

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

- and -

ONTARIO LOTTERY AND GAMING CORPORATION

- and -

ONTARIO FIRST NATIONS (2008) LIMITED PARTNERSHIP

- and -

ONTARIO FIRST NATIONS LIMITED PARTNERSHIP

**GAMING REVENUE SHARING
AND FINANCIAL AGREEMENT**

February 19, 2008

TABLE OF CONTENTS

| | |
|-----------------------------------------------------------------------|-----------|
| ARTICLE 1 INTERPRETATION..... | 2 |
| 1.1 Definitions | 2 |
| 1.2 First Nations in Ontario under Agreement..... | 8 |
| 1.3 Schedules | 9 |
| 1.4 Headings and Table of Contents | 9 |
| 1.5 Statutes and Regulations | 9 |
| 1.6 Gender and Number..... | 9 |
| 1.7 Currency..... | 9 |
| 1.8 Generally Accepted Accounting Principles | 10 |
| 1.9 Invalidity of Provisions..... | 10 |
| 1.10 Entire Agreement..... | 10 |
| 1.11 Amendment..... | 10 |
| 1.12 Waiver..... | 11 |
| 1.13 Governing Law | 11 |
| 1.14 Business Days..... | 11 |
| ARTICLE 2 PAYMENT OF FUNDS | 11 |
| 2.1 \$201 Million Payment | 11 |
| 2.2 Monthly Gaming Revenue Share Payments | 11 |
| 2.3 Financial Statements | 14 |
| 2.4 Changes in Accounting Procedures | 15 |
| 2.5 Provincial Levies, including Taxes and WIN Contributions | 16 |
| 2.6 OLG Board Membership | 17 |
| ARTICLE 3 UNSIGNED FIRST NATIONS | 17 |
| 3.1 Unsigned First Nations | 17 |
| ARTICLE 4 USE OF FUNDS..... | 20 |
| 4.1 Use of Funds by OFNLP 2008..... | 20 |
| 4.2 Purposes of Funds..... | 20 |
| 4.3 First Nations Traditions | 21 |
| 4.4 Collective Use Monies..... | 21 |
| 4.5 Certain Provisions in Respect of Collective Use Monies | 22 |
| 4.6 Set-Off by Province | 22 |
| ARTICLE 5 FIRST NATIONS REPORTING | 23 |
| 5.1 Report to OFNLP 2008 by Limited Partners | 23 |
| 5.2 OFNLP 2008 Report to Province..... | 23 |
| 5.3 Joint Appointee | 24 |
| 5.4 Joint Appointee Investigation | 25 |
| 5.5 Joint Appointee Report | 25 |
| 5.6 Policies and Procedures for Reporting..... | 26 |
| 5.7 Provincial Review of Reports | 26 |
| 5.8 Code of Reporting..... | 26 |

| | | |
|-------------------------------------------------------|---------------------------------------------------------------------------|-----------|
| 5.9 | Operations of OFN 2008 General Partner | 26 |
| 5.10 | Books and Records and Financial Statements | 27 |
| ARTICLE 6 CASINO RAMA | | 27 |
| 6.1 | Casino Rama Reserve Accounts | 27 |
| 6.2 | Casino Rama Revenue Agreement | 27 |
| ARTICLE 7 REPRESENTATIONS AND WARRANTIES | | 29 |
| 7.1 | Representations and Warranties By OFNLP | 29 |
| 7.2 | Representations and Warranties By OFNLP 2008 | 29 |
| 7.3 | Representations and Warranties By the Province | 30 |
| 7.4 | Representations and Warranties By OLG | 31 |
| 7.5 | OFNLP and OFNLP 2008 Not to Take Actions | 31 |
| 7.6 | Survival of Representations and Warranties | 31 |
| ARTICLE 8 TERM AND DEFAULT..... | | 32 |
| 8.1 | Initial Term | 32 |
| 8.2 | Renewal Term..... | 32 |
| 8.3 | Mutual Intention of the Province and First Nations in Ontario | 32 |
| 8.4 | Events of Default by OFNLP..... | 32 |
| 8.5 | Events of Default by OFNLP 2008..... | 33 |
| 8.6 | Casino Gaming Default of OFNLP 2008 Limited Partners | 33 |
| 8.7 | Events of Default by the Province | 34 |
| 8.8 | Events of Default by OLG | 34 |
| 8.9 | Joint Responsibility of Province and OFNLP 2008..... | 35 |
| 8.10 | Remedies..... | 35 |
| ARTICLE 9 DISPUTE RESOLUTION | | 35 |
| 9.1 | Notice of Dispute | 35 |
| 9.2 | Dispute Resolution..... | 36 |
| 9.3 | Remedy | 36 |
| 9.4 | Expedited Procedure for Suspension of Limited Partner Distributions | 36 |
| 9.5 | Suspension and Forfeiture of Payments..... | 37 |
| 9.6 | Right to Terminate | 39 |
| ARTICLE 10 GENERAL MATTERS..... | | 40 |
| 10.1 | Non-derogation | 40 |
| 10.2 | Agents of the Province..... | 41 |
| 10.3 | OFNLP 2008 Partnership Agreement Provisions to be Unamended | 41 |
| 10.4 | Survival..... | 42 |
| 10.5 | Confidentiality | 42 |
| 10.6 | Notices | 43 |
| 10.7 | Extensions or Abridgements of Time | 44 |
| 10.8 | Limit of Liability | 44 |
| 10.9 | Survival of Covenants..... | 44 |
| 10.10 | Assignment | 45 |

| | | |
|-------|------------------------------------------------------------------|----|
| 10.11 | Force Majeure | 45 |
| 10.12 | Counterparts and Delivery by Facsimile..... | 45 |
| 10.13 | Acknowledgement and Consent of OFNLP 2008 Limited Partners | 46 |
| 10.14 | Costs to the Parties..... | 46 |
| 10.15 | Time of Essence..... | 46 |
| 10.16 | Further Assurances | 46 |

| | | |
|--------------------|---|--------------------------------------------------------------|
| Schedule 1.1 (nn) | – | Gross Revenues |
| Schedule 1.1 (ppp) | – | OFNLP 2008 Limited Partnership Agreement |
| Schedule 1.1 (xxx) | – | Permitted Interim Investments |
| Schedule 1.2 | – | First Nations in Ontario |
| Schedule 5.1 | – | Form of Limited Partner Report on Receipts and Disbursements |
| Schedule 5.2 | – | OFNLP 2008 Report to Province |
| Schedule 9.2 | – | Dispute Resolution |
| Schedule 10.13 | – | Acknowledgement and Consent |

THIS AGREEMENT is made with effect as of the 19th day of February, 2008,

AMONG:

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO as
represented by THE MINISTER OF ABORIGINAL AFFAIRS**

(the “**Province**”)

- and -

**ONTARIO LOTTERY AND GAMING CORPORATION, a
Crown agency established pursuant to the *Ontario Lottery and
Gaming Corporation Act, 1999***

(“**OLG**”)

- and -

**ONTARIO FIRST NATIONS (2008) LIMITED
PARTNERSHIP, a limited partnership formed under the laws
of Ontario**

(“**OFNLP 2008**”)

- and -

**ONTARIO FIRST NATIONS LIMITED PARTNERSHIP, a
limited partnership formed under the laws of Ontario**

(“**OFNLP**”)

WHEREAS the Province and First Nations in Ontario, acting through OFNLP 2008, have agreed to enter into this Gaming Revenue Sharing and Financial Agreement with the objective of advancing the growth and capacity of First Nations in Ontario in respect of community development, health, education, economic development and cultural development.

AND WHEREAS in furtherance of this objective it is the intention of the Province and First Nations in Ontario to maintain an on-going relationship for so long as the Province is involved directly, or indirectly through an Agent of the Province, in conducting and managing Lottery Schemes in Ontario.

NOW THEREFORE in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement:

(a) “**\$201 Million Payment**” means the \$201 million payment from the Province to OFNLP 2008 referred to in section 2.1.

(b) “**35% Allocation**” means the 35% share of On-Going Net Revenues for the period subsequent to July 31, 2001, the entitlement to which is the subject of the 35% Litigation.

(c) “**35% Litigation**” means the legal action styled as The Chippewas of Mnjikaning First Nation-v-Her Majesty the Queen in Right of Ontario, et. al. (being Court File No. 01-CV-219345CM).

(d) “**20% Litigation**” means the legal action styled as Chiefs of Ontario, et al.-v-Her Majesty the Queen in Right of Ontario, et. al. (being Court File No. 98-CV-152417CM).

(e) “**Accruals**” means funds set aside or amounts allocated to reserves maintained, in each case in amounts which in the commercially reasonable opinion of the relevant Person are required by that Person for the payment of obligations coming due in a future period or to provide for contingencies or for working capital requirements.

(f) “**Agent of the Province**” means any agency of the Province, including OLG, that conducts and manages a lottery scheme under the authority of section 207(1)(a) of the *Criminal Code*, and includes the Province itself if the Province conducts and manages any such lottery scheme directly but, for greater certainty, does not include any operator that the Province, OLG or any other agency of the Province that conducts and manages such lottery schemes may hire to operate any gaming facility or to operate the conduct and manage of such lottery schemes for or on behalf of the Province, OLG or such other agency of the Province.

(g) “**Agreement**” means this agreement and all schedules attached to this agreement, in each case as they may be amended or supplemented from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this agreement; and unless otherwise indicated, references to Articles, sections and Schedules are to Articles, sections and Schedules in this agreement.

(h) “**Applicable Laws**” means the statutes, regulations and common law of the Province of Ontario and the federal statutes, regulations and common law of Canada applicable therein and, for greater certainty, includes constitutional law of Canada.

(i) “**Approved Purposes**” means collectively (a) community development; (b) health; (c) education; (d) economic development; and (e) cultural development, of First Nations in Ontario and their territories and members.

(j) “**Audited Gross Revenues Statement**” has the meaning attributed to that term in section 2.2(c)(ii).

(k) “**Authority**” means the Federal Government of Canada, the Government of Ontario or any municipal government in Ontario constituted under the authority of the *Municipal Act* (Ontario) or any regulatory authority, agency, tribunal, commission, board or department of any such government or any Canadian federal or provincial court, having jurisdiction in the relevant circumstances.

(l) “**Arbitrators**” has the meaning attributed to that term in Schedule 9.2.

(m) “**Business Day**” means any day which is not a Saturday, Sunday or a day observed as a statutory holiday in the Province of Ontario under the laws of the Province of Ontario or the federal laws of Canada applicable therein.

(n) “**Capital Renewals**” means the additions and improvements to Casino Rama, as defined in section 1.1(n) of the DOA.

(o) “**Capital Renewals Budget(s)**” means the budget(s) covering estimated Capital Renewals as defined in section 3.8(a) of the DOA.

(p) “**Capital Renewals Reserve**” means the cash reserve for capital renewals established pursuant to section 3.8(d) of the DOA.

(q) “**Capital Renewals Reserve Account**” means the interest bearing bank account established pursuant to section 3.8(d) of the DOA and in which the Capital Renewals Reserve is maintained pursuant to section 6.1 of the DOA.

(r) “**Casino Gaming**” means the conduct, management or operation of table games, gaming wheels or slot machines, or any other form of electronic gaming operated through or by any form of electronic device including, without limitation, a computer, video device or slot machine.

(s) “**Casino Rama**” means the casino complex, including the hotel and entertainment centre, located on the designated lands of Mnjikaning First Nation and municipally known as 5899 Rama Road, Rama, Ontario.

(t) “**Chiefs in Assembly**” means a duly and properly constituted general or special meeting of the duly elected Chiefs of the First Nations in Ontario.

(u) “**Chiefs of Ontario**” means the not-for-profit company incorporated under the federal laws of Canada by the First Nations in Ontario and Mnjikaning First Nation under the name “Indian Associations Co-ordinating Committee of Ontario Inc.” acting as secretariat on behalf of and to the Chiefs of the First Nations in Ontario and Mnjikaning First Nation.

(v) “**Claimants**” has the meaning attributed to that term in section 3.1(e).

(w) “**Closing**” means the completion of the matters and satisfaction of the conditions set out in the Closing Agreement in order for this Agreement to be delivered and come into full force and effect.

(x) “**Closing Agreement**” means the agreement of even date with this Agreement among the parties hereto and the Chiefs of Ontario providing for the formal actions and conditions, and the timing and ordering of such formal actions and conditions, to be completed or satisfied in order for this Agreement to be delivered and to come into full force and effect.

(y) “**Collective Use Monies**” means in respect of each of (i) the \$201 Million Payment and (ii) each Monthly Revenue Share Payment received by OFNLP 2008 in each Fiscal Year commencing with Fiscal Year 2012, an amount of each such payment that is up to but not in excess of the amount that is fifteen percent (15%) of each such payment.

(z) “**Confidential Information**” has the meaning attributed to that term in section 10.5(b).

(aa) “**Consolidated Financial Statements**” means, in respect of an Agent of the Province, the annual consolidated financial statements of that Agent of the Province prepared by the management of that Agent of the Province in accordance with Canadian generally accepted accounting principles and approved by the board of directors (or similar body) of that Agent of the Province and reviewed by and subject to a favourable opinion from the independent auditors of that Agent of the Province.

(bb) “**Criminal Code**” means the Criminal Code of Canada.

(cc) “**CRRA**” means the Casino Rama Revenue Agreement dated June 9, 2000 among Her Majesty the Queen in Right of Ontario, OLG, OFNLP and Mnjikaning First Nation Limited Partnership, as the same may be duly and properly amended, modified, supplemented or restated from time to time.

(dd) “**Deficiency**” has the meaning attributed to that term in section 2.2(c)(iii)(A).

(ee) “**Determined Rate**” means the annual rate of interest equal to the cost of borrowing to the Province on the date that any interest accruable under this Agreement commences to accrue, being the rate under the Government of Ontario three month Treasury Bill available for issue by the Government of Ontario on such date that interest commences to accrue under this Agreement, as such rate shall be confirmed by the Ontario Financing Authority or its successor.

(ff) “**Dispute**” has the meaning attributed to that term in section 9.1.

(gg) “**DOA**” means the Amended and Restated Development and Operating Agreement dated March 18, 1996, as amended by agreements dated as of April 15, 1996 and June 12, 2000, among, *inter alia*, Ontario Casino Corporation (a predecessor of OLG), Chippewas of Rama First Nation and CHC Casinos Canada Limited, as the same may be duly and properly amended, modified, supplemented or restated from time to time.

- (hh) “**Effective Date**” means the date of this Agreement first written above.
- (ii) “**Event of Default**” means an OFNLP Event of Default, an OFNLP 2008 Event of Default, an OLG Event of Default or a Province Event of Default, as the case may be.
- (jj) “**Financial Administration Act**” means the *Financial Administration Act*, R.S.O. 1990, c.F12.
- (kk) “**First Nations in Ontario**” has the meaning attributed to that term in section 1.2.
- (ll) “**Fiscal Year**” means the fiscal year commencing on April 1st in a calendar year and ending on March 31st of the following calendar year and, as used in this Agreement, “**Fiscal Year 2012**” means the Fiscal Year commencing on April 1, 2011 and ending on March 31, 2012.
- (mm) “**Force Majeure**” means any cause beyond the reasonable control of, and without fault or negligence of the party claiming Force Majeure, including, but not limited to, acts of war (whether declared or undeclared), invasion, armed conflict or act of a foreign enemy, blockade, embargo, revolution, riot, insurrection, civil disobedience or disturbances, vandalism or act of terrorism; strikes, lockouts, restrictive work practices or other labour disturbances; inability to access its place of business; and acts of God including lightning, earthquake, fire, flood, unusually heavy or prolonged rain or accumulation of snow or ice arising from weather or environmental problems.
- (nn) “**Gross Revenues**” has the meaning attributed to that term in Schedule 1.1(nn).
- (oo) “**Held Amounts**” has the meaning attributed to that term in section 3.1(b).
- (pp) “**including**”, “**includes**” and “**included**” means including, without limitation, includes, without limitation, and included, without limitation, respectively.
- (qq) “**Indebtedness**” means all indebtedness for borrowed money, all indebtedness under any conditional sale or other title retention agreement, all liabilities represented by a note or other evidence of indebtedness, all obligations under leases and all guarantees of indebtedness of another Person.
- (rr) “**Initial Term**” has the meaning attributed to that term in section 8.1.
- (ss) “**Interim MRSP**” has the meaning attributed to that term in section 2.2(c)(i).
- (tt) “**Investment Income**” has the meaning attributed to that term in the OFNLP 2008 Partnership Agreement.
- (uu) “**Joint Appointee**” has the meaning attributed to that term in section 5.3(a).
- (vv) “**Judgment**” has the meaning attributed to that term in section 3.1(e).

(ww) “**Levies**” for the purposes of this Agreement only, means all taxes, duties, fees, premiums, assessments, imposts or other charges of any kind whatsoever, including all interest, penalties, fines, additions to such charges or other additional amounts imposed in respect thereof.

(xx) “**Liabilities**” has the meaning attributed to that term in section 3.1(c).

(yy) “**Limited Partner Distributions**” means all monies distributed to OFNLP 2008 Limited Partners as contemplated in Article 4 together with any Investment Income from Permitted Interim Investments distributed by OFNLP 2008 to the OFNLP 2008 Limited Partners.

(zz) “**Limited Partner Expense**” means an Expense of an OFNLP 2008 Limited Partner as defined in the OFNLP 2008 Partnership Agreement.

(aaa) “**Losses**” means, in respect of any matter, any and all costs, expenses (including, without limitation or duplication, legal fees and disbursements), penalties, fines, losses, damages, liabilities, deficiencies and all amounts as are necessary to satisfy any demands, claims, actions or any other proceedings by whomsoever made, sustained, brought or prosecuted (whether joint or several), together with interest thereon at the Determined Rate, from the date such is incurred and until the date fully and completely satisfied.

(bbb) “**Lottery Scheme**” means a lottery scheme conducted and managed by the Province or any Agent of the Province, under the authority of section 207(1)(a) of the *Criminal Code*.

(ccc) “**Monthly Revenue Share Payment**” or “**MRSP**” has the meaning attributed to that term in section 2.2(a).

(ddd) “**Near Band**” means an Aboriginal group of people in Ontario recognized as a First Nation in Ontario by the Chiefs in Assembly.

(eee) “**OFN General Partner**” means Ontario First Nations General Partner Inc., the general partner of OFNLP.

