

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
FORM 10-K**

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2020

**OR**

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_  
Commission file number 001-33998

# Churchill Downs Incorporated

(Exact name of registrant as specified in its charter)

**Kentucky**  
(State or other jurisdiction of incorporation or organization)

**600 North Hurstbourne Parkway, Suite 400**  
**Louisville, Kentucky**  
(Address of principal executive offices)

**61-0156015**  
(IRS Employer Identification No.)

**40222**  
(Zip Code)

**(502) 636-4400**

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Common Stock, No Par Value (Title of each class registered)	Trading Symbol(s) CHDN	The Nasdaq Stock Market LLC (Name of each exchange on which registered)

Securities registered pursuant to Section 12(g) of the Act:

None

(Title of class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by a check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

As of February 10, 2021, 38,476,002 shares of the Registrant's Common Stock were outstanding. As of June 30, 2020 (based upon the closing sale price for such date on the Nasdaq Global Select Market), the aggregate market value of the shares held by non-affiliates of the Registrant was \$4,543,867,580.

Portions of the Registrant's Proxy Statement for its Annual Meeting of Shareholders to be held on April 20, 2021 are incorporated by reference herein in response to Items 10, 11, 12, 13 and 14 of Part III of Form 10-K.

**CHURCHILL DOWNS INCORPORATED**  
**INDEX TO ANNUAL REPORT ON FORM 10-K**  
**For the Year Ended December 31, 2020**

**Part I**

<u>Item 1.</u>	<u>Business</u>	<u>4</u>
<u>Item 1A.</u>	<u>Risk Factors</u>	<u>18</u>
<u>Item 1B.</u>	<u>Unresolved Staff Comments</u>	<u>29</u>
<u>Item 2.</u>	<u>Properties</u>	<u>29</u>
<u>Item 3.</u>	<u>Legal Proceedings</u>	<u>30</u>
<u>Item 4.</u>	<u>Mine Safety Disclosures</u>	<u>32</u>

**Part II**

<u>Item 5.</u>	<u>Market for Registrant’s Common Equity, Related Shareholder Matters and Issuer Purchases of Equity Securities</u>	<u>33</u>
<u>Item 6.</u>	<u>Selected Financial Data</u>	<u>35</u>
<u>Item 7.</u>	<u>Management’s Discussion and Analysis of Financial Condition and Results of Operations</u>	<u>36</u>
<u>Item 7A.</u>	<u>Quantitative and Qualitative Disclosures About Market Risk</u>	<u>51</u>
<u>Item 8.</u>	<u>Financial Statements and Supplementary Data</u>	<u>52</u>
<u>Item 9.</u>	<u>Changes in and Disagreements with Accountants on Accounting and Financial Disclosure</u>	<u>101</u>
<u>Item 9A.</u>	<u>Controls and Procedures</u>	<u>101</u>
<u>Item 9B.</u>	<u>Other Information</u>	<u>101</u>

**Part III**

<u>Item 10.</u>	<u>Directors, Executive Officers and Corporate Governance</u>	<u>101</u>
<u>Item 11.</u>	<u>Executive Compensation</u>	<u>102</u>
<u>Item 12.</u>	<u>Security Ownership of Certain Beneficial Owners and Management and Related Shareholder Matters</u>	<u>102</u>
<u>Item 13.</u>	<u>Certain Relationships and Related Transactions, and Director Independence</u>	<u>102</u>
<u>Item 14.</u>	<u>Principal Accountant Fees and Services</u>	<u>102</u>

**Part IV**

<u>Item 15.</u>	<u>Exhibit and Financial Statement Schedule</u>	<u>103</u>
	<u>Exhibit Index</u>	<u>104</u>
<u>Item 16.</u>	<u>Form 10-K Summary</u>	<u>108</u>
	<u>Signatures</u>	<u>109</u>
	<u>Schedule II—Valuation and Qualifying Accounts</u>	<u>110</u>

**Cautionary Statement Regarding Forward-Looking Information**

This Annual Report on Form 10-K ("Report") including the information incorporated by reference herein, contains various "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. The Private Securities Litigation Reform Act of 1995 (the "Act") provides certain "safe harbor" provisions for forward-looking statements. All forward-looking statements made in this Report are made pursuant to the Act. The reader is cautioned that such forward-looking statements are based on information available at the time and/or management's good faith belief with respect to future events, and are subject to risks and uncertainties that could cause actual performance or results to differ materially from those expressed in the statements. Forward-looking statements speak only as of the date the statement was made. We assume no obligation to update forward-looking information to reflect actual results, changes in assumptions or changes in other factors affecting forward-looking information. Forward-looking statements are typically identified by the use of terms such as "anticipate", "believe", "could", "estimate", "expect", "intend", "may", "might", "plan", "predict", "project", "seek", "should", "will", and similar words, although some forward-looking statements are expressed differently. Although we believe that the expectations reflected in such forward-looking statements are reasonable, we can give no assurance that such expectations will prove to be correct. Important factors that could cause actual results to differ materially from expectations include the factors described in Item 1A. Risk Factors, of this Report.

## **PART I**

### **ITEM 1. BUSINESS**

#### **Overview**

Churchill Downs Incorporated (the "Company", "we", "us", "our") is an industry-leading racing, online wagering and gaming entertainment company anchored by our iconic flagship event, the Kentucky Derby. We own and operate three pari-mutuel gaming entertainment venues with approximately 3,050 historical racing machines ("HRMs") in Kentucky. We also own and operate TwinSpires, one of the largest and most profitable online wagering platforms for horse racing, sports and iGaming in the U.S and we have seven retail sportsbooks. We are also a leader in brick-and-mortar casino gaming in eight states with approximately 11,000 slot machines and video lottery terminals ("VLTs") and 200 table games. We were organized as a Kentucky corporation in 1928, and our principal executive offices are located in Louisville, Kentucky.

#### ***Impact of the COVID-19 Global Pandemic***

In March 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic. Considerable uncertainty still surrounds the potential effects of the COVID-19 virus, and the extent of and effectiveness of responses taken on international, national and local levels. Measures taken to limit the impact of COVID-19, including shelter-in-place orders, social distancing measures, travel bans and restrictions, and business and government shutdowns, have resulted and continue to result in significant negative economic impacts in the U.S. and in relation to our business. Although vaccines are now available, their distribution is currently limited and there can be no assurance that these vaccines will be successful in ending the COVID-19 global pandemic. The long-term impact of COVID-19 on the U.S. and world economies and continuing impact on our business remains uncertain, the duration and scope of which cannot currently be predicted.

In response to the measures taken to limit the impact of COVID-19 described above, and for the protection of our employees, customers, and communities, we temporarily suspended operations at our properties in March 2020. In May 2020, we began to reopen our properties with patron restrictions and gaming limitations. One property temporarily suspended operations again in July 2020 and reopened in August 2020, and three properties temporarily suspended operations again in December 2020 and reopened in January 2021.

We implemented a number of initiatives to facilitate social distancing and enhanced cleaning, such as increased frequency of cleaning and sanitizing of all high-touch surfaces, mandatory temperature checks of all guests and team members upon entry and required training for all team members on safety protocols. Certain amenities at our properties have continued to be suspended, including food buffets and valet services, and certain restaurants and food outlets. A summary of the temporary closures and the current status of each property is provided in Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations contained within this Report.

#### **Business Segments**

For financial reporting purposes, we aggregate our operating segments into three reportable segments as follows: Churchill Downs, Online Wagering and Gaming. Our operating segments reflect the internal management reporting used by our chief operating decision maker to evaluate results of operations and to assess performance and allocate resources. Financial information about these segments is set forth in Part II, Item 8. Financial Statements and Supplementary Data, Note 21 of notes to consolidated financial statements contained within this Report. Further discussion of financial results by segment is provided in Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations contained within this Report.

We conduct our business through these reportable segments and report net revenue and operating expense associated with these reportable segments in Part II, Item 8. Financial Statements and Supplementary Data, contained within this Report.

#### ***Churchill Downs***

The Churchill Downs segment includes live and historical pari-mutuel racing related revenue and expenses at Churchill Downs Racetrack and Derby City Gaming.

Churchill Downs Racetrack is the home of the Kentucky Derby and conducts live racing during the year. Derby City Gaming is an HRM facility that operates under the Churchill Downs pari-mutuel racing license at the auxiliary training facility for Churchill Downs Racetrack in Louisville, Kentucky.

Churchill Downs Racetrack and Derby City Gaming earn commissions primarily from pari-mutuel wagering on live races at Churchill Downs and on historical races at Derby City Gaming; simulcast fees earned from other wagering sites; admissions, personal seat licenses, sponsorships, television rights, and other miscellaneous services (collectively "racing event-related services"), as well as food and beverage services.

### *Churchill Downs Racetrack*

Churchill Downs Racetrack is located in Louisville, Kentucky and is an internationally known thoroughbred racing operation best known as the home of our iconic flagship event, the Kentucky Derby. We have conducted thoroughbred racing continuously at Churchill Downs Racetrack since 1875. The Kentucky Derby is the longest continuously held annual sporting event in the U.S. and is the first race of the annual series of races for 3-year-old thoroughbreds known as the Triple Crown.

The demographic profile of our guests, global television viewership and long-running nature of this iconic event are attractive to sponsors and corporate partners, especially those with similar luxury and/or marquee brands. The Kentucky Derby Week generated the tenth consecutive year of earnings growth in 2019. The 2020 Kentucky Derby Week results were severely impacted by the rescheduling of the 146th Kentucky Derby from the first weekend in May to the first weekend in September and without spectators due to the COVID-19 global pandemic.

We conducted 70 live race days in 2018, 74 live racing days in 2019 and 65 live race days, including 41 spectator-free live race days, in 2020. In 2021, we anticipate conducting up to 71 live race days with spectators.

Churchill Downs Racetrack is located on 175 acres and has a one-mile dirt track, a 7/8-mile turf track, a stabling area, and a variety of areas, structures, and buildings that provide seating for our patrons. We also own 83 acres of land at our auxiliary training facility, which is five miles from Churchill Downs Racetrack. The facilities at Churchill Downs Racetrack accommodate seating for approximately 59,000 guests. Churchill Downs Racetrack has one of the largest 4K video boards in the world sitting 80 feet above the ground and measuring 171 feet wide by 90 feet tall. This video board provides views of the finish line and the entire race for on-track guests, including those in the infield and guests along the entire front side of the racetrack. The facility also has permanent lighting in order to accommodate night races. We have a saddling paddock, and the stable area has barns sufficient to accommodate 1,400 horses and a 114-room dormitory for backstretch personnel. The Churchill Downs Racetrack facility also includes a simulcast wagering facility.

In April 2020, we completed a state-of-the-art equine medical center and quarantine barns on the backside area of Churchill Downs Racetrack which reinforces our ongoing commitment to equine and jockey safety and supports our long-term international growth strategy.

In 2002, we transferred title of the Churchill Downs Racetrack facility to the City of Louisville, Kentucky and entered into a 30-year lease for the facility as part of the financing of improvements to the Churchill Downs Racetrack facility. We can re-acquire the facility at any time for \$1.00 subject to the terms of the lease.

### *Derby City Gaming*

In September 2018, we opened Derby City Gaming, an 85,000 square-foot, state-of-the-art HRM facility at the Churchill Downs Racetrack auxiliary training facility in Louisville, Kentucky. On September 3, 2020, Derby City Gaming opened a new 8,000 square-foot outdoor gaming patio on the south side of the property. Derby City Gaming operates under the Churchill Downs Racetrack pari-mutuel racing license, and has approximately 1,225 HRMs, a simulcast center, and a dining facility.

### *Online Wagering*

The Online Wagering segment includes the revenue and expenses for the TwinSpires Horse Racing and the TwinSpires Sports and Casino businesses. Both businesses are headquartered in Louisville, Kentucky.

### *TwinSpires Horse Racing*

TwinSpires Horse Racing operates the online horse racing wagering business for TwinSpires.com, BetAmerica.com, and other white-label platforms; facilitates high dollar wagering by international customers (through Velocity); and provides the Bloodstock Research Information Services platform for horse race statistical data.

TwinSpires is one of the largest and most profitable legal online horse racing wagering platforms in the U.S. TwinSpires accepts pari-mutuel wagers through advance deposit wagering ("ADW") from customers residing in certain states who establish and fund an account from which these customers may place wagers via telephone, mobile applications or through the Internet. This business is licensed as a multi-jurisdictional simulcasting and interactive wagering hub in the state of Oregon. This business also offers customers streaming video of live horse races, as well as replays, and an assortment of racing and handicapping information.

BetAmerica.com is an online wagering business licensed under TwinSpires and also offers wagering on horse racing throughout the U.S. We also provide technology services to third parties, and we earn commissions from white label ADW products and services. Under these arrangements, we typically provide an ADW platform and related operational services while the third-party typically provides a brand name, marketing and limited customer functions.

### *TwinSpires Sports and Casino*

Our TwinSpires Sports and Casino business operates our sports betting and casino iGaming platform in multiple states, including Colorado, Indiana, Michigan, Mississippi, New Jersey, and Pennsylvania. The TwinSpires Sports and Casino business includes the mobile and online sports betting and casino iGaming results and the results of our three retail sportsbooks in Colorado, Indiana and Michigan which utilize a third party's casino license. The results of the two retail sportsbooks at our Mississippi properties, our retail sportsbook at Presque Isle in Pennsylvania and the retail and online BetRivers sportsbook at Rivers Des Plaines, are included in the Gaming segment.

In August 2020, the Company announced the entry into multi-year agreements with GAN Limited ("GAN") and Kambi Group PLC ("Kambi") to provide player account management, casino platform, sports trading and risk management services (collectively, the "GAN / Kambi Platforms"). The Company has transitioned the Mississippi properties to the new Kambi platform and has launched in Michigan with the new GAN / Kambi Platforms. We plan to transition the remaining properties to the new GAN / Kambi Platforms in the first half of 2021.

On September 24, 2020, the Company opened a retail sportsbook at Bronco Billy's Casino in Cripple Creek, Colorado, and on September 25, 2020, the Company opened a retail sportsbook at Island Resort & Casino in Harris, Michigan. The Company launched its mobile and online sportsbook and casino app in Michigan on January 22, 2021 and plans to launch its mobile sportsbook and casino app in Pennsylvania and its mobile sportsbook app in Indiana, subject to regulatory approvals, in the first half of 2021.

On January 5, 2021, the Company announced the transition from the BetAmerica brand to the TwinSpires brand for the Company's sports betting and casino platforms. The Company launched the TwinSpires sportsbook and casino app in Michigan under the TwinSpires brand in January 2021 and the existing Company's sportsbook and casino apps will transition to the TwinSpires brand in the first half of 2021.

### **Gaming**

The Gaming segment includes revenue and expenses for the casino properties and associated racetrack or jai alai facilities which support the casino license. The Gaming segment has approximately 11,000 slot machines and VLTs and 200 table games located in eight states.

The Gaming segment revenue and Adjusted EBITDA includes the following properties:

- Calder Casino and Racing ("Calder")
- Fair Grounds Slots, Fair Grounds Race Course, and Video Services, LLC ("VSI") (collectively, "Fair Grounds and VSI")
- Harlow's Casino Resort and Spa ("Harlow's")
- Ocean Downs Casino and Racetrack ("Ocean Downs")
- Oxford Casino and Hotel ("Oxford")
- Presque Isle Downs and Casino ("Presque Isle")
- Riverwalk Casino Hotel ("Riverwalk")
- Lady Luck Casino Nemaquin ("Lady Luck Nemaquin") management agreement

The Gaming segment Adjusted EBITDA also includes the Adjusted EBITDA related to the Company's equity investments in the following:

- 61.3% equity investment in Rivers Casino Des Plaines ("Rivers Des Plaines")
- 50% equity investment in Miami Valley Gaming and Racing ("MVG")

The Gaming segment generates revenue and expenses from slot machines, table games, VLTs, video poker, retail sports betting, ancillary food and beverage services, hotel services, commission on pari-mutuel wagering, racing event-related services, and other miscellaneous operations.

### *Calder*

Calder is located on 170 acres of land in Miami Gardens, Florida near Hard Rock Stadium, home of the Miami Dolphins. Calder owns and operates a 106,000 square-foot casino with approximately 1,100 slot machines and two dining facilities. Calder also has a fronton for jai alai performances, and a one-mile dirt track, a 7/8-mile turf track, barns and stabling facilities for thoroughbred horse racing.

In February 2018, Calder was issued a jai alai permit by the Department of Business & Professional Regulation ("DBPR") Division of Pari-Mutuel Wagering ("DPW") in Florida. Calder received a jai alai license in May 2018 and conducted live summer jai alai performances in May and June 2019 for the State of Florida's 2018-2019 fiscal year and in August and September 2019 for the 2019-2020 fiscal year. In 2021, in order to attract better jai alai players and operate efficiently, Calder

is planning to conduct jai alai performances in the summer 2021 for the 2020-2021 fiscal year and for the 2021-2022 fiscal year.

In October 2018, the State of Florida DPW issued two separate Final Orders Granting Declaratory Statement in response to two separate Petitions for Declaratory Statements submitted by Calder regarding jai alai. One of the Declaratory Statements was appealed but affirmed by the First District Court of Appeals in September 2019.

There are pending administrative challenges filed by various organizations, including Florida Horsemen's Benevolent and Protective Association, Inc., the Florida Thoroughbred Breeders' & Owners' Association, Ocala Breeders' Sales, and SCF, Inc., related to jai alai and the location of the casino with respect to the racing facility.

We have an agreement with the Stronach Group ("TSG") that expires on April 15, 2021 under which we permit TSG to operate and manage Calder's racetrack and certain other racing and training facilities and to provide live horse racing under Calder's racing permits. During the term of the agreement, TSG pays Calder a racing services fee and is responsible for the direct and indirect costs of maintaining the racing premises, including the training facilities and applicable barns, and TSG receives the associated revenue from the operation.

#### *Fair Grounds and VSI*

Fair Grounds Slots and Fair Grounds Race Course are located on 145 acres in New Orleans, Louisiana. Fair Grounds Slots owns and operates a 33,000 square-foot slot facility with approximately 600 slot machines, two concession areas, a bar, a simulcast facility, and other amenities. The Fair Grounds Race Course consists of a one-mile dirt track, a 7/8-mile turf track, a grandstand, and a stabling area. The facility includes clubhouse and grandstand seating for approximately 5,000 guests, a general admissions area, and dining facilities. The stable area consists of barns that can accommodate approximately 1,900 horses and living quarters for approximately 130 people. Fair Grounds Race Course also operates pari-mutuel wagering in thirteen off-track betting facilities ("OTBs") and VSI is the owner and operator of approximately 1,000 video poker machines in twelve OTBs in Louisiana.

#### *Harlow's*

Harlow's is located on 85 acres of leased land in Greenville, Mississippi. Harlow's owns and operates a 33,000 square-foot casino with approximately 700 slot machines, 15 table games, a retail sportsbook, a 105-room hotel, a 5,600 square-foot multi-functional event center, and four dining facilities.

#### *Ocean Downs*

Ocean Downs is located on 167 acres near Ocean City, Maryland. Ocean Downs owns and operates a 70,000 square-foot casino with approximately 900 VLTs, 18 table games, and three dining facilities. Ocean Downs also conducts approximately 40 live harness racing days each year.

#### *Oxford*

Oxford is located on 97 acres in Oxford, Maine. Oxford owns and operates a 27,000 square-foot casino with approximately 950 slot machines, 30 table games, a 100-room hotel, and three dining facilities.

#### *Presque Isle*

Presque Isle is located on 270 acres in Erie, Pennsylvania. Presque Isle owns and operates a 153,000 square-foot casino with approximately 1,550 slot machines, 34 table games, a retail sportsbook, a poker room, and four dining facilities. Presque Isle also conducts 100 live thoroughbred racing days each year.

#### *Riverwalk*

Riverwalk is located on 22 acres in Vicksburg, Mississippi. Riverwalk owns and operates a 25,000 square-foot casino with approximately 650 slot machines, 15 table games, a retail sportsbook, a five-story 80-room hotel, and two dining facilities.

