Priority Non-Tax Claim has been paid by the Debtors prior to the Effective Date or has

previously agreed or agrees to a different treatment by stipulation or otherwise, each Holder of an Allowed Priority Non-Tax Claim shall receive, in full and complete satisfaction, settlement and release of such Holder's Allowed Priority Non-Tax Claim, Cash in an amount equal to such Allowed Priority Non-Tax Claim as soon as reasonably practicable after the Effective Date or, to the extent such Priority Non-Tax Claim is not an Allowed Priority Non-Tax Claim on the Effective Date, within thirty (30) days following allowance of such Allowed Priority Non-Tax Claims. The Debtors are unaware of any claims in this Class.

3.7 Allowed General Unsecured Claims. Except to the extent that a Holder of an Allowed General Unsecured Claim agrees to less favorable treatment, each Holder of an Allowed General Unsecured Claim shall receive its Pro Rata Share of the Liquidation Trust Assets after the Liquidation Trust Assets have been liquidated and after all costs and expenses of the Liquidation Trust have been paid in full.

3.8 Reserves.

(a) First, prior to the Effective Date, to the extent not previously funded, the Sale Proceeds Cash and other Cash held by the Debtors shall be used to fund the Reserves with Cash sufficient to pay in full all Allowed Administrative Expense Claims, Allowed Professional Compensation and Reimbursement Claims, Allowed Priority Non-Tax Claims and Allowed Miscellaneous Secured Claims (to the extent payable in Cash).

(b) Second, on the Effective Date, the remaining Sale Proceeds Cash and other Cash held by the Debtors after funding of the Reserves shall be used to pay any Allowed Priority Tax Claims or establish a reserve for any such Allowed Priority Tax Claims.

(c) To the extent any Cash remains in the Reserves or in any Priority Tax Claim reserve after the allowance and payment in full of all Allowed Administrative Expense Claims, Allowed Professional Compensation and Reimbursement Claims, Allowed Priority Non-Tax Claims, Allowed Priority Tax Claims and Allowed Miscellaneous Secured Claims, as applicable, such excess Cash shall be distributed to the Liquidation Trust.

## **ARTICLE IV**

### **BENEFICIARIES**

4.1 Incidents of Ownership. The Beneficiaries shall be the sole beneficiaries of the Liquidation Trust and the Liquidation Trust Assets, and the Liquidation Trustee shall retain only such incidents of ownership as are necessary to undertake the actions and transactions authorized in this Agreement, the Plan and the Confirmation Order.

4.2 Interest Beneficial Only. The ownership of a beneficial interest in the Liquidation Trust shall not entitle any Beneficiary to any title in or to the Liquidation Trust Assets or to any right to call for a partition or division of such assets or to require an accounting, except as specifically provided herein or in the Plan.

4.3 Evidence of Beneficial Interest. Ownership of a beneficial interest in the Liquidation Trust Assets shall not be evidenced by any certificate, security or receipt, or in any other form or manner whatsoever, except as maintained on the books and records of the Liquidation Trust by the Liquidation Trustee.

4.4 Notice of Transfer of Beneficial Interest. Any notice of a change of beneficial interest ownership as described in this Agreement shall be forwarded to the Liquidation Trustee by registered or certified mail as set forth herein. The notice shall be executed by both the transferee and the transferor, and the signatures of the parties shall be acknowledged before a notary public. The notice must clearly describe the interest to be transferred. The Liquidation Trustee may rely upon such signatures and acknowledgments as evidence of such transfer without the requirement of any further investigation.