(fff) “**OFN Shareholders’ Agreement**” means the shareholders’ agreement among OFN General Partner and those First Nations in Ontario that are shareholders thereof, dated June 2, 2000, as the same may be duly and properly amended, modified, supplemented or restated from time to time.

(ggg) “**OFN 2008 General Partner**” means New OFNLP General Partner Limited.

(hhh) “**OFN 2008 Shareholders’ Agreement**” means the shareholders’ agreement among OFN 2008 General Partner and those First Nations in Ontario that are shareholders thereof, dated February 7, 2008, as the same may be duly and properly amended, modified, supplemented or restated from time to time.

(iii) “**OFNLP**” means the Ontario First Nations Limited Partnership, a limited partnership formed under the laws of the Province of Ontario relating to the distribution of On-Going Net Revenues.

(jjj) “**OFNLP Event of Default**” has the meaning attributed to that term in section 8.4.

(kkk) “**OFNLP Limited Partner**” means a First Nation in Ontario which is a limited partner of OFNLP.

(lll) “**OFNLP Partnership Agreement**” means the limited partnership agreement dated June 2, 2000 among the OFNLP Limited Partners and OFN General Partner, as the same may be duly and properly amended, modified, supplemented or restated from time to time.

(mmm) “**OFNLP 2008**” means the Ontario First Nations (2008) Limited Partnership.

(nnn) “**OFNLP 2008 Event of Default**” has the meaning attributed to that term in section 8.5.

(ooo) “**OFNLP 2008 Limited Partner**” means a First Nation in Ontario which is a limited partner of OFNLP 2008.

(ppp) “**OFNLP 2008 Partnership Agreement**” means the limited partnership agreement dated February 7, 2008 among the OFNLP 2008 Limited Partners and OFN 2008 General Partner, a copy of which is included in this Agreement as Schedule 1.1(ppp), as the same may be duly and properly amended, modified, supplemented or restated from time to time.

(qqq) “**OLG**” means the Ontario Lottery and Gaming Corporation, including its statutory successors.

(rrr) “**OLGC Act**” means the *Ontario Lottery and Gaming Corporation Act, 1999*, S.O. 1999, c. 12, Sch. L.

(sss) “**OLG Event of Default**” has the meaning attributed to that term in section 8.8.

(ttt) “**On-Going Net Revenues**” means the Ongoing Net Revenues from Casino Rama as such term is defined in the CRRA.

(uuu) “**Operating Reserve**” means the “Operating Reserve” established pursuant to and defined as such in the DOA.

(vvv) “**Operating Reserve Account**” means the interest bearing bank account in which the Operating Reserve is maintained pursuant to section 6.1 of the DOA.

(www) “**Partnership Expense**” means an Expense of OFNLP 2008 as defined in the OFNLP 2008 Partnership Agreement.

(xxx) “**Permitted Interim Investments**” means any investment referred to in Schedule 1.1(xxx).

(yyy) “**Person**” means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation (with or without share capital), unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Authority, First Nation in Ontario or other entity, however designated or constituted.

(zzz) “**Preceding Fiscal Year**” means, in respect of any Fiscal Year, the Fiscal Year immediately preceding that Fiscal Year.

(aaaa) “**Protected Parties**” has the meaning attributed to that term in section 3.1(c).

(bbbb) “**Province**” means Her Majesty the Queen in right of Ontario.

(cccc) “**Province Event of Default**” has the meaning attributed to that term in section 8.7.

(dddd) “**Renewal Term**” means the five year period commencing on the next date after the date of expiration of the Initial Term and ending on the date that is the 5th anniversary of the date of expiration of the Initial Term.

(eeee) “**Reserve Accounts**” means, collectively, the Capital Renewals Reserve Account and the Operating Reserve Account.

(ffff) “**Status Band**” means an Ontario First Nation that is recognized as a band under the *Indian Act* (Canada).

(gggg) “**Unaudited Gross Revenues Statement**” has the meaning attributed to that term in section 2.2(c)(i).

(hhhh) “**Unsigned First Nations**” means those First Nations in Ontario that are OFNLP Limited Partners at the Effective Date but that are not OFNLP 2008 Limited Partners at the Effective Date.

(iiii) “**Unsigned First Nation Claim**” has the meaning attributed to that term in section 3.1(c).

(jjjj) “**WIN Contribution**” means payments made to the Consolidated Revenue Fund of the Province of Ontario under Subsection 14(4)2 of the *OLGC Act* (and the regulations thereunder) or other similar payments.

1.2 **First Nations in Ontario under Agreement**

(a) For the purposes of this Agreement, First Nations in Ontario means those Status Bands and Near Bands which are listed in Schedule 1.2, as the same may be added to after

Closing and subject to section 1.2(c), in order to reflect the addition of First Nations located in Ontario that become Status Bands or Near Bands.

(b) OFNLP 2008 shall provide timely notice to the Province in the event that (i) any Status Band or Near Band becomes an OFNLP 2008 Limited Partner; or (ii) any OFNLP 2008 Limited Partner withdraws or is terminated from OFNLP 2008.

(c) Without the written consent of the Province, OFNLP 2008 shall not allow Mnjikaning First Nation to (i) become, directly, indirectly or by addition, an OFNLP 2008 Limited Partner; (ii) be added to the list in Schedule 1.2; or (iii) withdraw or be terminated as an OFNLP 2008 Limited Partner after becoming an ONFLP 2008 Limited Partner.

1.3 **Schedules**

The following are the Schedules attached to this Agreement:

| | | |
|-------------------|---|----------------------------------------------------------|
| Schedule 1.1(nn) | - | Gross Revenues |
| Schedule 1.1(ppp) | - | OFNLP 2008 Partnership Agreement |
| Schedule 1.1(xxx) | - | Permitted Interim Investments |
| Schedule 1.2 | - | First Nations in Ontario |
| Schedule 5.1 | - | Form of Partner Report on Receipts and Disbursements |
| Schedule 5.2 | - | OFNLP 2008 Report to Province |
| Schedule 9.2 | - | Dispute Resolution |
| Schedule 10.13 | - | OFNLP 2008 Limited Partners' Acknowledgement and Consent |

1.4 **Headings and Table of Contents**

The inclusion of headings and a table of contents in this Agreement is for convenience of reference only and shall not affect the construction or interpretation hereof.

1.5 **Statutes and Regulations**

Any reference in this Agreement to a statute or to a regulation or rule promulgated under a statute or to any provision of a statute, regulation or rule shall be a reference to that statute, regulation, rule or provision as amended, re-enacted or replaced from time to time.

1.6 **Gender and Number**

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa, words importing gender include all genders or the neuter, and words importing the neuter include all genders.

1.7 **Currency**

All amounts in this Agreement are stated and shall be paid in Canadian currency.

1.8 **Generally Accepted Accounting Principles**

In this Agreement, except to the extent otherwise expressly provided, references to “generally accepted accounting principles” mean, for all principles stated in the Handbook of the Canadian Institute of Chartered Accountants, such principles so stated. Accounting terms used herein, unless otherwise defined, shall have the meaning accorded thereto by generally accepted accounting principles in Canada and, except to the extent otherwise expressly provided, any references to financial statements herein, whether audited or unaudited, shall be to financial statements prepared in accordance with generally accepted accounting principles in Canada.

1.9 **Invalidity of Provisions**

In the event that any of the provisions, or any part thereof, contained in this Agreement is declared of invalid or unenforceable by a court of competent jurisdiction, the parties shall engage in good faith negotiations to replace such provision, or part thereof, which is declared invalid or unenforceable with a valid and enforceable provision, the economic and substantive effect of which comes as close as possible to that of the invalid or unenforceable provision which it replaces. Failing success in such negotiations, the parties shall seek a declaration of such court of competent jurisdiction as to whether the remainder of the terms of this Agreement shall continue as valid and enforceable notwithstanding the invalidity and unenforceability of the provisions so declared by the court of competent jurisdiction.

1.10 **Entire Agreement**

This Agreement and the Closing Agreement constitute the entire agreement between the parties pertaining to the subject matters herein. There are no warranties, conditions, or representations (including any that may be implied by statute) and there are no agreements in connection with such subject matters except as specifically set forth or referred to in this Agreement and the Closing Agreement. No reliance is placed on any warranty, representation, opinion, advice or assertion of fact made either prior to, contemporaneous with, or after entering into this Agreement, or any amendment or supplement thereto, by any party to this Agreement or its partners, directors, officers, employees or agents, to any other party to this Agreement or its partners, directors, officers, employees or agents, except to the extent that the same has been reduced to writing and included as a term of this Agreement, and none of the parties to this Agreement has been induced to enter into this Agreement or any amendment or supplement by reason of any such warranty, representation, opinion, advice or assertion of fact. Accordingly, there shall be no liability, either in tort or in contract, assessed in relation to any such warranty, representation, opinion, advice or assertion of fact, except to the extent contemplated above.

1.11 **Amendment**

Subject as may otherwise be specifically provided in this Agreement, this Agreement may not be amended, modified or supplemented except by a written agreement of the same formality of this Agreement signed by the parties to this Agreement to be bound thereby.

1.12 **Waiver**

Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right, except as shall be specified herein. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

1.13 **Governing Law**

This Agreement shall be governed by and construed in accordance with Applicable Laws.

1.14 **Business Days**

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day.

**ARTICLE 2
PAYMENT OF FUNDS**

2.1 **\$201 Million Payment**

- (a) The Province shall pay to OFNLP 2008 at Closing the \$201 Million Payment.
- (b) The \$201 Million Payment shall be paid by wire transfer of immediately available funds to such account of OFNLP 2008 at such major chartered bank in Canada as OFNLP 2008 shall have advised the Province in writing by no later than the third Business Day preceding the due date for payment, or by such other method or to such other account as OFNLP 2008 and the Province may agree in writing from time to time.

2.2 **Monthly Gaming Revenue Share Payments**

(a) Commencing with Fiscal Year 2012, and in each Fiscal Year thereafter during the Initial Term and the Renewal Term, the Province shall pay, or cause an Agent of the Province to pay, to OFNLP 2008, 12 monthly payments (the monthly payments payable each month by the Province, or any Agent of the Province, being hereinafter collectively referred to as a “**Monthly Revenue Share Payment**” or “**MRSP**”), each MRSP being in the aggregate equal to one-twelfth of 1.7% of the aggregate Gross Revenues for all Agents of the Province in the applicable Preceding Fiscal Year.

(b) Subject to section 2.2(c), each MRSP shall be paid by the Province, or by an Agent of the Province at the direction of the Province, to OFNLP 2008 on or before the 15th of April in respect of the MRSP for the month of April in any Fiscal Year and on or before the 1st of the month for the other eleven months of such Fiscal Year.

(c) The parties acknowledge that Agents of the Province will not have received their respective Consolidated Financial Statements for the Preceding Fiscal Year on or before the date that certain of the Monthly Revenue Share Payments for a Fiscal Year become due and payable. In order to address this issue, the parties agree as follows:

- (i) Commencing with Fiscal Year 2012, OLG shall, and the Province shall cause each other Agent of the Province to, prepare and deliver to OFNLP 2008 within 10 days of the end of each Preceding Fiscal Year during the Initial Term and the Renewal Term, an unaudited statement of Gross Revenues (an “**Unaudited Gross Revenues Statement**”) signed by the chief financial officer of OLG or the relevant Agent of the Province, as the case may be, setting out an estimate of the amount of Gross Revenues for OLG or that Agent of the Province, as applicable, for the Preceding Fiscal Year and a calculation of the Monthly Revenue Share Payments for the then current Fiscal Year based upon the Gross Revenues estimate in the Unaudited Gross Revenues Statements of OLG and other Agents of the Province, as applicable, (each such MRSP based upon the Unaudited Gross Revenues Statements, being hereinafter referred to as an “**Interim MRSP**”).
- (ii) Commencing with Fiscal Year 2012, OLG shall, and the Province shall cause each other Agent of the Province to, prepare and deliver to OFNLP 2008 on or before June 30th of the Fiscal Year that is the subject of the calculation of the Interim MRSP, a statement of Gross Revenues audited by the independent auditor of OLG and other Agents of the Province as applicable (an “**Audited Gross Revenues Statement**”) signed by the chief financial officer of OLG or the relevant Agent of the Province, as the case may be, setting out the final determined amount of Gross Revenues for the Preceding Fiscal Year for OLG or that other Agent of the Province, as applicable, and a calculation of the actual MRSP payable for the then current Fiscal Year based upon the Gross Revenues set out in the Audited Gross Revenues Statements of OLG and other Agents of the Province.
- (iii) Once the final Gross Revenues for the Preceding Fiscal Year for OLG or another Agent of the Province have been determined and the actual amount of each MRSP for the then current Fiscal Year has been calculated as set out in the Audited Gross Revenues Statements delivered to OFNLP 2008:
 - (A) the Province shall pay, or cause OLG or each other Agent of the Province, as applicable, to pay to OFNLP 2008, without interest, at the time the next Monthly Revenue Share Payment is due and payable, the amount (the “**Deficiency**”), if any, by which the MRSP that should have been paid to OFNLP 2008 exceeds the Interim MRSP, for each month in the Fiscal Year for which an Interim MRSP had already been paid; or
 - (B) the Province shall deduct, or cause OLG or each other Agent of the Province, as applicable, to deduct, without interest, from the next Monthly Revenue Share Payment(s) due to OFNLP 2008, the amount, if any, by which the MRSP that should have been paid to OFNLP 2008 is less than the Interim MRSP, for each month in the Fiscal Year for which an Interim MRSP had already been paid.

(d) Upon delivery of the Unaudited Gross Revenues Statement in accordance with section 2.2(c)(i) and the Audited Gross Revenues Statement pursuant to section 2.2(c)(ii), OLG shall, and the Province shall cause each other Agent of the Province, to make, at the request of OFNLP 2008, the respective finance personnel of OLG or that Agent of the Province, including, in the case of the Audited Gross Revenues Statement, their respective independent auditors, as applicable, available to OFNLP 2008 and OFNLP 2008's accounting advisors, within the 20 day period referred to in section 2.2(f), to discuss in good faith such statements of OLG or of that Agent of the Province, as the case may be.

(e) If an Interim MRSP, an MRSP, any Deficiency or any adjusting payment pursuant to section 2.3(c) once determined to be due and payable, is not paid by the Province, or by any Agent of the Province at the direction of the Province, on or before the dates set out in section 2.2(b), 2.2(c)(iii) or 2.3(c), as the case may be, the Province shall indemnify OFNLP 2008 for all damages suffered by OFNLP 2008 as a result of such failure to pay on or before such date, and the parties hereby agree that a reasonable pre-estimate of such damages will be, and the Province shall pay or cause an Agent of the Province to pay to OFNLP 2008, in addition to the Interim MRSP, the MRSP, the Deficiency or any adjusting payment pursuant to section 2.3(c), as the case may be, the amount of interest that would have accrued on such payment from the day it became due until, but excluding, the date of actual payment, at a rate equal to the Determined Rate.

(f) OFNLP 2008 shall be entitled to object to the calculation of the Monthly Revenue Share Payments that are based upon an Audited Gross Revenues Statement by delivering a written notice of objection to OLG, or the other Agent of the Province, as applicable, within 20 days of receipt by OFNLP 2008 of the Audited Gross Revenues Statement. Such right of objection shall be limited to (i) any recalculation of Gross Revenues by OLG or another Agent of the Province in the circumstances of a change in any applicable accounting practice or principle, pursuant to section 2.4, (ii) or an alleged manifest error in the calculation of Gross Revenues or of the MRSP set out in the Audited Gross Revenues Statement and, for greater certainty, shall not include the right of OFNLP 2008 or any OFNLP 2008 Limited Partner to audit the audited Gross Revenues determination of OLG or any Agent of the Province for any Fiscal Year, including the Preceding Fiscal Year. If OFNLP 2008 does not so object within such 20 day period, OFNLP 2008 shall be deemed to have agreed to the calculations and amounts set out in the applicable Audited Gross Revenues Statement. If OFNLP 2008 does so object, OFNLP 2008 and OLG or that other Agent of the Province shall each, within five days of the date OLG or that other Agent of the Province received the notice of objection from OFNLP 2008, appoint a representative, which representatives, together with any required third party advisors, including third party advisors of OLG or that other Agent of the Province, as applicable, shall co-operate in good faith in order to try to resolve the Dispute. If the Dispute has not been resolved within 30 days after the date OLG, or the other Agent of the Province, as applicable, received the notice of objection from OFNLP 2008, the Dispute shall be resolved in accordance with Article 9. Once any objection by OFNLP 2008 has been resolved, the resolution will be reflected in future Monthly Revenue Share Payments with any adjustments to previously paid or future Monthly Revenue Share Payments being addressed in the same manner as adjustments under sections 2.2(c)(iii)(A) and 2.2(c)(iii)(B).

(g) All payments required to be made to OFNLP 2008 pursuant to sections 2.2 or 2.3 shall be paid to or to the order of OFNLP 2008 by wire transfer of immediately available funds to such account of OFNLP 2008 at such major chartered bank in Canada as OFNLP 2008 shall have notified the Province and OLG in the Closing Agreement, or by such other method or to such other accounts as OFNLP 2008, the Province and OLG may agree in writing from time to time.

2.3 Financial Statements

(a) Commencing with Fiscal Year 2012, OLG shall, and the Province shall cause each other Agent of the Province to, prepare and deliver to OFNLP 2008 a copy of the Consolidated Financial Statements of OLG or that Agent of the Province, as applicable, for the Preceding Fiscal Year, including the signed auditors report therein, no later than ten (10) Business Days after the date that the Consolidated Financial Statements are laid before the Legislative Assembly of Ontario or are otherwise made public in accordance with Applicable Laws.

(b) Upon delivery of the Consolidated Financial Statements in accordance with section 2.3(a), OLG shall, and the Province shall cause each other Agent of the Province to, make, at the request of OFNLP 2008, the respective finance personnel of OLG or that Agent of the Province, including their respective independent auditors, as applicable, available to OFNLP 2008 and OFNLP 2008's accounting advisors to discuss in good faith the Consolidated Financial Statements of OLG or of that Agent of the Province.