#### *Lady Luck Nemacolin*

On March 8, 2019, the Company assumed the management of Lady Luck Nemacolin, which is located in Farmington, Pennsylvania, approximately one mile from the Nemacolin Woodlands Resort. Lady Luck Nemacolin operates the casino with approximately 600 slot machines, 27 table games, and a dining facility.

#### *Rivers Des Plaines*

Rivers Des Plaines is located on 21 acres in Des Plaines, Illinois. Rivers Des Plaines owns and operates a 140,000 square-foot casino with approximately 1,000 slot machines and 69 table games, seven dining and entertainment facilities, and an approximate 5,000 square-foot state-of-the-art BetRivers Sports Bar. In December 2019, Rivers Des Plaines became the first land-based casino in Illinois and, in the third quarter of 2020, completed the expansion of the parking garage. We acquired

61.3% equity ownership in Midwest Gaming Holdings, LLC ("Midwest Gaming"), the parent company of Rivers Des Plaines, in March 2019.

#### *Miami Valley Gaming*

MVG is located on 120 acres in Lebanon, Ohio. MVG owns and operates a 186,000 square-foot casino with approximately 1,950 VLTs, four dining facilities, a racing simulcast center, and a 5/8-mile harness racetrack. We have a 50% equity investment in MVG.

#### **All Other**

We have aggregated the following businesses as well as certain corporate operations, and other immaterial joint ventures in "All Other" to reconcile to consolidated results:

- Oak Grove Racing, Gaming & Hotel ("Oak Grove")
- Newport Racing & Gaming ("Newport")
- Turfway Park
- Arlington International Racecourse ("Arlington")
- United Tote
- Corporate

#### *Oak Grove*

Oak Grove is located on 240 acres in Oak Grove, Kentucky, which is approximately one-hour north of Nashville, Tennessee. Oak Grove owns and operates a 5/8-mile harness racing track and completed the first racing meet in October 2019. On September 18, 2020, the Company opened the simulcast and HRM facility with approximately 1,325 HRMs, event center and food and beverage venues. The 128-room hotel opened on October 15, 2020. The 1,200-person grandstand, 3,000-person capacity outdoor amphitheater and stage, a state-of-the-art equestrian center, and a recreational vehicle park at Oak Grove will open in early 2021. Effective as of September 11, 2020, the Company purchased the remaining noncontrolling interest in WKY Development, LLC, a joint venture that owns Oak Grove, from Keeneland Association, Inc. for \$3.0 million. The Company no longer reports a noncontrolling interest associated with Oak Grove in the accompanying consolidated financial statements.

#### *Newport*

On October 2, 2020, the Company opened Newport, located in Newport, Kentucky, after investing approximately \$32.0 million to create a premier entertainment experience as an extension of Turfway Park. Newport has a pari-mutuel simulcast area, a 17,000 square-foot gaming floor with approximately 500 HRMs, and a feature bar.

#### *Turfway Park*

Turfway Park is located on 197 acres in Florence, Kentucky. In 2020, the Company approved the final design plans for the HRM and grandstand facility at Turfway Park. The final plans reflect \$200 million of project capital, which includes the Turfway Park Acquisition costs and other previously approved capital. The final plans provide for a 155,000 square foot facility including a grandstand, sports bar, food offerings, and up to 1,200 historical racing machines. The Company has spent approximately \$58.5 million of the planned project capital as of December 31, 2020 to acquire the business and associated land and to demolish the existing grandstand, prepare the site for the next phase of the development, and install a new Tapeta synthetic racetrack.

#### *Arlington*

Arlington is located on 326 acres in Arlington Heights, Illinois. Arlington owns and operates a thoroughbred racing operation with nine OTBs. Arlington has a 1 1/8-mile synthetic track, a one-mile turf track and a 5/8-mile training track. The facility includes a grandstand, clubhouse, and suite seating for 7,500 guests, and dining facilities. The stable area consists of barns that can accommodate 2,200 horses and living quarters for 550 people. On February 23, 2021, we launched a process to sell the 326 acres at Arlington Park. The Company is committed to running Arlington Park's 2021 race dates from April 30, 2021 to September 25, 2021.

### *United Tote*

United Tote manufactures and operates pari-mutuel wagering systems for racetracks, OTBs and other pari-mutuel wagering businesses. United Tote provides totalisator services which accumulate wagers, record sales, calculate payoffs and display wagering data to patrons who wager on horse races. United Tote has contracts to provide totalisator services to a number of third-party racetracks, OTBs and other pari-mutuel wagering businesses and also provides these services at our facilities.

### *Corporate*

Corporate includes miscellaneous and other revenue, compensation expense, professional fees and other general and administrative expense not allocated to our segments.

## **Competition**

### **Overview**

We operate in a highly competitive industry with a large number of participants, some of which have financial and other resources that are greater than ours. The industry faces competition from a variety of sources for discretionary consumer spending, including spectator sports, fantasy sports and other entertainment and gaming options. Our brick-and-mortar casinos compete with traditional and Native American casinos, video lottery terminals, state-sponsored lotteries and other forms of legalized gaming in the U.S. and other jurisdictions.

Legalized gambling is currently permitted in various forms in many states and Canada. Other jurisdictions could legalize gambling in the future, and established gaming jurisdictions could award additional gaming licenses or permit the expansion of existing gaming operations. If additional gaming opportunities become available near our racing or gaming operations, such gaming operations could have a material adverse impact on our business.

In May 2018, the United States Supreme Court struck down the 1992 Professional and Amateur Sports Protection Act, which had effectively banned sports wagering in most states. Removal of the ban gives states the authority to authorize sports wagering.

### **Churchill Downs**

In 2020, approximately 28,000 thoroughbred horse races were conducted in the U.S., which was down 24% compared to 2019 due to the impact of almost all of the racetracks across the U.S. being closed for a portion of the year as a result of the COVID-19 global pandemic. Of these races, Churchill Downs Racetrack hosted approximately 650 races, or 2.4% of the total thoroughbred horse races in the U.S. As a content provider, we compete for wagering dollars in the simulcast market with other racetracks conducting races at or near the same times as our races. As a racetrack operator, we also compete for horses with other racetracks running live racing meets at or near the same time as our races. Our ability to compete is substantially dependent on the racing calendar, number of horses racing and purse sizes. In recent years, competition has increased as more states legalize gaming and allow slot machines at racetracks with mandatory purse contributions. Derby City Gaming competes with regional casinos in the area and other forms of legal and illegal gaming.

### **Online Wagering**

#### *TwinSpires Horse Racing*

Our TwinSpires Horse Racing business competes with other ADW businesses for both customers and racing content, as well as brick-and-mortar racetracks, casinos, OTBs, and other forms of legal and illegal sports betting.

#### *TwinSpires Sports and Casino*

Our TwinSpires Sports and Casino business competes for customers with retail, mobile and online offerings from commercial brick-and-mortar casinos and racetracks. We also compete with daily fantasy sports gaming companies that are expanding into mobile and online sports betting and iGaming, international sports betting businesses looking to expand into the U.S. market, and other forms of legal and illegal sports betting and iGaming operations.

### **Gaming**

Our Gaming properties operate in highly competitive environments and primarily compete for customers with other casinos in the surrounding regional gaming markets. Our Gaming properties compete to a lesser extent with state-sponsored lotteries, off-track wagering, card parlors, online gambling, and other forms of legalized gaming in the U.S.

## **Human Capital**

We believe our human capital is material to our operations and core to the long-term success of the Company as an industry-leading racing, online wagering and gaming entertainment company anchored by our iconic flagship event - The Kentucky Derby. Our focus is on attracting innovative and collaborative team members who want to build their skills in a successful and growing set of businesses focused on creating unique experiences for our guests.

### ***Our People***

As of December 31, 2020, we had a total of approximately 7,000 team members, of which 4,000 are full-time employees. As of December 31, 2020, the Churchill Downs segment had 1,900 team members, the Online Wagering segment had 240 team members; and the Gaming segment had 2,200 team members. Nearly one-quarter of the Churchill Downs segment team members are full-time employees and nearly all of the Online Wagering and Gaming segment team members are full-time employees. The Company's corporate staff consists of approximately 180 full-time employees. The number of seasonal employees fluctuates significantly through the course of the year primarily due to the seasonal nature of our businesses. We have the highest level of seasonal team members during the second quarter when we run the Kentucky Derby.

As a result of the COVID-19 global pandemic and the closing of our gaming properties, a significant number of our team members were furloughed beginning in March 2020. The Company provided health, dental, vision and life insurance benefits to furloughed full-time employees through July 31, 2020 and for an additional three months if a full-time employee was re-furloughed as a result of a subsequent property closure period or business capacity limitations. As of December 31, 2020, approximately 500 full-time employees were covered by 16 collective bargaining agreements. We have experienced no material interruptions of operations due to disputes with our team members.

### ***Diversity and Inclusion***

We believe that a diverse workforce fosters innovation and cultivates a high performance culture that leverages the unique perspectives of every team member to profitably grow our businesses. The Company's Board of Directors' and executive management team is diverse based on gender and race and also have diverse experiences that individually and collectively create a high-performance culture focused on executing our strategic priorities to effectively and efficiently protect and grow our businesses.

We believe diversity and inclusion helps the Company attract the best talent to grow our businesses and enables our businesses to attract and delight customers and consumers. The Kentucky Derby is a pillar of our community that provides the opportunity for our team members and the community to raise significant funding for charities that support important aspects of our broader communities including fostering diversity and inclusion, food, shelter, education, and health related non-profits. The Company also provides donations to non-profit organizations that support these initiatives within our communities.

### ***Talent Acquisition, Development and Retention***

We invest in attracting, developing and retaining our team members. Our philosophy is to communicate a clear purpose and strategy, set challenging goals, drive accountability, continuously assess, develop, and advance talent, and to embrace a leadership-driven talent strategy. Our Company enables team members to grow in their current roles as well as to have opportunities to build new skills in other parts of the Company. We review talent and succession plans with our Chief Executive Officer and Board of Directors periodically throughout the year. The process focuses on accelerating talent development, strengthening succession pipelines, and advancing diversity in gender, race and experience for our most critical roles.

### ***Compensation, Benefits, Safety and Wellness***

We strive to offer market competitive salaries and wages for our team members and we offer comprehensive health and retirement benefits to eligible employees. Our core health and welfare benefits are supplemented with specific programs to manage or improve common health conditions and to provide a variety of voluntary benefits and paid time away from work programs. We also provide a number of innovative programs designed to promote physical, emotional and financial well-being. Our commitment to the safety of our employees, customers, and community remains a top priority and we have safety programs at all of our properties to facilitate identification and implementation of safety practices. Refer to our discussion above under "Overview", for additional information on actions we have taken to facilitate social distancing and enhanced cleaning in order to protect our employees, customers, and communities as a result of the COVID-19 global pandemic.

### ***Governmental Regulations and Potential Legislative Changes***

We are subject to various federal, state, local, and international laws and regulations that affect our businesses. The ownership, operation and management of our Churchill Downs, Online Wagering, and Gaming segments, as well as our other operations, are subject to regulation under the laws and regulations of each of the jurisdictions in which we operate. The ownership, operation and management of our businesses and properties are also subject to legislative actions at both the federal and state level.

### ***Churchill Downs Regulations***

Horse racing is a highly regulated industry. In the U.S., individual states control the operations of racetracks located within their respective jurisdictions with the intent of, among other things, protecting the public from unfair and illegal gambling practices, generating tax revenue, licensing racetracks and operators and preventing organized crime from being involved in the industry. Although the specific form may vary, states that regulate horse racing generally do so through a horse racing commission or other gambling regulatory authority. In general, regulatory authorities perform background checks on all racetrack owners prior to granting the necessary operating licenses. Horse owners, trainers, jockeys, drivers, stewards, judges, and backstretch personnel are also subject to licensing by governmental authorities. State regulation of horse races extends to virtually every aspect of racing and usually extends to details such as the presence and placement of specific race officials, including timers, placing judges, starters, and patrol judges.

The total number of days on which each racetrack conducts live racing fluctuates annually according to each calendar year and the determination of applicable regulatory authorities.

In the U.S., interstate pari-mutuel wagering on horse racing is subject to the Interstate Horseracing Act of 1978, as amended in 2000 ("IHA"). Through the IHA, racetracks can commingle wagers from different racetracks and wagering facilities and broadcast horse racing events to other licensed establishments.

#### ***Kentucky***

In Kentucky, horse racing tracks and HRM facilities are subject to the licensing and regulation of the Kentucky Horse Racing Commission ("KHRC"), which is responsible for overseeing horse racing and regulating the state equine industry and overseeing the annual licensing and operations of HRMs in Kentucky. Licenses to conduct live thoroughbred and standardbred racing meets, to participate in simulcasting, and to accept advance deposit wagers from Kentucky residents are approved annually by the KHRC based upon applications submitted by the racetracks in Kentucky.

Derby City Gaming is subject to extensive state and local laws and is subject to licensing and regulatory control by the KHRC. Changes in Kentucky laws or regulations may limit or otherwise materially affect the types of HRMs that may be conducted and such changes, if enacted, could have an adverse impact on our Kentucky HRM operations. The failure to comply with the rules and regulations of the KHRC could have a material adverse impact on our business.

### ***TwinSpires Regulations and Potential Legislative Changes***

TwinSpires is licensed in Oregon under a multi-jurisdictional simulcasting and interactive wagering totalisator hub license issued by the Oregon Racing Commission and in accordance with Oregon law and the IHA. We also hold advance deposit wagering licenses in certain other states where required. Changes in the form of new legislation or regulatory activity at the state or federal level could adversely impact our mobile and online ADW business.

### ***Sports Betting and iGaming Regulations and Potential Legislative Changes***

#### ***Federal***

In May 2018, the United States Supreme Court struck down the 1992 Professional and Amateur Sports Protection Act, which had effectively banned sports wagering in most states. Removal of the ban gives states the authority to authorize sports wagering. States have begun authorizing sports betting, which we believe will have a positive impact on our business.

In January 2019, the Department of Justice's Office of Legal Counsel ("DJOLC") issued a revised legal opinion regarding the scope of the Interstate Wire Act of 1961 (the "Wire Act"). Under the 2019 revised opinion, the DJOLC stated that the Wire Act applied to all forms of gaming that crosses state lines, including online gambling and online lottery. The new opinion overturned a DJOLC opinion from 2011 which stated the Wire Act applied only to sports betting. In June 2019, a federal district court judge in New Hampshire ruled that the Wire Act applies only to gambling activities on sporting events and does not prohibit other forms of gambling conducted over the internet, including online casino gaming and in January 2021, the U.S. Court of Appeals for the First Circuit affirmed this decision.

### ***Gaming Regulations and Potential Legislative Changes***

Casino laws are generally designed to protect casino consumers and the viability and integrity of the casino industry. Casino laws may also be designed to protect and maximize state and local revenue derived through taxes and licensing fees imposed on casino industry participants as well as to enhance economic development and tourism. To accomplish these public policy goals, casino laws establish procedures to ensure that participants in the casino industry meet certain standards of character and fitness. Casino laws also require casino industry participants to:

- Ensure that unsuitable individuals and organizations have no role in casino operations,
- Establish procedures designed to prevent cheating and fraudulent practices,

- Establish and maintain responsible accounting practices and procedures,
- Maintain effective controls over financial practices, including establishment of minimum procedures for internal fiscal affairs and the safeguarding of assets and revenue,
- Maintain systems for reliable record keeping,
- File periodic reports with casino regulators,
- Ensure that contracts and financial transactions are commercially reasonable, reflect fair market value and are arms-length transactions,
- Establish programs to promote responsible gambling and inform patrons of the availability of help for problem gambling, and
- Enforce minimum age requirements.

Typically, a state regulatory environment is established by statute and administered by a regulatory agency with broad discretion to regulate the affairs of owners, managers and persons with financial interests in casino operations. Among other things, casino authorities in the various jurisdictions in which we operate:

- Adopt rules and regulations under the implementing statutes,
- Interpret and enforce casino laws,
- Impose disciplinary sanctions for violations, including fines and penalties,
- Review the character and fitness of participants in casino operations and make determinations regarding suitability or qualification for licensure,
- Grant licenses for participation in casino operations,
- Collect and review reports and information submitted by participants in casino operations,
- Review and approve transactions, such as acquisitions or change-of-control transactions of casino industry participants, securities offerings and debt transactions engaged in by such participants, and
- Establish and collect fees and taxes.

Any change in the laws or regulations of a casino jurisdiction could have a material adverse impact on our casino operations.

#### ***Licensing and Suitability Determinations***

Gaming laws require us, each of our subsidiaries engaged in casino operations, certain of our directors, officers and employees, and in some cases, certain of our shareholders, to obtain licenses from casino authorities. Licenses typically require a determination that the applicant qualifies or is suitable to hold the license. Gaming authorities have very broad discretion in determining whether an applicant qualifies for licensing or should be deemed suitable. Criteria used in determining whether to grant a license to conduct casino operations, while varying between jurisdictions, generally include consideration of factors such as the good character, honesty and integrity of the applicant; the financial stability, integrity and responsibility of the applicant, including whether the operation is adequately capitalized in the state and exhibits the ability to maintain adequate insurance levels; the quality of the applicant's casino facilities; the amount of revenue to be derived by the applicable state from the operation of the applicant's casino; the applicant's practices with respect to minority hiring and training; and the effect on competition and general impact on the community.

In evaluating individual applicants, casino authorities consider the individual's business experience and reputation for good character, the individual's criminal history and the character of those with whom the individual associates.

Many casino jurisdictions limit the number of licenses granted to operate casinos within the state and some states limit the number of licenses granted to any one casino operator. Licenses under casino laws are generally not transferable without approval. Licenses in most of the jurisdictions in which we conduct casino operations are granted for limited durations and require renewal from time to time. There can be no assurance that any of our licenses will be renewed. The failure to renew any of our licenses could have a material adverse impact on our casino operations.

Casino authorities may investigate any subsidiary engaged in casino operations and may investigate any individual who has a material relationship to or material involvement with any of these entities to determine whether such individual is suitable or should be licensed as a business associate of a casino licensee. Our officers, directors and certain key employees must file applications with the casino authorities and may be required to be licensed, qualify or be found suitable in many jurisdictions. Gaming authorities may deny an application for licensing for any cause that they deem reasonable. Qualification and suitability determinations require submission of detailed personal and financial information followed by a thorough investigation. The

applicant must pay all the costs of the investigation. Changes in licensed positions must be reported to casino authorities. Casino authorities have the ability to deny a license, qualification or finding of suitability and have jurisdiction to disapprove a change in a corporate position.

If one or more casino authorities were to find that an officer, director or key employee fails to qualify or is unsuitable for licensing or unsuitable to continue having a relationship with us, we would be required to sever all relationships with such person. Casino authorities may also require us to terminate the employment of any person who refuses to file appropriate applications.

In many jurisdictions, certain of our shareholders may be required to undergo a suitability investigation similar to that described above. Many jurisdictions require any person who acquires beneficial ownership of more than a certain percentage of our voting securities, typically 5%, to report the acquisition to casino authorities, and casino authorities may require such holders to apply for qualification or a finding of suitability. Most casino authorities, however, allow an "institutional investor" to apply for a waiver. An "institutional investor" is generally defined as an investor acquiring and holding voting securities in the ordinary course of business as an institutional investor, and not for the purpose of causing, directly or indirectly, the election of a member of our board of directors, any change in our corporate charter, bylaws, management, policies or operations, or those of any of our casino affiliates, or the taking of any other action which casino authorities find to be inconsistent with holding our voting securities for investment purposes only. Even if a waiver is granted, an institutional investor generally may not take any action inconsistent with their status when the waiver was granted without once again becoming subject to the foregoing reporting and application obligations.

