

**APPX**  
SIGAL CHATTAH, ESQ.  
Nevada State Bar No.: 8264  
CHATTAH LAW GROUP  
5875 S. Rainbow Blvd. #203  
Las Vegas, Nevada 89118  
Tel: (702) 360-6200  
Fax: (702) 643-6292  
Chattahlaw@gmail.com  
Attorneys for Defendants  
*Emil Interactive Games, LLC Et Al*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF MINNESOTA**

MINNESTOTA WILD HOCKEY CLUB, LP

Plaintiff,

vs.

EMIL INTERACTIVE GAMES, LLC, FULL  
BOAT LLC, and RONALD M. DOUMANI

Defendants.

CASE NO: 0:16-cv-01545-

WMW-TNL

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**DEFENDANTS EMIL INTERACTIVE GAMES, LLC ET AL'S EXHIBITS IN  
SUPPORT MEMORANDUM IN SUPPORT OF MOTION TO DISMISS UNDER  
FRCP 12(B)(6)**

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# **EXHIBIT "1"**

## SPONSORSHIP AGREEMENT

This Sponsorship Agreement (this "Agreement") is entered into as of September 4, 2015, by and between Emil Interactive Games, LLC ("Sponsor"), and Minnesota Wild Hockey Club, L.P, a Minnesota limited liability company ("Company"), regarding the NHL's Minnesota Wild franchise (the "Team") and the Xcel Energy Center in which the Team plays its home games (the "Arena"). Sponsor and Company are each also referred to sometimes as a "Party." In consideration of the rights and obligations granted and undertaken herein, each Party agrees as follows:

1. Sponsorship Period.

(a) "Sponsorship Period" means the period from September 4, 2015 through and including June 30, 2018 (however, such period will not extend past any earlier termination of this Agreement).

(b) Sponsor may opt out of the Agreement for convenience effective June 30, 2017, without penalty, if it notifies Company in writing no later than February 1, 2017.

2. Benefits. Subject to the performance of Sponsor's obligations hereunder, during the Sponsorship Period, Company will provide to Sponsor the advertising and other benefits (each a "Benefit") specified in Exhibit A hereto, under and subject to the terms herein (including in Exhibit A).

3. Payments. On each payment date referred to in Exhibit B, Sponsor will pay to Company the amount stated in Exhibit B for such payment date. If additional payments for specific Benefits are expressly stated in Exhibit A, then Sponsor will pay to Company the amount stated in Exhibit A for such specific Benefits within 30 days after receipt of Company's invoice therefor.

(a) If any amount payable hereunder is not paid when due, then such amount will bear interest until paid at 1.5% per month (or, if less, the maximum rate then permitted by law). All payments hereunder will be in cash, without reduction, setoff or counterclaim for any reason.

(b) If any sales tax, use tax, service tax or other tax (other than Company's income taxes) is imposed in connection with any Benefit or payment hereunder, then Sponsor will pay such tax on or before the due date thereof, and, if not otherwise paid, any unpaid amount thereof will be added to the payment for the period that includes such due date.

(c) Company may cause any of Company's Affiliates to provide certain Benefits. In connection therewith, Company may allocate the payments hereunder (or any portion thereof) to any such Affiliate. Additionally, if Company requests that Sponsor pay any such payment (or such portion) directly to such an Affiliate, then Sponsor will do so on or before the applicable payment date, along with paying any remaining balance of such payment directly to Company as required hereunder.

4. Certain Limitations. Without implying any expansion of any Benefit beyond what is stated herein, the Parties acknowledge and agree that:

(a) the NHL may at times conduct or arrange events or programs relating to the NHL (including the NHL All-Star Game, NHL AllStar Fan Balloting, NHL Freeze Play and NHL Future Stars) and in connection therewith may enter into contracts under which a Person receives rights to sponsorship, promotion or advertising regarding the Team or Arena (each a "League Contract");

(b) Company or its Affiliates may be required at times under NHL Rules to allow sponsorship, promotion or advertising regarding the Team or Arena (including under a League Contract);