(c) If for any reason the Consolidated Financial Statements for the Preceding Fiscal Year of OLG or any other Agent of the Province contain a final Gross Revenues figure for the Preceding Fiscal Year that is different than the Gross Revenues figure contained in the Audited Gross Revenues Statement of OLG or such other Agent of the Province for the Preceding Fiscal Year (other than a difference as a result of a change in an accounting practice or principle of the Province, OLG or any other Agent of the Province as described in section 2.4), then:

- (i) the Province shall pay, or shall cause an Agent of the Province to pay, as applicable, to OFNLP 2008, without interest, at the time the next Monthly Revenue Share Payment is due and payable, the amount, if any, by which the MRSP that should have been paid to OFNLP 2008 based on the final Gross Revenues figure in the Consolidated Financial Statements exceeds the MRSP that was actually paid to OFNLP 2008 pursuant to section 2.2(c), for each month in the Fiscal Year for which an MRSP had already been paid based on the Audited Gross Revenues Statement; or
- (ii) the Province shall deduct, or cause an Agent of the Province, as applicable, to deduct, without interest, from the next Monthly Revenue Share Payment(s) due to OFNLP 2008, the amount, if any, by which the MRSP that should have been paid to OFNLP 2008 based on the final Gross Revenues figure in the Consolidated Financial Statements is less than the MRSP that was actually paid to OFNLP 2008 pursuant to section 2.2(c), for each month in the Fiscal Year for which an MRSP had already been paid based on the Audited Gross Revenues Statement.

(d) OFNLP 2008 shall be entitled to object to any difference between (i) the Gross Revenues figure contained in the Consolidated Financial Statements for the Preceding Fiscal Year of OLG or any other Agent of the Province and (ii) the Gross Revenues figure contained in the Audited Gross Revenues Statement of OLG or any other Agent of the Province, as the case may be, by delivering a written notice of objection to OLG, or the other Agent of the Province, as applicable, within 20 days of receipt by OFNLP 2008 of such Consolidated Financial Statements. For greater certainty such right of objection shall be limited to any such difference between such Gross Revenue figures and shall not include the right of OFNLP 2008 or any OFNLP 2008 Limited Partner to audit the audited Gross Revenues determination of OLG or any Agent of the Province for any Fiscal Year, including the Preceding Fiscal Year. If OFNLP 2008 does not so object within such 20 day period, OFNLP 2008 shall be deemed to have agreed to the Gross Revenue figures set out in such Consolidated Financial Statements. If OFNLP 2008 does so object, OFNLP 2008 and OLG or that other Agent of the Province shall each, within five days of the date OLG or that other Agent of the Province received the notice of objection from OFNLP 2008, appoint a representative, which representatives, together with any required third party advisors, including third party advisors of OLG or that other Agent of the Province, as applicable, shall co-operate in good faith in order to try to resolve the Dispute. If the Dispute has not been resolved within 30 days after the date OLG or that other Agent of the Province received the notice of objection from OFNLP 2008, the Dispute shall be resolved in accordance with Article 9. Once any objection by OFNLP 2008 has been resolved, the resolution will be reflected in future Monthly Revenue Share Payments with any adjustments to previously paid or future Monthly Revenue Share Payments being addressed in the same manner as adjustments under sections 2.3(c)(i) and 2.3(c)(ii).

2.4 **Changes in Accounting Procedures**

(a) In the event that during the course of any Fiscal Year there has been a change in any applicable accounting practice or principle of the Province, OLG or any other Agent of the Province, which change affects the determination of Gross Revenues, the Province, OLG or such other Agent of the Province shall deliver a written notice of such change to OFNLP 2008 in sufficient detail in order for OFNLP 2008 to understand such change. For the purposes of this section 2.4, a “**change in any applicable accounting practice or principle**” shall mean any change in any accounting practice or principle related to the recognition of Gross Revenues by the Province or OLG from those accounting practices or principles applied by the Province or OLG in respect of the recognition of Gross Revenues from the Lottery Schemes conducted and managed by OLG at the Effective Date, as reported in the Consolidated Financial Statements of OLG. For greater certainty, a change in any applicable accounting practice or principle does not include the determination of any accounting practice or principle that may be applied by the Province, OLG or any other Agent of the Province to any new Lottery Schemes that the Province, OLG or any other Agent of the Province may commence to conduct and manage from and after the Effective Date, which determination of accounting practices and principles applicable to such new Lottery Schemes commenced after the Effective Date shall be at the sole discretion of the Province, OLG or such other Agent of the Province, as the case may be.

(b) The Province shall cause each Agent of the Province to make its chief financial officer or other senior financial officer having knowledge of any change in accounting practice or principle available to representatives of OFNLP 2008 in order to explain such change.

(c) In the event of any change after the Effective Date in any accounting practice or principle applied to the calculation of Gross Revenues of OLG derived from the Lottery Schemes conducted and managed by OLG as at the Effective Date, OLG and any other Agent of the Province, as applicable, shall, for the purposes of this Agreement, from and after the date of such change, recalculate Gross Revenues in accordance with the accounting practices and principles applied by OLG at the Effective Date.

(d) If it is necessary to recalculate Gross Revenues pursuant to section 2.4(c) for the purposes of calculating the Monthly Revenue Share Payments, the Province shall cause each Agent of the Province subject to such recalculation to deliver to OFNLP 2008 the Unaudited Gross Revenues Statement, the Audited Gross Revenues Statement, the Consolidated Financial Statements of that Agent of the Province and the recalculation of Gross Revenues required pursuant to section 2.4(c), together with a report from the auditor of such Agent of the Province on such recalculation.

2.5 Provincial Levies, including Taxes and WIN Contributions

(a) Subject to sections 2.5(b) and 2.5(c), the Province affirms and agrees that the receipt by OFNLP 2008 or the OFNLP 2008 Limited Partners of all or any portion of the \$201 Million Payment or any Monthly Revenue Share Payments shall not be reduced by any Levy of the Province or any agency of the Province with the jurisdiction and power to impose such a charge acting under the authority of the Province, including the WIN Contribution. If it is determined that any Levy of the Province becomes payable by OFNLP 2008 or any OFNLP 2008 Limited Partner on the receipt by OFNLP 2008 or such OFNLP 2008 Limited Partner of all or any portion of the \$201 Million Payment or any Monthly Revenue Share Payments, and OFNLP 2008 and/or such OFNLP 2008 Limited Partners have complied with their obligation to pay such Levy and no remission is available to them, then the Province shall pay to OFNLP 2008 or such OFNLP 2008 Limited Partners an amount equivalent to the Levy of the Province so paid by each of OFNLP 2008 or such OFNLP 2008 Limited Partners respectively.

(b) The Province and OFNLP 2008 acknowledge and agree that the affirmation and agreement of the Province set out in section 2.5(a) does not apply to any Levy of an Authority related directly or indirectly to any right, title or interest in and to, or any use, expenditure, investment or application of, the \$201 Million Payment or the Monthly Revenue Share Payments after receipt thereof by OFNLP 2008 or the OFNLP 2008 Limited Partners or to any income, revenue or appreciation of value received or realized by OFNLP 2008 and/or an OFNLP 2008 Limited Partner directly or indirectly related to or derived from the use, expenditure, investment or application of the \$201 Million Payment or the Monthly Revenue Share Payments after the receipt thereof by OFNLP 2008 or an OFNLP 2008 Limited Partner, including such Levies of any Authority imposed on, measured by or referred to as, income, land transfer, sales, goods and services, use, consumption, capital, value added, excise, stamp, withholding, business, wealth, estate, franchising, property, development, occupancy, employer

benefit, payroll, workers compensation, health, social services, education or social securities taxes.

(c) OFNLP 2008 acknowledges that the Federal Government of Canada, or any agent or Authority of the Federal Government of Canada, may be obliged to apply a Levy of the Province or any Levy created by an agency of the Province with the jurisdiction and power to impose such a charge acting under the authority of the Province to the receipt by OFNLP 2008 or the OFNLP 2008 Limited Partners of all or any portion of the \$201 Million Payment or any Monthly Revenue Share Payments. In such event, and provided that OFNLP 2008 or the OFNLP 2008 Limited Partners have complied with their obligation to pay such Levy and no remission is available to them, then the Province shall pay to OFNLP 2008 or such OFNLP 2008 Limited Partners an amount equivalent to such Levy of the Province paid by each of OFNLP 2008 or such OFNLP 2008 Limited Partners respectively.

2.6 **OLG Board Membership**

OFNLP 2008 shall have the right to have a representative of OFNLP 2008 appointed by the Province as a member of the board of directors of OLG in accordance with and pursuant to the procedures of the Province for making such appointments. Any nominee of OFNLP 2008 must comply with the criteria established for service as a member of the board of directors of OLG. OFNLP 2008 shall require any appointee that subsequently ceases to comply with such approved criteria to resign immediately, failing which the Province shall be entitled to terminate such appointee as a member of the board of directors of OLG.

ARTICLE 3 UNSIGNED FIRST NATIONS

3.1 **Unsigned First Nations**

(a) Each of OFNLP and OFNLP 2008 covenants and agrees that it shall use its good faith reasonable efforts to explain to any Unsigned First Nation the benefits of this Agreement to such Unsigned First Nation in order that such Unsigned First Nation can determine whether it will become an OFNLP 2008 Limited Partner.

(b) OFNLP 2008 covenants and agrees that the OFNLP 2008 Partnership Agreement provides and will continue to provide during the Initial Term and the Renewal Term that OFN 2008 General Partner will hold in a segregated account for each Unsigned First Nation all monies to which such Unsigned First Nation would be entitled to have distributed to it under this Agreement and the OFNLP 2008 Partnership Agreement if such Unsigned First Nation had been an OFNLP 2008 Limited Partner at the Effective Date (all such monies the “**Held Amounts**” and individually, a “**Held Amount**”) and that each such Held Amount will not be distributed to any Person except as provided in this Agreement and in section 5.2 of the OFNLP 2008 Partnership Agreement. OFNLP 2008 and the Province shall review this section 3.1 at the end of each fiscal year of OFNLP 2008 and determine whether the Held Amounts should continue to be held by OFN 2008 General Partner or otherwise used as provided in section 5.2 of the OFNLP 2008 Partnership Agreement.

(c) OFN 2008 General Partner shall pay out of the Held Amount attributable to an Unsigned First Nation (but not otherwise), such amounts as are necessary in order to satisfy all Losses which are suffered by the Province, OLG or by any other Agent of the Province or any of their respective directors, officers, employees, servants or agents (each of the foregoing a "**Protected Party**" and all of the foregoing collectively, the "**Protected Parties**") and which are attributable to or arise out of or in connection with any claim (such claims an "**Unsigned First Nation Claim**") by any Unsigned First Nation:

- (i) related to the execution and delivery of this Agreement and the Closing Agreement by OFNLP 2008 or the completion of the Closing including, without limitation, the discontinuance of the 20% Litigation;
- (ii) that it has an interest in the subject matter of this Agreement or the OFNLP 2008 Partnership Agreement, that is not subject to or adequately provided for or is inappropriately provided for in the terms of this Agreement, the Closing Agreement or the OFNLP 2008 Limited Partnership Agreement;
- (iii) that it has an interest in the CRRA or the OFNLP Partnership Agreement that is not subject to or adequately provided for or is inappropriately provided for in the terms of this Agreement, the Closing Agreement or the OFNLP 2008 Partnership Agreement; or
- (iv) that it is entitled to any amount or rights in addition to, greater than or alternative to those provided for under this Agreement, the Closing Agreement or the OFNLP 2008 Partnership Agreement;

(all such Losses being the "**Liabilities**"); provided that, if such Unsigned First Nation's Held Amount is not sufficient to satisfy all of that Unsigned First Nation's Liabilities in full, OFN 2008 General Partner shall divide and distribute such Held Amount among the relevant Protected Parties in such shares as their respective entitlements to compensation bear to the total entitlements to compensation of all such Protected Parties.

(d) In the event that the Held Amount attributable to an Unsigned First Nation is not sufficient to satisfy all of its Liabilities, OFN 2008 General Partner shall divide and distribute all future payments (the "**Future Payments**") to which such Unsigned First Nation (whether such Unsigned First Nation becomes an OFNLP 2008 Limited Partner or not) would otherwise become entitled under this Agreement or the OFNLP 2008 Partnership Agreement, among the relevant Protected Parties on the same basis as set out in section 3.1(c) until the Unsigned First Nation's Liabilities are satisfied in full.

(e) If one or more Unsigned First Nations obtains a judgment of a court of final jurisdiction with no further right of appeal (the "**Claimants**"), which establishes or declares any right or entitlement claimed by an Unsigned First Nation as contemplated in section 3.1(c) (the "**Judgment**") the parties agree, subject to the terms of the Judgment, to enter into good faith negotiations with each other and the Claimants in accordance with the Judgment, for the distribution of the \$201 Million Payment and the Monthly Revenue Share Payments through such amendments to this Agreement as are necessary to address the terms of the Judgment. In the event that the parties to this Agreement and the Claimants are unable to negotiate any such

mutually acceptable agreement within 180 days of the Judgment, the Province may unilaterally amend this Agreement to address the terms of the Judgment by providing written notice to the other parties hereto of the Province's election to unilaterally amend this Agreement pursuant to this section 3.1(e) together with the terms of such unilateral amendment. Upon such unilateral amendment, the Province will be entitled to distribute the \$201 Million Payment and the Monthly Revenue Share Payments to First Nations in Ontario on a fair and reasonable basis and, to the extent possible, on terms consistent with the terms of this Agreement prior to its amendment. The parties acknowledge that an objective of any amendment negotiated or unilaterally imposed shall be to minimize the changes to the existing terms of this Agreement.

(f) Any Held Amounts and Future Payments attributable to an Unsigned First Nation(s) shall first be used to satisfy all Liabilities related to an Unsigned First Nation Claim of that Unsigned First Nation other than those in satisfaction of a Judgment and, upon such satisfaction of such Liabilities other than those in satisfaction of a Judgment, any balance of such Held Amount and Future Payments shall be used to satisfy the Liabilities related to an Unsigned First Nation Claim of that Unsigned First Nation related to or arising out of a Judgment. In the event that any Held Amounts and Future Payments attributable to an Unsigned First Nation(s) are used to satisfy any Losses, Liabilities, or Judgment suffered or incurred by the Protected Parties and related to an Unsigned First Nation Claim of that Unsigned First Nation and, after all such Losses, Liabilities and Judgments have been satisfied in full from such Held Amounts and Future Payments, any positive balance remaining in such Held Amounts and all subsequent Future Payments attributable to such Unsigned First Nation(s) may, in full subordination in priority to the complete satisfaction of all Losses, Liabilities and Judgments suffered or incurred by the Protected Parties, be applied to satisfy any Losses or Liabilities suffered or incurred or any Judgments against OFNLP, OFNLP 2008, OFN General Partner, OFN 2008 General Partner or their respective directors, officers, employees, servants or agents (all of the foregoing collectively, the “**OFN Protected Parties**”) related to an Unsigned First Nation Claim of that Unsigned First Nation.

(g) Notwithstanding any other provisions of this Agreement, including the other provisions of this Article 3, OFNLP and OFNLP 2008 shall and hereby agree to indemnify and hold harmless the Protected Parties against and from any and all Losses or Liabilities of whatsoever kind, including amounts paid to settle an action (provided such settlement has been consented to by OFNLP 2008, such consent not to be unreasonably withheld) or to satisfy a judgment and including all legal fees and other expenses, which any Protected Party may sustain or incur or become subject to, arising out of or relating directly or indirectly to an Unsigned First Nation Claim made by any one or more Unsigned First Nations. A Protected Party shall provide prompt written notice to OFNLP and OFNLP 2008 of any notice it receives of assertion of a claim for which the Protected Party is entitled to indemnification under this section 3.1(g).

(h) OFNLP and OFNLP 2008 agree that, notwithstanding any other provision in this Agreement, including the other provisions of this Article 3, the full amount of any Losses or Liabilities of the Protected Parties may be payable by the Province and may be deducted and set off from and against any payments payable to OFNLP pursuant to the terms of the CRRA and the \$201 Million Payment and the Monthly Revenue Share Payments, including the Collective Use Monies, payable by the Province to OFNLP 2008 pursuant to the terms of this

Agreement, until all such amounts have been paid in full. The Province agrees that it will not deduct and set off from and against any such payments any amount of any Losses or Liabilities of the Protected Parties in accordance with this section 3.1(h) until at least three months from the day that a Protected Party provides notice to OFNLP, OFNLP 2008 or both of them, that the Protected Party claims indemnification from OFNLP, OFNLP 2008 or both of them pursuant to section 3.1(g).

(i) OFNLP and OFNLP 2008 further agree that the amount of any Judgment, including without duplication, any award of costs and prejudgment and post judgment interest, in favour of one or more Claimants, may be payable by the Province and may be deducted and set off by the Province from and against any payments payable to OFNLP pursuant to the terms of the CRRA and the \$201 Million Payment and the Monthly Revenue Share Payments payable by the Province to OFNLP 2008 pursuant to the terms of this Agreement, until all such amounts have been paid in full.

(j) In the event that an Unsigned First Nation becomes an OFNLP 2008 Limited Partner and no longer is an Unsigned First Nation, and provided there are no outstanding Losses, Liabilities or Judgments arising from any Unsigned First Nation Claim by such First Nation against the Protected Parties or the OFN Protected Parties and provided there are no outstanding Unsigned First Nation Claims initiated by such First Nation against any of the Protected Parties or the OFN Protected Parties, then such Unsigned First Nation shall be entitled to receive the Held Amounts and all Future Payments from and after the date that such Unsigned First Nation becomes an OFNLP 2008 Limited Partner. If an Unsigned First Nation does not become an OFNLP 2008 Limited Partner during the Initial Term or Renewal Term of this Agreement, and provided there are no outstanding Losses, Liabilities or Judgments arising from any Unsigned First Nation Claim by such Unsigned First Nation against the Protected Parties or the OFN Protected Parties, and provided there are no outstanding Unsigned First Nation Claims initiated by such Unsigned First Nation against any of the Protected Parties or the OFN Protected Parties, then OFNLP 2008 shall be entitled at the expiry of the Renewal Term to receive and distribute pursuant to and in accordance with the terms of the OFNLP 2008 Partnership Agreement, the Held Amounts attributable to such Unsigned First Nation.

ARTICLE 4 USE OF FUNDS

4.1 Use of Funds by OFNLP 2008

Subject to Accruals, Permitted Interim Investments, Partnership Expenses and any Collective Use Monies, all funds received by OFNLP 2008 under Article 2 shall be distributed among the OFNLP 2008 Limited Partners in accordance with the provisions contained in Articles 6 and 7 of the OFNLP 2008 Partnership Agreement.