Any person who fails or refuses to apply for a finding of suitability or a license within the prescribed period after being advised it is required by casino authorities may be denied a license or found unsuitable, as applicable. Any shareholder found unsuitable or denied a license and who holds, directly or indirectly, any beneficial ownership of our voting securities beyond such period of time as may be prescribed by the applicable casino authorities may be guilty of a criminal offense. We may be subject to disciplinary action if, after we receive notice that a person is unsuitable to be a shareholder or to have any other relationship with us or any of our subsidiaries, we:

- (i) pay that person any dividend or interest upon our voting securities,
- (ii) allow that person to exercise, directly or indirectly, any voting right conferred through securities held by that person,
- (iii) pay remuneration in any form to that person for services rendered or otherwise, or
- (iv) fail to pursue all lawful efforts to require such unsuitable person to relinquish voting securities including, if necessary, the immediate purchase of said voting securities for cash at fair market value.

#### ***Violations of Gaming Laws***

If we violate applicable casino laws, our casino licenses could be limited, conditioned, suspended or revoked by casino authorities, and we and any other persons involved could be subject to substantial fines. A supervisor or conservator can be appointed by casino authorities to operate our casino properties, or in some jurisdictions, take title to our casino assets in the jurisdiction, and under certain circumstances, income generated during such appointment could be forfeited to the applicable state or states. Violations of laws in one jurisdiction could result in disciplinary action in other jurisdictions. As a result, violations by us of applicable casino laws could have a material adverse impact on our casino operations.

Some casino jurisdictions prohibit certain types of political activity by a casino licensee, officers, directors and key employees. A violation of such a prohibition may subject the offender to criminal and/or disciplinary action.

#### ***Reporting and Record-keeping Requirements***

We are required periodically to submit detailed financial and operating reports and furnish any other information that casino authorities may require. Under federal law, we are required to record and submit detailed reports of currency transactions involving greater than \$10,000 at our casinos and racetracks as well as any suspicious activity that may occur at such facilities. Failure to comply with these requirements could result in fines or cessation of operations. We are required to maintain a current stock ledger that may be examined by casino authorities at any time. If any securities are held in trust by an agent or by a nominee, the record holder may be required to disclose the identity of the beneficial owner to casino authorities. A failure to make such disclosure may be grounds for finding the record holder unsuitable. Gaming authorities may require certificates for our securities to bear a legend indicating that the securities are subject to specified casino laws.

#### ***Review and Approval of Transactions***

Substantially all material loans, leases, sales of securities and similar financing transactions must be reported to and in some cases approved by casino authorities. We may not make a public offering of securities without the prior approval of certain

casino authorities. Changes in control through merger, consolidation, stock or asset acquisitions, management or consulting agreements, or otherwise are subject to receipt of prior approval of casino authorities. Entities seeking to acquire control of us or one of our subsidiaries must satisfy casino authorities with respect to a variety of stringent standards prior to assuming control. Gaming authorities may also require controlling shareholders, officers, directors and other persons having a material relationship or involvement with the entity proposing to acquire control, to be investigated and licensed as part of the approval process relating to the transaction.

### ***License Fees and Gaming Taxes***

We pay substantial license fees and taxes in many jurisdictions in connection with our casino operations which are computed in various ways depending on the type of gambling or activity involved. Depending upon the particular fee or tax involved, these fees and taxes are payable with varying frequency. License fees and taxes are based upon such factors as a percentage of the casino revenue received; the number of gambling devices and table games operated; or a one-time fee payable upon the initial receipt of license and fees in connection with the renewal of license. In some jurisdictions, casino tax rates are graduated such that the tax rates increase as casino revenue increases. Tax rates are subject to change, sometimes with little notice, and such changes could have a material adverse impact on our casino operations.

### ***Operational Requirements***

In most jurisdictions, we are subject to certain requirements and restrictions on how we must conduct our casino operations. In certain states, we are required to give preference to local suppliers and include minority and women-owned businesses and organized labor in construction projects to the maximum extent practicable. We may be required to give employment preference to minorities, women and in-state residents in certain jurisdictions. Our ability to conduct certain types of games, introduce new games or move existing games within our facilities may be restricted or subject to regulatory review and approval. Some of our operations are subject to restrictions on the number of gaming positions we may have, and the maximum wagers allowed to be placed by our customers.

### ***Specific State Gaming Regulations and Potential Legislative Changes***

#### ***Florida***

The ownership and operation of casino gaming facilities in the State of Florida is subject to extensive state and local regulation, primarily by the DBPR, within the executive branch of Florida's state government. The DBPR is charged with the regulation of Florida's pari-mutuel, card room and slot gaming industries, as well as collecting and safeguarding associated revenue due to the state. The DBPR has been designated by the Florida legislature as the state compliance agency with the authority to carry out the state's oversight responsibilities in accordance with the provisions outlined in the compact between the Seminole Tribe of Florida and the State of Florida. Changes in Florida laws or regulations may limit or otherwise materially affect the types of gaming that may be conducted and such changes, if enacted, could have an adverse impact on our Florida gaming operation. The laws and regulations of Florida are based on policies of maintaining the health, welfare and safety of the general public and protecting the gaming industry from elements of organized crime, illegal gambling activities and other harmful elements, as well as protecting the public from illegal and unscrupulous gaming to ensure the fair play of devices. The failure to comply with the rules and regulations of the DBPR could have a material adverse impact on our business.

In Florida, licenses to conduct live thoroughbred racing and jai alai, and to participate in simulcast wagering are approved by the DPW, which is responsible for overseeing the network of state offices located at every pari-mutuel wagering facility, as well as issuing the permits necessary to operate a pari-mutuel wagering facility. The DPW also issues annual licenses for thoroughbred, standardbred, and quarter horse races, as well as jai alai, but does not approve the specific live race days.

#### ***Illinois***

The ownership and operation of casino gaming facilities in the State of Illinois is subject to extensive state and local regulation and is subject to licensing and regulatory control by the Illinois Gaming Board (the "IGB"). The IGB assures the integrity of gambling and gaming in Illinois through regulatory oversight of riverboat and casino gaming, video gaming and sports wagering in Illinois. Changes in Illinois laws or regulations may limit or otherwise materially affect the types of gaming that may be conducted and such changes, if enacted, could have an adverse impact on our Illinois gaming operations. The failure to comply with the rules and regulations of the IGB could have a material adverse impact on our business.

On June 30, 2020, legislation was signed into law by the Governor of Illinois that provides financial relief to the gaming industry. The legislation amends the existing law to allow the lower privilege tax on table games for existing casinos effective as of July 1, 2020 instead of when a newly authorized casino begins operations. The legislation also provides cash flow relief for existing casinos by extending the payment deadline for new gaming positions from July 1, 2020 to July 1, 2021 and extends the payment period and waives interest for reconciliation payments related to the new gaming positions. The legislation delays the payment deadline for the initial sports wagering license from July 1, 2020 to July 1, 2021 and also establishes a lower

privilege tax schedule for a new casino in the Chicago area, which has been authorized but not yet opened. We believe the legislation will have a positive impact on our business operations.

#### *Louisiana*

The manufacturing, distribution, servicing and operation of video draw poker devices in Louisiana are subject to the Louisiana Video Draw Poker Devices Control Law and the rules and regulations promulgated thereunder. The manufacturing, distribution, servicing and operation of video poker devices and slot machines are governed by the Louisiana Gaming Control Board (the "Louisiana Board") which oversees all licensing for all forms of legalized gaming in Louisiana. The Video Gaming Division and the Slots Gaming Division of the Gaming Enforcement Section of the Office of the State Police within the Department of Public Safety and Corrections performs the video poker and slots gaming investigative functions for the Louisiana Board. The laws and regulations of Louisiana are based on policies of maintaining the health, welfare and safety of the general public and protecting the gaming industry from elements of organized crime, illegal gambling activities and other harmful elements, as well as protecting the public from illegal and unscrupulous gaming to ensure the fair play of devices. The Louisiana Board also regulates slot machine gaming at racetrack facilities pursuant to the Louisiana Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act. Changes in Louisiana laws or regulations may limit or otherwise materially affect the types of gaming that may be conducted and such changes, if enacted, could have an adverse impact on our Louisiana gaming operations. LSRC also issues licenses required for Fair Grounds to operate slot machines at the racetrack and video poker devices at their OTBs. The failure to comply with the rules and regulations of the Louisiana Board or the LSRC could have a material adverse impact on our business.

In Louisiana, licenses to conduct live thoroughbred and quarter horse racing and to participate in simulcast wagering are approved by the Louisiana State Racing Commission ("LSRC"). The LSRC is responsible for overseeing the awarding of licenses for the conduct of live racing meets, the conduct of thoroughbred and quarter horse racing, the types of wagering that may be offered by pari-mutuel facilities and the disposition of revenue generated from wagering. Off-track wagering is also regulated by the LSRC. Louisiana law requires live thoroughbred racing at a licensed racetrack for at least 80 days over a 20-week period each year to maintain the license and to conduct slot operations.

Louisiana law requires live quarter horse racing to be conducted at the racetrack with the addition of the slot machines at Fair Grounds. We conducted quarter horse racing at Fair Grounds for 10 days in each of 2018 and 2019. In 2020, we obtained approval from the LSRC to move the 10 days of quarter horse racing to Evangeline Downs. We expect to conduct quarter horse racing for 10 days in 2021.

Effective July 15, 2020, legislation was signed into law by the Governor of Louisiana that exempts the tax on promotional play up to \$5.0 million for casinos. We believe the legislation will have a positive impact on our business operations.

#### *Maine*

The ownership and operation of casino gaming facilities in the State of Maine is subject to extensive state and local regulation and is subject to licensing and regulatory control by the Maine Gambling Control Board (the "MGCB"). The laws, regulations and supervisory procedures of the MGCB are based upon declarations of public policy that are concerned with, among other things: (1) the regulation, supervision and general control over casinos and the ownership and operation of slot machines and table games; (2) the investigation of complaints made regarding casinos; (3) the establishment and maintenance of responsible accounting practices and procedures; (4) the maintenance of effective controls over the financial practices of licensees, including the establishment of minimum procedures for internal fiscal affairs and the safeguarding of assets and revenue and providing for reliable record keeping; and (5) the prevention of cheating and fraudulent practices. The regulations are subject to amendment and interpretation by the MGCB. Changes in Maine laws or regulations may limit or otherwise materially affect the types of gaming that may be conducted and such changes, if enacted, could have an adverse impact on our Maine gaming operations. The failure to comply with the rules and regulations of the MGCB could have a material adverse impact on our business.

#### *Maryland*

The ownership and operation of casino gaming facilities in the State of Maryland is subject to extensive state and local regulation and is subject to licensing and regulatory control by the Maryland Lottery and Gaming Control Commission ("MLGCC"), with staff assistance from the Maryland Lottery and Gaming Control Agency ("MLGCA"). The MLGCA oversees all internal controls, auditing, security, surveillance, background investigations, licensing and accounting procedures for each casino in the State of Maryland, including Ocean Downs. Changes in Maryland laws or regulations may limit or otherwise materially affect the types of gaming that may be conducted and such changes, if enacted, could have an adverse impact on our Maryland gaming operations. The failure to comply with the rules and regulations of the MLGCC could have a material adverse impact on our business.

### *Mississippi*

The ownership and operation of casino gaming facilities in the State of Mississippi is subject to extensive state and local regulation, including the Mississippi Gaming Commission (the "Mississippi Commission"). The laws, regulations and supervisory procedures of the Mississippi Commission are based upon declarations of public policy that are concerned with, among other things: (1) the prevention of unsavory or unsuitable persons from having direct or indirect involvement with gaming at any time or in any capacity; (2) the establishment and maintenance of responsible accounting practices and procedures; (3) the maintenance of effective controls over the financial practices of licensees, including the establishment of minimum procedures for internal fiscal affairs and the safeguarding of assets and revenue, providing for reliable record keeping and requiring the filing of periodic reports with the Mississippi Commission; (4) the prevention of cheating and fraudulent practices; (5) providing a source of state and local revenue through taxation and licensing fees; and (6) ensuring that gaming licensees, to the extent practicable, employ Mississippi residents. The regulations are subject to amendment and interpretation by the Mississippi Commission. Changes in Mississippi laws or regulations may limit or otherwise materially affect the types of gaming that may be conducted and such changes, if enacted, could have an adverse impact on our Mississippi gaming operations. The failure to comply with the rules and regulations of the Mississippi Commission could have a material adverse impact on our business.

### *Ohio*

In 2012, the Governor of Ohio signed an Executive Order which authorized the Ohio Lottery Commission (the "OLC") to amend and adopt rules necessary to implement a video lottery program at Ohio's seven horse racing facilities. The ownership and operation of VLT facilities in the State of Ohio is subject to extensive state and local regulation. The laws, regulations and supervisory procedures of the OLC include: (1) regulating the licensing of video lottery sales agents, key gaming employees and VLT manufacturers; (2) collecting and disbursing VLT revenue; and (3) maintaining compliance in regulatory matters. Changes in Ohio laws or regulations may limit or otherwise materially affect the types of gaming that may be conducted and such changes, if enacted, could have an adverse impact on our Ohio gaming operations. The failure to comply with the rules and regulations of the OLC could have a material adverse impact on our business.

### *Pennsylvania*

The ownership and operation of casino gaming facilities in the Commonwealth of Pennsylvania are subject to extensive state and local regulation and are subject to licensing and regulatory control by the Pennsylvania Gaming Control Board ("PGCB") as well as other agencies. The PGCB regulates, oversees and enforces all matters related to gaming activity in Pennsylvania, including, without limitation, operations, internal controls, accounting procedures, auditing, security, surveillance, licensing, background investigations and compliance of each casino in the state. Changes in Pennsylvania laws or regulations may limit or otherwise materially affect the types of gaming that may be conducted and such changes, if enacted, could have an adverse impact on our Pennsylvania gaming operations. The failure to comply with the rules and regulations of the PGCB could have a material adverse impact on our business.

In Pennsylvania, licenses to conduct live thoroughbred racing, to participate in simulcast wagering and to accept advance deposit wagers from Pennsylvania residents are approved by the Pennsylvania State Horse Racing Commission ("PSHRC"). The PSHRC regulates the operations of horse racing, the conduct of pari-mutuel wagering and the promotion and marketing of horse racing in Pennsylvania. As a Category 1 slot machine licensee, Presque Isle is required to conduct live racing on at least 100 days each calendar year. The PSHRC approved Presque Isle for 100 live race days in 2021.

### ***Other Specific State Regulations and Potential Legislative Changes***

#### *Kentucky*

On February 22, 2021, the Governor of the Commonwealth of Kentucky signed into law Senate Bill 120 which creates a statutory definition of pari-mutuel wagering that includes historical horse racing approved by the KHRC and addresses the Supreme Court of Kentucky's opinion in *The Kentucky Horse Racing Commission, et al v. The Family Trust Foundation of Kentucky, Inc.* regarding the KHRC's historical racing regulations and the validity of operating HRMs pursuant to a license issued by KHRC. For more information, please refer to Item 3, Legal Proceedings. Following this action, we do not believe that any further rulings in this litigation will impact our ability to operate HRM facilities in Kentucky.

#### *Illinois*

In Illinois, licenses to conduct live thoroughbred racing and to participate in simulcast wagering are approved by the Illinois Racing Board ("IRB"). The IRB appointed Arlington the dark host track for 60 simulcast host days in 2019 and 2020. Arlington was also awarded 155 live host days in 2019 and 2020.

## **Environmental Matters**

We are subject to various federal, state and local environmental laws and regulations that govern activities that may have adverse environmental effects, such as discharges to air and water, as well as the management and disposal of solid, animal and hazardous wastes and exposure to hazardous materials. These laws and regulations, which are complex and subject to change, include the United States Environmental Protection Agency ("EPA") and state laws and regulations that address the impacts of manure and wastewater generated by Concentrated Animal Feeding Operations ("CAFO") on water quality, including, but not limited to, storm and sanitary water discharges. CAFO and other water discharge regulations include permit requirements and water quality discharge standards. Enforcement of these regulations has been receiving increased governmental attention. Compliance with these and other environmental laws can, in some circumstances, require significant capital expenditures. We may incur future costs under existing and new laws and regulations pertaining to storm water and wastewater management at our racetracks. Violations can result in significant penalties and, in some instances, interruption or cessation of operations.

In the ordinary course of our business, we may receive notices from regulatory agencies regarding our compliance with CAFO regulations that may require remediation at our facilities. On December 6, 2013, we received a notice from the EPA regarding alleged CAFO non-compliance at Fair Grounds Race Course. On October 21, 2019, we reached an agreement in principle, subject to final agreement and regulatory and court approval. If approved, the agreement will include a \$2.8 million penalty, which is included in accrued expense and other current liabilities in our accompanying consolidated balance sheet as of December 31, 2020.

We also are subject to laws and regulations that create liability and cleanup responsibility for releases of hazardous substances into the environment. Under certain of these laws and regulations, a current or previous owner or operator of property may be liable for the costs of remediating hazardous substances or petroleum products on its property, without regard to whether the owner or operator knew of, or caused, the presence of the contaminants, and regardless of whether the practices that resulted in the contamination were legal at the time the contamination occurred. The presence of, or failure to remediate properly, such substances may materially adversely affect the ability to sell or rent such property or to borrow funds using such property as collateral. The owner of a property may be subject to claims by third parties based on damages and costs resulting from environmental contamination emanating from the property.

## **Marks and Internet Properties**

We hold numerous state and federal service mark registrations on specific names and designs in various categories including the entertainment business, apparel, paper goods, printed matter, housewares and glass. We license the use of these service marks and derive revenue from such license agreements.

## **Available Information**

Our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, proxy statements and other Securities and Exchange Commission ("SEC") filings, and any amendments to those reports and any other filings that we file with or furnish to the SEC under the Securities Exchange Act of 1934 are made available free of charge on our website ([www.churchilldownsincorporated.com](http://www.churchilldownsincorporated.com)) as soon as reasonably practicable after we electronically file the materials with the SEC and are also available at the SEC's website at [www.sec.gov](http://www.sec.gov).

## ITEM 1A. RISK FACTORS

Our operations and financial results are subject to various risks and uncertainties, including those described below, that could adversely affect our business, financial condition, results of operations, cash flows, and the trading price of our common stock.

### Economic and External Risks

***The current novel coronavirus (COVID-19) global pandemic has adversely affected, and could continue to adversely affect our business, financial condition and financial results. Other major public health issues could adversely affect our business, financial condition and financial results in the future***

In March 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic. Considerable uncertainty still surrounds the potential effects of the COVID-19 virus, and the extent of and effectiveness of responses taken on international, national and local levels. Measures taken to limit the impact of COVID-19, including shelter-in-place orders, social distancing measures, travel bans and restrictions, and business and government shutdowns, have resulted and some continue to result in significant negative economic impacts in the U.S. and in relation to our business. The long-term impact of COVID-19 on the U.S. and world economies and continued impact on our business remains uncertain, the duration and scope of which cannot currently be predicted.

Our operating results depend, in large part, on revenues derived from customers visiting our casinos and racetracks. In March 2020, we announced the temporary suspension of operations of all of our wholly-owned gaming properties, certain wholly-owned racing operations, and the two casino properties related to our equity investments. Starting in mid-February, U.S. and international sporting events were cancelled, which reduced our sports betting options for our customers. Horse racing content for wagering on TwinSpires also decreased, although handle increased as our customers wagered more on the content that was available. Although vaccines are now available, distribution is currently limited and there can be no assurance that these vaccines will be successful in ending the COVID-19 global pandemic.

In May 2020, we began to reopen our properties with patron restrictions and gaming limitations. One property temporarily suspended operations again in July 2020 after reopening and reopened in August 2020, and three properties suspended operations in December 2020 and reopened in January 2021. We implemented a number of initiatives to facilitate social distancing and enhanced cleaning, such as increased frequency of cleaning and sanitizing of all high-touch surfaces, mandatory temperature checks of all guests and team members upon entry and required training for all team members on safety protocols. Certain amenities at our properties continue to be suspended, including food buffets and valet services, and certain restaurants and food outlets. We cannot predict how soon our casino and racetrack properties will be able to return to customary operations. Our ability to return to our customary operations will depend, in part, on the actions of a number of governmental bodies over which we have no control. Once all restrictions are lifted, it is unclear how quickly customers will return to our casinos and racetracks, which may be a function of continued concerns over safety and decreased consumer spending due to economic conditions, including job losses.