## **ARTICLE V CASH DISTRIBUTIONS TO BENEFICIARIES**

### 5.1 Timing and Delivery of Distributions on Account of General Unsecured Claims

(a) Except as otherwise provided herein or as ordered by the Bankruptcy Court or to the extent that any Holder of an Allowed General Unsecured Claim agrees to different treatment, distributions to be made on account of Allowed General Unsecured Claims as of the Effective Date shall be made on the Initial Distribution Date or as soon thereafter as is practicable by the Liquidation Trustee. No distributions shall be made on account of any Disputed General Unsecured Claims unless and until such General Unsecured Claim has become an Allowed General Unsecured Claim. Distributions on account of any General Unsecured Claim that first becomes an Allowed General Unsecured Claim after the Effective Date shall be made on the first Distribution Date after the end of the calendar quarter in which such Claim becomes an Allowed Claim. Any payment or distribution required to be made under the Plan on a day other than a Business Day shall be made on the next succeeding Business Day. The Liquidation Trustee shall establish procedures for distributing funds to Holders of Allowed General Unsecured Claims, including, without limitation, the establishment of any disputed claims reserve and the making of any initial, subsequent and final distributions.

(b) After the Effective Date, the Liquidation Trust shall have the sole right and authority to file, settle, compromise, withdraw or litigate to judgment objections to Claims. The Liquidation Trustee shall have the authority to settle or otherwise resolve any Claims without approval or order of the Bankruptcy Court or notice to any party except the affected Holder of the Claim; provided, however, that the Liquidation Trust may seek relief before the Bankruptcy Court with respect to any Disputed Claim and all objections in that instance shall be litigated to the entry of a Final Order.

### 5.2 Delivery of Distributions

(a) Cash distributions by check shall be mailed to each Holder of an Allowed Claim that is entitled to such distributions under the Plan at the distribution address of such creditor on its Proof of Claim or at the address of such creditor in the Debtors' Schedules and/or books and records. If any Claim Holder's distribution is returned as undeliverable, no further

distributions to such Holder shall be made unless and until the Liquidation Trustee is notified of such Holder's then current address, at which time all missed distributions shall be made to such Holder without interest. Any notification of a Claim Holder's then current address must be received by the Liquidation Trust within ninety (90) days after the distribution was originally made, after which time such Claim Holder's distribution shall be forfeited and treated as an unclaimed distribution in accordance with Article VI of the Plan. Nothing in the Plan shall require the Liquidation Trust to attempt to locate any Holder of an Allowed Claim.

(b) With the exception of patron funds held on deposit by the Debtors, which are addressed in Article XII, Section 4 of the Plan, all distributions (i) made under the Plan that are unclaimed for a period of one hundred twenty (120) days after the distribution thereof shall be deemed unclaimed property under Section 347(b) of the Bankruptcy Code and any entitlement of any Holder of any Claims to such distributions shall be forfeited, extinguished and forever barred. Any such unclaimed distributions shall (a) with respect to Class III - General Unsecured Claims be returned to the Liquidation Trust to be distributed in accordance with the Liquidation Trust Agreement; or (b) with respect to all other Classes of Claims and unclassified Claims, be distributed in accordance with Article V of the Plan.

(c) Cash distributions made pursuant to the Plan shall be in United States funds, by check drawn on a bank, or, if either of the Liquidation Trust or the Claim Holder so elect, by wire transfer from a bank.

(d) In the event that any distribution is required to be made under this Liquidating Trust Agreement on a date that is not a Business Day, then the making of such distribution may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

(e) With the exception of patron funds held on deposit by the Debtors, which are addressed in Article XII, Section 4 of the Plan, if the amount of cash to be distributed to the Holder of an Allowed Claim is less than twenty five dollars (\$25) on a Distribution Date, the Liquidation Trustee may hold the cash distributions to be made to such Holder until the aggregate amount of cash to be distributed to such Holder is in an amount equal to or greater than twenty five dollars (\$25). If the amount of cash distribution to any Holder of an Allowed Claim never aggregates more than twenty five dollars (\$25), then the Liquidating Trustee shall not be required to distribute cash to any such Holder, and the resultant savings shall revert to the Liquidating Trust, to be distributed pro rata to other Holders of Allowed Claims on the next Distribution Date or to be distributed pursuant to Section 2.9(b) of the Plan.