4.2 Purposes of Funds

(a) OFNLP 2008 covenants and agrees that the OFNLP 2008 Partnership Agreement does, and during the Term and Renewal Term shall continue to, provide that the Limited Partner Distributions received by an OFNLP 2008 Limited Partner shall, subject to

Limited Partner Expenses, Accruals and Permitted Interim Investments pending expenditures made in accordance with this section 4.2, only be used or expended by such OFNLP 2008 Limited Partner for capital and operating expenditures in respect of or in furtherance of the Approved Purposes for the benefit of such OFNLP 2008 Limited Partner and its members. For greater certainty, the Approved Purposes do not include per capita distributions or other forms of direct per capita distributions of any portion of the Limited Partner Distributions to members of such OFNLP 2008 Limited Partner or a member of any other OFNLP 2008 Limited Partner or any other Person but may include (i) the service or repayment of any Indebtedness by an OFNLP 2008 Limited Partner existing at the Effective Date in respect of any of the Approved Purposes; (ii) the service or repayment of any Indebtedness by an OFNLP 2008 Limited Partner incurred by an OFNLP 2008 Limited Partner subsequent to the Effective Date in respect of any capital or operating expenditures of such OFNLP 2008 Limited Partner related to or in furtherance of the Approved Purposes of that OFNLP 2008 Limited Partner; and (iii) consultations, negotiations and dispute resolution processes related to the defence and enforcement of any rights or claims by an OFNLP 2008 Limited Partner in respect of any of the Approved Purposes.

- (b) Where, in respect of Indebtedness incurred prior to the Effective Date:
- (i) there is reasonable evidence that the Indebtedness was incurred for one or more of the Approved Purposes referred to in this section 4.2; and
 - (ii) the lack of more complete evidence is reasonably attributable to one or more of the period of time that has passed since the incurrence of such Indebtedness, any loss of records due to fire, flood or other reasons beyond an OFNLP 2008 Limited Partner's control or limitations of record-keeping of an OFNLP 2008 Limited Partner due to its limited size, remoteness or lack of financial resources;

then OFNLP 2008 and the Province agree that the Joint Appointee shall resolve any reasonable doubt as to whether or not the Indebtedness was incurred for one or more of the Approved Purposes referred to in this section 4.2.

4.3 First Nations Traditions

The parties acknowledge and agree that in respect of the Limited Partner Distributions, the Approved Purposes are to be interpreted to include within their meaning and scope the cultures, traditions, values, beliefs, methods and practices of First Nations in Ontario, provided that in no event shall any such tradition, value, belief, method or practice override any specific use of funds provisions, or any reporting or accountability provisions, set out in this Agreement.

4.4 Collective Use Monies

Subject to the terms of this Agreement, the OFNLP 2008 Partnership Agreement and any Applicable Laws, the Province and OFNLP 2008 agree that OFNLP 2008 may use, expend or invest the Collective Use Monies for collective investment purposes and initiatives, in the manner and for the purposes approved by the OFNLP 2008 Limited Partners pursuant to the OFNLP 2008 Partnership Agreement. For greater certainty, however, the provisions of sections 4.1 and 4.2 do not apply to the use, expenditure, investment or distribution of income or capital

gains from businesses, investment, interest, initiatives or facilities established, acquired, developed or enhanced through the use, expenditure or investment of the Collective Use Monies by OFNLP 2008, provided that the provisions of section 4.2 shall apply to the distributions to the OFNLP 2008 Limited Partners of any flow through or return of Collective Use Monies to an OFNLP 2008 Limited Partner.

4.5 Certain Provisions in Respect of Collective Use Monies

OFNLP and OFNLP 2008 acknowledge and agree that:

- (i) the right of OFNLP 2008 to make a determination to use, expend or invest the Collective Use Monies in accordance with this Article 4 has been included in this Agreement at the specific request of OFNLP and OFNLP 2008;
- (ii) the terms and conditions relating to the administration of the Collective Use Monies will be determined by OFNLP 2008 at a date subsequent to the Effective Date;
- (iii) there is broad diversity in the needs and priorities of the OFNLP Limited Partners and the OFNLP 2008 Limited Partners,

and each of OFNLP and OFNLP 2008 shall and hereby does agree to indemnify and hold harmless the Protected Parties against and from any and all Losses of whatsoever kind, including amounts paid to settle an action (provided such settlement has been consented to by OFNLP 2008, such consent not to be unreasonably withheld) or to satisfy a judgment and including all legal fees and other expenses, which the Protected Parties may sustain or incur or become subject to relating directly or indirectly to, or arising directly or indirectly out of, the use, expenditure, investment or distribution of the Collective Use Monies or any income, proceeds or other monies derived therefrom including, without limitation, any losses, costs, damages, expenses and liabilities arising out of any claim made by or on behalf of one or more OFNLP 2008 Limited Partners, Unsigned First Nations, or any Person that it has sustained a loss or otherwise been prejudiced by the use, expenditure, investment or distribution of any Collective Use Monies or any income, proceeds or other monies derived therefrom. A Protected Party shall provide prompt written notice to OFNLP and OFNLP 2008 of any notice it receives of assertion of a claim for which the Protected Party is entitled to indemnification under this section 4.5.

4.6 Set-Off by Province

OFNLP and OFNLP 2008 each further agrees that, notwithstanding any other provision in this Agreement or any other remedy which the Province may have under this Agreement or pursuant to Applicable Laws, the full amount of any Losses or Liabilities whatsoever of the Protected Parties relating to or arising out of the use, expenditure, investment or distribution of the Collective Use Monies or any income, proceeds or other monies derived therefrom by OFNLP 2008, or any claim by any OFNLP Limited Partner or any OFNLP 2008 Limited Partner relating thereto or arising therefrom, may be payable by the Province and may be deducted and set off against any payments payable to OFNLP pursuant to the terms of the CRRA and against the \$201 Million Payment and the Monthly Revenue Share Payments, including the Collective Use Monies, payable by the Province to OFNLP 2008 pursuant to the terms of this Agreement. The Province agrees that it will not deduct and set off from and against

any such payments any amount of any Losses or Liabilities of the Protected Parties in accordance with this section 4.6 until at least three months from the day that a Protected Party provides notice to OFNLP, OFNLP 2008 or both of them, that the Protected Party claims indemnification from OFNLP, OFNLP 2008 or both of them pursuant to section 4.5.

ARTICLE 5 FIRST NATIONS REPORTING

5.1 Report to OFNLP 2008 by Limited Partners

OFNLP 2008 agrees that the OFNLP 2008 Partnership Agreement shall provide that each OFNLP 2008 Limited Partner which has received a Limited Partner Distribution for an OFNLP 2008 fiscal year shall provide to OFNLP 2008 audited financial statements for the distributions and expenses during such fiscal year within 120 days of the Fiscal Year end. OFNLP 2008 will use reasonable efforts to obtain from each OFNLP 2008 Limited Partner that has received a Limited Partner Distribution, the audited statements in accordance with the terms of the OFNLP 2008 Partnership Agreement. The financial statements shall show the expenses by category as set out in section 4.2(a) and shall be substantially in the form of Schedule 5.1. OFNLP 2008 shall provide a copy of such financial statements to the Joint Appointee within 10 days of receipt thereof.

5.2 OFNLP 2008 Report to Province

(a) Based on a review of the reports that it has received pursuant to section 5.1 above, OFNLP 2008 shall provide annually within a reasonable time, but not later than 150 days after OFNLP 2008's fiscal year end, (i) to the Province and the Joint Appointee, a report in respect of such Fiscal Year substantially in the form of Schedule 5.2, and (ii) to the Province, a summary report of representative examples of projects, programs or other initiatives to which the OFNLP 2008 Limited Partners have applied the Limited Partner Distributions during such fiscal year.

(b) If an OFNLP 2008 Limited Partner that has failed to provide the report contemplated in section 5.1 within the time period referred to therein, subsequently delivers the contemplated report to OFNLP 2008, then OFNLP 2008 shall deliver to the Province and the Joint Appointee a supplemental report in relation to that Limited Partner. The supplemental report shall be substantially in the form of Schedule 5.2 and shall be delivered within 30 days of OFNLP 2008 having received the late report from the Limited Partner. Sections 5.2, 5.4, 5.5, 5.6 and Article 9 of this Agreement shall apply to any such supplemental report.

(c) OFNLP 2008 shall also deliver to the Province and the Joint Appointee within a reasonable time, but not later than 90 days after OFNLP 2008's fiscal year-end, audited financial statements of OFNLP 2008, including a schedule setting forth the specific amount of funds transferred to each OFNLP 2008 Limited Partner during such year and the dates of such distributions and also including a schedule setting forth: (i) the Held Amount attributable to each First Nation in Ontario that was an Unsigned First Nation at the end of such fiscal year; and (ii) the total of the Held Amounts at the end of such fiscal year.

(d) OFNLP 2008 shall also deliver to the Province and the Joint Appointee within a reasonable time, but not later than 90 days after each fiscal year-end of OFNLP 2008, (i) an audited report for the Collective Use Monies for the fiscal year then ended confirming whether the Collective Use Monies, Investment Income and all other income, proceeds and other monies derived from the Collective Use Monies, were expended or invested in accordance with the terms of this Agreement and the OFNLP 2008 Partnership Agreement (including confirmation that no more than the permitted amount of payments to OFNLP 2008 hereunder were used as Collective Use Monies) and (ii) a summary report of representative examples of projects, programs, expenditures, investments or other initiatives to which OFNLP 2008 has applied such monies during such fiscal year.

5.3 **Joint Appointee**

(a) The Province and OFNLP 2008 shall, on or before the Effective Date, and annually thereafter, mutually appoint a person, not in the employ of the Province, OLG or any other Agent of the Province, or of OFNLP, OFNLP 2008, any OFNLP Limited Partner or OFNLP 2008 Limited Partner or any of the First Nations in Ontario, who shall be a certified general or chartered accountant, unless otherwise mutually agreed, to act as the joint appointee of the parties for the purposes of this Agreement (the "**Joint Appointee**"). The appointment of the Joint Appointee shall be pursuant to and be upon the terms set out in a formal written retainer agreement agreed among the Province, OFNLP 2008 and such Joint Appointee and shall continue until a replacement is appointed by the Province and OFNLP 2008 and such replacement has accepted his or her appointment. If the Province and OFNLP 2008 cannot agree on the appointment of the Joint Appointee or a replacement appointee, then such appointment shall be referred to the Arbitrators pursuant to section 9.2 and such Arbitrators shall have the authority to appoint the Joint Appointee or the replacement appointee. The Joint Appointee will operate with the authority granted to it under and in accordance with the provisions of this Agreement and the formal written retainer agreement with the Joint Appointee shall provide that the Joint Appointee shall perform the duties and obligations of the Joint Appointee set out in this Agreement.

(b) The reasonable costs and expenses of the Joint Appointee will be paid by the Province in accordance with the budget agreed to pursuant to section 5.3(c). The Joint Appointee will submit detailed invoices setting out his or her costs and expenses which will be reviewed by the Province and, subject to dispute of such costs and expenses by the Province, the Province shall pay such costs and expenses.

(c) The Province and OFNLP 2008 shall agree on a budget providing for the costs and expenses of the Joint Appointee for each Fiscal Year prior to the end of the Preceding Fiscal Year.

(d) Failure by the Province and OFNLP 2008 to agree on a Joint Appointee or a budget in respect thereof prior to the end of each Fiscal Year are matters which shall be referred directly to and determined by the Arbitrators under section 9.2.

5.4 **Joint Appointee Investigation**

(a) OFNLP 2008 shall provide the Joint Appointee with copies of the reports referred to in section 5.1 (subject to prior receipt of same by OFNLP 2008), in accordance with the terms thereof.

(b) The Joint Appointee shall be entitled to make reasonable inquiries of, and to request for inspection, any document which, in the opinion of the Joint Appointee is or may be relevant, from OFNLP 2008 or, subject to this section 5.4, an OFNLP 2008 Limited Partner that has received distributions from OFNLP 2008. Where the Joint Appointee wishes to obtain relevant information or documents from an OFNLP 2008 Limited Partner, the Joint Appointee shall first request OFNLP 2008 to obtain the information and documents. If the Joint Appointee makes such a request of OFNLP 2008, OFNLP 2008 shall make such request of the OFNLP 2008 Limited Partner. If the Joint Appointee, after the request or delivery, or both, of the requested information and documents from the OFNLP 2008 Limited Partner as provided through OFNLP 2008, determines that a direct approach to the Limited Partner is required to obtain further information or documents, the Joint Appointee may request such information and documents directly from the OFNLP 2008 Limited Partner.

(c) Without prejudice to any other provision of this Agreement, refusal on the part of OFNLP 2008 or an OFNLP 2008 Limited Partner that has received distributions from OFNLP 2008 to provide the documents referred to in this section 5.4 or to respond to the reasonable inquiries made by the Joint Appointee in a timely manner will constitute a violation of this Agreement for which a remedy may be sought by the Province under Article 9. A failure by OFNLP 2008 to deliver information which it has not received shall not be a refusal by OFNLP 2008 for the purposes of this section 5.4.

(d) All information, records or documents provided to the Joint Appointee will be treated by the Joint Appointee as confidential and not disclosed to any party to this Agreement or to any other Person except as specifically required by the terms of this Agreement or the terms of the formal written retainer agreement with the Joint Appointee or for the purposes of recommending (where appropriate) the identification of a Dispute under Article 9 or the determination of a dispute under Article 9.

5.5 **Joint Appointee Report**

(a) The Joint Appointee shall deliver to OFNLP 2008 and the Province within 12 months of his or her appointment and at least annually thereafter within 150 days of such annual period, and more frequently as contemplated pursuant to section 5.5(b), a report setting out, based on the reports and inquiries set forth in section 5.4:

- (i) whether each OFNLP 2008 Limited Partner has provided to OFNLP 2008 audited financial statements in accordance with section 5.1;
- (ii) whether OFNLP 2008 has provided to the Province financial statements and the reports in accordance with section 5.2;

- (iii) whether the review conducted by the Joint Appointee has resulted in the discovery of information that there has been non-compliance with Article 4 or Article 5 of this Agreement; and
- (iv) such other information as the parties may agree.

(b) The report contemplated in section 5.5(a) may be delivered more frequently if (i) the Joint Appointee, in his or her reasonable opinion, deems it necessary or appropriate; (ii) a party to the Agreement requests that the Joint Appointee make more frequent reports and the Joint Appointee acting reasonably agrees; or (iii) OFNLP 2008 and the Province agree to the delivery of the report on a more frequent basis.

5.6 Policies and Procedures for Reporting

OFNLP 2008 may develop policies and procedures relating to permitted expenditures and the characterization thereof for the purposes of sections 4.2 and 4.4, respectively, including greater specifications as to approved expenditures for the purposes set forth in those sections. If the Province has provided its written approval of such policies and procedures, the Joint Appointee shall, to the extent these policies and procedures are applicable, apply such policies and procedures in the Joint Appointee's review under section 5.4. The parties agree that such policies and procedures shall not amend the provisions relating to statements and reports in this Article 5.

5.7 Provincial Review of Reports

The Province shall be entitled to submit any concerns it may have with respect to the reports contemplated by sections 5.1, 5.2 and 5.5 within 60 days after its receipt of the Joint Appointee's report under section 5.5. If the Province does not submit any concerns in respect of such reports within such 60 day period, then the Province shall not be entitled to object to or take issue with any matter arising out of this Agreement in respect of the Fiscal Year and entities to which such reports relate.

5.8 Code of Reporting

Subject to Applicable Laws, the parties agree and acknowledge that the provisions of this Article 5 satisfy and are exhaustive of all requirements and rights of the Province in respect of the requirements for reporting and the provision of information regarding the investment, distribution and expenditure of monies received by OFNLP 2008 and the OFNLP 2008 Limited Partners pursuant to this Agreement.

5.9 Operations of OFN 2008 General Partner

OFNLP 2008 agrees with the Province that the OFN 2008 Shareholders' Agreement provides and shall continue to provide that the operations of OFN 2008 General Partner shall be conducted in accordance with the *Business Corporations Act* (Ontario) and, subject thereto, the terms of the OFN 2008 Shareholders' Agreement.

5.10 **Books and Records and Financial Statements**

OFNLP 2008 agrees with the Province that it will maintain adequate books of account and records, and that it will provide to the Limited Partners audited financial statements and such other information as the OFNLP 2008 Partnership Agreement or Applicable Laws may require. OFNLP 2008 represents and warrants to the other parties that section 9.5 of the OFNLP 2008 Partnership Agreement provides, and shall continue to provide during the Initial Term and the Renewal Term, that each OFNLP 2008 Limited Partner shall make such audited financial statements and other reports and information relating to this Agreement available to individual band members of such OFNLP 2008 Limited Partner for review upon reasonable notice of any request by such band member on the terms set forth therein.

ARTICLE 6 CASINO RAMA

6.1 **Casino Rama Reserve Accounts**

(a) OLG commits that during the period commencing on the date of Closing and ending on March 31, 2011, it will maintain the Operating Reserve at an amount no greater than \$30 million and will maintain the Capital Renewals Reserve Account at an amount equal to the annual approved Capital Renewals Budget for the applicable fiscal year, with the uncommitted (non-budgeted) amount of the Capital Renewals Reserve at the end of each fiscal year not to exceed \$5 million and with any amounts in excess of such \$5 million at the end of each fiscal year during such time period to be distributed pursuant to and in accordance with the terms of the CRRA.

(b) OLG commits to manage the Capital Renewals Reserve and the Operating Reserve in a manner that is consistent with the purposes for which the reserves were established under the DOA and the reasonable business requirements of Casino Rama. OLG commits to discuss proposed Capital Renewals pertaining to Casino Rama with OFNLP and to consider OFNLP's concerns in OLG's approval of the Capital Renewals Budget(s) in each Fiscal Year up to and including Fiscal Year 2012. For greater certainty neither OFNLP nor OFNLP 2008 shall have an approval right over the Capital Renewals Budget(s) pertaining to Casino Rama and the discussion of the Capital Renewals Budget(s) described above shall be governed by the confidentiality provisions of the CRRA.