Certain non-furloughed employees continue to work remotely. An extended period of remote work arrangements could strain business continuity plans, introduce operational risk (including but not limited to cybersecurity risks) and may impair our ability to manage our business. We also outsource certain business activities to third parties. As a result, we rely upon the successful implementation and execution of the business continuity planning of such entities in the current environment. While we seek to monitor the business continuity activities of these third parties, successful implementation and execution of their business continuity strategies are largely outside our control. If one or more of the third parties to whom we outsource certain business activities experience operational failures or business disruption as a result of the impacts from the spread of COVID-19, or claim that they cannot perform, it may have negative effects on our business and financial condition.

The Company reduced planned maintenance and project capital expenditures for 2020 as a result of the temporary property and operations closures and prioritized capital investments based on the highest near-term return opportunities in order to maintain financial flexibility.

We are currently following the recommendations of local and federal health authorities to minimize exposure risk for our various stakeholders, including employees. The full extent of the impact of COVID-19 on our business and operating results will depend on future developments that are highly uncertain and cannot be accurately predicted, including new information that may emerge concerning COVID-19 and the actions required to contain COVID-19, the duration and spread of COVID-19 within the markets in which we operate, the availability of, use of and effectiveness of vaccines, mandates and directives from federal, state and local authorities, the effect of COVID-19 on consumer confidence and spending and our ability to maintain a sufficient workforce. If we do not respond appropriately to the pandemic, or if state and local authorities or customers do not perceive our response to be adequate, we could suffer damage to our reputation and our brand, which could adversely affect our business in the future.

***Our business could be adversely affected by the occurrence of extraordinary events, such as terrorist attacks, public health threats, civil unrest, and inclement weather***

Our operating results depend, in large part, on revenues derived from customers visiting our casinos and racetracks, which is subject to the occurrence and threat of extraordinary events that may discourage attendance or expose us to substantial liability. Terrorist activity, including acts of domestic terrorism, or other actions that discourage attendance at other locations, or even the threat of such activity, including public concerns regarding air travel, military actions, safety and additional national or local catastrophic incidents, could result in reduced attendance at Churchill Downs Racetrack and at our other locations. A major epidemic or pandemic, outbreak of a contagious equine disease, or the threat of such an event, could also adversely affect attendance and could impact the supply chain for our major construction projects resulting in higher costs and delays of the projects. The COVID-19 global pandemic resulted in the temporary suspension of operations of all of our wholly-owned gaming properties, certain wholly-owned racing operations, and the two casino properties related to our equity investments. Even though our properties have reopened, such properties continue to be subject to operational restrictions that may impact attendance. Riots, civil insurrection or social unrest could adversely affect attendance. For example, during the second and third quarters of 2020, certain areas of Louisville, Kentucky, experienced sustained protests and civil unrest. Similar events in the future could adversely affect attendance at Churchill Downs Racetrack. While we are constantly evaluating our security precautions in an effort to ensure the safety of the public, no security measures can guarantee safety and there can be no assurances of avoiding potential liabilities.

Since horse racing is conducted outdoors, unfavorable weather conditions, including extremely high and low temperatures, heavy rains, high winds, storms, tornadoes and hurricanes, could cause events to be canceled and/or attendance to be lower, resulting in reduced wagering. Climate change could have an impact on longer-term natural weather trends. Extreme weather events that are linked to rising temperatures, changing global weather patterns, sea, land and air temperatures, as well as sea levels, rain and snow could result in increased occurrence and severity of adverse weather events. Our operations are subject to reduced patronage, disruptions or complete cessation of operations due to weather conditions, natural disasters and other casualties. The occurrence or threat of any such extraordinary event at our locations, particularly at Churchill Downs Racetrack and Kentucky Derby and Oaks week, could have a material negative effect on our business and results of operations.

***Our business is sensitive to economic conditions which may affect consumer confidence, consumers' discretionary spending, or our access to credit in a manner that adversely impacts our operations***

Economic trends can impact consumer confidence and consumers' discretionary spending, including:

- Negative economic conditions and the persistence of elevated levels of unemployment can impact consumers' disposable incomes and, therefore, impact the demand for entertainment and leisure activities.
- Declines in the residential real estate market, increases in individual tax rates and other factors that we cannot accurately predict may reduce the disposable income of our customers.
- Decreases in consumer discretionary spending could affect us even if such decreases occur in other markets. For example, reduced wagering levels and profitability at racetracks from which we carry racing content could cause certain racetracks to cancel races or cease operations and therefore reduce the content we could provide to our customers.

Lower consumer confidence or reductions in consumers' discretionary spending could result in fewer patrons spending money at our racetracks, our online wagering sites and gaming and wagering facilities, and reduced consumer spending overall.

Our access to and the cost of credit may be impacted to the extent global and U.S. credit markets are affected by downward economic trends. Economic trends can also impact the financial viability of other industry constituents, making collection of amounts owed to us uncertain. Our ability to respond to periods of economic contraction may be limited, as certain of our costs remain fixed or even increase when revenue declines.

***We are vulnerable to additional or increased taxes and fees***

We believe that the prospect of raising significant additional revenue through taxes and fees is one of the primary reasons that certain jurisdictions permit legalized gaming. As a result, gaming companies are typically subject to significant taxes and fees in addition to the normal federal, state, provincial and local income taxes and such taxes and fees may be increased at any time. From time to time, legislators and officials have proposed changes in tax laws or in the administration of laws affecting the horse racing, online wagering and casino industries. Many states and municipalities, including ones in which we operate, are currently experiencing budgetary pressures that may make it more likely they would seek to impose additional taxes and fees on our operations. We are subject to tax in multiple U.S. tax jurisdictions and judgment is required in determining our provision for income taxes, deferred tax assets or liabilities and in evaluating our tax positions. It is not possible to determine the likelihood, extent or impact of any future changes in tax laws or fees, or changes in the administration of such laws; however, if enacted, such changes could have a material adverse impact on our business.

## Strategic Risks

### ***Our Company faces significant competition, and we expect competition levels to increase***

We face an increasingly high degree of competition among a large number of participants operating from physical locations and/or through online or mobile platforms, including destination casinos, riverboat casinos; dockside casinos; land-based casinos; video lottery; iGaming; sports betting; gaming at taverns in certain states, such as Illinois; gaming at truck stop establishments in certain states, such as Louisiana and Pennsylvania; historical horse racing in Kentucky; sweepstakes and poker machines not located in casinos; fantasy sports; Native American gaming; and other forms of gaming in the U.S. Furthermore, competition from internet lotteries, sweepstakes, illegal slot machines and skill games, fantasy sports and internet or mobile-based gaming platforms, which allow their customers to wager on a wide variety of sporting events and/or play Las Vegas-style casino games from home or in non-casino settings could divert customers from our properties and thus adversely affect our financial condition, results of operations and cash flows. Currently, there are proposals that would legalize internet poker, sports betting and other varieties of iGaming in a number of states. Expansion of land-based and iGaming in other jurisdictions (both regulated and unregulated) could further compete with our traditional and iGaming operations, which could have an adverse impact on our financial condition, results of operations and cash flows.

Our operations also face competition from other leisure and entertainment activities, including shopping, athletic events, television and movies, concerts and travel. Legalized gaming is currently permitted in various forms throughout the U.S. and on various lands taken into trust for the benefit of certain Native Americans in the U.S. and Canada. Other jurisdictions, including states adjacent to states in which we currently have properties, have recently legalized, implemented and expanded gaming. Established gaming jurisdictions could award additional gaming licenses or permit the expansion or relocation of existing gaming operations. Voters and state legislatures may seek to supplement traditional tax revenue sources of state governments by authorizing or expanding gaming in the states that we operate in or the states that are adjacent to or near our existing properties. New, relocated or expanded operations by other persons could increase competition for our operations and could have a material adverse impact on us.

### ***Our Churchill Downs Racetrack and the Kentucky Derby may be adversely affected by changes in consumer preferences, attendance, wagering, and sponsorships***

Our Churchill Downs Racetrack is dependent upon the number of people attending and wagering on live horse races. According to industry sources, pari-mutuel handle declined on average 4.6% per year from 2008 to 2014 due to a number of factors, including increased competition from other wagering and entertainment alternatives. From 2015 to 2018, pari-mutuel handle on horse racing has been relatively stable with average annual growth of 1.7%. In 2019 and 2020, pari-mutuel handle decreased on average 1.5% per year due to horse race cancellations from safety concerns in California in 2019 and due to the COVID-19 global pandemic in 2020. If interest in horse racing is lower in the future, it may have a negative impact on revenue and profitability in our Churchill Downs segment. If attendance at and wagering on live horse racing declines, it could have a material adverse impact on our business.

The number and level of sponsorships are important to the success of the Kentucky Derby. Our ability to retain sponsors, acquire new sponsors, and compete for sponsorships and advertising dollars could have a material adverse impact on our business.

### ***An inability to attract and retain key and highly-qualified and skilled personnel could impact our ability to successfully develop, operate, and grow our business***

We believe that our success depends in part on our ability to hire, develop, motivate and retain highly-qualified and skilled employees throughout our organization. If we do not successfully hire, develop, motivate and retain highly qualified and skilled employees, it is likely that we could experience significant disruptions in our operations and our ability to successfully develop, operate, and grow our business could be impacted.

Competition for the type of talent we seek to hire is increasingly intense in the geographic areas in which we operate. As a result, we may incur significant costs to attract and retain highly skilled employees. We may be unable to attract and retain the personnel necessary to sustain our business or support future growth.

Certain of our key employees are required to file applications with the gaming authorities in each of the jurisdictions in which we operate and are required to be licensed or found suitable by these gaming authorities. If the gaming authorities were to find a key employee unsuitable for licensing, we may be required to sever the employee relationship, or the gaming authorities may require us to terminate the employment of any person who refuses to file appropriate applications. Either result could significantly impact our operations.

***A lack of confidence in the integrity of our core businesses or any deterioration in our reputation could affect our ability to retain our customers and engage with new customers***

Horse racing, pari-mutuel wagering and casino gaming businesses depend on the public perception of integrity and fairness in their operations. To prevent cheating or erroneous payouts, necessary oversight processes must be in place to ensure that such activities cannot be manipulated. A lack or loss of confidence in the fairness of our industries could have a material adverse impact on our business.

Acts of fraud or cheating in our gaming businesses through the use of counterfeit chips, covert schemes and other tactics, possibly in collusion with our employees, may be attempted or committed by our gaming customers with the aim of increasing their winnings. Our gaming customers, visitors and employees may also commit crimes such as theft in order to obtain chips not belonging to them. We have taken measures to safeguard our interests including the implementation of systems, processes and technologies to mitigate against these risks, extensive employee training, surveillance, security and investigation operations and adoption of appropriate security features on our chips such as embedded radio frequency identification tags. Despite our efforts, we may not be successful in preventing or detecting such culpable behavior and schemes in a timely manner and the relevant insurance we have obtained may not be sufficient to cover our losses depending on the incident, which could result in losses to our gaming operations and generate negative publicity, both of which could have an adverse effect on our reputation, business, results of operations and cash flows.

Other factors that could influence our reputation include the quality of the services we offer and our actions with regard to social issues such as diversity, human rights and support for local communities. Broad access to social media makes it easy for anyone to provide public feedback that can influence perceptions of us or our properties. It may be difficult to control or effectively manage negative publicity, regardless of whether it is accurate. Negative events and publicity could quickly and materially damage perceptions of us, our properties, or our industries, which, in turn, could adversely impact our business, financial condition or results of operations through loss of customers, loss of business opportunities, lack of acceptance of our company to operate in host communities, employee retention or recruiting difficulties or other difficulties.

***We are subject to significant risks associated with our equity investments, strategic alliances and other third-party agreements***

We pursue certain license opportunities, development projects and other strategic business opportunities through equity investments, joint ventures, license arrangements and other alliances with third-parties.

Our equity investments are governed by mutually established agreements that we entered into with our co-investors and therefore, we do not unilaterally control the applicable entity or other initiatives. The terms of the equity investments and the rights of our co-investors may preclude us from taking actions that we believe to be in the best interests of the Company. Disagreements with our co-investors could result in delays in project development, including construction delays, and ultimate failure of the project. Our co-investors also may not be able to provide capital to the applicable entity on the terms agreed to or at all, and the applicable entity may be unable to obtain external financing to finance their operations. Also, our ability to exit the equity investments may be subject to contractual and other limitations.

With any third-party arrangement, there is a risk that our partners' economic, business or legal interests or objectives may not be aligned with ours, leading to potential disagreements and/or failure of the applicable project or initiative. We are also subject to risks relating to our co-investors' failure to satisfy contractual obligations, conflicts arising between us and any of our partners and changes in the ownership of any of our co-investors.

Any of these risks could have a material adverse impact on our business.

***We may not be able to respond to rapid technological changes in a timely manner, which may cause customer dissatisfaction***

Our Online Wagering and Gaming segments are characterized by the rapid development of new technologies and the continuous introduction of new products. Our main technological advantage versus potential competitors is our software lead-time in the market and our experience in operating an Internet-based wagering network. It may be difficult to maintain our competitive technological position against current and potential competitors, especially those with greater financial resources. Our success depends upon new product development and technological advancements, including the development of new wagering platforms and features. While we expend resources on research and development and product enhancement, we may not be able to continue to improve and market our existing products or technologies or develop and market new products in a timely manner. Further technological developments may cause our products or technologies to become obsolete or noncompetitive.

***The concentration and evolution of the slot machine manufacturing industry or other technological conditions could impose additional costs on us***

The majority of our gaming revenue is attributable to slot, VLTs, and video poker machines operated by us at our casinos and wagering facilities, and there are a limited number of slot machine manufacturers servicing the gaming industry. It is important for competitive reasons that we offer the most popular and up-to-date machine games with the latest technology to our guests. A substantial majority of the slot machines sold in the U.S. in recent years were manufactured by a few select companies, and there has been extensive consolidation activity within the gaming equipment sector. Recently, the prices of new machines have escalated faster than the rate of inflation and slot machine manufacturers have occasionally refused to sell slot machines featuring the most popular games, instead requiring participating lease arrangements in order to acquire the machines. Participation slot machine leasing arrangements typically require the payment of a fixed daily rental. Such agreements may also include a percentage payment of coin-in or net win. Generally, a participating lease is substantially more expensive over the long term than the cost to purchase a new machine. For competitive reasons, we may be forced to purchase new slot machines or enter into participating lease arrangements that are more expensive than the costs associated with the continued operation of our existing slot machines. If the newer slot machines do not result in sufficient incremental revenue to offset the increased investment, it could adversely affect our operations and profitability.

We rely on a variety of hardware and software products to maximize revenue and efficiency in our operations. Technology in the gaming industry is developing rapidly, and we may need to invest substantial amounts to acquire the most current gaming and hotel technology and equipment in order to remain competitive in the markets in which we operate. We rely on a limited number of vendors to provide video poker and slot machines and any loss of our equipment suppliers could impact our operations. Ensuring the successful implementation and maintenance of any new technology acquired is an additional risk.

***Our operations in certain jurisdictions depend on agreements with industry constituents including horsemen and other racetracks, and the failure to enter into or maintain these agreements on terms acceptable to us could have a material adverse effect on our business, results of operations and financial condition***

Our operations in certain jurisdictions depend on agreements with third parties. If we are unable to renew these agreements on satisfactory terms as they expire, our business may be disrupted. For example, the Interstate Horseracing Act, as well as various state racing laws, require that we have written agreements with the horsemen at our racetracks in order to simulcast races, and, in some cases, conduct live racing. Certain industry groups negotiate these agreements on behalf of the horsemen (the "Horsemen's Groups"). These agreements provide that we must receive the consent of the Horsemen's Groups at the racetrack conducting live races before we may allow third parties to accept wagers on those races. We currently negotiate formal agreements with the applicable Horsemen's Groups at our racetracks on an annual basis. The failure to maintain agreements with, or obtain consents from, the Horsemen's Groups on satisfactory terms or the refusal by a Horsemen's Group to consent to third parties accepting wagers on our races or our accepting wagers on third-parties' races could have a material adverse impact on our business, as such failure will result in our inability to conduct live racing and export and import simulcasting.

From time to time, the Thoroughbred Owners of California, the Horsemen's Group representing horsemen in California, the Florida Horsemen's Benevolent and Protective Association, Inc., which represents horsemen in Florida, and the Kentucky Horsemen's Benevolent and Protective Association have withheld their consent to send or receive racing signals among racetracks. Failure to receive the consent of these Horsemen's Groups for new and renewing simulcast agreements could have a material adverse impact on our business.

We also have written agreements with certain Horsemen's Groups with regards to the proceeds of gaming machines in certain states that may be required to operate such gaming.

We have agreements with other racetracks for the distribution of racing content through both the import of other racetracks' signals for wagering at our properties and the export of our racing signal for wagering at other racetracks' facilities, OTBs, and ADWs. From time to time, we may be unable to reach agreements on terms acceptable to us. As a result, we may be unable to distribute our racing content to other locations or to receive other racetracks' racing content for wagering at our racetracks. The inability to distribute our racing content could have a material adverse impact on our business, results of operations and financial condition.

***We intend to expand our TwinSpires Sports and Casino business and there can be no assurance that we will be able to compete effectively, that our expansion initiatives will be successful, or that we will generate sufficient returns on our investment***

During the second quarter of 2018, the U.S. Supreme Court overturned the federal ban on sports betting. As a result, several jurisdictions in which we operate legalized sports betting and / or iGaming and additional jurisdictions may do so in the future. The success of our TwinSpires Sports and Casino business is dependent on potential legislation in various jurisdictions that affect the sports betting and iGaming industries in the U.S. We continue to engage with state lawmakers in our other jurisdictions to advocate for the passage of sports betting and iGaming laws with reasonable tax rates and license fees. There can be no assurances when, or if, regulations enabling sports betting and online casino gaming and poker will be adopted, or the terms of such regulations, in certain of the jurisdictions in which we operate.

States or the federal government may legalize online sports betting and iGaming in a manner that is unfavorable to us. If, like Nevada and New Jersey, state jurisdictions enact legislation legalizing online sports betting and iGaming subject to a brick-and-mortar requirement, we may be unable to offer online sports betting and iGaming in such jurisdictions if we are unable to establish an affiliation with a brick-and-mortar casino in such jurisdiction on acceptable terms. In order to compete successfully, we may need to enter into agreements with strategic partners and other third-party vendors and we may not be able to do so on terms that are favorable to us.

If we are unable to obtain, or are otherwise delayed in obtaining, the necessary licenses to operate our TwinSpires Sports and Casino business in U.S. jurisdictions where online sports betting and iGaming are legalized, our ability to grow our business could be materially impacted. Our ability to compete may also be impacted by our failure to obtain approval in the applicable jurisdiction of our technology and service providers in a timely manner and by our failure to efficiently implement and market our TwinSpires Sports and iGaming platform in a state that legalizes online sports betting and / or iGaming. Such failures could impair our business growth in these jurisdictions, which could have a material impact on our business.

Our TwinSpires Sports and Casino business competes in a rapidly evolving and highly competitive market against an increasing number of competitors. The success of our proposed sports betting operations is dependent on a number of factors including the potential that the market does not develop as we anticipate, our ability to gain market share in a newly developing market, the competitive landscape and our ability to compete with new entrants in the market, our ability to implement effective, efficient, and compliant procedures and processes in each jurisdiction, changes in consumer demographics and public tastes and preferences, the performance of and licensing of third-party vendors, and the availability and popularity of other forms of entertainment.

#### **Operational Risks**

***We may not be able to identify and complete expansion, acquisition or divestiture projects on time, on budget or as planned***

We expect to pursue expansion, acquisition and divestiture opportunities, and we regularly evaluate opportunities for development, including acquisitions or other strategic corporate transactions which may expand our business operations.

We could face challenges in identifying development projects that fit our strategic objectives, identifying potential acquisition or divestiture candidates and/or development partners, finding buyers, negotiating projects on acceptable terms, and managing and integrating such acquisition or development projects. As described in further detail below, new developments or acquisitions may not be completed or integrated successfully. The divestiture of existing businesses may be affected by our ability to identify potential buyers. Current or future regulation may postpone a divestiture pending certain resolutions to federal, state or local legislative issues. New properties or developments may not be completed or integrated successfully.