(f) When any payment of a fraction of a cent would otherwise be called for, the actual payment shall reflect a rounding of such fraction to the nearest whole cent (rounding down in the case of less than \$0.005 and rounding up in the case of \$0.005 or more).

5.3 Distribution Record Date. The Liquidation Trustee shall have no obligation to recognize the transfer of, or the sale of any participation in, any Allowed Claim that occurs after the close of business on the Distribution Record Date, and shall be entitled for all purposes hereof to recognize and make distributions only to those holders of Allowed Claims that actually held such Claims as of the close of business on the Distribution Record Date.

5.4 Compliance with Tax Requirements. In connection with the consummation of the Plan, the Liquidation Trust shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority and all distributions hereunder shall be subject to any such withholding and reporting requirements. Notwithstanding the foregoing, each Holder of an Allowed Claim that is to receive a distribution under the Plan shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed on such Holder by any governmental unit, including income, withholding and other tax obligations, on any gain or income realized with respect to such distribution. The Liquidation Trustee shall be entitled, in its sole discretion, to withhold any distributions to a Holder of an Allowed Claim that fails to provide tax identification or social security information upon written request and such distribution shall be treated as an Unclaimed Distribution pursuant to Article VI of the Plan.

5.5 Estimation of Claims. After the Effective Date, the Liquidation Trust may at any time request that the Bankruptcy Court estimate, or establish procedures for the estimation or arbitration of, any contingent Claim, unliquidated Claim or disputed Claim pursuant to Section 502(c) of the Bankruptcy Code regardless of whether any of the Debtors or any other Person previously objected to such Claim, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time. In the event that the Bankruptcy Court estimates any contingent Claim, unliquidated Claim or disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Liquidation Trust may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

## **ARTICLE VI LIQUIDATION TRUSTEE**

### 6.1 General

(a) The Liquidation Trustee shall be Alfred T. Giuliano, in his capacity as principal of Giuliano, Miller & Company, LLC, who shall act hereunder solely in his capacity as Liquidation Trustee of the Atlantic Club Casino Liquidation Trust and not otherwise.

(b) The affairs of the Liquidation Trust shall be managed by, or under the direction, of the Liquidation Trustee, which shall have such powers and authority as are provided in this Article VI and as elsewhere set forth in this Agreement and in the Plan.

(c) By execution hereof, the Liquidation Trustee accepts his or her trusteeship of the Liquidation Trust, on the terms set forth herein.

(d) The Liquidation Trustee shall be a natural person at least 18 years of age. The Person appointed as the Liquidation Trustee shall be deemed a trustee under the Trust Act,



with all privileges and immunities appurtenant thereto, and, as necessary or applicable, shall be deemed appointed pursuant to Section 1123(b)(3)(B) of the Bankruptcy Code.

(e) The Liquidation Trustee shall cooperate with the New Jersey Casino Control Commission and the New Jersey Division of Gaming Enforcement and obtain any gaming regulatory approvals as may be required, including, but not limited to, qualification in connection with Debtors' casino license.

(f) The Liquidation Trustee shall hold office until the earlier of (i) the termination of the Liquidation Trust, (ii) the resignation, death or disability of such Liquidation Trustee or (iii) the removal of such Liquidation Trustee in accordance with this Liquidation Trust Agreement.

6.2 Removal of a Liquidation Trustee. At any time upon the request of a party-in-interest through a motion filed in the Bankruptcy Court, the Bankruptcy Court may remove the Liquidation Trustee for Cause. Any Liquidation Trustee so removed is entitled to payment of reasonable fees and necessary expenses accrued prior to removal subject to the terms of this Agreement.

6.3 Resignation of Liquidation Trustee. The Liquidation Trustee may resign at any time by giving not less than thirty (30) days' prior written notice thereof to the Post-Confirmation Service List; provided, however, that such resignation shall not become effective until the appointment and Bankruptcy Court approval of a successor Liquidation Trustee in accordance with Section 6.4 hereof.