6.2 **Casino Rama Revenue Agreement**

(a) Except as specifically set out in this Agreement, this Agreement is without prejudice to:

(i) the Province's, OLG's and OFNLP's rights or obligations under the CRRA for the period from the Effective Date to and including March 31, 2011, including OFNLP's right to receive payments from OLG of On-Going Net Revenues in accordance with and subject to the terms of the CRRA;

- (ii) any right, claim or entitlement that OFNLP may have to all or any part of the 35% Allocation for any period prior to the Effective Date and for the period from the Effective Date to and including March 31, 2011; or
- (iii) subject to the time limitations set out in sections 6.2(a)(i), 6.2(a)(ii) and subject to sections 6.2(b) and 6.2(g), any rights, claims or defences that any of OFNLP, the Province or OLG may have in respect of the 35% Litigation.

(b) Notwithstanding the provisions of section 6.2(a), OFNLP shall not, nor shall it be entitled to:

- (i) direct the payment of, or purport to direct the payment of;
- (ii) settle any claim in respect of, or purport to settle any claim in respect of; or
- (iii) convey, transfer or assign to any Person, or purport to convey, transfer or assign to any Person;

all or any part of the 35% Allocation or any right, title or interest in and to the 35% Allocation, including any right to receive all or any part of the 35% Allocation pursuant to the CRRA, nor shall it be entitled to receive all or any part of the 35% Allocation, in respect of the period from and after April 1, 2011.

(c) The parties acknowledge that the CRRA and the DOA will, subject to their respective terms and conditions, remain in force at least until and including March 31, 2011.

(d) OLG shall continue to comply with its obligations and have the benefit of its rights under the DOA for the period from the Effective Date until and including March 31, 2011 in accordance with and subject to the terms and conditions of the DOA.

(e) OLG shall continue to comply with its obligations and have the benefit of its rights under the CRRA for the period from the Effective Date until and including March 31, 2011 in accordance with and subject to the terms and conditions of the CRRA.

(f) OFNLP shall continue to comply with its obligations and have the benefit of its rights under the CRRA for the period from the Effective Date to and including March 31, 2011 in accordance with and subject to the terms and conditions of the CRRA.

(g) Save and except as set out in section 6.2(a) but subject to section 6.2(b) and save and except for the rights of OFNLP under the CRRA for the period up to and including March 31, 2011 and its rights to participate in any distribution of monies pursuant to section 6.2 of the DOA upon the wind down of Casino Rama, OFNLP shall and hereby does, with effect as of April 1, 2011, irrevocably and unconditionally abandon, relinquish and release all of its rights, title and interest in and to or arising under the CRRA, including OFNLP's right to receive payments pursuant to the terms of the CRRA and all rights and the obligations of OFNLP under the CRRA shall terminate with effect on such date.

**ARTICLE 7
REPRESENTATIONS AND WARRANTIES**

7.1 Representations and Warranties By OFNLP

OFNLP and OFN General Partner, as general partner of OFNLP, represent and warrant to the Province and OLG as follows and acknowledge that the Province and OLG are relying on such representations and warranties in entering into this Agreement and performing their respective obligations hereunder:

(a) OFN General Partner is a corporation duly incorporated and organized and validly existing under the laws of the Province of Ontario and is the general partner of OFNLP.

(b) The First Nations in Ontario that are shareholders of OFN General Partner own beneficially and directly all of the issued and outstanding shares of OFN General Partner.

(c) OFNLP is a limited partnership duly formed and validly existing under the laws of the Province of Ontario.

(d) The First Nations in Ontario that are limited partners of OFNLP own beneficially and legally all of the limited partnership units of OFNLP.

(e) Each of OFNLP and OFN General Partner has all necessary capacity, corporate and/or partnership power and authority to enter into and to carry out the provisions of this Agreement on its own behalf and on behalf of OFNLP and the OFNLP Limited Partners and this Agreement has been duly authorized, executed and delivered by OFNLP and constitutes a legal, valid and binding obligation enforceable against OFNLP, and against OFN General Partner as general partner of OFNLP, and against the OFNLP Limited Partners, in accordance with the terms of this Agreement, subject to exceptions as to bankruptcy and the availability of equitable remedies.

(f) Neither the execution and delivery of this Agreement by OFNLP, nor the performance of or compliance with the terms and conditions of this Agreement by OFNLP, and OFN General Partner conflicts with or will result in a breach of any of the terms, conditions or provisions of, or constitutes a default under, the constating documentation of any of OFN General Partner or OFNLP, including the OFNLP Partnership Agreement, the OFN Shareholders' Agreement, or any other agreement or instrument to which either of them is a party or by which either of them is bound.

7.2 Representations and Warranties By OFNLP 2008

OFNLP 2008 and OFN 2008 General Partner, as general partner of OFNLP 2008, represent and warrant to the Province and OLG as follows and acknowledge that the Province and OLG are relying on such representations and warranties in entering into this Agreement and performing their respective obligations hereunder:

(a) OFN 2008 General Partner is a corporation duly incorporated and organized and validly existing under the laws of the Province of Ontario and is the general partner of OFNLP 2008.

(b) The First Nations in Ontario that are shareholders of OFN 2008 General Partner own beneficially and directly all of the issued and outstanding shares of OFN 2008 General Partner.

(c) OFNLP 2008 is a limited partnership duly formed and validly existing under the laws of the Province of Ontario.

(d) The First Nations in Ontario that are Limited Partners of OFNLP 2008 own beneficially and directly all of the limited partnership units of OFNLP 2008.

(e) Each of OFNLP 2008 and OFN 2008 General Partner has all necessary capacity, corporate and/or partnership power and authority to enter into and to carry out the provisions of this Agreement on its own behalf and on behalf of OFNLP 2008 and the OFNLP 2008 Limited Partners and this Agreement has been duly authorized, executed and delivered by OFNLP 2008 and OFN General Partner on behalf of OFNLP 2008 and constitutes a legal, valid and binding obligation enforceable against OFNLP 2008 and against OFN 2008 General Partner, as general partner of OFNLP 2008 and against the OFNLP 2008 Limited Partners, in accordance with the terms of this Agreement, subject to exceptions as to bankruptcy and the availability of equitable remedies.

(f) Neither the execution and delivery of this Agreement by OFNLP 2008 and OFN 2008 General Partner on behalf of OFNLP 2008, nor the performance of or compliance with the terms and conditions of this Agreement by OFNLP 2008 and OFN 2008 General Partner on behalf of OFNLP 2008, conflicts with or will result in a breach of any of the terms, conditions or provisions of, or constitutes a default under, the constating documentation of any of OFNLP 2008 or OFN 2008 General Partner, including the OFNLP 2008 Partnership Agreement, the OFN 2008 Shareholders' Agreement, or any other agreement or instrument to which either of them is a party or by which either of them is bound.

7.3 **Representations and Warranties By the Province**

The Province represents and warrants to OFNLP and OFNLP 2008, and acknowledges that OFNLP and OFNLP 2008 are relying on such representations and warranties in entering into this Agreement, that the Province has all necessary capacity, power and authority to enter into and to carry out the provisions of this Agreement and this Agreement has been duly authorized, executed and delivered by the Province and constitutes a legal, valid and binding obligation enforceable against the Province in accordance with the terms of this Agreement, subject to the *Financial Administration Act*, the availability of equitable remedies in favour of the Crown, the limited availability of equitable remedies against the Crown, the *Proceedings Against the Crown Act* (Ontario) and the limitations with respect to the enforcement of remedies against sovereign entities and their agencies, including the qualifications that a court of Ontario may not, against the Province, grant an injunction, make an order for specific performance, make

an order for recovery or delivery of real or personal property or issue execution or attachment or process in the nature thereof other than garnishment in limited circumstances.

7.4 Representations and Warranties By OLG

OLG represents and warrants to OFNLP and OFNLP 2008 as follows and acknowledges that OFNLP and OFNLP 2008 are relying on such representations and warranties in entering into this Agreement:

(a) OLG is a Crown agency duly established and organized under the laws of the Province of Ontario.

(b) OLG has all necessary capacity, power and authority to enter into and to carry out the provisions of this Agreement and this Agreement has been duly authorized, executed and delivered by OLG and constitutes a legal, valid and binding obligation enforceable against OLG in accordance with the terms of this Agreement, subject to the availability of equitable remedies and the *Proceedings Against the Crown Act* (Ontario), including the qualifications that a court of Ontario may not, against the Province, grant an injunction, make an order for specific performance, make an order for recovery or delivery of real or personal property or issue execution or attachment or process in the nature thereof other than garnishment in limited circumstances.

(c) Neither the execution and delivery of this Agreement nor the performance of or compliance with the terms and conditions of this Agreement by OLG will conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, the constating documentation of OLG, including the *OLGC Act* and the regulations thereunder.

7.5 OFNLP and OFNLP 2008 Not to Take Actions

Subject to section 10.10, each of OFNLP, OFNLP 2008, the Province and OLG covenants that it shall not, from and after the Effective Date, do any things or take any actions as may cause the representations and warranties of such party in this Agreement to become untrue or incorrect from and after the Effective Date.

7.6 Survival of Representations and Warranties

The representations and warranties of each of OFNLP, OFNLP 2008, the Province and OLG contained in this Article 7 shall survive the Closing and the expiration of each of the Initial Term and the Renewal Term and the termination of this Agreement, without time limit.

ARTICLE 8 TERM AND DEFAULT

8.1 Initial Term

The initial term (the “**Initial Term**”) of this Agreement shall commence upon the Effective Date and shall include all days up to but not including the date that is the 20th anniversary of the Effective Date, unless terminated earlier.

8.2 Renewal Term

Commencing on the date that is one year prior to the commencement date of the Renewal Term, OFNLP 2008 and the Province shall negotiate in good faith what amendments, if any, should be made to this Agreement (as may have been amended from time to time during the Initial Term) for the Renewal Term. If OFNLP 2008 and the Province cannot agree on what amendments, if any, should be made to this Agreement for the Renewal Term, then this Agreement shall continue in force and effect, unamended, during the Renewal Term, unless terminated earlier.

8.3 Mutual Intention of the Province and First Nations in Ontario

Provided that the Province is actively involved, directly or indirectly, in conducting and managing Lottery Schemes at the time, and such involvement generates revenues for the final account of the Province or Agents of the Province, the Province and OFNLP 2008 agree that they shall, no later than 18 months prior to the end of the Renewal Term, negotiate in good faith a new gaming financial arrangement taking into account the circumstances in the gaming market in Ontario at that time and other relevant circumstances.

8.4 Events of Default by OFNLP

Each of the following will constitute an Event of Default by OFNLP (each, an “**OFNLP Event of Default**”):

(a) OFNLP fails to perform or comply with any of its covenants, obligations or agreements set forth in this Agreement and such failure is not remedied within 60 days after receipt by OFNLP of written notice of such failure from the Province or OLG, provided that, in the event that such failure is capable of being remedied but is not capable of being remedied within such 60 day period, then such period shall be extended for a period not to exceed 180 days from the date OFNLP receives written notice of such failure as may be required in order to permit OFNLP to remedy such failure and so long as OFNLP is diligently acting to remedy such failure during such 180 day period.

(b) Any representation and warranty made by OFNLP in this Agreement is not true or correct in any material respect when made or ceases to remain true and correct and is not made true or correct in all material respects within 60 days after receipt by OFNLP of written notice of such fact from the Province or OLG, provided that, if such representation and warranty is capable of being made true and correct in all material respects but is not capable of being made true and correct within such 60 day period, then such period shall be extended for a

period not to exceed 180 days from the date OFNLP receives written notice of such fact as may be required in order to permit OFNLP to correct such breach and so long as OFNLP is diligently acting to correct such breach during such 180 day period.

8.5 Events of Default by OFNLP 2008

Each of the following will constitute an Event of Default by OFNLP 2008 (each, an “**OFNLP 2008 Event of Default**”):

(a) OFNLP 2008 fails to perform or comply with any of its covenants, obligations or agreements set forth in this Agreement or any of the corresponding provisions in the OFNLP 2008 Partnership Agreement and such failure is not remedied within 60 days after receipt by OFNLP 2008 of written notice of such failure from the Province or OLG, provided that, in the event that such failure is capable of being remedied but is not capable of being remedied within such 60 day period, then such period shall be extended for a period not to exceed 180 days from the date OFNLP 2008 receives written notice of such failure as may be required in order to permit OFNLP 2008 to remedy such failure and so long as OFNLP 2008 is diligently acting to remedy such failure during such 180 day period.

(b) Any representation and warranty made by OFNLP 2008 in this Agreement is not true or correct in any material respect when made or ceases to remain true and correct and is not made true or correct in all material respects within 60 days after receipt by OFNLP 2008 of written notice of such fact from the Province or OLG, provided that, if such representation and warranty is capable of being made true and correct in all material respects but is not capable of being made true and correct within such 60 day period, then such period shall be extended for a period not to exceed 180 days from the date OFNLP 2008 receives written notice of such fact as may be required in order to permit OFNLP 2008 to correct such breach and so long as OFNLP 2008 is diligently acting to correct such breach during such 180 day period.

(c) OFNLP 2008 conducts, manages or participates directly or indirectly in any manner whatsoever in, including as legal, beneficial or equity owner of, or as financier or as operator of or supplier to, the ownership, establishment, maintenance or operation of any facility, scheme or business entity or relationship for the purposes of carrying on, or that is carrying on, Casino Gaming in the Province of Ontario, other than pursuant to and in accordance with Applicable Laws.

8.6 Casino Gaming Default of OFNLP 2008 Limited Partners

The OFNLP 2008 Partnership Agreement shall include a provision corresponding to this section 8.6 to the effect, and each OFNLP 2008 Limited Partner shall acknowledge in the OFNLP 2008 Partnership Agreement that they are bound by such provision by becoming an OFNLP 2008 Limited Partner, that in the event that any OFNLP 2008 Limited Partner:

(a) conducts, manages or participates directly or indirectly in any manner whatsoever in, including as legal, beneficial or equity owner of, or as financier or operator of or supplier to, the ownership, establishment, maintenance or operation of any facility, scheme or business entity or relationship established for the purposes of carrying on, or that is carrying

on, Casino Gaming in the Province of Ontario other than pursuant to and in accordance with Applicable Laws; or

(b) authorizes, permits or acquiesces to the carrying on by any Person of Casino Gaming on a reserve or reserves of that OFNLP 2008 Limited Partner in the Province of Ontario, other than pursuant to and in accordance with Applicable Laws,

then such OFNLP 2008 Limited Partner shall be in default of this Agreement and the OFNLP 2008 Limited Partnership Agreement and the suspension and forfeiture provisions of section 9.5 of this Agreement shall apply to such OFNLP 2008 Limited Partner and the Limited Partners Distribution of such OFNLP 2008 Limited Partner.

8.7 Events of Default by the Province

Each of the following will constitute an Event of Default by the Province (each, a “**Province Event of Default**”):

(a) The Province fails to make any payment, or cause any payment to be made, when due as required under this Agreement, if such failure is not remedied within ten Business Days after receipt by the Province of written notice of such failure from OFNLP or OFNLP 2008.

(b) The Province fails to perform any of its covenants or obligations set forth in this Agreement (except as referred to in section 8.7(a)) and such failure is not remedied within 60 days after receipt by the Province of written notice of such failure from OFNLP or OFNLP 2008, provided that, in the event that such failure is capable of being remedied but is not capable of being remedied within such 60 day period, then such period shall be extended for a period not to exceed 180 days from the date the Province receives written notice of such failure as may be required in order to permit the Province to remedy such failure and so long as the Province is diligently acting to remedy such failure during such 180 day period.

(c) Any representation and warranty made by the Province in this Agreement is not true or correct in any material respect when made or ceases to remain true and correct and is not made true or correct in all material respects within 60 days after receipt by the Province of written notice of such fact from OFNLP or OFNLP 2008, provided that, if such representation and warranty is capable of being made true and correct in all material respects but is not capable of being made true and correct within such 60 day period, then such period shall be extended for a period not to exceed 180 days from the date the Province receives written notice of such fact as may be required in order to permit the Province to correct such breach and so long as the Province is diligently acting to correct such breach during such 180 day period.

8.8 Events of Default by OLG

Each of the following will constitute an Event of Default by OLG (each, an “**OLG Event of Default**”):

(a) Subject to section 10.8(b), OLG fails to perform any of its covenants or obligations set forth in this Agreement and such failure is not remedied within 60 days after

receipt by OLG of written notice of such failure from OFNLP or OFNLP 2008, provided that, in the event that such failure is capable of being remedied but is not capable of being remedied within such 60 day period, then such period shall be extended for a period not to exceed 180 days from the date OLG receives written notice of such failure as may be required in order to permit OLG to remedy such failure and so long as OLG is diligently acting to remedy such failure during such 180 day period.

(b) Any representation and warranty made by OLG in this Agreement is not true or correct in any material respect when made or ceases to remain true and correct and is not made true or correct in all material respects within 60 days after receipt by OLG of written notice of such fact from OFNLP or OFNLP 2008, provided that, if such representation and warranty is capable of being made true and correct in all material respects but is not capable of being made true and correct within such 60 day period, then such period shall be extended for a period not to exceed 180 days from the date OLG receives written notice of such fact as may be required in order to permit OLG to correct such breach and so long as OLG is diligently acting to correct such breach during such 180 day period.

8.9 Joint Responsibility of Province and OFNLP 2008

The Province and OFNLP 2008 acknowledge that they will endeavor to work together co-operatively within their respective spheres of responsibility to address to the extent possible the actions of an OFNLP 2008 Limited Partner described in section 8.6 (a) or (b) and, to the extent possible, to share information with each other to address such actions.

8.10 Remedies

Upon the occurrence of an Event of Default, a non-defaulting party's remedies shall be those provided in this Agreement or, subject to the terms of this Agreement, including Article 9, as otherwise may be available to such non-defaulting party under Applicable Laws.

ARTICLE 9 DISPUTE RESOLUTION

9.1 Notice of Dispute

In the event any dispute, claim, difference or question (a “**Dispute**”) arises among any of the parties concerning the construction, meaning, effect, implementation of or compliance with Article 2 (save and except for any dispute arising out of or in connection with the provisions of section 2.5), Article 4, Article 5 or Article 8 (save and except for any dispute arising out of or in connection with the provisions of sections 8.2 or 8.3) of this Agreement and a party wishes to resolve such matter, then such party shall provide notice to the other parties of same. The parties receiving such notice shall have a reasonable period of time to consider and, if it believes fit, address the matter or discuss the concern with the party giving the notice, such period not to exceed 45 days. If the matter is addressed to the reasonable satisfaction of the party giving the notice within such 45 day period, the Dispute shall be deemed to be resolved and shall not be the basis for further remedies or termination of this Agreement under sections 9.5 or 9.6.