***We may experience difficulty in integrating recent or future acquisitions into our operations***

We have completed acquisition transactions in the past, and we may pursue acquisitions from time to time in the future. The successful integration of newly acquired businesses into our operations has required and will continue to require the expenditure of substantial managerial, operating, financial and other resources and may also lead to a diversion of our attention from our ongoing business concerns. We may not be able to successfully integrate new businesses, manage the combined operations or realize projected revenue gains, cost savings and synergies in connection with those acquisitions on the timetable contemplated, if at all. Management of the new business operations, especially those in new lines of business or different geographic areas, may require that we increase our managerial resources. The process of integrating new operations may also interrupt the activities of those businesses, which could have a material adverse impact on our business. The costs of integrating businesses we acquire could significantly impact our short-term operating results. These costs could include the following:

- restructuring charges associated with the acquisitions,
- non-recurring transaction costs, including accounting and legal fees, investment banking fees and recognition of transaction-related costs or liabilities, and

- costs of imposing financial and management controls and operating, administrative and information systems.

We perform financial, operational and legal diligence on the businesses we purchase; however, an unavoidable level of risk remains regarding the actual condition of these businesses and our ability to continue to operate them successfully and integrate them into our existing operations. In any acquisition we make, we face risks that include the following:

- the risk that the acquired business may not further our business strategy or that we paid more than the business was worth,
- the risk that the financial performance of the acquired business declines or fails to meet our expectations from and after the date of acquisition,
- the potential adverse impact on our relationships with partner companies or third-party providers of technology or products,
- the possibility that we have acquired substantial undisclosed liabilities for which we may have no recourse against the sellers or third-party insurers,
- costs and complications in maintaining required regulatory approvals or obtaining further regulatory approvals necessary to implement the acquisition in accordance with our strategy,
- the risks of acquiring businesses and/or entering markets in which we have limited or no prior experience,
- the potential loss of key employees or customers,
- the possibility that we may be unable to retain or recruit managers with the necessary skills to manage the acquired businesses, and
- changes to legal and regulatory guidelines which may negatively affect acquisitions.

If we are unsuccessful in overcoming these risks, it could have a material adverse impact on our business.

***The development of new venues and the expansion of existing facilities is costly and susceptible to delays, cost overruns and other uncertainties***

We may decide to develop, construct and open hotels, casinos, other gaming venues, or racetracks in response to opportunities that may arise. Future development projects may require significant capital commitments and the incurrence of additional debt, which could have a material adverse impact on our business.

***Ownership and development of our real estate requires significant expenditures and ownership of such properties is subject to risk, including risks related to environmental liabilities***

We own extensive real estate holdings and make significant capital investments to grow our operations. All real estate investments are subject to risks including the following: general economic conditions, such as the availability and cost of financing; local and national real estate conditions, such as an oversupply of residential, office, retail or warehousing space, or a reduction in demand for real estate in the area; governmental regulation, including taxation of property and environmental legislation; and the attractiveness of properties to potential purchasers or tenants. Significant expenditures, including property taxes, debt repayments, maintenance costs, insurance costs and related charges, must be made throughout the period of ownership of real property. Such expenditures may negatively impact our operating results.

We are subject to a variety of federal, state and local governmental laws and regulations relating to the use, storage, discharge, emission and disposal of hazardous materials. Environmental laws and regulations could hold us responsible for the cost of cleaning up hazardous materials contaminating real property that we own or operate (or previously owned or operated) or properties at which we have disposed of hazardous materials, even if we did not cause the contamination. Some of our facilities are subject to CAFO regulations. If we fail to comply with environmental laws or if contamination is discovered, a court or government agency could impose severe penalties or restrictions on our operations or assess us with the costs of taking remedial actions. We recently incurred such a penalty in connection with alleged CAFO non-compliance at Fair Grounds Race Course, as further discussed in Item 3, Legal Proceedings. Enforcement of such regulations have been receiving increased governmental attention and compliance with these and other environmental laws can, in some circumstances, require significant capital expenditures (including with respect to fines).

***Our operations rely heavily on technology services, and catastrophic events and system failures with respect to these technology services could cause a significant and continued disruption to our operations***

We rely on information technology and other systems to manage our business. A disruption or failure in our technology systems or operations in the event of a cyber-attack, major earthquake, weather event, terrorist attack or other catastrophic event could interrupt our operations, damage our properties and reduce the number of customers who visit our facilities in the affected areas. Security breaches could expose the Company to a risk of loss or misuse of our or our customers' information, litigation and potential liability. In addition, cyber incidents that impact the availability, reliability, speed, accuracy or other proper functioning of our technology systems could impact our operations. A significant cyber incident, including system failure,

security breach, disruption by malware or other damage could interrupt or delay our operations, result in a violation of applicable privacy and other laws, damage our reputation, subject us to litigation, cause a loss of customers or give rise to remediation costs, monetary fines and other penalties, which could be significant.

Our online wagering, HRM and brick-and-mortar casino businesses depend upon our communications hardware and our computer hardware. We have built certain redundancies into our systems to attempt to avoid downtime in the event of outages, system failures or damage. Our systems also remain vulnerable to damage or interruption from floods, fires, power loss, telecommunication failures, terrorist cyber-attacks, hardware or software error, computer viruses, computer denial-of-service attacks and similar events. Despite any precautions we may take, the occurrence of a natural disaster or other unanticipated problems could result in lengthy interruptions in our services. Any unscheduled interruption in the availability of our websites and our services could result in an immediate, and possibly substantial, loss of revenue.

***Our business is subject to online security risk, including cyber-security breaches. Loss or misuse of our stored information as a result of such a breach, including customers' personal information, could lead to government enforcement actions or other litigation, potential liability, or otherwise harm our business***

We receive, process, store and use personal information and other customer and employee data by maintaining and transmitting customers' personal and financial information, credit card settlements, credit card funds transmissions, mailing lists and reservations information. Our collection of such data is subject to extensive regulation by private groups, such as the payment card industry, as well as governmental authorities, including gaming authorities.

There are numerous federal, state and local laws regarding privacy and the storing, sharing, use, processing, disclosure and protection of personal information and other data, and such privacy laws and regulations continue to evolve. Many states have passed laws requiring notification to customers when there is a security breach for personal data, such as the 2002 amendment to California's Information Practices Act or requiring the adoption of minimum information security standards that are often vaguely defined and difficult to implement. California has adopted the California Consumer Privacy Act of 2018 (the "CCPA"), which went into effect on January 1, 2020, providing California consumers greater control of the information collected, stored, and sold, and other states are considering similar legislation. The CCPA provides a private right of action (in addition to statutory damages) for California residents whose sensitive personal information was breached as a result of a business's violation of its duty to reasonably secure such information. The costs of compliance with these laws may increase as a result of changes in interpretation or changes in law. Any failure on our part to comply with these laws or our privacy policies may subject us to significant liabilities, including governmental enforcement actions or litigation.

Our systems and processes that are designed to protect customer information and prevent data loss and other security breaches, including systems and processes designed to reduce the impact of a security breach at a third-party vendor, may not be successful. Interruptions in our services or a breach of a customer's secure data could cause current or potential users to believe that our systems are unreliable, which could permanently harm our reputation and brand. These interruptions could also increase the burden on our engineering staff, which, in turn, could delay our introduction of new features and services on our websites and in our casinos. Such incidents could give rise to remediation costs, monetary fines and other penalties, which could be significant. We attempt to protect against this risk with our property and business interruption insurance, which covers damage or interruption of our systems, although there is no assurance that such insurance will be adequate to cover all potential losses.

Third-parties we work with, such as vendors, may violate applicable laws or our privacy policies, and such violations may also put our customers' information at risk and could in turn have an adverse impact on our business. We are also subject to payment card association rules and obligations under each association's contracts with payment card processors. Under these rules and obligations, if information is compromised, we could be liable to payment card issuers for the associated expense and penalties. If we fail to follow payment card industry security standards, even if no customer information is compromised, we could incur significant fines or experience a significant increase in payment card transaction costs.

Security breaches, computer malware and computer hacking attacks have become more prevalent in our industry, and hackers and data thieves are increasingly sophisticated and operate large-scale and complex automated attacks. Many companies, including ours, have been the targets of such attacks. Any security breach caused by hacking which involves efforts to gain unauthorized access to information or systems, or to cause intentional malfunctions or loss or corruption of data, software, hardware or other computer equipment, and the inadvertent transmission of computer viruses could harm our business. Though it is difficult to determine what harm may directly result from any specific interruption or breach, any failure to maintain performance, reliability, security and availability of our network infrastructure to the satisfaction of our players may harm our reputation and our ability to retain existing players and attract new players.

The costs to eliminate or address the foregoing security threats and vulnerabilities before or after a cyber-incident could be significant. Our remediation efforts may not be successful and could result in interruptions, delays or cessation of service, and loss of existing or potential suppliers or customers. As threats related to cyber-attacks develop and grow, we may also find it

necessary to make further investments to protect our data and infrastructure, which may impact our results of operations. We have insurance coverage for protection against cyber-attacks, which is designed to cover expenses around notification, credit monitoring, investigation, crisis management, public relations, and legal advice. This insurance coverage may not be sufficient to cover all possible claims, and we could suffer losses that could have a material adverse effect on our business.

Because the techniques used to obtain unauthorized access, disable or degrade service, or sabotage systems, change frequently and often are not recognized until launched against a target, we may be unable to anticipate these techniques or to implement adequate preventative measures.

***Horse racing is an inherently dangerous sport and our racetracks are subject to personal injury litigation***

Personal injuries and injuries to horses have occurred during races or workouts, and may continue to occur, which could subject us to negative publicity and / or litigation. Negative publicity may lead some customers to avoid the Company's properties or could cause horse owners to avoid racing their horses at our racetracks. Any litigation resulting from injuries at our properties could be costly and time consuming and could divert our management and key personnel from our business operations. We buy insurance for all of our racetracks; however, our coverage may not be sufficient for all losses. Due to the potential impact of negative publicity and inherent uncertainty related to the outcome of litigation, there can be no assurance that the resolution of any particular claim or proceeding would not have a material adverse effect on our results of operations, financial position or liquidity.

***Any violation of the Foreign Corrupt Practices Act, other similar laws and regulations, or applicable anti-money laundering regulations could have a negative impact on us***

We are subject to risks associated with doing business outside of the U.S., including exposure to complex foreign and U.S. regulations such as the Foreign Corrupt Practices Act (the "FCPA") and other anti-corruption laws which generally prohibit U.S. companies and their intermediaries from making improper payments to foreign officials for the purpose of obtaining or retaining business. Violations of the FCPA and other anti-corruption laws may result in severe criminal and civil sanctions and other penalties. It may be difficult to oversee the conduct of any contractors, third-party partners, representatives or agents who are not our employees, potentially exposing us to greater risk from their actions. If our employees or agents fail to comply with applicable laws or company policies governing our international operations, we may face legal proceedings and actions which could result in civil penalties, administration actions and criminal sanctions.

Any determination that we have violated any anti-corruption laws could have a material adverse impact on our business. We also deal with significant amounts of cash in our operations and are subject to various reporting and anti-money laundering regulations. Any violation of anti-money laundering laws or regulations by any of our properties could have a material adverse impact on our business.

***We are subject to payment-related risks, such as risk associated with the fraudulent use of credit or debit cards which could have adverse effects on our business due to chargebacks from customers***

We allow funding and payments to accounts using a variety of methods, including electronic funds transfer ("EFT") and credit and debit cards. As we continue to introduce new funding or payment options to our players, we may be subject to additional regulatory and compliance requirements. We also may be subject to the risk of fraudulent use of credit or debit cards, or other funding and/or payment options. For certain funding or payment options, including credit and debit cards, we may pay interchange and other fees which may increase over time and, therefore, raise operating costs and reduce profitability. We rely on third parties to provide payment-processing services and it could disrupt our business if these companies become unwilling or unable to provide these services to us. We are also subject to rules and requirements governing EFT which could change or be reinterpreted to make it difficult or impossible for us to comply. If we fail to comply with these rules or requirements, we may be subject to fines and higher transaction fees or possibly lose our ability to accept credit or debit cards, or other forms of payment from customers which could have a material adverse impact on our business.

Chargebacks occur when customers seek to void credit card or other payment transactions. Cardholders are intended to be able to reverse card transactions only if there has been unauthorized use of the card or the services contracted for have not been provided. In our business, customers occasionally seek to reverse online gaming losses through chargebacks. Our control procedures to protect from chargebacks may not be sufficient to protect us from adverse effects on our business or results of operations.

***Work stoppages and other labor problems could negatively impact our future plans and limit our operational flexibility***

Some of our employees are represented by labor unions. A strike or other work stoppage at one of our properties could have an adverse impact on our business and results of operations. From time to time, we have also experienced attempts to unionize certain of our non-union employees. We may experience additional union activity in the future. Any such union organization efforts could cause disruptions in our business and result in significant costs.

## Legal and Regulatory Risks

### *We face risks related to pending or future legal proceedings and other actions*

From time to time, we are a party in various lawsuits and judicial and governmental actions. No assurance can be provided as to the outcome of these lawsuits and actions which can be expensive and time consuming. We may not be successful in the defense or prosecution of these lawsuits or actions, which could result in settlements, costs or damages that could have a material adverse impact on our business, financial condition, results of operations, and reputation. Such matters may include investigations or litigation from various parties, including vendors, customers, state and federal agencies, stockholders and employees relating to intellectual property, employment, consumer, personal injury, corporate governance, commercial or other matters arising in the ordinary course of business.

Judicial actions involving third parties may also indirectly impact our business. For example, as described further in Item 3. Legal Proceedings, in this Annual Report on Form 10-K, on September 24, 2020, the Kentucky Supreme Court issued an opinion reversing a prior ruling of the Franklin Circuit Court with respect to the legality of certain Encore/Exacta historical racing machines in operation in Kentucky as of the January 2018 trial date, and holding that wagers placed through such machines are not pari-mutuel and are therefore prohibited under Kentucky law. Although we do not use the Encore/Exacta system in any of our historical racing machine facilities, this opinion, depending on how it is interpreted and enforced or addressed by the legislature may impact our historical racing machine facilities in Kentucky.

We have also been subject to claims in cases concerning or similar to class action allegations. Plaintiffs in such lawsuits often seek recovery of very large or indeterminate amounts, and the magnitude of the potential loss and defense costs relating to such lawsuits may not be accurately estimated. We evaluate all of the claims and proceedings involving us to assess the expected outcome, and where possible, we estimate the potential losses we may incur. In many cases, including class action matters, we may not be able to estimate the potential losses we will incur and/or our estimates may prove to be insufficient. These assessments are made by management based on the information available at the time made and require the use of a significant amount of judgment, and actual outcomes or losses may materially differ. Regardless of whether any claims against us are valid, or whether we are ultimately held liable, such litigation may be expensive to defend and may divert resources away from our operations and negatively impact earnings. We may not be able to obtain adequate insurance to protect us from these types of litigation matters or extraordinary business losses.

### *Our operations are highly regulated and changes in the regulatory environment could adversely affect our business*

We conduct live and historical pari-mutuel wagering, online pari-mutuel wagering through ADWs, casino gaming, online gaming, and sports betting operations, which are subject to extensive state and for some local regulation. These regulatory authorities have broad discretion, and may, for any reason set forth in the applicable legislation, rules and regulations, limit, condition, suspend, fail to renew or revoke a license or registration to conduct our operations or prevent another person from owning an equity interest in the Company. Regulatory authorities have input into our operations, such as hours of operation, location or relocation of a facility, and numbers and types of machines. Regulators may also levy substantial fines against or seize our assets, the assets of our subsidiaries or the people involved in violating gaming laws or regulations. Any of these events could have a material adverse effect on our financial condition, results of operations and cash flows.

We have demonstrated suitability to obtain and have obtained all governmental licenses, registrations, permits and approvals necessary for us to operate our existing businesses. There can be no assurance that we will be able to retain those existing licenses or demonstrate suitability to obtain any new licenses, registrations, permits or approvals. In addition, the loss of a license in one jurisdiction could trigger the loss of a license or affect our eligibility for a license in another jurisdiction. As we expand our operations in our existing jurisdictions or to new areas, we may have to meet additional suitability requirements and obtain additional licenses, registrations, permits and approvals from authorities in these jurisdictions. The approval process can be time-consuming and costly, and we cannot be sure that we will be successful.

Our Churchill Downs segment is subject to extensive state and local regulation, and we depend on continued state approval of legalized pari-mutuel wagering in states where we operate. Our wagering and racing (including HRM) facilities must meet the licensing requirements of various regulatory authorities. To date, we have obtained all governmental licenses, registrations, permits and approvals necessary for operation. However, we may be unable to maintain our existing licenses. The failure to obtain such licenses in the future or the loss of or material change in our business licenses, registrations, permits or approvals may materially limit the number of races we conduct or our racing (including HRM) operations, and could have a material adverse impact on our business. In addition, the loss of a license in one jurisdiction could trigger the loss of a license or affect our eligibility for a license in another jurisdiction.

Regulatory authorities also have input into important aspects of our operations, including hours of operation, location or relocation of a facility, and numbers and types of HRMs. Regulators may also levy substantial fines against or seize our assets or the assets of our subsidiaries or the people involved in violating pari-mutuel laws or regulations. Any of these events could have an adverse impact on our business.

TwinSpires accepts ADWs from customers of certain states who set up and fund accounts from which they may place wagers via telephone, mobile device or through the Internet pursuant to the Interstate Horseracing Act and relevant licenses and consents. The online horse racing wagering business is heavily regulated, and laws governing ADW pari-mutuel wagering vary from state to state. State attorney generals, regulators, and other law enforcement officials may interpret state laws, federal laws, constitutional principles, and the related regulations in a different manner than we do which could have an adverse impact on our business.

Our expansion opportunities with respect to ADW may be limited unless more states amend their laws or regulations to permit ADW. Conversely, if states take affirmative action to make ADW expressly unlawful, this could have a material adverse impact on our business. For example, we ceased accepting wagers from Texas residents in September 2013 due to the enforcement of a Texas law prohibiting ADW. Legal challenges and regulatory and legislative processes can be lengthy, costly and uncertain. We may not be successful in lobbying state legislatures or regulatory bodies to obtain or renew required legislation, licenses, registrations, permits and approvals necessary to facilitate the operation or expansion of our online horse racing wagering business or in any legal challenge to the validity of any restrictions on ADW.

Many states have considered and are considering interactive and Internet gaming legislation and regulations which may inhibit our ability to do business in such states or increase competition for online wagering. Anti-gaming conclusions and recommendations of other governmental or quasi-governmental bodies could form the basis for new laws, regulations, and enforcement policies that could have a material adverse impact on our business. The extensive regulation by both state and federal authorities of gaming activities also can be significantly affected by changes in the political climate and changes in economic and regulatory policies. Such effects could have a material adverse impact to the success of our ADW operations.

## **Financial Risks**

### ***Our debt facilities contain restrictions that limit our flexibility in operating our business***

Our debt facilities contain a number of covenants that impose significant operating and financial restrictions on our business, including restrictions on our ability to, among other things, take the following actions:

- incur additional debt or issue certain preferred shares,
- pay dividends on or make distributions in respect of our capital stock, repurchase common shares or make other restricted payments,
- make certain investments,
- sell certain assets or consolidate, merge, sell or otherwise dispose of all or substantially all of our assets,
- create liens on certain assets,
- enter into certain transactions with our affiliates, and
- designate our subsidiaries as unrestricted subsidiaries.

As a result of these covenants, we are limited in the manner in which we conduct our business, and we may be unable to engage in favorable business activities or finance future operations or capital needs.

### ***Any failure to comply with the financial ratios and other covenants in our debt facilities and other indebtedness could have a material adverse impact on our business***

Under our debt facilities, we are required to satisfy and maintain specified financial ratios. Our ability to meet those financial ratios can be affected by events beyond our control, and as a result, we may be unable to meet those ratios. A failure to comply with the financial ratios and other covenants contained in our debt facilities or our other indebtedness could result in an event of default which, if not cured or waived, could have a material adverse impact on our business and financial condition. In the event of any default under our debt facilities or our other indebtedness, the lenders thereunder:

- will not be required to lend any additional amounts to us,
- could elect to declare all borrowings outstanding, together with accrued and unpaid interest and fees, to be due and payable and could terminate all commitments to extend further credit, or
- could require us to apply all of our available cash to repay these borrowings.