(c) certain events at the Arena (including multicity tours, shows, concerts and sports events of national or regional interest, including NCAA tournaments) may include temporary sponsorship, promotion or advertising (including audio and video messages, banners and other signage) that are removed or ceased promptly after such an event;

(d) certain extraordinary events of limited frequency at the Arena (including events referenced in Section 4(c)) may require that some or all sponsorship, promotion or advertising (including signage) otherwise displayed or conducted at the Arena (including those of Sponsor) be temporarily removed or ceased, blacked out or covered for such event;

(e) each of the NHL teams (other than the Team), NHL players and the NHL Players Association has sponsorship arrangements at times, and the rights granted to Sponsor under this Agreement do not supersede the rights granted at times to any other NHL team, NHL player or the NHL Players Association (which rights may include a nonprimary or incidental use of the Company Marks); and

(f) none of the foregoing will breach or otherwise violate this Agreement.

5. **Approval of Materials.** This Agreement and each Benefit are subject to NHL Rules, and the form, content and presentation of each Benefit is subject to the approval of Company (which will not be unreasonably withheld), the rules of the Arena or other venue at which such Benefit may be displayed, held or presented (including any such rules regarding temporary blackouts or signage coverage) and any applicable statutes, regulations and other legal requirements. Sponsor shall not be granted pass-through rights in connection with this Agreement. Specifically, Sponsor will not include in any Benefit (or related material) any promotion of or advertising for (or other reference to) any third party product or service that competes with any product or service for which Company or any of Company's Affiliates then provides advertising or promotion. By way of example, Sponsor would not be permitting to incorporate a Pepsi Cola logo (competes with Company sponsorship with Coca Cola) on a Benefit giveaway item next to Sponsor and Company logo. Such restriction only applies to Benefits hereunder and not to any other Sponsor relationship. For purposes of clarity, nothing contained in this paragraph shall limit or restrict Sponsor from any relationship with a Company competitor (i.e. Pepsi Cola) outside of the Benefits provided under this Agreement.

6. **Substitution for Unavailable Benefits.** Sponsor and Company acknowledge and agree that, due to circumstances beyond the reasonable control of Sponsor or Company (including limitations imposed by law or NHL Rules), it may be or become impossible or impracticable to provide one or more Benefits otherwise called for hereunder (each an "Unavailable Benefit"). With respect to any Unavailable Benefit, Sponsor and Company will consult regarding a substitute therefor, and following such consultation, Company may provide, in lieu of such Unavailable Benefit, a substitute promotion or advertisement having promotional value not materially less than that of such Unavailable Benefit. By doing so, Company will satisfy all of its obligations with respect to such Unavailable Benefit.

7. **Indemnification.** Each Party (the "Indemnifying Party") will indemnify the other Party and such other Party's Affiliates (and each of their respective shareholders, members, partners, directors, governors, officers, managers, employees, representatives and agents) and hold each of them harmless from and against any and all claims, costs, expenses, damages and liabilities (including reasonable attorneys' fees and expenses) resulting from or arising out of any (a) breach of this Agreement by the Indemnifying Party or (b) litigation, arbitration, governmental inquiry or other claim or proceeding commenced by any third party arising from libel, slander, invasion of privacy, improper trade practice, illegal competition, infringement of copyright or other intellectual property, breach of warranty, unsafe, hazardous or defective product or service, negligence or other wrongful conduct by the Indemnifying Party.

8. **Retention of Rights.**

(a) The only rights of Sponsor relating to the Team, the Arena or events at the Arena are the rights to receive the Benefits in accordance with the terms hereof. All other rights relating to the Team, the Arena, events at the Arena or other Company Marks are hereby retained by Company and its applicable Affiliates. Nothing in this Agreement creates (i) any license or other right regarding any Company Mark or (ii) any leasehold estate, right of use or other interest in the Arena or any part thereof. "Company Mark" means any attribute, logo, symbol, name or other mark or intellectual property of or related to the Team, the Arena, Company or any of its Affiliates.

(b) Company may use logos, symbols, names and other marks of or related to Sponsor (collectively "Sponsor Marks") only in connection with providing Benefits and to identify Sponsor as a sponsor as described herein, but all other rights regarding Sponsor Marks are hereby retained by Sponsor, and nothing in this Agreement creates any other license or other right with respect to any Sponsor Mark.