9.2 **Dispute Resolution**

In the event that an acceptable resolution of the Dispute is not achieved pursuant to section 9.1 and the party giving notice wishes to resolve the matter, then the matter shall be referred for determination in accordance with Schedule 9.2, which sets out the sole and exclusive procedure for the resolution of such Disputes. The award of any arbitration shall be appealable by the parties to the appropriate Ontario court on questions of law, or questions of mixed fact and law, including, without limitation, matters of process and procedure. The Arbitrators, as part of their award, may award costs of the arbitration, in their discretion, having regard to the success achieved, the good faith of the parties, the encouragement of good faith discussions to resolve matters and other relevant factors.

9.3 **Remedy**

In the event that any party does not comply with any final decision of the Arbitrators, then the other party or parties hereto may in its or their discretion take such steps as are reasonably necessary and proportionate to enforce the decision of the Arbitrators in accordance with Applicable Laws.

9.4 **Expedited Procedure for Suspension of Limited Partner Distributions**

(a) Notwithstanding sections 9.1 and 9.2, in the event the Joint Appointee does not receive one or more of the financial statements required to be provided to OFNLP 2008 pursuant to section 5.1 within the time specified in such section, the provisions of sections 9.4(b) through 9.4(d) shall apply. For the purposes of this section 9.4, an OFNLP 2008 Limited Partner shall have failed to deliver a report and the Joint Appointee shall not have received same, if, within the permitted time frame, such OFNLP 2008 Limited Partner:

- (i) fails to respond to the requirement for a report;
- (ii) delivers a report which, on the face of it, does not appear to the Joint Appointee, acting reasonably, to provide a response to substantially all the content requirements of the report; or
- (iii) delivers a report that contains a qualified review by the auditors of the OFNLP 2008 Limited Partner and the qualification relates to the Limited Partner Distributions received by the OFNLP 2008 Limited Partner unless the Province, for such period specified by the Province, agrees in writing that this requirement does not apply.

(b) The Joint Appointee shall provide notice to OFNLP 2008 and the Province regarding any non-compliance by any OFNLP 2008 Limited Partner with the reporting obligations contemplated in section 5.1 forthwith, but no later than 30 days after the Joint Appointee has determined that such non-compliance has occurred. OFNLP 2008 shall forthwith, but no later than 30 days after receiving notice from the Joint Appointee, attempt to obtain the financial statements contemplated by section 5.1 from the OFNLP 2008 Limited Partner which is in non-compliance with the obligations set out in such section. In the event OFNLP 2008 obtains the financial statements within such 30-day period, OFNLP 2008 shall provide these financial statements to the Joint Appointee forthwith upon receipt thereof and

shall provide the Province and the Joint Appointee with a supplemental report as contemplated in section 5.2.

(c) In the event OFNLP 2008 does not obtain the financial statements within the 30-day period contemplated in section 9.4(b), OFNLP 2008, the Province and the Joint Appointee shall consult in good faith to discuss the non-compliance of such OFNLP 2008 Limited Partner with the obligations set out in section 5.1 and possible remedial action which could take place to address it. Such consultation shall be completed within 30 days of the last day of the 30 day period contemplated in section 9.4(b).

(d) Unless OFNLP 2008 and the Province otherwise agree, where the Joint Appointee has not received the financial statements of the OFNLP 2008 Limited Partner by the expiry date of the time period set out in section 9.4(c), OFNLP 2008 shall forthwith suspend any distributions to such OFNLP 2008 Limited Partner to be made pursuant to the OFNLP 2008 Partnership Agreement. Such suspension shall continue in effect until such time as the Joint Appointee provides notice to OFNLP 2008 and the Province that the financial statements required to be provided pursuant to section 5.1 hereof have in fact been provided or such earlier time as the Province in its discretion may determine.

(e) Without limiting the obligations of OFNLP 2008 to suspend distributions in accordance with the terms of section 9.4(d), the parties agree that notwithstanding that such suspension of distributions pursuant to section 9.4(d) may have occurred and may remain in effect, such suspension of distributions pursuant to section 9.4(d) is without prejudice to the right of OFNLP 2008 to submit the question of whether or not an OFNLP 2008 Limited Partner has failed to comply with the reporting obligations contemplated by section 5.1 to the dispute resolution process under sections 9.1 and 9.2.

9.5 Suspension and Forfeiture of Payments

(a) Following a decision of the Arbitrators that (i) any of the Limited Partner Distributions is not being applied by an OFNLP 2008 Limited Partner for the Approved Purposes and otherwise in compliance with section 4.2, or (ii) that an OFNLP 2008 Limited Partner is in breach of or not in compliance with the provisions of section 5.1 or has acted in a manner described in sections 8.6(a) or (b) of this Agreement (and the corresponding provisions in the OFNLP 2008 Partnership Agreement), then the Province shall be entitled to require the Arbitrators to, and the Arbitrators shall, direct OFNLP 2008 to forthwith suspend any distributions to such OFNLP 2008 Limited Partner pursuant to the OFNLP 2008 Partnership Agreement on such terms and for such time as the Province in its discretion may determine. Following a decision of the Arbitrators that OFNLP 2008 is in breach of or not in compliance with the provisions of either of sections 5.2 or 8.5(c) of this Agreement, then the Province shall be entitled to suspend any payments payable to OFNLP 2008 pursuant to Article 2 of this Agreement, on such terms and for such time as the Province in its discretion may determine.

(b) In the event of a suspension of distributions to an OFNLP 2008 Limited Partner pursuant to section 9.4(d) or 9.5(a): (i) upon such OFNLP 2008 Limited Partner correcting its breach or failure to comply, such OFNLP 2008 Limited Partner shall be entitled to receive its suspended distributions from OFNLP 2008 and shall again be entitled to receive regular

distributions from OFNLP 2008 pursuant to section 4.2, provided that; (ii) if, after the date that is 180 days from and after the date that the Arbitrators directed OFNLP 2008 to suspend distributions to such OFNLP 2008 Limited Partner pursuant to section 9.5(a) or the date that OFNLP 2008 suspended distributions to such OFNLP 2008 Limited Partner pursuant to section 9.4(d), as the case may be, such OFNLP 2008 Limited Partner has failed to remedy the breach or to comply with the provisions of section 4.2 or the reporting obligations of Article 5, then such OFNLP 2008 Limited Partner shall have forfeited its right to receive any suspended Limited Partner Distributions and any further Limited Partner Distributions and, subject to section 9.5(c) below, OFNLP 2008 shall be entitled to distribute to the remaining OFNLP 2008 Limited Partners that are not subject to a suspension or forfeiture of Limited Partner Distributions, the amount of such suspended Limited Partner Distributions and any further Limited Partner Distributions to which such OFNLP 2008 Limited Partner would be entitled pursuant to the terms of this Agreement and the OFNLP 2008 Partnership Agreement but for such forfeiture. Notwithstanding the foregoing, but subject to section 9.5(c) where a breach or failure to comply with any of the provisions referred to in section 9.4(d) or section 9.5(a) by an OFNLP 2008 Limited Partner cannot reasonably be corrected in respect of such breach or failure to comply, and without limiting the terms or application of this Section 9.5(b) in respect of such breach or failure to comply or in respect of any future breach or failure to comply, then OFNLP 2008, the OFNLP 2008 Limited Partner and the Province shall discuss a consequence other than forfeiture of Limited Partner Distributions should a forfeiture appear to such parties to be inappropriate given the nature of the breach or failure to comply.

(c) Notwithstanding the terms of section 9.5(b) if, in the event of a suspension of distributions to an OFNLP 2008 Limited Partner as a result of such OFNLP 2008 Limited Partner acting in a manner described in sections 8.6(a) or (b) (and the corresponding section of the OFNLP 2008 Partnership Agreement) (i) upon such OFNLP 2008 Limited Partner ceasing to act in a manner described in sections 8.6(a) or (b) such OFNLP 2008 Limited Partner shall be entitled to receive its suspended distributions from OFNLP 2008 and shall again be entitled to receive regular distributions from OFNLP 2008 pursuant to section 4.2, provided that; (ii) if, after the date that is 180 days from and after the date that the Arbitrators directed OFNLP 2008 to suspend distributions to such OFNLP 2008 Limited Partner pursuant to section 9.5(a) such OFNLP 2008 Limited Partner continues to act in a manner described in sections 8.6 (a) or (b) (and the corresponding section of the OFNLP 2008 Partnership Agreement), then such OFNLP 2008 Limited Partner shall have forfeited its right to receive the suspended Limited Partner Distributions and any further Limited Partner Distributions and OFNLP 2008 shall pay the amount of such suspended Limited Partner Distributions, and any further Limited Partner Distributions to which such OFNLP 2008 Limited Partner would be entitled pursuant to the terms of this Agreement and the OFNLP 2008 Partnership Agreement but for such forfeiture, into a segregated account maintained by the OFNLP 2008 with a major chartered bank in Canada which shall bear a competitive rate of interest. Any and all payments of any monies from such account, except for fees payable to the bank or payments required by Applicable Laws, shall be made either with the approval of the Province or in accordance with this Agreement. OFNLP 2008 shall distribute to the remaining OFNLP 2008 Limited Partners that are not subject to a suspension or forfeiture of Limited Partner Distributions, the amount of such suspended Limited Partner Distributions plus interest and any further Limited Partner Distributions to which such OFNLP 2008 Limited Partner would be entitled pursuant to the terms of this Agreement and the OFNLP 2008 Partnership Agreement but for such forfeiture.

The approval of the Province for payments from such account shall not be unreasonably withheld and shall be provided where such payments are made in accordance with this Agreement and the OFNLP 2008 Partnership Agreement.

(d) Notwithstanding sections 9.5(b) and 9.5(c), if the decision of the Arbitrators described in section 9.5(a) is overturned on appeal, OFNLP 2008 may repay suspended or forfeited Limited Partner Distributions to the OFNLP 2008 Limited Partner affected by the decision, in such amount and pursuant to such timing as it deems appropriate given the suspension and forfeiture provisions in sections 9.4(d), 9.5(a), 9.5(b) and 9.5(c) and such OFNLP 2008 Limited Partner shall again be entitled to receive future Limited Partner Distributions pursuant to this Agreement and the OFNLP 2008 Partnership Agreement.

(e) In the event of a suspension of payments to OFNLP 2008 pursuant to section 9.5(a): (i) upon OFNLP 2008 correcting its failure to comply, OFNLP 2008 shall be entitled to receive its suspended payments and shall again be entitled to receive regular payments in accordance with Article 2, provided that; (ii) if, after the date that is 180 days from and after the date that the Province suspended pursuant to section 9.5(a) payments payable to OFNLP 2008 pursuant to Article 2 OFNLP 2008 has failed to remedy its breach or failure to comply with the provisions of section 8.5(c), then OFNLP 2008 shall have forfeited its right to receive the suspended payments and any further payments of the monies under this Agreement and the Province shall, during the remainder of the period up to but not including the date that is the 25th anniversary of the Effective Date, distribute the payments provided for in Article 2 of this Agreement directly to the First Nations in Ontario that are at that time entitled to receive Limited Partner Distributions, on a fair and reasonable basis and after good faith consultations with First Nations in Ontario. The terms of the distribution of such payments directly to the First Nations in Ontario by the Province shall be, to the extent reasonably possible, consistent with the payment, distribution, use and reporting terms of this Agreement and the OFNLP 2008 Partnership Agreement.

9.6 **Right to Terminate**

(a) The Province may, by notice in writing provided on and subject to the terms and conditions contained in this section 9.6, terminate this Agreement in the event that there has been (i) an OFNLP Event of Default or (ii) an OFNLP 2008 Event of Default.

(b) The Province's right to terminate this Agreement under this section 9.6 shall be subject to the Province having provided appropriate notices of such OFNLP Event of Default or OFNLP 2008 Event of Default in accordance with this Agreement, and any periods for addressing such non-compliance provided by this Agreement having expired without cure or compliance having been effected within such periods.

(c) The Province's right to terminate this Agreement shall be subject to the following:

(i) the delivery of written notice to OFNLP 2008 to such effect; and

- (ii) if there is a Dispute and a party invokes the provisions of Article 9, completion of the procedures required by Article 9, including any appeals, with a final determination that an OFNLP Event of Default or an OFNLP 2008 Event of Default has occurred.

For greater certainty, any questions of whether or not there has been non-compliance with any provision of the OFNLP 2008 Partnership Agreement for the purposes of this section 9.6 shall be determined exclusively under the dispute resolution procedures under Article 9 of this Agreement and not under the dispute resolution procedures of the OFNLP 2008 Limited Partnership Agreement.

(d) In the event that this Agreement is terminated pursuant to this section 9.6, the Province agrees that during the remainder of the Initial Term and the Renewal Term, the Province will distribute the payments provided for in Article 2 of this Agreement directly to the First Nations in Ontario that at the time of such termination are entitled to receive Limited Partner Distributions, on a fair and reasonable basis as the Province may determine after good faith consultations with such First Nations in Ontario. The terms of the distribution of such payments directly to such First Nations in Ontario by the Province shall be, to the extent reasonably possible, consistent with the payment, distribution, use and reporting terms of this Agreement and the OFNLP 2008 Partnership Agreement.

(e) The exercise by the Province of any of its rights pursuant to this Article 9 shall be without prejudice to the other rights and remedies of the Province under this Agreement or pursuant to Applicable Laws.

ARTICLE 10 GENERAL MATTERS

10.1 Non-derogation

(a) Nothing expressed or implied in this Agreement shall be construed so as to affect in any manner the jurisdiction of the Province to conduct and manage, and to control, licence, administer and regulate in the Province of Ontario, the conduct and management of activities pursuant to section 207 of the *Criminal Code*.

(b) Nothing expressed or implied in this Agreement shall:

- (i) oblige the Province or OLG or any other Agent of the Province to conduct and manage or to continue to conduct and manage or provide for the operation of any lottery scheme or any other activity or any facility, including any casinos;
- (ii) create any interest in favour of the First Nations in Ontario, OFNLP, OFNLP 2008, any OFNLP Limited Partner, any OFNLP 2008 Limited Partner or the Chiefs of Ontario in or to any Lottery Schemes or in or to any assets of the Province or of OLG or any other Agent of the Province, including any casinos, casino assets or other lottery or gaming related assets; or

(iii) limit the right of the Province or OLG or any other Agent of the Province to conduct and manage activities under section 207 of the *Criminal Code* in their sole and absolute discretion in accordance with Applicable Laws.

(c) Nothing in this Agreement shall abrogate or derogate from the application and operation of Section 35 of the *Constitution Act, 1982* to or in respect of aboriginal or treaty rights.

(d) Subject to the terms of section 6.2 of this Agreement and the Closing Agreement, nothing in this Agreement, including any of the payments required under this Agreement, shall adversely affect, diminish or derogate from any policy, program or statutory entitlement or benefit funded or provided by the Province to which any one or more OFNLP Limited Partner, OFNLP 2008 Limited Partner, or any member of an OFNLP Limited Partner or an OFNLP 2008 Limited Partner, was entitled at the Effective Date. For the purposes of this section 10.1(d), a policy, program or statutory entitlement or benefit is not adversely affected where a negative effect or reduction of expenditure is based primarily on reasons other than the receipt of funds under this Agreement or the OFNLP 2008 Partnership Agreement.

(e) Nothing contained in this Agreement shall:

- (i) be deemed or construed or interpreted to constitute any form of business relationship or to constitute any party hereto a partner, joint venturer or any other form of business associate of the other;
- (ii) constitute any party hereto the agent or legal representative of any other party hereto;
- (iii) create any fiduciary or other similar relationship between any of the parties; or
- (iv) be deemed to constitute any kind of treaty or treaty relationship between the Province and First Nations in Ontario within the meaning of Section 35 of the *Constitution Act, 1982*.

10.2 **Agents of the Province**

The Province shall cause each Agent of the Province to comply with the terms of this Agreement as may be applicable to or binding upon such Agent of the Province. For greater certainty, and without limiting the generality of the foregoing, OLG acknowledges that it shall make such payments under this Agreement as the Province may direct it in writing.

10.3 **OFNLP 2008 Partnership Agreement Provisions to be Unamended**

(a) OFNLP 2008 agrees that, except as may be consented to in writing by the Province, sections 1.11, 2.1, 2.2, 2.3, 2.4, 2.5, 2.7, 2.15, 3.3, 3.5, 4.4, 5.1, 5.2, 6.1, 6.3, 6.6, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 8.7, 9.1, 9.2, 9.3, 9.4, 9.5, 10.2, 10.3, 10.4, 11.18, 13.4, 14.1, 15.4, 17.8 and 17.9 the definitions of “Accruals”, “Approved Purposes”, “Business”, “Collective Use Monies”, “Expenses”, “Extraordinary Resolution”, “First Nation”, “Ordinary Resolution” and “Permitted Interim Investments” and Schedules 1.1C, 6.6 and 9.1 as well as defined terms included in such sections, definitions and Schedules, of the OFNLP 2008 Partnership Agreement, shall remain unamended for the term of this Agreement. Any amendment or

deletion of any such provision without the written consent of the Province shall be void ab initio and of no force and effect.

(b) OFNLP and OFNLP 2008 acknowledge and agree that the OFNLP 2008 Partnership Agreement shall include a provision to the effect that in the event of any dispute, claim, difference or question between any of OFNLP 2008, any OFNLP 2008 Limited Partner and either of the Province or OLG as to whether any of OFNLP 2008 or any OFNLP 2008 Limited Partner has performed or is in compliance with the foregoing sections of the OFNLP 2008 Partnership Agreement and the corresponding provisions in this Agreement, or as to the construction, meaning, effect or implication of the OFNLP 2008 Partnership Agreement for the purposes of implementing or complying with this Agreement, such dispute, claim, difference or question shall be determined exclusively under the dispute resolution procedures under Article 9 of this Agreement and not under the dispute resolution procedures of the OFNLP 2008 Partnership Agreement.

10.4 **Survival**

Neither the expiration of either of the Initial Term or the Renewal Term nor the termination of this Agreement shall affect, prejudice or excuse any rights, obligations or liabilities that exist or have accrued or arisen under this Agreement prior to or upon such expiration or termination, and such rights, obligations and liabilities shall survive such expiration or termination. Without limiting the generality of the foregoing, the provisions of sections 3.1, 4.5, 4.6, 6.2, 10.1, 10.3, 10.5, 10.8 and Article 9 shall survive the expiration of each of the Initial Term and the Renewal Term and the termination of this Agreement.