6.4 Appointment of Successor Liquidation Trustee. In the event of a vacancy by reason of resignation of the Liquidation Trustee, counsel to the Liquidation Trustee shall designate the Successor Liquidation Trustee, without further order of the Court, by providing thirty (30) days written notice to the Post-Confirmation Service List provided that the Successor Liquidation Trustee is appointed pursuant to the Agreement. In the event of vacancy for any other reason, including the death or immediate removal of the Liquidation Trustee or prospective vacancy by reason of removal, counsel to the Liquidation Trustee shall have the right to designate the Successor Liquidation Trustee, by providing thirty (30) days written notice to the Office of the United States Trustee provided that no objection is interposed within such period and the Successor Liquidation Trustee is appointed pursuant to the Agreement. In the event of an objection to the appointment of the Successor Liquidation Trustee, the Bankruptcy Court shall be vested with final authority to appoint the Successor Liquidation Trustee consistent with the best interests of the Beneficiaries of the Liquidation Trust. No Successor Liquidation Trustee shall in any event have any liability or responsibility for the acts or omissions of any of his or her predecessors. Every Successor Liquidation Trustee shall execute, acknowledge and file with the Bankruptcy Court and deliver to the Office of the United States Trustee an instrument in writing accepting such appointment hereunder, and thereupon such Successor Liquidation Trustee, without any further act, shall become fully vested with all of the rights, powers, duties and obligations of his or her predecessor.

6.5 Powers and Duties of Successor Liquidation Trustee. A Successor Liquidation Trustee shall have all the rights, privileges, powers and duties of the predecessor Liquidation Trustee under this Liquidation Trust Agreement and the Plan.

6.6 Liquidation Trust Continuance. The death, incapacity, resignation or removal of the Liquidation Trustee shall not terminate the Liquidation Trust or revoke any existing agency created pursuant to this Agreement or invalidate any action theretofore taken by the Liquidation Trustee.

6.7 Compensation and Costs of Administration. The Liquidation Trustee may retain and compensate professionals (including himself) as provided for in this Agreement. The reasonable fees and actual and necessary expenses of such professionals and the Liquidation Trustee shall be paid out of the Liquidation Trust. After the Effective Date, the payment of the fees and expenses of the Liquidation Trustee and his agents, financial advisors, attorneys, consultants, independent contractors, representatives and other Liquidation Trust professionals shall be made in the ordinary course of business and shall not be subject to the approval of the Bankruptcy Court; provided, however, monthly invoices shall be served upon the Liquidation Trustee and counsel to the Liquidation Trustee, and such fees and expenses shall be payable absent written objection within 30 days of service in accordance with the afore-referenced. If any portion of the monthly invoice is subject to objection, the undisputed portion shall be paid and the parties shall confer in good faith to resolve any remaining objections. Any Successor Liquidation Trustee shall receive such reasonable compensation and reimbursement of expenses in the same manner as the initial Liquidation Trustee.

6.8 Reporting and Filing Requirements

(a) Within 60 days after June 30 and December 31 of each calendar year in which the Liquidation Trust shall remain in existence, the Liquidation Trustee shall file a report with the Court of all Assets received by the Liquidation Trust, all cash disbursed to Beneficiaries, all Liquidation Trust Assets held by the Liquidation Trust, and all fees, income and expenses related to the Liquidation Trust during the preceding calendar year. The Liquidation Trustee's report shall be available to any Beneficiary upon request. The first such report shall be filed by June 30, 2014.

(b) The Liquidation Trustee shall also timely prepare, file and distribute such additional statements, reports and submissions as may be necessary to cause the Trust and the Trustee to be in compliance with applicable law.