9. Termination and Survivability.

(a) If a Party breaches or threatens to breach this Agreement, then the other Party is entitled to seek monetary damages for such breach and injunctive relief to enforce this Agreement and require performance of all obligations hereunder.

(b) No Party has the right to cancel, withdraw from or terminate this Agreement (or cease, delay or suspend performing such Party's obligations hereunder), except pursuant to the following:

(i) If a Party does not pay when due any amount payable hereunder, then the other Party may give notice of such breach and, if such amount is not paid within 10 days after such notice is given, then the Party giving such notice may terminate this Agreement by giving a notice of termination within 30 days after the end of such 10day period. If this Agreement is terminated under this clause (i), then such terminating Party will have no further obligations under this Agreement after such termination (other than Continuing Terms), and such breaching Party will continue to be liable for such amount and for all other damages arising out of or resulting from such Party's breach.

(ii) If a Party fails to perform any of such Party's material obligations under this Agreement (other than not paying when due any amount payable hereunder), then the other Party may give notice describing such failure with specificity and, upon receipt of such notice, the failing Party (A) will take all reasonable actions to promptly cure such failure or (B) if such failure cannot then be cured in all respects, will take all reasonable actions to cure such failure to the extent possible and to prevent recurrence of such failure. If the failing Party does not comply with its obligations under this clause (ii) within 60 days after receipt of such notice of failure, then the Party giving such notice of failure may terminate this Agreement by giving a notice of termination within 30 days after the end of such 60day period. If this Agreement is terminated under this clause (ii), then such terminating Party will have no further obligations under this Agreement after such termination (other than Continuing Terms), and such breaching Party will continue to be liable for all damages arising out of or resulting from such Party's breach.

(c) The Continuing Terms survive the expiration of the Sponsorship Period or earlier termination of this Agreement. "Continuing Terms" means the terms of this Agreement that by their nature survive the expiration of the Sponsorship Period or earlier termination of this Agreement, including Section 3 (titled "Payments"), (Section 7 (titled "Indemnification")) and Section 11 (titled "Confidentiality").

(d) Sponsor shall have the right to terminate this Agreement upon written notice in the event either the NHL and/or the State of Minnesota rule that Sponsor's primary business activities are illegal or prevented by Rule or Law.

10. Assignments and Transfers. This Agreement will be binding upon and inure to the benefit of each Party and its permitted successors and assigns. Subject to Section 14, neither Party will assign, delegate or otherwise transfer this Agreement or any right or obligation of such Party hereunder, by

operation of law or otherwise (each a "Transfer") without the other Party's prior written consent (which will not be unreasonably withheld), except that the following are permitted without such consent:

(a) Company may (i) take any action contemplated in Section 3(c) or (ii) Transfer this Agreement or any of its rights or obligations hereunder to a lender or other financing source or agent thereof; or

(b) each Party may Transfer this entire Agreement (which must include the assignment of all of its rights and the delegation of all of its obligations hereunder) to: (i) a Person that does both of the following (A) acquires or otherwise succeeds to all or substantially all of such Party's business and assets and (B) assumes and agrees to perform or cause performance of all of such Party's obligations hereunder, including any obligation then in arrears; or (ii) any of its Affiliates.

No Transfer will relieve the Transferring Party of any obligation hereunder. Any purported Transfer not permitted by this Section will be void.

11. Confidentiality. Except to the extent expressly permitted otherwise by this Section, each Party will hold in confidence, and not disclose in any manner, all confidential information related to or obtained from the other Party or any of such other Party's Affiliates (including the terms hereof and all other nonpublic information of or about such other Party or any of its Affiliates). Such Party may disclose to its and its Affiliates' employees, agents and proposed Transferees such confidential information to the extent such disclosure is reasonably necessary to perform such Party's obligations hereunder or to operate its business; provided, however, that such Party must cause such employees, agents and Transferees to preserve the confidentiality of, and not disclose, such confidential information. This Section does not prohibit disclosure to the extent required by law; provided that a Party required to make such a disclosure first gives to such other Party reasonable prior notice of such requirement and reasonable opportunity to seek a court order or other relief preventing such disclosure to the extent permitted under the circumstances.