10.5 **Confidentiality**

(a) Each of the parties hereto acknowledges, agrees and consents to the disclosure of this Agreement as a matter of public record.

(b) The parties acknowledge and agree that any information provided by any party hereto to any other party or parties hereto pursuant to or in connection with this Agreement (including all documents and correspondence relating to the negotiation of this Agreement and the Formal Agreements (as defined in the Closing Agreement)) (collectively, the “**Confidential Information**”) was or is to be supplied in confidence, disclosure of which could reasonably be expected to result in undue loss to one or all of the parties. Accordingly, except as may be required by Applicable Laws or in connection with the resolution of a Dispute in accordance with Article 9 of this Agreement, or as may be required to be disclosed by OFNLP or OFNLP 2008 to the OFNLP Limited Partners or the OFNLP 2008 Limited Partners, respectively, each of which shall be bound by these provisions, all such Confidential Information provided by any party hereto pursuant to or in connection with this Agreement shall be kept confidential by the parties and shall only be made available to such of a party’s representatives, employees, advisors or consultants as are required to have access to the same in order for the recipient party to adequately use such information in accordance with this Agreement. Any party’s representatives, employees, advisors or consultants receiving Confidential Information shall be similarly bound by these provisions. Prior to disclosing any Confidential Information to its representatives, employees, advisors or consultants, and in the case of OFNLP and OFNLP

2008 to the OFNLP Limited Partners or to the OFNLP 2008 Limited Partners, a party hereto shall take reasonable precautions to ensure that such recipients are bound by confidentiality obligations substantially similar to those set out herein. Each of the parties receiving Confidential Information agrees to promptly advise any party that has disclosed such Confidential Information in the event that the recipient receives a request to disclose such Confidential Information, whether pursuant to this Agreement or otherwise.

10.6 Notices

Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be given by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such notice or other communication, if sent by facsimile or other means of electronic communication, shall be deemed to have been received on the Business Day following the sending, or if delivered by hand shall be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address shall also be governed by this section 10.6. Notices and other communications shall be addressed as follows:

- (a) if to the Province:

Ministry of Aboriginal Affairs

720 Bay Street
4th Floor
Toronto ON M5G 2K1

Telecopier: (416) 314-1165
Attention: Deputy Minister

- (b) if to OLG:

4120 Yonge Street
Suite 420
Toronto, Ontario
M2P 2B8

Telecopier: (416)224-7000
Attention: Chief Executive Officer

(c) if to OFNLP or OFNLP 2008:

78 1st Line Road
New Credit Commercial Plaza
Suite 204
R.R. #6
Hagersville, Ontario
NOA 1HO

Telecopier: (905) 768-7667
Attention: General Manager

Notwithstanding the foregoing, any notice or other communication required or permitted to be given by any party pursuant to or in connection with any dispute resolution procedures contained herein or in any Schedule hereto may only be delivered by hand.

10.7 **Extensions or Abridgements of Time**

The time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Province and OFNLP 2008 and by OLG if such matter affects OLG.

10.8 **Limit of Liability**

Notwithstanding any other provisions of this Agreement:

(a) only the Province and not any Agent of the Province shall be liable for the payment of the amounts which the Province has agreed to pay pursuant to Article 2;

(b) OLG is only a party to this Agreement for the purposes of being bound by or performing its obligations and covenants under sections 2.2(c), 2.2(d), 2.2(f), 2.2(g), 2.3(a), 2.3(b), 2.3(d) 2.4(a), 2.4(c), 3.1, 6.1, 6.2, 7.4, 7.5, 7.6, 8.1, 8.8, 8.10 and Article 9 and Article 10 of this Agreement and receiving the rights, remedies and benefits under sections 3.1, 4.5, 6.1, 6.2, 7.1, 7.2, 7.5, 8.1, 8.4, 8.5, 8.8, 8.10 and Article 9 and Article 10 of this Agreement; and

(c) the maximum amount of any liability of the Province under this Agreement shall be limited to the amounts which the Province has agreed to pay pursuant to Article 2 of this Agreement and the maximum amount of any liability of OLG or any Agent of the Province under this Agreement shall be limited to the amounts the Province has directed OLG or such Agent of the Province to pay under this Agreement, and in no event shall OLG or any Agent of the Province or the Province be liable in respect of any matter arising out of or related to this Agreement for consequential or indirect damages or any non-compensatory monetary award.

10.9 **Survival of Covenants**

Any covenant, term or provision of this Agreement which, in order to be effective must survive the termination of this Agreement, shall survive any such termination.

10.10 **Assignment**

(a) Neither of OFNLP or OFNLP 2008 shall assign this Agreement or any of its rights or obligations under this Agreement, including by operation of law or by way of amalgamation, merger, reorganization, arrangement or any other direct or indirect manner, or mortgage, charge, pledge or grant any other interest in and to this Agreement or any of its rights or obligations under this Agreement, nor shall either of OFNLP or OFNLP 2008 respectively cause OFN General Partner or OFN 2008 General Partner or any other entity through which the First Nations in Ontario may, with the prior written consent of the Province, directly or indirectly implement the rights and obligations of OFNLP or OFNLP 2008 under this Agreement, to amalgamate, merge, reorganize or enter into any other similar arrangement or mortgage, charge, pledge or grant any other interest in and to this Agreement or any of its rights or obligations under this Agreement, without the prior written consent of the Province, which Province may withhold its consent in its absolute discretion. Any such purported assignment, amalgamation, merger, reorganization or other similar arrangement or any such purported mortgage, charge, pledge or grant of interest, made without the prior written consent of the Province, shall be void ab initio and of no force or effect.

(b) Each of OFNLP and OFNLP 2008 acknowledges and agrees that the Province may cause an internal reorganization of the Government of Ontario or Agents of the Province that may affect OLG and other Agents of the Province and may result in the assignment by OLG of its rights and obligations under this Agreement to another Agent of the Province or to the Province. The Province acknowledges that, notwithstanding any such internal reorganization of the Government of Ontario or any Agent of the Province, including OLG, Her Majesty the Queen in Right of the Province of Ontario and any Agent of the Province that replaces OLG, shall remain bound by the obligations and agreements and shall be entitled to the rights, remedies and benefits of the Province or OLG, as the case may be, under this Agreement.

10.11 **Force Majeure**

Notwithstanding any other provision of this Agreement, if, by reason of Force Majeure, any party is unable to perform in whole or in part its obligations under this Agreement, then in such event and during such period of inability to perform, such party shall be relieved of those obligations to the extent it is so unable to perform and such inability to perform and any failure to perform which is so caused shall not make such party liable to the other parties, and any time period in which such obligation is to be performed shall be extended for such period of inability to perform; provided that the party experiencing such Force Majeure provides the other parties with prompt notice thereof and uses all reasonable efforts to otherwise perform its obligations.

10.12 **Counterparts and Delivery by Facsimile**

This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument and notwithstanding their date of execution shall be deemed to bear date as of the date first above written. An executed copy of this Agreement may be delivered by any

party hereto by facsimile. In such event, such party shall forthwith deliver to the other parties hereto a copy of this Agreement executed by such party.

10.13 Acknowledgement and Consent of OFNLP 2008 Limited Partners

OFNLP 2008 agrees that it shall be a condition precedent for a distribution of funds to an OFNLP 2008 Limited Partner that such OFNLP 2008 Limited Partner executes and delivers to the Province the form of acknowledgement and consent set out in Schedule 10.13.

10.14 Costs to the Parties

Subject as otherwise expressly provided in this Agreement, each of the parties to this Agreement shall be responsible for the payment of their own costs and expenses related to negotiating, settling and implementing this Agreement including, without limitation, the costs and expenses of any legal, financial or other consultants retained or consulted by such party.

10.15 Time of Essence

Time is of the essence of this Agreement.

10.16 Further Assurances

Each of the parties shall promptly do, make, execute, deliver, or cause to be done, made, executed or delivered, all such further acts, documents and things as the other party hereto may reasonably require from time to time for the purpose of giving effect to this Agreement and shall use reasonable efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement with effect as of the Effective Date.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO, as represented by THE MINISTER
OF ABORIGINAL AFFAIRS**

**ONTARIO LOTTERY AND GAMING
CORPORATION**

by: _____
Name:
Title:

by: _____
Name:
Title:

**ONTARIO FIRST NATIONS LIMITED
PARTNERSHIP, by its general partner,
ONTARIO FIRST NATIONS GENERAL
PARTNER INC.**

by: _____
Name:
Title:

by: _____
Name:
Title:

**ONTARIO FIRST NATIONS (2008) LIMITED
PARTNERSHIP, by its general partner, NEW
OFNLP GENERAL PARTNER LIMITED**

by: _____
Name:
Title:

by: _____
Name:
Title:

SCHEDULE 1.1(nn)

GROSS REVENUES

1. For purposes of this Agreement, “Gross Revenues” means, in respect of an Agent of the Province (including OLG), the revenues of that Agent of the Province, before the deduction of promotional allowances, as reported in the Segmented Information notes in the notes to, or as otherwise reported in, the audited Consolidated Financial Statements of that Agent of the Province and generated from the following:

- (a) lotteries, including on-line games, sports games, instant games and bingo gaming;
- (b) slot machines and table games at casinos and racetracks; and
- (c) non-gaming activities ancillary to the conduct and management of Lottery Schemes, including hotel, food, beverage and other services, including the retail value of accommodation, food and beverage services and other services provided to gaming patrons on a complimentary basis.

Notwithstanding the foregoing and for greater certainty:

(d) Gross Revenues generated from lotteries, slot machines and table games and non-gaming activities as set out above shall, for the purposes of this Agreement, be determined in accordance with the OLG revenue recognition accounting practices and principles set out in section 2 of this Schedule 1.1(nn) notwithstanding any changes from and after the date of this Agreement in such accounting practices or principles by OLG or any other Agent of the Province, provided that if any particular accounting practice or principle is not addressed in section 2 of this Schedule 1.1(nn), that accounting practice or principle applied by OLG as at March 15, 2006 shall be used.

(e) Gross Revenues shall include any revenues generated from the conduct and management of any Lottery Scheme in existence as of March 15, 2006 and any Lottery Scheme which is a new product offering for the Province or any Agent of the Province (for the purposes of this Schedule 1.1(nn), a “**New Lottery Scheme**”) that comes into existence from and after March 15, 2006, which revenues generated from such New Lottery Scheme shall be determined in accordance with the accounting practices and principles applied to such New Lottery Scheme in the sole discretion of the Province, OLG or any other Agent of the Province, as the case may be, at the time such New Lottery Scheme comes into existence.

(f) Gross Revenues shall not include any revenues received by the Province, OLG or any other Agent of the Province from the conduct and management of the Lottery Scheme, including such conduct and management at any gaming facility if, and to the extent that, such revenues so received are not retained to the final account of the Province, OLG or any such other Agent of the Province.

2. Revenue from lottery games, for which results are determined based on a draw, is recognized when the draw takes place. Revenue for future draws is deferred and recognized when the draw takes place. Revenue from instant games is recognized when the ticket is activated for play by the retailer. Revenue from sports wagering games and bingo gaming is recognized when the ticket is sold to the consumer. Tickets issued as a result of the redemption of free ticket prizes are not recorded as revenue.

Gaming revenue from slot and table game operations represents the net win from gaming activities, which is the difference between amounts earned through gaming wagers less the payouts from those wagers.

Non-gaming revenue includes revenue from hotel, food and beverage, entertainment centre and other services and is recognized at the time the services are rendered to patrons. This also includes the retail value of accommodations, food and beverage and other services provided to patrons on a complimentary basis.

SCHEDULE 1.1(ppp)
OFNLP 2008 LIMITED PARTNERSHIP AGREEMENT

SCHEDULE 1.1(xxx)

PERMITTED INTERIM INVESTMENTS

1. **Type of Investments.** Subject to the conditions set forth below, “**Permitted Interim Investments**” means the following types of investments:

- (a) bankers’ acceptances;
- (b) bank certificates of deposit;
- (c) commercial paper;
- (d) medium term notes;
- (e) bonds and notes issued or guaranteed by the federal Government of Canada or the provincial government of any of the provinces of Canada;
- (f) corporate strip bonds;
- (g) deposits at a deposit-taking institution; and
- (h) other short-term securities.

2. **Excluded Investments.** For greater certainty, Permitted Interim Investments do not include the following:

- (a) shares, warrants or other equities;
- (b) convertible debt securities;
- (c) derivatives, swaps, options or futures;
- (d) real property;
- (e) mortgages, including guaranteed mortgages;
- (f) gold certificates;
- (g) physical commodities; or
- (h) interests in loan syndications or loan participation.

3. **Liquidity.** To qualify as a Permitted Interim Investment, an investment must not constitute an illiquid asset. For the purposes of this Schedule, an “illiquid asset” means a portfolio asset that cannot be readily disposed of through market facilities or readily redeemed by the issuer at the holder’s option.

4. **Term.** To qualify as a Permitted Interim Investment, an investment must, at the date of its acquisition, have a remaining term to maturity of not greater than the lesser of (a) 366 days and (b) the balance of the Initial Term.

5. **Rating.** The deemed rating (the “Rating”) of any Permitted Interim Investment, if applicable, must be at least “AA”, determined in accordance with the next following section.

6. **Determination of Rating.** The Rating of any Permitted Interim Investment will be established, at the time of the acquisition of such Permitted Interim Investment, as:

- (a) **“AAA” if the Permitted Interim Investment has the following rating or higher from two generally recognized credit rating agencies:**

| | | |
|------------|---------|---------------------|
| Short Term | CBRS | A-1+ |
| | DBRS | R-1 high |
| | Moody’s | P-1 |
| | S&P | A-1+ |
| Long Term | CBRS | A++ low (corporate) |
| | CBRS | AAA (government) |
| | DBRS | AAA |
| | Moody’s | Aaa |
| | S&P | AAA |

- (b) **“AA” if the Permitted Interim Investment has the following rating or higher (but excluding Permitted Interim Investments rated “AAA”) from two generally recognized credit rating agencies:**

| | | |
|------------|---------|--------------------|
| Short Term | CBRS | A-1 |
| | DBRS | R-1 middle/low |
| | Moody’s | P-1 |
| | S&P | A-1+ |
| Long Term | CBRS | A+ low (corporate) |
| | CBRS | AA (government) |
| | DBRS | AA |
| | Moody’s | Aa3 |
| | S&P | AA- |

7. **Credit Quality of Portfolio.** Permitted Interim Investments will be limited to an aggregate market value limit, determined at the time of investment, based on the Rating of the Permitted Interim Investment as set out below:

| <u>Rating of Permitted Investment</u> | <u>Minimum Percentage of Portfolio to be Comprised of Permitted Interim Investments Having that Rating</u> |
|---------------------------------------|------------------------------------------------------------------------------------------------------------|
| AAA | 50% |
| AA or AAA | 100% |

8. **Canadian Dollars.** All Permitted Interim Investments acquired must be denominated in Canadian dollars.

9. **Investment Practices.** An investment which otherwise qualifies as a Permitted Interim Investment will not constitute a Permitted Interim Investment if one or more of the following investment practices are engaged in connection with the acquisition or disposition of the Permitted Interim Investment:

- (a) the borrowing of money;
- (b) the purchase of a security that by its terms may require a contribution in addition to the payment of the purchase price;
- (c) the purchase of securities other than through market facilities through which such securities are normally bought and sold, unless the purchase price approximates the prevailing market price or the parties are at arm's length in connection with the transaction; or
- (d) the engagement in the business of underwriting or marketing to the public.

SCHEDULE 1.2

FIRST NATIONS IN ONTARIO

| | |
|----|-------------------------------------|
| 1 | Aamjiwnaang |
| 2 | Alderville First Nation |
| 3 | Algonquins of Pikwakanagan |
| 4 | Animibiigoo Zaagi'igan Anishinaabek |
| 5 | Anishinaabeg of Naongashiing |
| 6 | Aroland First Nation |
| 7 | Attawapiskat First Nation |
| 8 | Aundeck Omni Kaning |
| 9 | Bearskin Lake First Nation |
| 10 | Beausoleil First Nation |
| 11 | Beaverhouse First Nation |
| 12 | Big Grassy First Nation |
| 13 | Biinjitiwaabik Zaaging Anishinaabek |
| 14 | Bingwi Neyaashi Anishinaabek |
| 15 | Bkejwanong Territory |
| 16 | Brunswick House First Nation |
| 17 | Caldwell First Nation |
| 18 | Cat Lake First Nation |
| 19 | Chapleau Cree First Nation |
| 20 | Chapleau Ojibway First Nation |
| 21 | Chippewas of Georgina Island |
| 22 | Chippewas of Kettle & Stony Point |
| 23 | Chippewas of Nawash |
| 24 | Chippewas of Saugeen |
| 25 | Chippewas of the Thames |
| 26 | Constance Lake First Nation |
| 27 | Couchiching First Nation |
| 28 | Curve Lake First Nation |
| 29 | Deer Lake First Nation |
| 30 | Delaware Nation |
| 31 | Dokis First Nation |
| 32 | Eabametoong First Nation |
| 33 | Eagle Lake First Nation |
| 34 | Flying Post First Nation |
| 35 | Fort Albany First Nation |
| 36 | Fort Severn First Nation |
| 37 | Fort William First Nation |
| 38 | Garden River First Nation |
| 39 | Ginoogaming |
| 40 | Grassy Narrows First Nation |
| 41 | Henvey Inlet First Nation |