We have pledged a significant portion of our assets as collateral under our debt facilities. If any of these lenders accelerate the repayment of borrowings, we may not have sufficient assets to repay our indebtedness and our lenders could exercise their rights against the collateral we have granted them.

*Our insurance costs may increase, we may not be able to obtain similar insurance coverage in the future, and the extent to which we can recover under our insurance policies for damages sustained at our operating properties in the event of inclement weather and casualty events, all could adversely affect our business*

We renew our insurance policies on an annual basis. The cost of coverage may become so high that we may need to further reduce our policy limits or agree to certain additional exclusions from our coverage. If we are unable to obtain sufficient insurance coverage, we could be at risk for increased potential losses, which could be substantial. In addition, our debt instruments and other material agreements require us to meet certain standards related to insurance coverage. If we are unable to obtain sufficient insurance coverage to satisfy these requirements, an event of default could result under these debt instruments or material agreements.

Furthermore, portions of our business are difficult or impracticable to insure. Therefore, after carefully weighing the costs, risks, and benefits of retaining versus insuring various risks, as well as the availability of certain types of insurance coverage, we may opt to retain certain risks not covered by our insurance policies. Retained risks are associated with deductible limits or self-insured retentions, partial self-insurance programs and insurance policy coverage ceilings.

Flooding, blizzards, windstorms, earthquakes, hurricanes or other weather conditions could adversely affect our casino and horse racing locations. We maintain insurance coverage that may cover certain costs that we incur as a result of some natural disasters, which coverage is subject to deductibles, exclusions and limits on maximum benefits. We may not be able to fully collect, if at all, on any claims resulting from extreme weather conditions or other disasters. If any of our properties are damaged or if our operations are disrupted or face prolonged closure as a result of weather conditions in the future, or if weather conditions adversely impact general economic or other conditions in the areas in which our properties are located or from which we draw our patrons, the disruption could have a material adverse impact on our business.

We have "all risk" property insurance coverage for our operating properties which covers damage caused by a casualty loss (such as fire, natural disasters, acts of war, or terrorism). Our level of property insurance coverage, which is subject to policy maximum limits and certain exclusions, may not be adequate to cover all losses in the event of a major casualty. In addition, certain casualty events may not be covered at all under our policies. Therefore, certain acts could expose us to substantial uninsured losses. Any losses we incur that are not adequately covered by insurance may decrease our future operating income, require us to fund replacements or repairs for destroyed property and reduce the funds available for payment of our obligations.

#### **ITEM 1B. UNRESOLVED STAFF COMMENTS**

None.

#### **ITEM 2. PROPERTIES**

We own the following real property:

- 100 acres at Churchill Downs and our auxiliary training facility at Derby City Gaming in Louisville, Kentucky
- Arlington International Race Course in Arlington Heights, Illinois
- Oxford in Oxford, Maine
- Riverwalk in Vicksburg, Mississippi
- Calder in Miami Gardens, Florida
- Fair Grounds and certain VSI properties in New Orleans, Louisiana
- Ocean Downs in Ocean City, Maryland
- Derby City Gaming in Louisville, Kentucky
- Presque Isle in Erie, Pennsylvania
- Oak Grove Racing and Gaming in Oak Grove, Kentucky
- Turfway Park in Florence, Kentucky

We lease the following real property:

- Churchill Downs Racetrack in Louisville, Kentucky - we lease 158 acres under a 30-year lease entered into in 2020 where we transferred title of the facility to the City of Louisville, Kentucky, and retained the right to re-acquire the facility at any time or \$1.00, subject to the terms of the lease as part of the financing of the improvements to the facility.
- Harlow's in Greenville, Mississippi - we lease the land on which the casino and hotel are located
- Certain VSI properties in New Orleans, Louisiana
- Lady Luck Nemaquin in Farmington, Pennsylvania - we lease the building as part of the management agreement
- TwinSpires.com and Brisnet in Lexington, Kentucky
- United Tote in Louisville, Kentucky; San Diego, California; and Portland, Oregon
- Corporate and Online Wagering headquarters in Louisville, Kentucky
- Online Wagering office in Vancouver, Canada
- Newport Racing and Gaming in Newport, Kentucky

### **ITEM 3. LEGAL PROCEEDINGS**

In addition to the matters described below, we are also involved in ordinary routine litigation matters which are incidental to our business.

#### ***Kater Class Action Suit***

On April 17, 2015, the Cheryl Kater v. Churchill Downs Incorporated class action lawsuit (the "Kater Litigation") was filed in the United District Court for the Western District of Washington (the "Washington District Court") alleging, among other claims, that the Company's "Big Fish Casino" operated by the Company's then-wholly owned mobile gaming subsidiary Big Fish Games, Inc. ("Big Fish Games") violated Washington law, including the Washington Consumer Protection Act, by facilitating unlawful gambling through virtual casino games (namely the slots, blackjack, poker, and roulette games offered through Big Fish Casino), and seeking, among other things, return of monies lost, reasonable attorney's fees, treble damages, and injunctive relief. On January 9, 2018, the Company sold Big Fish Games to Aristocrat Technologies, Inc. ("Aristocrat"), an indirect, wholly owned subsidiary of Aristocrat Leisure Limited, an Australian corporation, pursuant to the Stock Purchase Agreement, dated as of November 29, 2017, by and among the Company, Big Fish Games and Aristocrat (the "Stock Purchase Agreement"). Pursuant to the terms of the Stock Purchase Agreement, the Company agreed to indemnify Aristocrat for the losses and expenses associated with the Kater Litigation for Big Fish Games, which is referred to in the Stock Purchase Agreement as the "Primary Specified Litigation."

After the Washington District Court dismissed the case with prejudice on November 19, 2015, the United States Court of Appeals for the Ninth Circuit reversed and remanded the Washington District Court's dismissal of the complaint on March 28, 2018. The complaint was amended on March 20, 2019, to add Big Fish Games as a party and to assert claims on behalf of an additional plaintiff, Suzie Kelly.

On May 22, 2020, the parties entered into an agreement in principle to settle the Kater litigation and the Thimmegowda litigation (as defined below). The agreement in principle remains contingent on final court approval by the Washington District Court. Under the terms of the settlement, which will take effect only after final court approval of the proposed class settlement: (i) a total of \$155.0 million will be paid into a settlement fund. The Company will pay \$124.0 million of the settlement; Aristocrat will pay \$31.0 million of the settlement; (ii) all members of the nationwide settlement class who do not exclude themselves will release all claims relating to the subject matter of the lawsuits; and (iii) Aristocrat has agreed to specifically release the Company of any and all indemnification obligations under the Stock Purchase Agreement arising from or related to the Kater Litigation and Thimmegowda Litigation, including any claims of diminution of value of Big Fish Games and any claims by any person who opts out of the proposed class settlement.

On August 31, 2020, the Washington District Court granted the parties' motion for preliminary approval. On December 14, 2020, plaintiffs filed a motion for final approval of class action settlement agreement. The Washington District Court entered an order granting final approval of class action settlement on February 11, 2021. The Company's settlement contribution will be made by March 26, 2021.

#### ***Thimmegowda Class Action Suit***

On February 11, 2019, the Manasa Thimmegowda v. Big Fish Games, Inc. class action lawsuit (the "Thimmegowda Litigation") was filed in the Washington District Court alleging, among other claims, that "Big Fish Casino," which is operated by Big Fish Games, violated Washington law, including the Washington Consumer Protection Act, and seeking, among other things, return of monies lost, reasonable attorney's fees, injunctive relief, and treble and punitive damages.

On May 22, 2020, the parties entered into an agreement in principle to settle the Kater and Thimmegowda Litigations. The agreement in principle with respect to the Thimmegowda Litigation is described above, under the "Kater Class Action Suit." On August 31, 2020, the Washington District Court granted the parties' motion for preliminary approval. On December 14, 2020, plaintiffs filed a motion for final approval of class action settlement agreement. The Washington District Court entered an order granting final approval of class action settlement on February 11, 2021. The Company's settlement contribution will be made by March 26, 2021.

#### ***The Kentucky Horse Racing Commission, et al. v. The Family Trust Foundation of Kentucky, Inc.***

In 2010, all Kentucky racetracks and the Kentucky Horse Racing Commission (the "KHRC" and together with the Kentucky racetracks, the "Joint Petitioners") sought a declaration from the Franklin Circuit Court (the "Court") that: (i) the KHRC's historical racing regulations are valid under Kentucky law, and (ii) operating historical racing machines ("HRMs") pursuant to a license issued by KHRC would not run afoul of any criminal gaming statutes. The Family Trust Foundation of Kentucky, Inc. (the "Family Foundation") intervened, and the Court subsequently granted summary judgment to the Joint Petitioners holding that the KHRC's historical racing regulations are valid under Kentucky law. Following an appeal to the Kentucky Court of Appeals, in February 2014 the Supreme Court of Kentucky affirmed the Court's decision that the regulations are valid under Kentucky law, but remanded the case to the Court to determine whether operation of HRMs that were licensed during the

pendency of the litigation constitute pari-mutuel wagering. The Court held a trial during the week of January 8, 2018 to determine whether the games from one of the HRM manufacturers (Encore/Exacta) are pari-mutuel, and the Court set a post-trial briefing schedule for the parties. The Court ordered, on August 24, 2017, that this pending litigation directly involves only the HRMs presently in use and any future HRMs proposed by the Company would not be included in the pending case. On October 24, 2018, the Court ruled that the HRMs in question (Encore/Exacta) are a pari-mutuel system of wagering legally permitted under Kentucky law. In November 2018, the Family Foundation filed a notice of appeal and subsequently filed a motion to transfer the appeal directly to the Kentucky Supreme Court, which was granted in June 2019. On September 24, 2020, the Kentucky Supreme Court issued an opinion reversing the Court's opinion. On November 9, 2020, the KHRC and certain other defendants filed petitions for rehearing which was rejected by the Court. On February 3, 2021, the Court set a schedule whereby the parties shall submit proposed judgments for the Court's consideration on or before February 24, 2021, and the parties may then submit responses to the opposing proposed judgments on or before March 5, 2021 before the Court takes the matter under submission and enters a judgment. The Company does not use the Exacta system in any of its historical racing machine facilities in Kentucky. On February 22, 2021, the Governor of the Commonwealth of Kentucky signed into law Senate Bill 120 which creates a statutory definition of pari-mutuel wagering that includes historical horse racing approved by the KHRC and addresses the Supreme Court of Kentucky's opinion. We do not believe that any further rulings in this case will impact our ability to operate HRM facilities in Kentucky.

#### ***Lassiter v. Kentucky Downs, LLC, et al.***

On December 18, 2020, Robert and Patricia Lassiter filed a complaint against Kentucky Downs, LLC, Keeneland Association, Inc., Turfway Park, LLC, Players Bluegrass Downs, LLC, Appalachian Racing, LLC, Ellis Park Race Course, Inc., The Lexington Trots Breeders Association, Inc., and Churchill Downs Incorporated ("Defendants"). Plaintiffs allege that Defendants' HRMs constitute illegal gambling and assert that they can recover for their losses and the losses of all patrons at those facilities with HRMs over a five-year period under Kentucky Revised Statutes 372.010. After an initial extension of the deadline to respond agreed to by the parties, the Jefferson County Circuit Court granted a further extension through March 31, 2021. The Company intends to defend this matter vigorously and believes that there are meritorious legal and factual defenses against the plaintiffs' allegations and requests for relief.

#### ***Louisiana Environmental Protection Agency Non-Compliance Issue***

On December 6, 2013, we received a notice from the EPA regarding alleged CAFO non-compliance at Fair Grounds Race Course. On October 21, 2019, we reached an agreement in principle, subject to final agreement and regulatory and court approval. On September 29, 2020, the EPA filed a complaint and proposed consent decree, which was agreed to by both parties. Comments were due by January 11, 2021. If approved, the agreement will include a \$2.8 million penalty, which has been accrued and is included in selling, general and administrative expense in our accompanying consolidated statement of comprehensive (loss) income for the year ended December 31, 2019, and accrued expense and other current liabilities in our accompanying consolidated balance sheets at December 31, 2020 and 2019. The consent decree would also require corrective measures to ensure compliance with applicable federal laws and regulations.

#### ***Louisiana Horsemen's Purses Class Action Suit***

On April 21, 2014, John L. Soileau and other individuals filed a Petition for Declaratory Judgment, Permanent Injunction, and Damages-Class Action styled John L. Soileau, et. al. versus Churchill Downs Louisiana Horseracing, LLC, Churchill Downs Louisiana Video Poker Company, LLC (Suit No. 14-3873) in the Parish of Orleans Civil District Court, State of Louisiana (the "District Court"). The petition defined the "alleged plaintiff class" as quarter horse owners, trainers and jockeys that have won purses at the "Fair Grounds Race Course & Slots" facility in New Orleans, Louisiana since the first effective date of La. R.S. 27:438 and specifically since 2008. The petition alleged that Churchill Downs Louisiana Horseracing, LLC and Churchill Downs Louisiana Video Poker Company, LLC ("Fair Grounds Defendants") have collected certain monies through video draw poker devices that constitute monies earned for purse supplements and all of those supplemental purse monies have been paid to thoroughbred horsemen during Fair Grounds' live thoroughbred horse meets. La. R.S. 27:438 requires a portion of those supplemental purse monies to be paid to quarter-horse horsemen during Fair Grounds' live quarter-horse meets. The petition requested that the District Court declare that Fair Grounds Defendants violated La. R.S. 27:438, issue a permanent and mandatory injunction ordering Fair Grounds Defendants to pay all future supplements due to the plaintiff class pursuant to La. R.S. 27:438, and to pay the plaintiff class such sums as it finds to reasonably represent the value of the sums due to the plaintiff class. On August 14, 2014, the plaintiffs filed an amendment to their petition naming the Horsemen's Benevolent and Protective Association 1993, Inc. ("HBPA") as an additional defendant and alleging that HBPA is also liable to plaintiffs for the disputed purse funds. On October 9, 2014, HBPA and Fair Grounds Defendants filed exceptions to the suit, including an exception of primary jurisdiction seeking referral to the Louisiana Racing Commission. By Judgment dated November 21, 2014, the District Court granted the exception of primary jurisdiction and referred the matter to the Louisiana Racing Commission. On January 26, 2015, the Louisiana Fourth Circuit Court of Appeals denied the plaintiffs' request for supervisory review of the Judgment. On August 24, 2015, the Louisiana Racing Commission ruled that the plaintiffs did not have standing

or a right of action to pursue the case. The plaintiffs appealed this decision to the District Court, which affirmed the Louisiana Racing Commission's ruling. The plaintiffs filed an appeal of the District Court's decision with the Louisiana Fourth Circuit Court of Appeals, which reversed the Louisiana Racing Commission's ruling and remanded the matter to the Louisiana Racing Commission for further proceedings on June 13, 2018. The Louisiana Fourth Circuit Court of Appeals denied the Fair Grounds Defendants' Motion for Rehearing on July 12, 2018 and the Louisiana Supreme Court denied the Fair Grounds Defendants' Writ of Certiorari seeking review of that decision on November 14, 2018.

The parties had previously attempted to mediate the matter in October 2018 but were unsuccessful. Thereafter, the parties resumed informal settlement discussions, and, as a result, the Company established an accrual for an immaterial amount in the third quarter of 2019. The parties submitted a settlement agreement to the District Court on February 14, 2020, following the Louisiana Racing Commission's approval to transfer the matter to the District Court for approval and administration of the settlement agreement on February 12, 2020. At a hearing on February 18, 2020, the District Court granted preliminary approval of the settlement agreement and set certain deadlines relating to actions to be taken by class members. The settlement agreement requires, among other items, the Fair Grounds Defendants to (i) pay a certain out-of-pocket amount that is within the amount for which we established an accrual in the third quarter of 2019, and (ii) support legislation that allocates a specified amount of video poker purse funds to quarter horse purses for races at Fair Grounds with maximum annual payout caps that are not deemed material. On June 13, 2020, the legislation addressed in the settlement agreement was passed by the legislature and signed into law by the Governor of Louisiana. The settlement includes a release of claims against the Fair Grounds Defendants in connection with the proceeding, although individual plaintiffs may opt-out. If there are opt-out claims in excess of \$50,000, the settlement will be voided, unless the parties agree to stipulate otherwise. The settlement agreement is subject to certain conditions, including court approval. After the parties entered into the settlement, legal counsel for six objecting plaintiffs filed an amended petition with the District Court. After a hearing on July 20, 2020, the District Court dismissed the amended petition. The objecting plaintiffs filed a notice of their intention to seek a writ with the Louisiana Court of Appeals for the Fourth Circuit related to the dismissal of the amended petition, which was denied. The fairness hearing with the District Court relating to the terms of the settlement agreement occurred on October 7, 2020, and November 17, 2020, and the parties have submitted post-trial briefing and proposed final judgments. Objecting plaintiffs have filed a notice of appeal of the February 2020 Order appointing class counsel certifying a class for settlement purposes. On January 28, 2021, the District Court issued a Final Order and Judgement approving the settlement. The objector's appellant brief in support of their appeal of the February 2020 preliminary approval was filed on February 9, 2021, and the Fair Grounds Defendants' brief is due on March 1, 2021. The objectors have until April 9, 2021, to file a notice of appeal of the January 28, 2021 Final Order and Judgment.

**ITEM 4. MINE SAFETY DISCLOSURES**

Not applicable.

## **PART II**

### **ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED SHAREHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES**

#### ***Market for Common Stock***

The Company's common stock is traded on the Nasdaq Global Select Market under the symbol CHDN. As of February 10, 2021, there were approximately 2,420 shareholders of record.

#### ***Dividends***

Since joining The Nasdaq Global Select Market in 1993, we have declared and paid cash dividends on an annual basis at the discretion of our Board of Directors. The payment and amount of future dividends will be determined by the Board of Directors and will depend upon, among other things, our operating results, financial condition, cash requirements and general business conditions at the time such payment is considered. We declared a dividend of \$0.622 in December 2020, which was paid in January 2021, and we declared a dividend of \$0.581 in December 2019, which was paid in January 2020.