12. Entire Agreement; Amendments; Waivers. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements and understandings regarding the subject matter hereof. The Agreement may be amended or supplemented, and any term hereof may be waived, only by a writing executed and delivered by each Party. No failure of a Party to give notice of, or seek a remedy for a breach of, this Agreement will reduce or otherwise affect such Party's right to seek any remedy for any other breach, regardless of such Party's knowledge or lack of knowledge thereof.

13. NHL Rules. Notwithstanding any other term of this Agreement to the contrary, this Agreement will in all respects be subject to and subordinate to (in each case to the extent applicable): (a) the NHL Constitution; (b) the NHL By-Laws; (c) all other rules, regulations and policies of the NHL and the resolutions of its Board of Governors; (d) any collective bargaining agreement to which the NHL or any member club is a party; (e) all consent decrees and settlement agreements entered into between or among the NHL and its member clubs (or the NHL, NHL member clubs or other Persons) in furtherance of NHL business or interests or as otherwise authorized directly or indirectly by the NHL Board of Governors, the NHL Commissioner or the NHL Constitution; (f) any national network agreements between the NHL and third parties; and (g) any national corporate marketing, licensing, sponsorship or similar agreements between the NHL (or NHL affiliates) and third parties, all as the same may now exist or hereafter be amended or enacted or as they may be interpreted by the Commissioner of the NHL (collectively, "NHL Rules"). "NHL" means, collectively, the National Hockey League, NHL Enterprises, L.P., NHL Enterprises Canada L.P. and each other Affiliate of the National Hockey League.

14. Work Stoppage. In the event of a strike by the National Hockey League Players Association, a lockout of the National Hockey League players by the NHL or any other work stoppage (in all cases an "NHL Work Stoppage"), that causes the cancellation of one or more regular season Team games, all obligations of the parties hereunder shall continue; when the NHL Work Stoppage has ceased, in

order to make up for any of Sponsor Benefit's under the Agreement that could not be exercised as a result of the cancellation of Team regular season games due to the NHL Work Stoppage, the Sponsor and Company shall negotiate in good faith to reach a mutually satisfactory arrangement of comparable value by means of rescheduling, substitution, alternative performance, or similar means. If Company and Sponsor, negotiating in good faith, are unable to reach a mutually satisfactory arrangement of comparable value by means of rescheduling, substitution, alternative performance or similar means, Company and Sponsor shall negotiate, in good faith, an equitable adjustment in the fees payable pursuant to Exhibit B attached hereto, or where such fees are prepaid, a pro rata refund by Company. Pro rata refund will be based on the total number of Team regular season games cancelled as compared to the total Sponsorship Fee for the affected NHL season. Any pro-rata refund shall be paid within 30 days after the 1<sup>st</sup> of the month following any cancelled regular season Team games.

15. **No City Obligations.** Sponsor hereby acknowledges that this Agreement imposes no contractual obligations upon the City of Saint Paul or its Civic Center Authority (collectively the "City") unless, until and only if the City expressly assumes in writing the obligations of Company hereunder pursuant to the provisions of that certain Arena Lease Agreement by and between the City and Minnesota Hockey Ventures Group, LP bearing the date of January 15, 1998 (the "Lease"); that in the event of a default or breach under this Agreement of any kind or nature whatsoever, Sponsor will look solely to Company at the time of the default or breach for a remedy or relief; and that no member, officer, employee, agent, independent contractor or consultant of the City will be liable to Sponsor or any successor in interest to Sponsor in the event of any default or breach by the City under the Lease or of any obligation under the terms of this Agreement; that Company is not and will not act as an agent of the City or in any manner contract for or bind the City; and that upon the termination of the Lease, this Agreement may, at the option of the City to be exercised upon written notice to Sponsor, also be terminated without any right of claim against the City, its elected officials, commissioners, directors, officers, agents, employees, independent contractors or consultants. In the event of any termination of the Lease, then the City or its assignee may assume this Agreement, and Company's rights, duties and obligations hereunder may be assigned to the City or its assignee.