## ARTICLE VII

### TAX REPORTING AND TREATMENT

7.1 Tax Returns. The Liquidation Trustee shall file tax returns on behalf of the Liquidation Trust as a multiple owner-grantor trust pursuant to Treas. Reg. § 1.671-4(b) and any other applicable laws or regulations. The Liquidation Trustee shall use any method for reporting each Beneficiary's share of income, deduction, loss and credit permitted under the regulations.

7.2 Valuation. As soon as practicable after the Effective Date, the Liquidation Trustee (to the extent that it deems it necessary or appropriate in the reasonable exercise of its discretion) shall, in good faith, value the Liquidation Trust Assets, and shall apprise the Beneficiaries of such valuation. The valuation shall be used consistently by all parties (including the Debtors, the Liquidation Trustee and the Beneficiaries) for all federal income tax purposes. The Court shall resolve any dispute regarding the valuation of the Liquidation Trust Assets.

7.3 Tax Treatment of Liquidation Trust Assets.

(a) Each Beneficiary shall be treated as a “co-grantor” and deemed co-owner of the assets held in the Liquidation Trust. Accordingly, the Liquidation Trust shall be treated as a grantor trust (having multiple owners) for federal income tax purposes, as well as for state and local taxes, to the extent such grantor trust status is recognized. The Liquidation Trust shall not be deemed to be the same legal entity as the Debtors or treated as the “agent” of the Debtors for tax purposes.

(b) For federal income tax purposes, the transfer of the Debtors’ Assets to the Liquidation Trust pursuant to the Plan (but only at such time as actually transferred) shall be treated, including for federal income tax purposes, as (i) first, the distribution of the Debtors’ Assets to the Beneficiaries, followed by, (ii) the transfer of such Liquidation Trust Assets by the Beneficiaries, as undivided co-owners in the Assets to the Liquidation Trust in exchange for each respective Beneficiary’s beneficial interest in the Liquidation Trust and all parties (including the Debtors, the Liquidation Trustee, and the Beneficiaries) shall treat the deemed distribution and deemed recontribution of the Debtors Assets by the Beneficiaries to the Liquidation Trust.

7.4 Tax Treatment of the Liquidation Trust. The Liquidation Trust shall be treated as a grantor trust for federal income tax purposes and, to the extent permitted under applicable law, for state and local income tax purposes. The Beneficiaries will be treated as the grantors and deemed owners of the Liquidation Trust. The income of the Liquidation Trust shall be subject to tax on a current basis. The Liquidation Trustee shall distribute information statements to the Beneficiaries which set forth each Beneficiary’s allocable share of the income, loss, deduction or credit of the Liquidation Trust as determined by the Liquidation Trustee in a manner that is consistent with applicable Treasury Regulations and that reflect their respective interest in the interim and final distributions to be made by the Liquidation Trust. A Beneficiary’s interest may change from time to time as a result of the allowance and/or disallowance of disputed claims. Each Beneficiary shall take into account that Beneficiary’s allocable share of the income, loss, deduction or credit of the Liquidation Trust to determine that Beneficiary’s taxable income for federal income tax purposes. Each Beneficiary will be required to include its or his or her share of income of the Liquidation Trust in gross income on their income tax returns and each shall be solely responsible for the timely reporting of such income on their tax returns and in making timely payment of any Tax due and owing. The Trustee shall not be obligated to either pay any and all Taxes out of the Liquidation Trust or distribute assets from the Liquidation Trust in order for any Beneficiary to make a timely remittance of Tax with respect to his or her percentage ownership interest under the grantor trust provisions.

7.5 The Liquidation Trustee shall file any other statements, returns or disclosures or reports to the Beneficiaries and applicable taxing authorities relating to the Liquidation Trust that

are required by any governmental unit or applicable law, including, on an annual basis, the manner and calculation of the Liquidation Trust's taxable income or loss which the Liquidation Trust would recognize if it were a separate taxable entity, and the Liquidation Trustee shall provide such information to the Beneficiaries as will enable them to properly file their separate tax returns and withhold and pay over any amounts required by law. The Liquidation Trustee shall file returns for the Liquidation Trust as a (multiple owner) grantor trust in accordance with Treas. Reg. § 1.671-4(b).