#### ***Issuer Purchases of Common Stock***

The following table provides information with respect to shares of common stock that we repurchased during the quarter ended December 31, 2020:

<b>Period</b>	<b>Total Number of Shares Purchased</b>	<b>Average Price Paid Per Share</b>	<b>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs</b>	<b>Approximate Dollar Value of Shares That May Yet Be Purchased under the Plans or Programs<sup>(1)</sup> (in millions)</b>
10/1/2020-10/31/2020	—	\$ —	—	\$ 147.1
11/1/2020-11/30/2020	—	\$ —	—	147.1
12/1/2020-12/31/2020	17,852	\$ 194.79	—	147.1
Total	17,852	\$ 194.79	—	

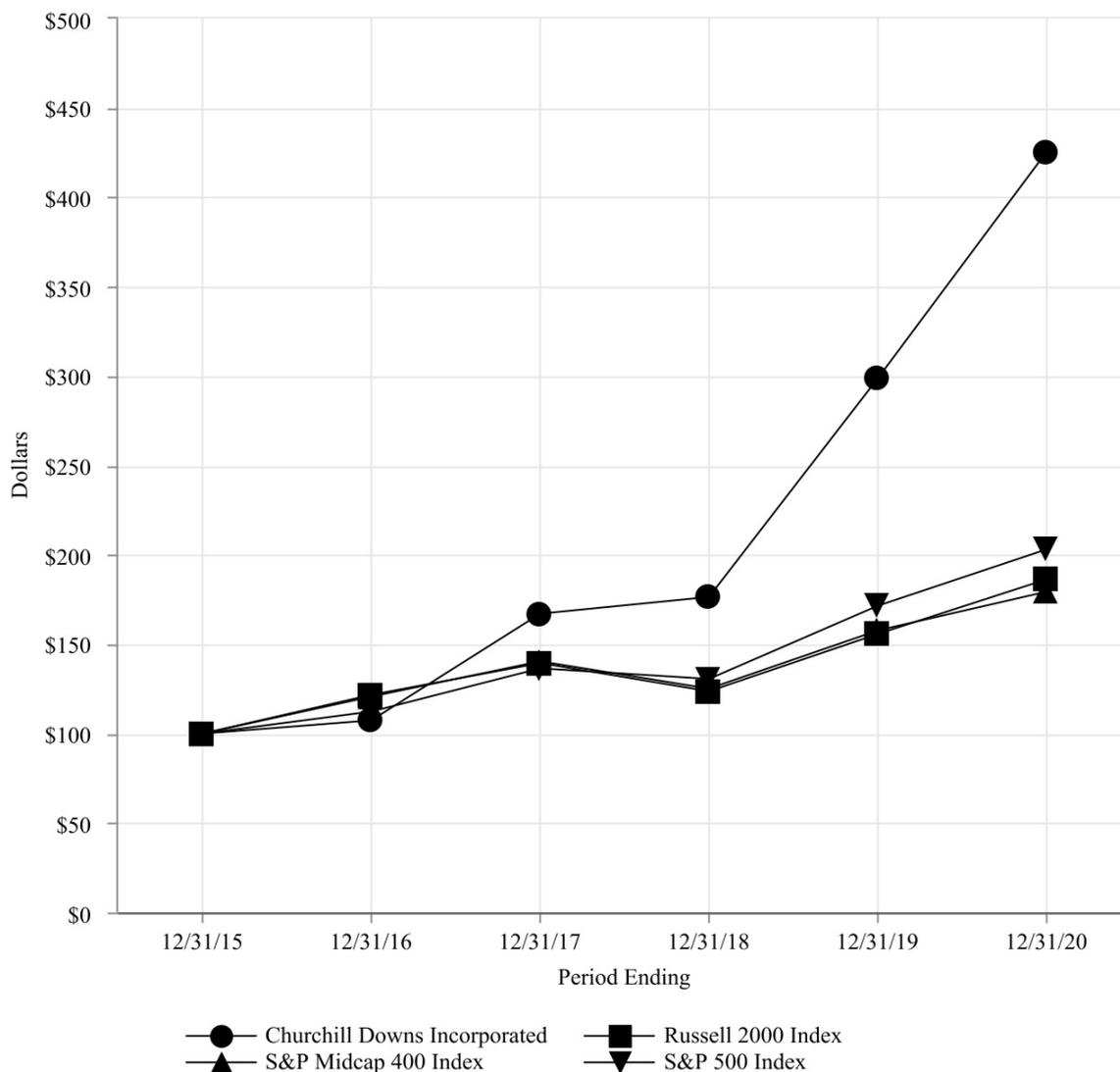
- (1) On October 30, 2018, the Board of Directors of the Company approved a new common stock repurchase program of up to \$300.0 million inclusive of any remaining authorization under the prior program. The repurchase program has \$147.1 million of repurchase authorization remaining that can be used to repurchase shares under plans or programs. The repurchase program has no time limit and may be suspended or discontinued at any time.

#### ***Shareholder Return Performance Graph***

The following performance graph and related information shall not be deemed "soliciting material" nor to be "filed" with the SEC, nor shall such information be incorporated by reference into any future filings under the Securities Act of 1933 or the Securities Exchange Act of 1934, each as amended, except to the extent we specifically incorporate it by reference into such filing.

The following graph depicts the cumulative total shareholder return, assuming reinvestment of dividends, for the periods indicated for our Common Stock compared to the Russell 2000 Index, S&P Midcap 400 Index, and the S&P 500 Index. We consider the Russell 2000 Index to be our most comparable peer group index. We added the S&P Midcap 400 Index as a comparison beginning in our Annual Report on Form 10-K for the year ended December 31, 2018. The S&P Midcap 400 Index

includes the Company's results and also reflects companies which have a more comparable market capitalization than the S&P 500 Index.



	12/31/2015	12/31/2016	12/31/2017	12/31/2018	12/31/2019	12/31/2020
Churchill Downs Incorporated	\$ 100.00	\$ 107.25	\$ 166.96	\$ 176.08	\$ 298.43	\$ 425.14
Russell 2000 Index	\$ 100.00	\$ 121.31	\$ 139.08	\$ 123.76	\$ 155.35	\$ 186.36
S&P Midcap 400 Index	\$ 100.00	\$ 120.74	\$ 140.35	\$ 124.80	\$ 157.49	\$ 179.00
S&P 500 Index	\$ 100.00	\$ 111.96	\$ 136.40	\$ 130.42	\$ 171.49	\$ 203.04

**ITEM 6. SELECTED FINANCIAL DATA**

<i>(In millions, except per common share data)</i>	<b>Years Ended December 31,</b>				
	<b>2020<sup>(a)(f)</sup></b>	<b>2019<sup>(b)(f)(g)</sup></b>	<b>2018<sup>(c)(f)(g)</sup></b>	<b>2017<sup>(d)(f)(g)</sup></b>	<b>2016<sup>(e)(f)(g)</sup></b>
<b>Operations:</b>					
Net revenue	\$ 1,054.0	\$ 1,329.7	\$ 1,009.0	\$ 882.6	\$ 822.4
Operating income	60.2	215.7	188.8	145.7	172.5
Income from continuing operations, net of tax	13.3	139.6	182.6	122.4	96.7
(Loss) income from discontinued operations, net of tax	(95.4)	(2.4)	170.2	18.1	11.4
Net (loss) income attributable to Churchill Downs Incorporated	(81.9)	137.5	352.8	140.5	108.1
Net income from continuing operations per common share:					
Basic	\$ 0.34	\$ 3.49	\$ 4.42	\$ 2.59	\$ 1.94
Diluted	\$ 0.33	\$ 3.44	\$ 4.39	\$ 2.55	\$ 1.92
<b>Balance sheet data at period end:</b>					
Total assets	\$ 2,686.4	\$ 2,551.0	\$ 1,725.2	\$ 2,359.4	\$ 2,254.4
Total debt, net	1,622.3	1,473.9	884.3	1,129.2	921.7
Total liabilities	2,319.3	2,040.0	1,251.9	1,719.1	1,569.4
Shareholders' equity	367.1	511.0	473.3	640.3	685.0
Shareholders' equity per common share	\$ 9.27	\$ 12.80	\$ 11.72	\$ 13.85	\$ 13.85
<b>Other data:</b>					
Cash flows from operating activities	\$ 141.9	\$ 289.6	\$ 197.8	\$ 215.1	\$ 231.4
Capital maintenance expenditures	23.0	48.3	29.6	33.3	30.9
Capital project expenditures	211.2	82.9	119.8	83.6	23.8
Dividends declared per common share	\$ 0.622	\$ 0.581	\$ 0.543	\$ 0.507	\$ 0.440
Cash dividends paid	\$ 23.4	\$ 22.2	\$ 23.7	\$ 21.5	\$ 19.1
Common stock repurchases	\$ 27.9	\$ 93.0	\$ 532.0	\$ 179.5	\$ 27.6

The selected financial data presented above is subject to the following information:

- (a) 2020 reflects the impact of the closure of certain properties for different portions of the year as a result of the COVID-19 global pandemic had on the Company's operations. 2020 also includes a \$17.5 million impairment of intangible assets.
- (b) 2019 includes:
  - the results from the dates of acquisition through December 31, 2019 for Presque Isle, Lady Luck Nemaocolin, Turfway Park, and the equity investment in Rivers Des Plaines, and
  - \$10.0 million accelerated amortization of the purchase and sale rights related to the Turfway Park Acquisition.
- (c) 2018 includes the \$54.9 million pre-tax gain on the Ocean Downs/Saratoga Transaction and the consolidated results of Ocean Downs after August 31, 2018.
- (d) 2017 includes a \$21.7 million impairment of tangible and intangible assets and a \$20.7 million loss on extinguishment of debt. 2017 also includes a \$57.7 million income tax benefit resulting primarily from the re-measurement of our net deferred tax liabilities as a result of the Tax Cuts and Jobs Acts ("Tax Act").
- (e) 2016 includes a \$23.7 million gain on Calder land sale.
- (f) Big Fish Games is accounted for as discontinued operations from the date of acquisition on December 16, 2014 through December 31, 2020 as a result of the Big Fish Transaction.
- (g) All per share amounts presented were retroactively adjusted to reflect the Stock Split for shareholders of record on January 11, 2019 and with an effective date of January 25, 2019. CHDN stock began trading at the split adjusted price on January 28, 2019.

## ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis of our consolidated financial condition and results of operations should be read in conjunction with our audited consolidated financial statements and related notes included in Part II, Item 8. Financial Statements and Supplementary Data. The following discussion provides an analysis of our results of operations and reasons for material changes therein for 2020 as compared to 2019. Discussion regarding our financial condition and results of operations for 2019 as compared to 2018 is included in Part II, Item 7 of our Annual Report on Form 10-K for the year ended December 31, 2019, filed with the SEC on February 26, 2020.

### Our Business

The Company is an industry-leading racing, online wagering and gaming entertainment company anchored by our iconic flagship event, the Kentucky Derby. We own and operate three pari-mutuel gaming entertainment venues with approximately 3,050 historical racing machines ("HRMs") in Kentucky. We also own and operate TwinSpires, one of the largest and most profitable online wagering platforms for horse racing, sports and iGaming in the U.S. and we have seven retail sportsbooks. We are also a leader in brick-and-mortar casino gaming in eight states with approximately 11,000 slot machines and video lottery terminals ("VLTs") and 200 table games. We were organized as a Kentucky corporation in 1928, and our principal executive offices are located in Louisville, Kentucky.

For financial reporting purposes, we aggregate our operating segments into three reportable segments as follows: Churchill Downs, Online Wagering and Gaming. Our operating segments reflect the internal management reporting used by our chief operating decision maker to evaluate results of operations and to assess performance and allocate resources. For additional information, refer to Note 21 to the notes to consolidated financial statements included in Item 8. Financial Statements and Supplementary Data of this Annual Report on Form 10-K.

### Impact of the COVID-19 Global Pandemic

For a discussion of the impact of the COVID-19 global pandemic on our Company, refer to "Impact of the COVID-19 Global Pandemic", in Part I. Item 1. Business section. Below is a summary of the temporary closures and the current status and restrictions of each property:

#### Churchill Downs

- Churchill Downs Racetrack conducted 65 live racing days during 2020, including 41 spectator-free days in the second and third quarters of 2020, including the 146th Kentucky Oaks and Derby on September 4-5, 2020. Churchill Downs Racetrack suspended simulcast operations on March 15, 2020 and reopened on October 1, 2020.
- Derby City Gaming temporarily suspended operations on March 15, 2020 and reopened on June 8, 2020. Derby City Gaming is currently restricted to 33% of patron capacity.

### Gaming

#### Wholly-Owned Properties

- Calder Casino and Racing ("Calder") temporarily suspended operations on March 16, 2020 and reopened on June 12, 2020. Operations were temporarily suspended again on July 2, 2020 and reopened on August 31, 2020. Calder currently has a temporary ban on food and beverage on the gaming floor and has certain operating hour restrictions.
- Fair Grounds Slots, Fair Grounds Race Course and Video Services, LLC ("VSI") (collectively, "Fair Grounds and VSI"):
  - Fair Grounds Slots temporarily suspended operations on March 16, 2020 and reopened on June 13, 2020, and is currently restricted to 50% of patron capacity;
  - Fair Grounds Race Course conducted 73 live racing days during 2020, including 28 spectator-free days from March 13, 2020 through December 31, 2020; and
  - VSI temporarily suspended operations on March 16, 2020 and reopened on May 18, 2020, and is currently restricted to 50% of patron capacity.
- Harlow's Casino Resort and Spa ("Harlow's") temporarily suspended operations on March 16, 2020 and reopened on May 21, 2020. Harlow's is currently restricted to 50% of patron capacity.
- Ocean Downs Casino and Racetrack ("Ocean Downs") temporarily suspended operations on March 15, 2020 and reopened on June 19, 2020. Ocean Downs is currently restricted to 50% of patron capacity.
- Oxford Casino and Hotel ("Oxford") temporarily suspended operations on March 16, 2020 and reopened on July 9, 2020. Oxford has certain operating hour restrictions and is currently restricted to 200 persons on the gaming floor.

- Presque Isle Downs and Casino ("Presque Isle") temporarily suspended operations on March 16, 2020 and reopened on June 26, 2020. Operations were temporarily suspended again on December 12, 2020 and reopened on January 4, 2021. Presque Isle currently has a temporary ban on alcohol and smoking on the gaming floor and is currently restricted to 50% of patron capacity.
- Riverwalk Casino Hotel ("Riverwalk") temporarily suspended operations on March 16, 2020 and reopened on May 21, 2020. Riverwalk is currently restricted to 50% of patron capacity.

#### *Managed Properties*

- Lady Luck Casino Nemaquin ("Lady Luck Nemaquin") temporarily suspended operations on March 16, 2020 and reopened on June 12, 2020. Operations were temporarily suspended again on December 12, 2020 and reopened on January 4, 2021. Lady Luck Nemaquin currently has a temporary ban on alcohol and smoking on the gaming floor and is currently restricted to 50% of patron capacity.

#### *Equity Investments*

- Rivers Casino Des Plaines ("Rivers Des Plaines") temporarily suspended operations on March 15, 2020 and reopened on July 1, 2020. Operations were temporarily suspended on November 20, 2020 and remained suspended as of December 31, 2020. Rivers Des Plaines reopened on January 19, 2021. Rivers Des Plaines currently has certain operating hour restrictions and temporary bans on food and beverage within the facility and is restricted to 50% of patron capacity.
- Miami Valley Gaming and Racing ("MVG") temporarily suspended operations on March 14, 2020 and reopened on June 19, 2020. MVG is currently restricted to 63% of patron capacity.

#### **All Other**

- Arlington International Racecourse ("Arlington") temporarily suspended operations of the Company's off-track betting facilities ("OTBs") and simulcast operations on March 16, 2020. Four OTBs reopened on June 5, 2020 and the remaining OTBs reopened on various dates in July 2020. Arlington conducted 18 spectator-free live racing days and 12 live racing days with patron restrictions of 300 persons during 2020.
- Turfway Park conducted nine live racing days in March 2020 and five of these live racing days were run spectator-free. Live racing was canceled for the remaining three scheduled racing days in March 2020. Turfway Park also ran 13 live racing dates in December 2020.

On March 25, 2020, as a result of the temporary closures and suspended operations described above, the Company announced the temporary furlough of employees at the Company's wholly-owned and managed gaming properties and certain racing operations. As the Company has reopened these properties, certain employees have returned to work while others remain on temporary furlough due to the capacity restrictions at these properties. The Company provided health, dental, vision and life insurance benefits to furloughed employees through July 31, 2020 and during the subsequent property closure periods.

The Company also implemented a temporary salary reduction for all remaining non-furloughed salaried employees based on a percentage that varies dependent upon the amount of each employee's salary. The most senior level of executive management received the largest salary decrease, based on both percentage and dollar amount. Salaries for non-furloughed employees resumed at the annual base salary beginning with the start of the employee's first full pay period after July 31, 2020.

The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") provides an employee retention credit ("CARES Employee Retention Credit"), which is a refundable tax credit against certain employment taxes of up to \$5,000 per employee for eligible employers. The tax credit is equal to 50% of qualified wages paid to employees during a quarter, capped at \$10,000 of qualified wages per employee. The Company qualified for the tax credit and received additional tax credits for qualified wages, and the Company recorded a \$2.7 million benefit related to the CARES Employee Retention Credit in operating expense in the accompanying consolidated statement of comprehensive (loss) income for the year ended December 31, 2020. The CARES Act also provides for deferred payment of the employer portion of social security taxes through December 31, 2020, with 50% of the deferred amount due December 31, 2021 and the remaining 50% due December 31, 2022. Approximately \$5.3 million of deferred payments are recorded as liabilities within accrued expense and other current liabilities and other noncurrent liabilities in the accompanying consolidated balance sheet as of December 31, 2020.

#### **Financial Status and Outlook**

The Company reduced planned maintenance and project capital expenditures for 2020 as a result of the temporary property and operations closures and prioritized capital investments based on the highest near-term return opportunities in order to maintain financial flexibility.

Refer to "Credit Facilities and Indebtedness" section within this section for additional detail of the Company's borrowings and repayments under our Credit Facility during 2020.

On April 28, 2020, the Company entered into a Second Amendment to the Credit Agreement, which (i) provides for a financial covenant relief period through the date on which the Company delivers the Company's quarterly financial statements and compliance certificate for the fiscal quarter ending June 30, 2021, subject to certain exceptions (the "Financial Covenant Relief Period"), (ii) amends the definition of "Consolidated EBITDA" in the Credit Agreement with respect to the calculation of Consolidated EBITDA for the first two fiscal quarters after the termination of the Financial Covenant Relief Period, (iii) extends certain deadlines and makes certain other amendments to the Company's financial reporting obligations, (iv) places certain restrictions on restricted payments during the Financial Covenant Relief Period, and (v) amends the definitions of "Material Adverse Effect" and "License Revocation" in the Credit Agreement to take into consideration COVID-19.

During the Financial Covenant Relief Period, the Company will not be required to comply with the consolidated total secured net leverage ratio financial covenant and the interest coverage ratio financial covenant. The Company has agreed to a minimum liquidity financial covenant that requires the Company and restricted subsidiaries to maintain liquidity of at least \$150.0 million during the Financial Covenant Relief Period. While the Second Amendment is in effect, the Company agreed to limit Restricted Payments to \$26.0 million.

On February 1, 2021, the Company entered into the Third Amendment to the Credit Agreement to increase the restricted payments capacity during the Financial Covenant Relief Period, as defined in the Second Amendment, from \$26.0 million to \$226.0 million to accommodate a share repurchase from an affiliate of The Duchossois Group, Inc. The Company repurchased the shares using available cash and borrowings under the Company's Revolver.

We continue to assess the situation at our properties and operations on a daily basis; however, we are unable to determine when the current restrictions in place for our properties will be removed.

Based on our current projected operating cash flow needs, interest and debt repayments, and revised maintenance and project capital expenditures, we believe we have adequate cash to fund our business operations, meet all of our financial commitments, and invest in our prioritized key growth capital projects for well beyond the next twelve months.

#### ***Kater and Thimmegowda Settlement***

Refer to Part I, Item 3, Legal Proceedings, of this Report for discussion of the settlement agreement with respect to the Kater Litigation and Thimmegowda Litigation the Company entered into during 2020.

#### **Key Indicators to Evaluate Business Results and Financial Condition**

Our management monitors a variety of key indicators to evaluate our business results and financial condition. These indicators include changes in net revenue, operating expense, operating income, earnings per share, outstanding debt balance, operating cash flow and capital spend.

Our consolidated financial statements have been prepared in conformity with U.S. generally accepted accounting principles ("GAAP"). We also use non-GAAP measures, including EBITDA (earnings before interest, taxes, depreciation and amortization) and Adjusted EBITDA. We believe that the use of Adjusted EBITDA as a key performance measure of results of operations enables management and investors to evaluate and compare from period to period our operating performance in a meaningful and consistent manner. Our chief operating decision maker utilizes Adjusted EBITDA to evaluate segment performance, develop strategy and allocate resources. Adjusted EBITDA is a supplemental measure of our performance that is not required by, or presented in accordance with, GAAP. Adjusted EBITDA should not be considered as an alternative to, or more meaningful than, net income (as determined in accordance with GAAP) as a measure of our operating results.

Adjusted EBITDA is defined as earnings before interest, taxes, depreciation and amortization, adjusted for the following:

Adjusted EBITDA includes our portion of EBITDA from our equity investments.