| | |
|----|--------------------------------------------------|
| 42 | Hiawatha First Nation |
| 43 | Hornepayne First Nation |
| 44 | Iskatewizaagegan No. 39 Independent First Nation |
| 45 | Kasabonika Lake First Nation |
| 46 | Kashechewan First Nation |
| 47 | Keewaywin First Nation |
| 48 | Kiashke Zaaging Anishinaabek |
| 49 | Kingfisher Lake First Nation |
| 50 | Kitchenuhmaykoosib Inninuwug |
| 51 | Koocheching First Nation |
| 52 | Lac Des Mille Lacs First Nation |
| 53 | Lac La Croix First Nation |
| 54 | Lac Seul First Nation |
| 55 | Long Lake # 58 First Nation |
| 56 | Magnetawan First Nation |
| 57 | Marten Falls First Nation |
| 58 | Matachewan First Nation |
| 59 | Mattagami First Nation |
| 60 | McDowell Lake First Nation |
| 61 | M'Chigeeng First Nation |
| 62 | Michipicoten First Nation |
| 63 | Mishkeegogamang |
| 64 | Missanabie Cree First Nation |
| 65 | Mississauga #8 First Nation |
| 66 | Mississaugas of Scugog Island |
| 67 | Mississaugas of the New Credit |
| 68 | MoCreebec Council of the Cree Nation |
| 69 | Mohawks of Akwesasne |
| 70 | Mohawks of the Bay of Quinte |
| 71 | Moose Cree First Nation |
| 72 | Moose Deer Point First Nation |
| 73 | Munsee Delaware Nation |
| 74 | Muskrat Dam First Nation |
| 75 | Naicatchewenin |
| 76 | Namaygoosisagagun |
| 77 | Naotkamegwanning Anishinabe |
| 78 | Neskantaga First Nation |
| 79 | Nibinamik First Nation |
| 80 | Nicickousemenecaning |
| 81 | Nipissing First Nation |
| 82 | North Caribou Lake First Nation |
| 83 | North Spirit Lake First Nation |
| 84 | Northwest Angle No. 33 First Nation |
| 85 | Northwest Angle No. 37 First Nation |
| 86 | Obashkaandagaang |
| 87 | Ochiichagwe' Babigo'ining |
| 88 | Ojibways of Batchewana |
| 89 | Ojibways of Onigaming |

| | |
|-----|--------------------------------------|
| 90 | Ojibways of Pic River |
| 91 | Oneida Nation of the Thames |
| 92 | Pays Plat First Nation |
| 93 | Pic Mobert First Nation |
| 94 | Pikangikum First Nation |
| 95 | Poplar Hill First Nation |
| | Poplar Point First Nation |
| 96 | Rainy River First Nation |
| 97 | Red Rock Band |
| 98 | Sachigo Lake First Nation |
| 99 | Sagamok Anishnawbek First Nation |
| 100 | Sandy Lake First Nation |
| 101 | Saugeen First Nation |
| 102 | Seine River First Nation |
| 103 | Serpent River First Nation |
| 104 | Shawanaga First Nation |
| 105 | Sheguiandah First Nation |
| 106 | Sheshegwaning First Nation |
| 107 | Shoal Lake No. 40 First Nation |
| 108 | Six Nations of the Grand River |
| 109 | Slate Falls First Nation |
| 110 | Stanjikoming First Nation |
| 111 | Taykwa Tagamou Nation |
| 112 | Temagami First Nation |
| 113 | Thessalon First Nation |
| 114 | Wabaseemoong Independent Nation |
| 115 | Wabauskang First Nation |
| 116 | Wabigoon First Nation |
| 117 | Wahgoshig First Nation |
| 118 | Wahnapiatae First Nation |
| 119 | Wahta Mohawks |
| 120 | Wapekeka First Nation |
| 121 | Wasauksing First Nation |
| 122 | Wauzhushk Onigum Nation |
| 123 | Wawakapewin |
| 124 | Webequie First Nation |
| 125 | Weenusk First Nation |
| 126 | Whitefish Lake First Nation |
| 127 | Whitefish River First Nation |
| 128 | Whitesand First Nation |
| 129 | Whitewater Lake First Nation |
| 130 | Wikwemikong Unceded Indian Reserve |
| 131 | Wunnumin Lake First Nation |
| 132 | Zhiibaahaasing |

SCHEDULE 5.1

FORM OF LIMITED PARTNER REPORT ON RECEIPTS AND DISBURSEMENTS

TO: ONTARIO FIRST NATIONS (2008) LIMITED PARTNERSHIP

FROM: [Insert Name of Limited Partner]

RE: Audited Financial Statements and Expenses by Category

The undersigned confirms that it received from Ontario First Nations (2008) Limited Partnership distributions totaling \$_____ for the fiscal year ending March 31, _____.

We report, based on the financial statements attached hereto, that out of such funds the following amounts were, during the year so ended, expended on, as follows:

- | | | |
|-----|-------------------------------------------------------|----------|
| (a) | Community development: | \$ _____ |
| (b) | Health: | \$ _____ |
| (c) | Education: | \$ _____ |
| (d) | Economic development: | \$ _____ |
| (e) | Cultural development: | \$ _____ |
| (f) | [Expenses/Accruals/Permitted Interim Investments]: | \$ _____ |

[LIMITED PARTNER]

Date: _____

AUDITORS' REPORT

TO ONTARIO FIRST NATIONS (2008) LIMITED PARTNERSHIP

We have audited the attached financial schedule of receipts and disbursements of [*insert name of OFNLP 2008 Limited Partner*] for the year ended March 31, ● prepared in accordance with the instructions dated ● [*insert date*] issued by the Ontario First Nations (2008) Limited Partnership and as required under the Ontario First Nations 2008 Limited Partnership Limited Partnership Agreement and referred to in that Agreement as Schedule 9.1 “**Form of Limited Partnership Report on Receipts and Disbursements**”. The financial schedule is the responsibility of the [*insert name of OFNLP 2008 Limited Partner*] management. Our responsibility is to express an opinion on the financial schedule based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, the financial schedule presents fairly, in all material respects, the report on distributions and expenses of the [*insert name of OFNLP 2008 Limited Partner*] for the year ended March 31, ● in accordance with Schedule 9.1 of the Limited Partnership Agreement of the Partnership.

[Chartered Accountants/or other Audit Certified Licensed Public Accountants]

SCHEDULE 5.2

OFNLP 2008 REPORT TO PROVINCE

TO: PROVINCE OF ONTARIO

The undersigned confirms that it received from [**Ontario Lottery and Gaming Corporation**] payments totaling \$_____ for the fiscal year ending March 31, _____.

We received audited financial statements for the year end as contemplated by section 4.1 of the Gaming Revenue Sharing and Financial Agreement from each First Nation in Ontario which received distributions during the fiscal year then ended except for:

We report, based on the financial statements received, that out of such funds, the following amounts were, during the year so ended, expended on, as follows:

- | | | | |
|----|-----|------------------------|----------|
| 1. | (a) | Community development: | \$ _____ |
| | (b) | Health: | \$ _____ |
| | (c) | Education: | \$ _____ |
| | (d) | Economic development: | \$ _____ |
| | (e) | Cultural development: | \$ _____ |

**ONTARIO FIRST NATIONS (2008) LIMITED
PARTNERSHIP by its general partner, NEW
OFNLP GENERAL PARTNER LIMITED**

Date: _____

SCHEDULE 9.2
DISPUTE RESOLUTION

DEFINITIONS

1. In this Schedule 9.2:
 - (a) “**Arbitrators**” means the panel of three arbitrators appointed pursuant to paragraphs 6 and 7;
 - (b) “**Chair**” means the chair appointed pursuant to paragraph 7;
 - (c) “**Claimant**” means a Party that commences a dispute resolution pursuant to paragraph 4;
 - (d) “**Disputes**” has the meaning attributed to such term in section 9.1 of the Agreement;
 - (e) “**Party**” means a party to a Dispute;
 - (f) “**paragraph**” means a paragraph of this Schedule 9.2; and
 - (g) “**Respondent**” means a Party who is not the Claimant, and the term “**Respondents**” shall, where there is only one Respondent, refer to that Respondent.

GENERAL

2. All Disputes which are to be determined according to the terms of this Schedule 9.2 pursuant to section 9.2 of the Agreement shall be arbitrated in accordance with the provisions of the *Arbitration Act, 1991, S.O. 1991, c. 17* (the “Arbitration Act”) except to the extent that those provisions are expressly modified by the provisions of the Agreement and this Schedule 9.2.
3. No individual shall be appointed to arbitrate a Dispute pursuant to this Schedule 9.2 unless he or she agrees in writing to be bound by the provisions of this Schedule 9.2.

COMMENCEMENT OF DISPUTE RESOLUTION

4. A Party may commence a dispute resolution as Claimant by delivering a written notice of arbitration (the “Notice of Arbitration”) to each of the Respondents.
5. The Notice of Arbitration shall include in the text or in one or more attachments:
 - (a) the full names, descriptions and addresses of the Parties;

- (b) a demand that the Dispute be referred to arbitration pursuant to this Schedule 9.2;
- (c) a general description of the Dispute;
- (d) the relief or remedy sought; and
- (e) the name of the person the Claimant nominates as an arbitrator.

6. The arbitrator nominated by the Claimant shall be independent of each Party and shall not be or have been in the employ of or on contract with the Claimant at any time and shall be qualified by education and experience to determine the subject matter of the Dispute. Such qualified arbitrator nominated by the Claimant shall be one of the panel of Arbitrators who will resolve the Dispute. Within 20 days of the date of receipt by the Respondent of the Notice of the Arbitration, the Respondents shall by notice to the Claimant, jointly appoint a second arbitrator to serve on the panel of Arbitrators who will resolve the Dispute, and the arbitrator nominated by the Respondents shall also be independent of each Party and shall not be or have been in the employ of or on contract with any respondent at any time and shall be qualified by education and experience to determine the subject matter of the Dispute.

7. Within 10 days of the appointment of the second arbitrator by the Respondents, the appointees of the Claimant and Respondents shall, by notice to the Parties, appoint a third and final arbitrator to act as chair of the Arbitrators, failing which a chair shall be appointed by a judge of the Superior Court of Justice of Ontario on the application of any Party on notice to all the other Parties. Such chair shall be independent of each Party and shall not be or have been in the employ of or on contract with any Party at any time and shall be qualified by education and experience to determine the subject matter of the Dispute.

8. Subject to the Arbitration Act, the Agreement and this Schedule 9.2, the Arbitrators may conduct the arbitration in such manner as the Arbitrators consider appropriate.

PLEADINGS

9. The following shall apply to the arbitration of any Dispute:

- (a) within 10 days of the appointment of the three Arbitrators, the Claimant shall deliver to all the Respondents and the Arbitrators a written statement (the “Statement”) concerning the Dispute setting forth, with particularity, the Claimant’s position with respect to the Dispute and the material facts upon which the Claimant intends to rely;
- (b) within 15 days after the delivery of the Statement, each Respondent shall deliver to the Claimant and the Arbitrators a written response (an “Answer”) to the Statement setting forth, with particularity, the Respondent’s position on the Dispute and the material facts upon which the Respondent intends to rely;
- (c) if any Respondent fails to deliver an Answer within the time limit in paragraph 9 (b), that Respondent shall be deemed to have waived any right to provide an

Answer to the Statement and the arbitration may continue without further notice to that Respondent;

- (d) within 10 days after the earlier of: (i) the day all Answers have been delivered, and (ii) the 15th day referred to in paragraph 9(b), the Claimant may deliver to all the Respondents and the Arbitrators a written reply (a “Reply”) to the Answer of each Respondent, setting forth, with particularity, the Claimant’s response, if any, to the Answer;
- (e) within the time limit in paragraph 9(b), a Respondent may also deliver to the Claimant, each other Respondent and the Arbitrators a counter-statement (a “Counter-Statement”) setting forth, with particularity, any additional Dispute for the Arbitrators to decide. Within 15 days of the delivery of a Counter-Statement, the Claimant shall deliver to each Respondent and the Arbitrators an Answer to the Counter-Statement. If the Claimant fails to deliver an Answer to the Counter-Statement within such 15-day period, the Claimant shall be deemed to have waived any right to provide an Answer to the Counter-Statement. Within 10 days after the delivery of an Answer to the Counter-Statement, the Respondents may deliver to the Claimant and the Arbitrators a Reply to such Answer. Any Dispute submitted to arbitration in accordance with this paragraph 9(e) shall be governed by, and dealt with as if it were the subject of a Statement in accordance with, this Schedule 9.2, except that it shall be decided by the Arbitrators already appointed, and shall be determined by the Arbitrators accordingly; and
- (f) the time limits referred to in paragraphs 9(a) to 9(f) may be extended by the Chair for such period not to exceed an aggregate of 30 days for such reasons as the Arbitrators in the Arbitrators’ discretion may determine upon application in writing made to the Arbitrators by the Claimant or any Respondent on notice to each other Party to the arbitration, either before or within five days after the expiry of the relevant time limits and, in the event that the other Party or Parties wishes to oppose the application, the other Party or Parties shall be given an opportunity to make submissions on the application.

The Parties to the Agreement have set the time limits in this paragraph 9 after due consideration of the amount of time necessary to complete each step and it is their express desire that no extension of any time limit shall be granted except in extraordinary circumstances, the onus for the proof of the existence of which lies on the Party seeking an extension.

CASE CONFERENCES

10. Within 10 days of the appointment of the three Arbitrators, the Chair shall convene a case conference for the determination of any preliminary or interlocutory matter or to provide for planning and scheduling of the arbitration or to determine the timing or desirability of expert reports.

11. Issues to be determined at the first case conference after the completion of the steps contemplated by paragraph 9 or the expiry of the time limit for any mandatory step not taken by such time shall include the following:

- (a) any request for an adjournment of the case conference and the terms, if any, of any adjournment;
- (b) the identification and narrowing of the issues in the arbitration;
- (c) the desirability of the Parties engaging in further settlement negotiations or some other dispute resolution process, with or without the assistance of a mediator;
- (d) fixing a date, time and place for the Hearing (as defined in paragraph 12 of this Schedule 9.2);
- (e) the manner of presentation of evidence at the Hearing; and
- (f) a timetable for the disclosure by each Party to each other Party of the evidence in that Party's possession, power, or control which is relevant to any issue in the Dispute.

THE HEARING

12. At the date, time and place fixed at a case conference or, if no case conference has been held, at a date, time and place fixed by the Chair within 60 days of the appointment of the Chair, the Arbitrators shall convene a hearing (the "Hearing").

13. Unless otherwise determined by the Chair, the presentation of a Party's case at the Hearing shall include the delivery of a pre-hearing memorandum to the Arbitrators and to each other Party including the following elements:

- (a) a statement of facts;
- (b) a statement of each issue to be determined;
- (c) a statement of the applicable law on which the Party relies;
- (d) a statement of the relief requested including the basis for any damages claimed;
- (e) a statement of the evidence to be presented including the name, capacity and expected evidence of each witness to be called, and an estimate of the time required for the witness's direct testimony; and
- (f) an appendix containing all sworn statements or transcripts or portions of transcripts on which the Party intends to rely at the Hearing.

14. The pre-hearing memorandum of the Claimant shall be delivered not less than 20 days before the date of the Hearing. The pre-hearing memorandum of each Respondent shall be delivered not less than 10 days before the date of the Hearing.

15. At the Hearing, the Arbitrators shall consider any evidence as would be admissible in a court of law and any other evidence the Arbitrators consider appropriate to determine the Dispute. Evidence may be presented in written or oral form as the Party presenting the evidence considers appropriate, provided that examinations in chief shall be in writing and that no written statement of any witness shall be accepted by the Arbitrators unless each other adverse Party has been given an opportunity at the Hearing to cross-examine the witness on the information contained in the written statement. The Arbitrators shall determine the applicability of any privilege or immunity and the admissibility, relevance, materiality and weight of any evidence offered.

16. The Arbitrators shall have the right to exclude any witness from the Hearing during the testimony of any other witness.

17. Despite sub-section 28(1) of the Arbitration Act, the Arbitrators shall not, without the written consent of all Parties, retain any expert.

AWARDS

18. The Arbitrators may make preliminary, interim, interlocutory partial and final awards. Any award shall be considered to be validly made if it is approved by the majority of the Arbitrators. An award may grant any remedy or relief which the Arbitrators consider just and equitable and consistent with the intentions of the Parties under the Agreement. The Arbitrators shall state in the award whether or not the Arbitrators view the award as final or interim, for purposes of any judicial proceedings in connection with such award. Subject to section 39 of the Arbitration Act, the Arbitrators' final award shall be made within 30 days of the conclusion of the Hearing.

19. All awards for the payment of money shall include interest calculated in accordance with the terms of the Agreement.

20. All awards shall be in writing and shall state reasons.

21. The Arbitrators may apportion the costs of the arbitration, including the reasonable fees and disbursements of the Arbitrators and the legal costs and disbursements of the Parties, between or among the Parties in such manner as the Arbitrators consider reasonable. In determining the allocation of these costs, the Arbitrators shall invite submissions as to costs and may consider, among other things, the outcome of the dispute, any offer of settlement made by any Party during the course of the arbitration, the good faith of the Parties and the encouragement of and participation in good faith discussions to resolve the Dispute.

22. Executed copies of all awards shall be delivered by the Arbitrators to the Parties as soon as is reasonably possible.

23. Any appeal brought by the parties from an award of the Arbitrators as provided in Article 9.2 hereof shall be commenced within 30 days after receipt by the parties of the award in question and shall be processed in accordance with the applicable rules as set out in Ontario's Rules of Civil Procedure.

24. Once an award is not subject to any right of appeal, the Parties shall undertake to satisfy it without delay.

ADDITIONAL MATTERS

25. All case conferences and Hearings shall be conducted in Toronto, Ontario in the English language.

26. All notices or other communications required or permitted to be given under this schedule to a Party shall be given in the manner specified in section 10.6 of the Agreement. All notices or other communications and all other documents required or permitted by this schedule 9.2 to be given by the Parties to the Arbitrators shall be given in accordance with the Arbitrators' instructions.

SCHEDULE 10.13

ACKNOWLEDGEMENT AND CONSENT

TO: PROVINCE OF ONTARIO

AND TO: ONTARIO FIRST NATIONS LIMITED PARTNERSHIP (“OFNLP”)

AND TO: ONTARIO FIRST NATIONS (2008) LIMITED PARTNERSHIP (“OFNLP 2008”)

The undersigned, a Limited Partner under OFNLP and OFNLP 2008, hereby acknowledges that:

(a) It has received and reviewed the Gaming Revenue Sharing and Financial Agreement and the Closing Agreement, including the respective schedules thereto;

(b) OFNLP and OFNLP 2008 have fully and plainly explained to the undersigned, and afforded the undersigned a full and open opportunity to ask questions of OFNLP and OFNLP 2008 and their respective financial and legal advisors in respect of, the terms and conditions of, and the consequences of OFNLP and OFNLP 2008 executing and delivering, the Gaming Revenue Sharing and Financial Agreement and the Closing Agreement and completing and/or performing the matters contemplated therein and the undersigned fully understands the nature and effect of such documents and the completion and/or performance of such matters; and

(c) The undersigned hereby fully and freely consents, without influence or compulsion, to the execution and delivery of the Gaming Revenue Sharing and Financial Agreement and the Closing Agreement, and the completion and/or performance of the matters therein, by OFNLP and OFNLP 2008.