7.6 Expedited Tax Determination. The Liquidation Trustee is permitted and authorized to request an expedited determination under Section 505(b) of the Bankruptcy Code for all tax returns filed for or on behalf of the Liquidation Trust (or, if necessary or otherwise required, the Debtors) for all taxable periods through the termination of the Liquidation Trust.

## **ARTICLE VIII**

### **MAINTENANCE OF RECORDS**

8.1 The Liquidation Trustee shall maintain books and records containing a description of all property from time to time constituting the Liquidation Trust Assets and an accounting of all receipts and disbursements. Said books and records shall be open to reasonable inspection by any Beneficiary upon written request to the Liquidation Trust Trustee. The Liquidation Trust Trustee shall furnish to any Beneficiary upon written request an annual statement of receipts and disbursements, including a summary of all income and expenses of the Liquidation Trust.

## **ARTICLE IX**

### **DURATION OF TRUST**

9.1 Duration. The Liquidation Trust shall become effective upon the Effective Date of the Plan, and the Liquidation Trust and its provisions herein shall remain and continue in full force and effect until the Liquidation Trust is terminated.

9.2 Termination. The Liquidation Trust shall terminate upon the occurrence of the earlier of (a) the full liquidation, administration and Distribution of the Liquidation Trust Assets in accordance with this Agreement and the full performance of all other duties and functions of the Liquidation Trustee set forth in this Agreement, the Plan and the Confirmation Order, and (b) the fifth (5th) anniversary of the Effective Date. Such termination may be extended upon request of the Liquidation Trustee if approved by the Court for cause shown prior to the termination of the Liquidation Trust on motion to the Court filed no earlier than six (6) months prior to the scheduled termination of the Liquidation Trust.

9.3 Continuance of Liquidation Trust for Winding Up. After the termination of the Liquidation Trust and for the purpose of liquidating and winding up the affairs of the Liquidation Trust, the Liquidation Trustee shall continue to act as such until the Trustee's duties have been fully performed, including, without limitation, performing such post-distribution tasks as necessary to windup the affairs of the Liquidation Trust. After the termination of the Liquidation Trust, the Liquidation Trustee shall retain for a period of six (6) months the books, records,

Beneficiary lists and certificates and other documents and files which shall have been delivered to or created by the Liquidation Trustee. At the Liquidation Trustee's discretion, all of such records and documents may, but need not, be destroyed at any time after six (6) months from the completion and winding up of the affairs of the Liquidation Trust. Except as otherwise specifically provided herein, upon the discharge of all liabilities of the Liquidation Trust and final Distribution of the Liquidation Trust, the Liquidation Trustee shall have no further duties or obligations hereunder.

## ARTICLE X

### THIRD PARTY RIGHTS AND LIMITATION OF LIABILITY

10.1 Reliance. Except as otherwise provided in this, the Plan or the Confirmation Order, the Liquidation Trustee may rely and shall be protected in acting upon any resolution, statement, instrument, opinion, report, notice, request, consent, order or other paper or document reasonably believed to be genuine and to have been signed or presented by an authorized party.

10.2 Parties Dealing With the Liquidation Trustee. In the absence of actual knowledge to the contrary, any person dealing with the Liquidation Trust or the Liquidation Trustee shall be entitled to rely on the authority of the Liquidation Trustee or any of the Liquidation Trustee's agents to act in connection with the Liquidation Trust Assets. There is no obligation on any Person dealing with the Liquidation Trustee to inquire into the validity, expediency or propriety of any transaction by the Liquidation Trustee or any agent of the Liquidation Trustee.