16. **Force Majeure.** If, by reason of a Force Majeure, a Benefit is unavailable or Company is otherwise unable to perform any obligation hereunder, then Company will not be liable therefor in any respect. "Force Majeure" means any riot, act of terrorism, civil insurrection, strike, lockout, other labor disturbance, act of God, act of war, natural disaster or severe or inclement weather, or any other event or circumstance beyond Company's reasonable control.

17. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which taken together will constitute one instrument.

18. **Interpretation and Governing Law.** For this Agreement: (a) headings are for reference only and will not affect the meaning or interpretation hereof; (b) "herein," "hereunder" and similar words refer to this Agreement as a whole and not the term or Section where they appear; (c) terms used in the plural include the singular, and vice versa, unless the context clearly otherwise requires; (d) "include," "including" and variations thereof are deemed to be followed by the words "without limitation"; (e) "or" means "and/or"; and "any" means "any or all"; (f) "Person" includes any individual, trust, corporation, partnership, limited liability company, joint venture, other business association or entity, government or governmental body, division or other unit; (g) "Affiliate" means, regarding any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, such Person; (h) all rights and remedies are cumulative and may be exercised and enforced concurrently or separately; and (i) the Parties' relationship is solely that of independent contractors, and nothing herein creates or implies any relationship of employment, agency, partnership or relationship otherwise, and neither Party will state, represent or imply any interest in or control over the other or any of its Affiliates. This Agreement will be governed by and construed in accordance with the laws of the State of Minnesota, without giving effect to principles of conflicts of law.



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19. **Jurisdiction and Venue.** Any legal action, suit or proceeding (each an "Action") brought by either Party related to or arising out of this Agreement may be brought in a federal court located in the State of Minnesota or in the state courts of the State of Minnesota, and each Party hereby accepts and submits to the jurisdiction of each of the aforesaid courts with respect to any Action brought by it or against it by the other Party. This Section will not prevent a Party against whom any Action is brought in such state courts from seeking to remove such Action pursuant to applicable federal law, to such a federal court. Each Party waives any objection to the venue for any such Action being in such courts.


20. **Notices.** Each notice or other communication required hereunder (a "Notice") must be in writing and given by sending by registered or certified mail, return receipt requested, postage prepaid, or by commercial overnight delivery service, or by handdelivery, in each case to the respective Party's address stated below its signature hereto. A Party may change its address by Notice to the other and may add any Person to whom a copy must be given.

Each Party has duly executed and delivered this Sponsorship Agreement as of the date first written above.

EMIL INTERACTIVE GAMES, LLC

MINNESOTA WILD HOCKEY CLUB, LP

By: *Ron Doumani*  
Its: PRESIDENT

By: *Matthew*  
Its: C.O.O. 

3535 Executive Terminal Drive  
Suite 110  
Henderson, Nevada 89052  
Attn: Ron Doumani, CEO

317 Washington Street  
Saint Paul, Minnesota 55102  
Attn: Chief Operating Officer

## **EXHIBIT A**

### **Benefits**

Each season during the Sponsorship Period, the Benefits consist of the following items in this Exhibit A:

#### **Exclusivity**

As a corporate sponsor of the Team, Sponsor will be the official and exclusive online fantasy sports sponsor of the Team and will have the opportunity to use the Team's name and logo in marketing and advertising campaigns for Sponsor in the Team's local market as approved by Company and the NHL and subject to the other terms of this Agreement.

#### **In-Game Feature**

Sponsor will receive exclusive attachment to the NHL/Wild Player Stats feature during each regular season Team home game at the Arena. These statistics are delivered on three digital in-arena pillars. Sponsor's logo, branding and preferred status recognition will be included in such feature.

#### **Videoboard Advertising**

Company will provide Sponsor with one (1) vertical and one (1) horizontal advertising space on the Arena videoboard for a minimum of 10 game minutes during each regular season Team home game. Videoboard creative will be mutually agreed upon and will run through 10 minutes, however will be removed at certain points for game events like Team goals, other features, etc.