10.3 Limited Recourse. Except as otherwise provided in this Liquidation Trust Agreement, the Plan or the Confirmation Order, Persons (including any professionals retained by the Liquidation Trustee in accordance with this Agreement) engaged in transactions with the Liquidation Trust or the Liquidation Trustee shall look only to the Liquidation Trust Assets to satisfy any liability incurred in connection with the carrying out the terms of this Liquidation Trust Agreement, the Plan or the Confirmation Order.

10.4 Professionals; Exculpation; Indemnification. The Liquidation Trust may retain and compensate professionals in accordance with the Liquidation Trust Agreement, including professionals who have been or are currently retained as Estate professionals to provide continuity and assist in the activities of the Liquidation Trust in accordance with the terms of the Liquidation Trust Agreement. The Liquidation Trust, the Liquidation Trustee, and the professionals retained by the Liquidation Trust and their representatives shall not be liable for any act or omission of any other member, designee, agent, or representative of such Persons, nor shall such Persons be liable for any act or omission taken or not taken in their capacities for the Liquidation Trust other than for specific acts or omissions resulting from such Persons' willful misconduct, gross negligence or fraud. The Liquidation Trustee may, in connection with the performance of his functions, and in his sole and absolute discretion, consult with his attorneys, accountants, financial advisors and agents, and shall not be liable for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such entities, regardless of whether such advice or opinions are provided in writing. Notwithstanding such authority, the Liquidation Trustee shall not be under any obligation to consult with his attorneys,

accountants, financial advisors, and agents, and his determination not to do so shall not result in the imposition of liability on the Liquidation Trustee and/or the professionals retained by the Liquidation Trust and their representatives, unless such determination is based on willful misconduct, gross negligence, or fraud. The Liquidation Trust shall indemnify and hold harmless the Liquidation Trustee and the professionals retained by the Liquidation Trust and their representatives from and against and in respect of all liabilities, losses, damages, claims, costs, and expenses (including, without limitation, reasonable attorney's fees, disbursements, and related expenses), which such Persons may incur or to which such Persons may become subject to in connection with any action, suit, proceeding, or investigation brought by or threatened against such Persons arising out of or due to their acts or omissions or consequences of such acts or omissions, with respect to the implementation or administration of the Liquidation Trust or the Plan or the discharge of their duties hereunder; provided, however, that no such indemnification will be made to such Persons for actions or omissions as a result of their willful misconduct, gross negligence, or fraud.

10.5 Non-Liability for Acts of Others. Except as expressly provided in this Agreement, the Plan or the Confirmation Order, neither the Liquidation Trust nor the Liquidation Trustee shall assume any of the liabilities, obligations or duties of the Debtors or the Beneficiaries. Any successor Liquidation Trustee may accept and rely upon any accounting made by or on behalf of any predecessor Liquidation Trustee hereunder, and any statement or representation made by a predecessor Liquidation Trustee or its agents as to the assets comprising the Liquidation Trust Assets or as to any other fact bearing upon the prior administration of the Liquidation Trust, so long as it has a good faith basis to do so. A Liquidation Trustee shall not be liable for having accepted and relied in good faith upon any such accounting, statement or representation if it is later proved to be incomplete, inaccurate or untrue. A Liquidation Trustee or successor Liquidation Trustee shall not be liable for any act or omission of any predecessor Trustee, nor have a duty to enforce any claims against any predecessor Liquidation Trustee on account of any such act or omission.

## ARTICLE XI

### MISCELLANEOUS

11.1 Jurisdiction. The Court shall have exclusive jurisdiction over (i) the Liquidation Trust and the Liquidation Trustee, with respect to the administration of and activities relating to the Liquidation Trust, and (ii) any issues or disputes arising out of this Liquidation Trust Agreement.

11.2 Limitation on Transferability. A beneficial interest in the Liquidation Trust shall be nonassignable and non-transferable except by operation of law. An assignment or transfer shall not be effective until appropriate notification and proof thereof is submitted to the Liquidation Trustee, and the Liquidation Trustee may continue to pay all amounts to or for the benefit of the assigning or transferring Beneficiary until receipt of proper notification and proof of assignment or transfer. The Liquidation Trustee may rely upon such proof without the requirement of any further investigation.

11.3 Notices. All notices to be given to Beneficiaries may be given by ordinary mail to the Holders at the addresses appearing on the books kept by Liquidation Trustee. Any notice or other communication which may be or is required to be given, served or sent to the Liquidation Trustee shall be in writing and shall be sent by registered or certified United States mail, return receipt requested, postage prepaid, or transmitted by hand delivery or facsimile (if receipt is confirmed) addressed as follows:

If to the Liquidation Trust/Liquidation Trustee:

Alfred T. Giuliano, CPA, CIRA, CFE, CDBV  
Giuliano, Miller & Company, LLC  
140 Bradford Drive  
West Berlin, NJ 08091  
856-767-3000 ext. 11  
Fax 856-767-3500  
atgiuliano@giulianomiller.com

11.4 No Bond. Notwithstanding any state law to the contrary, the Liquidation Trustee (including any successor) shall be exempt from giving any bond or other security in any jurisdiction.

11.5 Governing Law. This Agreement is made in the State of New Jersey, and the Liquidation Trust and this Agreement, and the rights and obligations of the Liquidation Trustee are to be governed by and construed and administered according to the laws of the State of New Jersey.

11.6 Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

11.7 Headings. The various headings of this Agreement are inserted for convenience only and shall not affect the meaning or understanding of this Agreement or any provision hereof.

11.8 No Execution. All funds in the Liquidation Trust shall be deemed *in custodia legis* until such times as the funds have actually been paid to or for the benefit of a Beneficiary, and no Beneficiary or any other Person can bind, pledge, encumber, execute upon, garnish or attach the Liquidation Trust Assets or the Liquidation Trustee in any manner or compel payment from the Liquidation Trust except by Final Order of the Court. Payment will be governed solely by the Plan and this Agreement.

11.9 Plan and Confirmation Order. To the extent that the terms of this Agreement are inconsistent with the terms set forth in the Plan, then the terms of the Plan shall govern and control. To the extent that the terms of this Agreement are inconsistent with the terms set forth in the Confirmation Order, then the terms of the Confirmation Order shall govern and control.

11.10 Severability. If any term, provision, covenant or restriction contained in this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void,

unenforceable or against its regulatory policy, the remainder of the terms, provisions, covenants and restrictions contained in this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

11.11 Integration. This Agreement, the Plan and the Confirmation Order constitute the entire agreement with, by and among the parties thereto, and there are no representations, warranties, covenants or obligations except as set forth herein, in the Plan and in the Confirmation Order. This Agreement, together with the Plan and the Confirmation Order, supersede all prior and contemporaneous agreements, understandings, negotiations and discussions, written or oral, of the parties hereto, relating to any transaction contemplated hereunder. Except as otherwise provided in this Agreement, the Plan or Confirmation Order, nothing herein is intended or shall be construed to confer upon or give any person other than the parties hereto and the Beneficiaries any rights or remedies under or by reason of this Agreement.

12.14 Counterparts. This Agreement may be signed by the parties hereto in counterparts, which, when taken together, shall constitute one and the same document.

*[Signatures Appear on Following Page]*



IN WITNESS WHEREOF the parties hereto have executed this Agreement or caused this Agreement to be duly executed by their respective officers, representatives or agents, effective as of the date first above written.

Dated: April 7, 2014

RIH ACQUISITIONS NJ, LLC

By: /s/ Eric J. Matejevich  
Eric J. Matejevich  
Chief Operating Officer

Dated: April 7, 2014

RIH PROPCO NJ, LLC

By: /s/ Eric J. Matejevich  
Eric J. Matejevich  
Chief Financial Officer

Dated: April 7, 2014

GIULIANO, MILLER & COMPANY, LLC

By: /s/ Alfred T. Giuliano  
Alfred T. Giuliano  
Liquidating Trustee