#### **Ice Level Signage**

Company will provide Sponsor with one position on two digital dasherboard signs located on the television viewing side of the rinkboards surrounding the ice at all pre-season and regular season Team home games at the Arena. Such advertising position will receive a minimum of twelve (12) minutes aggregate exposure during each such game.

#### **Digital Signage**

Company will provide Sponsor with an aggregate of six (6) minutes of exclusive advertising on the Arena's suite level fascia LED signage during each regular season Team home game at the Arena. Such 360 degree display will rotate in :15 second intervals with other fascia advertisers.

#### **Internet**

Company will provide Sponsor the opportunity for a 300x250 and/or 640x79 advertisement to be displayed throughout the Team's website and will deliver 300,000 impressions.

#### **Hospitality**

Company will provide Sponsor with two lower level season tickets for each of the preseason and regular season Team home games at the Arena. Location and price point of seats will be determined based on availability and in Company's discretion.

For each (if any) postseason Team game at the Arena, Sponsor will purchase the same number of tickets (at the same seat locations) that are being provided to Sponsor under the preceding paragraph. Sponsor will pay to Company the cost for such additional tickets, which cost will be the

established playoff game rates for such tickets, which will be determined by the Company in its sole discretion.

**Social Media**

Company will include Sponsor onto a "statistics/highlights" infographic posted on Team's social media platforms during the regular season. Details of such social media feature will be mutually agreed upon.

**Other Benefits**

Sponsor will have the opportunity to provide a premium item to be distributed to fans at two mutually agreed upon regular season Team home games at the Arena. Such premium item will be cobranded with the logos of Sponsor and the Team. Sponsor will pay all costs and expenses for and associated with such premium item.

Sponsor will receive an aggregate of 10 Fan Experiences such as Zamboni rides (one individual per ride), Fan Zamboni ride, pre-game VIP tours of the Arena and/or Bench Buddy spots such elements being before or during regular season Team home games at the Arena (as scheduled by Company).

Company will provide Sponsor with five (5) concourse displays at the Arena during mutually agreed upon regular season Team home games.

Company will provide Sponsor with a pre-game mention and pre-game videoboard message no earlier than 15 minutes prior to each regular season Team home game at the Arena. Such content of the pre-game mention and videoboard message will be mutually agreed upon.

**EXHIBIT B**  
**Payment Schedule**

PAYMENT DATE	AMOUNT (all amounts shown are net)
October 15, 2015	\$87,600.00
January 15, 2016	\$87,600.00
April 15, 2016	\$87,600.00
June 30, 2016	\$87,600.00
Total	\$350,400.00
October 15, 2015	\$91,980.00
January 15, 2016	\$91,980.00
April 15, 2016	\$91,980.00
June 30, 2016	\$91,980.00
Total	\$367,920.00
October 15, 2015	\$96,579.00
January 15, 2016	\$96,579.00
April 15, 2016	\$96,579.00
June 30, 2016	\$96,579.00
Total	\$386,316.00

For any payment in this Agreement that states that the amount owed is "net" (or words to that effect) or if the term "net" accompanies such amount, then the amount so stated is the amount Sponsor owes to Company, and such terminology will not imply that any lesser amount is owed.

# EXHIBIT "2"



## NHL League Policy Update: Daily Fantasy NHL Games

As of October 12, 2015, the NHL has updated its League mandates for all Clubs with respect to their advertising and sponsorship relationships with daily fantasy game operators who free/paid fantasy NHL games ("Operator(s)"). Under these new League mandates, Clubs may only contract with Operators in compliance with the following requirements:

- Operator must offer a free version of each type of paid fantasy NHL game.
- Team digital ads must link to a landing page of the Operator that promotes/offers free fantasy NHL games in equal or greater prominence to any corresponding paid games.
- In addition to promoting the Operator brand generally, Club materials and Operator materials bearing the Club's name/logos may promote paid fantasy NHL game offerings, both generally and specifically, to the extent each such fantasy NHL game meets all of the other NHL requirements, including the following:
  - Paid game entry price is \$30.00 USD or less;
  - Prize amounts offered are clearly stated in advance of entry;
  - Payment of prizes is guaranteed by the Operator;
  - The value of the prize is NOT determined by the number of participants or the amount of any entry price paid by those participants, (e.g., 50/50, Double Up, or similar games where the prize is a direct multiple of the entry fee);
  - Winning outcomes reflect the relative knowledge and skill of the participants and are determined by accumulated statistical results of the performance of the players across multiple NHL games;
  - No winning outcome is based on the score or the performance of any NHL team or combination of NHL teams; and
  - No winning outcome is based on the single performance of an individual NHL player in a single NHL game.
- Club's name/logos may be used or associated with fantasy games offered only within the Club's local promotional territory.
- Club assets (e.g., tickets, merchandise or experiences) may be used as prizing or incentives only in the Club's local promotional territory.
- Compensation paid by the Operator to the Club may not be based upon traffic to the Operator's website or platforms, or other user-related metrics, including associated in any way on a percentage or multiple of a game's entry fee.
- Operator must comply at all times with League Rules as well as all applicable federal, state/provincial and local laws and regulations ("Relevant Law").
- Prior to execution of an agreement, Operator must provide Club with an acceptable written legal opinion from its outside counsel ("Opinion") establishing, at minimum, that the Operator's website, platforms, fantasy games, activities and operations comply with Relevant Law, including Operator's general ability to operate in the Club's territory and specifically with respect to each individual paid game that would be promoted by the Club and/or use Club's name/logos.

- The Club's agreement with the Operator must include the following representations:
  - A representation that the Operator's website, platforms and fantasy games are and will remain in compliance with Relevant Law and League Rules. The Club must have the option to terminate the agreement immediately upon violation of any Relevant Law and/or League Rules;
  - A representation that the Operator has a written policy, and takes all industry-standard and otherwise commercially reasonable steps to enforce such policy, that prohibits: (a) any of its employees (and any of the Operator's agents, affiliates, contractors or other individuals that have access to its competitively relevant information), either directly or indirectly through family or friends, from participating in paid NHL fantasy games offered by the Operator and any other Operator, and (b) other Operators' employees (and any of their agents, contractors or other individuals that have access to competitively relevant information), either directly or indirectly through family or friends, from participating in any paid NHL fantasy games offered by the Operator;
  - A provision requiring that the Operator agree to at all times during the term of the agreement comply with all applicable data security, data privacy, and data protection laws, and employ all other generally accepted and industry-standard measures in order to ensure protection of customer data and personal information;
  - A provision requiring that the Operator provide immediate written notice to the Club upon the occurrence of any event that calls into question the legality of the Operator's website or fantasy games, or any similar third-party operator ("Event"). An Event may include, without limitation, court rulings, governmental inquiries or subpoenas, and the filing of a civil or criminal complaint against the Operator or a similar third-party operator. The Club must have the option to terminate the agreement immediately upon the occurrence of an Event;
  - Provisions requiring that: (a) the Operator provide the Club advance written notice of any material changes to the Operator's website, platforms or fantasy game offerings, and (b) in the event of any such material change (including the offering of new types of fantasy games), the Club has the right to require an additional Opinion opining that any material change complies with Relevant Law and League Rules.
  - The Club must have the option to terminate the agreement immediately in the event a material change negatively impacts the Opinion;
  - An immediate termination right for the Club: (a) in the event of a relevant change to, or interpretation of, a League Rule, or (b) if the Club or NHL determines that the relationship with the Operator has an adverse effect on the reputation or goodwill of the NHL or the Club or brings either into disrepute;
  - Indemnification by the Operator of the Club, the NHL and all of their respective current and future affiliates and related entities, and all of their respective successors, owners, general and limited partners, shareholders, members, directors, officers, employees, agents and representatives for any losses, claims, liabilities, fines, penalties, damages, costs and expenses (including attorneys' fees) arising from any action or omission by the Operator, including for the Operator's failure to comply with any Relevant Law; and
  - A requirement that the Operator maintain throughout the term of the agreement with the Club the greater/more comprehensive of those insurance types/levels recommended by the Club's insurance representative and the following: (a) General Liability insurance with a minimum limit of \$5,000,000 on a per occurrence basis; (b) media liability (or equivalent professional liability insurance) with a minimum limit of \$10,000,000; and (c) technology errors and omissions (or equivalent professional liability insurance), including network security liability coverage, with minimum limits of \$5,000,000. The Operator shall include the Club, the NHL and all of their affiliates and related entities as additional insureds on such policies.

# EXHIBIT "3"





BRIAN SANDOVAL  
Governor

**NEVADA GAMING CONTROL BOARD**

1919 College Parkway, P.O. Box 8003, Carson City, Nevada 89702  
555 E. Washington Avenue, Suite 2600, Las Vegas, Nevada 89101  
3650 S. Pointe Circle, Suite 203, P.O. Box 31109, Laughlin, Nevada 89028  
557 W. Silver Street, Suite 207, Elko, Nevada 89801  
9790 Gateway Drive, Suite 100, Reno, Nevada 89521  
750 Pilot Road, Suite I, Las Vegas, Nevada 89119

A.G. BURNETT, *Chairman*  
SHAWN R. REID, *Member*  
TERRY JOHNSON, *Member*

**NOTICE TO LICENSEES**

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Notice # 2015-99

Issuing Division: Board Chairman

**DATE: OCTOBER 15, 2015**  
**TO: ALL LICENSEES AND INTERESTED PARTIES**  
**FROM: A.G. BURNETT, CHAIRMAN**  
**SUBJECT: LEGALITY OF OFFERING DAILY FANTASY SPORTS IN NEVADA**

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Over the last several months, Nevada Gaming Control Board (Board) staff has analyzed the legality of pay-to-play daily fantasy sports (DFS) pursuant to the Nevada Gaming Control Act and the regulations adopted thereunder. I further asked the Gaming Division of the Office of the Nevada Attorney General to perform a legal analysis as to whether DFS activities conflict in any way with Nevada law. Based on these analyses, I, along with Board staff, have concluded that DFS constitutes gambling under Nevada law. More specifically, DFS meets the definition of a game or gambling game pursuant to Chapter 463 of the Nevada Revised Statutes. Moreover, because DFS involves wagering on the collective performance of individuals participating in sporting events, under current law, regulation and approvals, in order to lawfully expose DFS for play within the State of Nevada, a person must possess a license to operate a sports pool issued by the Nevada Gaming Commission. Further, a licensed operator who offers DFS must comply with all laws and regulations that apply to licensed sports pools.

Therefore, since offering DFS in Nevada is illegal without the appropriate license, all unlicensed activities must cease and desist from the date of this Notice until such time as either the Nevada Revised Statutes are changed or until such entities file for and obtain the requisite licenses to engage in said activity. Although Nevada gaming licensees who have received approval to operate a sports pool may expose DFS for play themselves in Nevada (in compliance with all applicable statutes and regulations), such licensees should exercise discretion in participating in business associations with DFS operators that have not obtained Nevada gaming approvals. While this Industry Notice is intended to provide clear guidance as to Nevada law, Nevada licensees wishing to conduct business with DFS companies should also conduct thorough and objective reviews of DFS activities under the laws of other states and any applicable federal laws.

# EXHIBIT "4"

STATE OF DELAWARE  
CERTIFICATE OF CONVERSION  
FROM A NON-DELAWARE LIMITED LIABILITY COMPANY TO  
A DELAWARE LIMITED LIABILITY COMPANY PURSUANT TO  
SECTION 18-214 OF THE LIMITED LIABILITY ACT

- 1.) The jurisdiction where the Non-Delaware Limited Liability Company first formed is NEVADA
- 2.) The jurisdiction immediately prior to filing this Certificate is NEVADA
- 3.) The date the Non-Delaware Limited Liability Company first formed is \_\_\_\_\_
- 4.) The name of the Non-Delaware Limited Liability Company immediately prior to filing this Certificate is Emil Interactive Games LLC
- 5.) The name of the Limited Liability Company as set forth in the Certificate of Formation is Emil Interactive Games LLC

IN WITNESS WHEREOF, the undersigned have executed this Certificate on the  
9TH day of SEPTEMBER, A.D. 2015

By: Ronald M. Doumani  
Authorized Person

Name: Ronald M. Doumani  
Print or Type