Adjusted EBITDA excludes:

- Transaction expense, net which includes:
  - Acquisition and disposition related charges, including fair value adjustments related to earnouts and deferred payments,
  - Calder racing exit costs, and
  - Other transaction expense, including legal, accounting and other deal-related expense.
- Stock-based compensation expense,
- Midwest Gaming's impact on our investments in unconsolidated affiliates from:
  - The impact of changes in fair value of interest rate swaps, and
  - Recapitalization and transaction costs.
- Asset impairments,

- Gain on Ocean Downs/Saratoga Transaction,
- Loss on extinguishment of debt,
- Legal reserves,
- Pre-opening expense, and
- Other charges, recoveries and expenses

For segment reporting, Adjusted EBITDA includes intercompany revenue and expense totals that are eliminated in the consolidated statements of comprehensive (loss) income. See the Reconciliation of Comprehensive (Loss) Income to Adjusted EBITDA included in this section for additional information.

### **Business Highlights**

In 2020, our executive management, leaders, and team members of our Company faced leadership challenges that were unprecedented as a result of the COVID-19 global pandemic.

The Company reacted quickly to significant threats to the Company's long-term financial health by taking the following actions:

- Property closures and re-openings:
  - Implemented immediate employee, customer, and regulatory communications, safety and health protocols, return to work protocols, work-from-home practices and other facility actions to protect our team members, our customers, our communities, and our Company's assets when governmental authorities ordered the closure and subsequent reopening of nearly all of our properties.
  - Furloughed nearly all of our employees at the closed properties during the closure periods and implemented graduated salary reductions based on the level of pay for executive management and all salaried professionals who were not furloughed.
  - Executed immediate operational cost reduction actions to offset the loss of revenue.
  - Immediately prioritized maintenance and project capital and stopped all non-priority capital projects.
- Negotiated a waiver of our financial covenants for our Credit Agreement while retaining the ability to grow organically, make acquisitions, and pay dividends.
- Made the difficult decision – but one that our investors have applauded as the right decision - to run the Kentucky Oaks and Derby without spectators to protect the long-term value of this iconic asset.
- Consistently communicated with equity and debt investors and rating agencies on an ongoing basis regarding the status of the Company's operations, financial health, and long-term strategy to provide reassurance on the long-term financial health and strategic direction of the Company.

#### *Churchill Downs Segment:*

- Churchill Downs Racetrack:
  - The Governor of the Commonwealth of Kentucky had banned horse racing and other activities for the first Saturday in May. We negotiated a new date and time frame with NBC on the first weekend in September 2020 and modified our safety protocols to conduct the 146th running of the Kentucky Derby.
  - The Kentucky Oaks and Derby were held on September 4th and 5th without spectators in a challenging environment and delivered positive Adjusted EBITDA despite the loss of ticket revenue, fewer sponsorships, and lower wagering during Derby Week.
  - Our team members implemented extensive COVID-19 testing and processes and procedures to hold a shortened Spring Meet with no spectators and the September Meet and Fall Meet with restrictions on patron capacity.
  - The state-of-the-art equine medical center and quarantine barns on the backside area of our track were completed in April 2020 which reinforces our ongoing commitment to equine and jockey safety and supports our long-term international growth strategy. We also implemented other equine safety initiatives led by our on-staff veterinarian including entry restrictions, medication restrictions, and other actions to improve the safety of the equine athletes and jockeys and supported federal legislation that was resulted in the Horseracing Integrity and Safety Act being signed into law on December 28, 2020.

- Derby City Gaming:
  - Derby City Gaming delivered record Adjusted EBITDA in 2020 despite a temporary closure from March 15, 2020 to June 8, 2020 as a result of the COVID-19 global pandemic.
  - We added a second patio to the facility that allows for smoking and provided an additional 8,000 square-feet of gaming space and 225 HRMs.
  - Our team members developed partnerships with Scientific Games, IGT, and Konami to add their leading game titles on the HRMs at our Derby City Gaming, Oak Grove, Newport, and future HRM facilities.

#### *Online Wagering Segment:*

- TwinSpires Horse Racing:
  - Handle grew from \$1.46 billion to \$1.98 billion, up \$521.0 million, or 35.8%, over 2019. Industry handle decreased 1.0%.
  - Net revenue grew from \$291.0 million to \$405.0 million, up \$114.0 million, or 39.2%, over 2019.
  - The business delivered record Adjusted EBITDA of \$126.8 million, up \$48.4 million, or 61.7%, over 2019.
- TwinSpires Sports and Casino:
  - We signed multi-year agreements with GAN Limited and Kambi Group PLC to provide player account management, casino platform, sports trading, and risk management services. We also announced the transition from the BetAmerica brand to the TwinSpires brand.
  - We opened a retail sportsbook at Bronco Billy's Casino in Cripple Creek, Colorado and at Island Resort & Casino in Harris, Michigan. We have also launched our sportsbook and casino app in Michigan.

#### *Gaming*

- The Gaming Segment delivered \$176.7 million of Adjusted EBITDA, a decrease of \$104.2 million, 37.1% from 2019 despite multiple property closures and ongoing patron capacity restrictions as a result of the COVID-19 global pandemic.
- The team delivered wholly-owned casino margins of 36.6% in the second half of 2020, up 690 basis points from 2019 excluding properties that were closed during part of the second half of 2020.
- Our leaders and team members developed and implemented changes to our amenities, modified our gaming floors, enhanced our cleaning and safety protocols, provided safety equipment and protective gear to our team members, and conducted extensive training to enable our properties to safely reopen with patron capacity restrictions.

#### *All Other*

- Oak Grove - We opened a simulcast and HRM facility in Oak Grove, Kentucky with approximately 1,325 HRMs, a 128-room hotel, an event center, and food and beverage venues. The 1,200-person grandstand, 3,000-person capacity outdoor amphitheater and stage, a state-of-the-art equestrian center, and a recreational vehicle park will open in early 2021.
- Newport Racing and Gaming - We opened a pari-mutuel simulcast area, a 17,000 square foot gaming floor with approximately 500 HRMs, and a feature bar in Newport, Kentucky, as an extension of Turfway Park.
- We entered into an agreement in principle to settle the Kater Litigation and Thimmegowda Litigation where the Company will pay \$124.0 million pre-tax of the settlement and Aristocrat will pay \$31.0 million pre-tax. Aristocrat released the Company of any and all indemnification obligations related to Big Fish Games.
- On March 16, 2020, we entered into the First Amendment to our Credit Agreement which extended the maturity of the Company's Revolver, lowers the pricing schedule for all levels of the pricing grid, and reduces the commitment fee.
- We entered into a Second Amendment to our Credit Agreement to provide financial covenant relief through the financial reporting date for second quarter 2021 and limited restricted payments to \$26.0 million for this period.
- We formed a Diversity Council and conducted Diversity and Inclusion training for leaders and full-time team members in our Company.
- The Company's total shareholder return was 43% for 2020 compared to 20% for the Russell 2000 and 18% for the S&P 500. The Company's five-year total shareholder return for 2020 was 325% compared to 86% for the Russell 2000 and 103% for the S&P 500. The preceding shareholder return calculations assume dividends are reinvested.

We are committed to delivering strong financial results and long-term sustainable growth. We have strong cash flow and a solid balance sheet that supports organic growth as well as potential strategic acquisitions that we believe will create long-term value for our shareholders.

## Our Operations

We manage our operations through three reportable segments: Churchill Downs, Online Wagering, and Gaming.

Refer to Part I, Item 1. Business, of this Annual Report on Form 10-K for more information on our segments and a description of our competition and government regulations and potential legislative changes that affect our business.

## Consolidated Financial Results

The following table reflects our net revenue, operating income, net (loss) income, Adjusted EBITDA, and certain other financial information:

<i>(in millions)</i>	Years Ended December 31,		Change
	2020	2019	
Net revenue	\$ 1,054.0	\$ 1,329.7	\$ (275.7)
Operating income	60.2	215.7	(155.5)
Operating income margin	5.7 %	16.2 %	
Net income from continuing operations	13.3	139.6	(126.3)
Net (loss) income attributable to Churchill Downs Incorporated	(81.9)	137.5	(219.4)
Adjusted EBITDA	286.5	451.4	(164.9)

### Year Ended December 31, 2020, Compared to the Year Ended December 31, 2019

- Net revenue decreased \$275.7 million driven by a \$251.0 million decrease from Gaming due to the temporary suspension of operations of all of our Gaming properties; a \$131.4 million decrease from Churchill Downs primarily due to running the 146th Kentucky Oaks and Derby without spectators; and a \$11.1 million decrease from All Other primarily due to the temporary suspension of operations at Arlington partially offset by the opening of Oak Grove in September 2020. Partially offsetting these decreases was a \$117.8 million increase from Online Wagering due to an increase in handle from higher net revenue per active player and an increase in active players for our TwinSpires Horse Racing business.
- Operating income decreased \$155.5 million due to a \$109.5 million decrease from Churchill Downs primarily due to running the 146th Kentucky Oaks and Derby without spectators; a \$83.3 million decrease from Gaming due to the temporary suspension of operations of all of our Gaming properties; a \$17.5 million non-cash impairment of the Presque Isle gaming rights and trademark intangible assets; and a \$7.0 million decrease from All Other primarily due to the temporary suspension of operations at Arlington partially offset by the opening of Oak Grove in September 2020. Partially offsetting these decreases were a \$50.3 million increase from Online Wagering due to an increase in handle and net revenue per active player at TwinSpires; a \$7.2 million decrease in selling, general and administrative expense primarily from a reduction in salaries and associated benefits; and a \$4.3 million decrease in transaction expense, net.
- Net income from continuing operations decreased \$126.3 million. The following items impacted comparability of the Company's net income from continuing operations for the year ended December 31, 2020 compared to the prior year: \$14.4 million of after-tax expenses incurred in 2019 that did not recur in 2020, including the impact of the accelerated amortization of the purchase and sale agreement rights related to the Turfway Park Acquisition, Midwest Gaming's recapitalization and transaction costs, and legal reserves; a \$13.3 million tax benefit related to our net operating loss in the current year that the Company intends to offset prior year taxes as a result of the CARES Act; and a \$6.4 million non-cash tax decrease related to the re-measurement of our net deferred tax liabilities based on impact of revenue related to states with higher tax rates. Partially offsetting these decreases was a \$12.0 million non-cash after-tax impact related to our impairment of the Presque Isle intangible assets; a \$1.7 million after-tax increase in expenses related to higher transaction, pre-opening and other expenses; and a \$0.2 million increase from other sources. Excluding these items, net income from continuing operations decreased \$146.5 million primarily due to a \$141.0 million after-tax decrease driven by the results of our operations and equity income from our unconsolidated affiliates and a \$5.5 million after-tax increase in interest expense associated with higher outstanding debt balances.
- Our net income attributable to Churchill Downs Incorporated decreased \$219.4 million due to a \$126.3 million decrease in net income from continuing operations discussed above, a \$93.0 million decrease in net loss from discontinued operations, and a \$0.1 million decrease in net loss attributable to noncontrolling interest. During the

second quarter of 2020, we settled the Kater and Thimmegowda litigations for \$124.0 million pre-tax (\$95.0 million after-tax) which increased our net loss from discontinued operations compared to the prior year period.

- Our Adjusted EBITDA decreased \$164.9 million driven by a \$104.2 million decrease from Gaming due to the temporary suspension of all Gaming property operations; a \$99.4 million decrease from Churchill Downs primarily due to running the 146th Kentucky Oaks and Derby without spectators; and a \$4.3 million decrease from All Other primarily due to the temporary suspension of operations at Arlington. Partially offsetting these decreases was a \$43.0 million increase from Online Wagering due to an increase in handle from higher net revenue per active player and an increase in active players for our TwinSpires Horse Racing business.

## **Financial Results by Segment**

### **Net Revenue by Segment**

The following table presents net revenue for our segments, including intercompany revenue:

<i>(in millions)</i>	<b>Years Ended December 31,</b>		<b>Change</b>
	<b>2020</b>	<b>2019</b>	
<b>Churchill Downs:</b>			
Churchill Downs Racetrack	\$ 81.0	\$ 202.8	\$ (121.8)
Derby City Gaming	79.5	86.6	(7.1)
Total Churchill Downs	160.5	289.4	(128.9)
<b>Online Wagering:</b>			
TwinSpires Horse Racing	405.0	291.0	114.0
TwinSpires Sports and Casino	4.9	0.6	4.3
Total Online Wagering	409.9	291.6	118.3
<b>Gaming:</b>			
Presque Isle	75.4	139.0	(63.6)
Fair Grounds Slots and VSI	99.8	124.8	(25.0)
Oxford	44.9	101.7	(56.8)
Calder	51.9	99.9	(48.0)
Ocean Downs	60.3	85.9	(25.6)
Riverwalk	49.1	58.9	(9.8)
Harlow's	41.8	55.3	(13.5)
Lady Luck Nemacolin	20.7	29.3	(8.6)
Total Gaming	443.9	694.8	(250.9)
All Other	74.7	84.2	(9.5)
Eliminations	(35.0)	(30.3)	(4.7)
<b>Net Revenue</b>	<b>\$ 1,054.0</b>	<b>\$ 1,329.7</b>	<b>\$ (275.7)</b>

### ***Year Ended December 31, 2020, Compared to the Year Ended December 31, 2019***

- Churchill Downs revenue decreased \$128.9 million primarily due to a \$121.8 million decrease from Churchill Downs Racetrack from the loss of ticket revenue, fewer sponsorships, and lower wagering during Derby Week as a result of running of 146th Kentucky Oaks and Derby without spectators in a challenging environment, and a \$7.1 million decrease at Derby City Gaming due to the temporary suspension of operations.
- Online Wagering revenue increased \$118.3 million from the prior year primarily due to a \$114.0 million increase at TwinSpires Horse Racing. Although horse racing content for wagering decreased, TwinSpires Horse Racing handle grew \$521.0 million, or 35.8%, compared to prior year, as our customers wagered more on the content that was available. Our TwinSpires Sports and Casino net revenues increased \$4.3 million compared to prior year primarily due to the launch of the casino platform in Pennsylvania and Indiana in late December 2019.
- Gaming revenue decreased \$250.9 million primarily due to the temporary suspension of operations at all of our Gaming properties that reduced the net revenue generated at these properties.
- All Other revenue decreased \$9.5 million primarily due to a \$30.8 million decrease as a result of the temporary suspension of operations and loss of racing days at Arlington and a \$4.2 million decrease as a result of the temporary

suspension of operations at the majority of United Tote customer locations. Partially offsetting these decreases were a \$16.6 million increase at Oak Grove due to the opening of the HRM facility in September 2020 and the hotel in October 2020, a \$5.8 million increase primarily from the increase in Turfway Park handle, and a \$3.1 million increase at Newport due to the opening in October 2020.

### Consolidated Operating Expense

The following table is a summary of our consolidated operating expense:

<i>(in millions)</i>	Years Ended December 31,		Change
	2020	2019	
Taxes and purses	\$ 268.3	\$ 369.7	\$ (101.4)
Content expense	180.7	139.6	41.1
Salaries and benefits	140.5	171.2	(30.7)
Selling, general and administrative expense	114.8	122.0	(7.2)
Depreciation and amortization	92.9	96.4	(3.5)
Marketing and advertising expense	31.4	41.8	(10.4)
Impairment expense	17.5	—	17.5
Transaction expense, net	1.0	5.3	(4.3)
Other operating expense	146.7	168.0	(21.3)
Total expense	<u>\$ 993.8</u>	<u>\$ 1,114.0</u>	<u>\$ (120.2)</u>
Percent of revenue	94 %	84 %	

### Year Ended December 31, 2020, Compared to the Year Ended December 31, 2019

Significant items affecting comparability of consolidated operating expense include:

- Taxes and purses decreased \$101.4 million driven by the temporary suspension of all operations at our Gaming properties and the related decrease in net revenue and a decrease in purses related to the reduction of horse races from the temporary closures of our facilities, partially offset by an increase in taxes and purses driven by the opening of Oak Grove in September 2020 and Newport in October 2020.
- Content expense increased \$41.1 million primarily due to an increase in certain host fees and source market fees for TwinSpires as a result of the increase in handle.
- Salaries and benefits expense decreased \$30.7 million driven primarily by temporary furloughing certain employees and temporarily reducing salaries for all remaining non-furloughed salaried employees through the end of July 2020, partially offset by increased expenses due to the opening of Oak Grove in September 2020 and Newport in October 2020.
- Selling, general and administrative expense decreased \$7.2 million primarily from a temporary reduction in salaries and associated benefits and a decrease in accrued bonuses compared to prior year.
- Depreciation and amortization expense decreased \$3.5 million primarily driven by the amortization of the assignment of the purchase and sale agreement rights associated with the Turfway Park Acquisition that occurred in 2019 and did not recur in 2020, partially offset by capital projects placed into service for Churchill Downs Racetrack and Derby City Gaming, and Turfway Park.
- Marketing and advertising expense decreased \$10.4 million primarily due to the temporary suspension of operations at our brick-and-mortar properties, partially offset by an increase in marketing and advertising spend for TwinSpires Horse Racing and our TwinSpires Sports and Casino business in the Online Wagering segment.
- Impairment of intangible assets increased \$17.5 million driven by a \$15.0 million non-cash impairment charge related to Presque Isle's gaming rights and a \$2.5 million non-cash impairment charge related to Presque Isle's trademark.
- Transaction expense, net was nominal for the year ended December 31, 2020. For the year ended December 31, 2019, transaction expense, net was related to the acquisitions of Presque Isle and Lady Luck Nemaquin.
- Other operating expense includes maintenance, utilities, food and beverage costs, property taxes and insurance and other operating expenses. Other operating expense decreased \$21.3 million primarily driven by the temporary suspension of operations at our brick-and-mortar properties, partially offset by the operating expenses related to

Turfway Park and from the opening of Oak Grove in September 2020 and Newport Racing and Gaming in October 2020.

### Adjusted EBITDA

We believe that the use of Adjusted EBITDA as a key performance measure of the results of operations enables management and investors to evaluate and compare from period to period our operating performance in a meaningful and consistent manner. Adjusted EBITDA is a supplemental measure of our performance that is not required by or presented in accordance with GAAP. Adjusted EBITDA should not be considered as an alternative to, or more meaningful than, net income (as determined in accordance with GAAP) as a measure of our operating results.

<i>(in millions)</i>	Year Ended December 31,		Change
	2020	2019	
Churchill Downs	\$ 38.3	\$ 137.7	\$ (99.4)
Online Wagering	109.3	66.3	43.0
Gaming	176.7	280.9	(104.2)
Total segment Adjusted EBITDA	324.3	484.9	(160.6)
All Other	(37.8)	(33.5)	(4.3)
Total Adjusted EBITDA	\$ 286.5	\$ 451.4	\$ (164.9)

### Year Ended December 31, 2020, Compared to the Year Ended December 31, 2019

- Churchill Downs Adjusted EBITDA decreased \$99.4 million due to a \$101.0 million decrease at Churchill Downs Racetrack primarily due to the decrease in net revenue as a result of running the 146th Kentucky Oaks and Derby without spectators, partially offset by a \$1.6 million increase from Derby City Gaming due to increased operating efficiencies which more than offset the impact of the temporary closure of the property and ongoing capacity restrictions.
- Online Wagering Adjusted EBITDA increased \$43.0 million primarily due to a \$48.4 million increase driven by an increase in TwinSpires Horse Racing handle, partially offset by a \$5.4 million decrease from a higher level of marketing spend and increased costs associated with the continued build-out of the TwinSpires Sports and Casino business.
- Gaming Adjusted EBITDA decreased \$104.2 million driven by an \$82.9 million decrease at our wholly-owned Gaming properties and a \$21.3 million decrease from our equity investments, both of which were due to decreases in net revenue as a result of the temporary suspension of operations during 2020.
- All Other Adjusted EBITDA decreased \$4.3 million primarily due to a \$7.3 million decrease from lower revenue from Arlington and United Tote, a \$1.6 million decrease from higher expenses at Turfway Park as a result of a full year of operations in 2020, and a \$0.5 million decrease from other sources. Partially offsetting these decreases was a \$5.1 million increase from the opening of Oak Grove in September 2020.

## Reconciliation of Comprehensive (Loss) Income to Adjusted EBITDA

<i>(in millions)</i>	Years Ended December 31,		
	2020	2019	Change
<b>Net (loss) income attributable to Churchill Downs Incorporated</b>	\$ (81.9)	\$ 137.5	\$ (219.4)
Net loss attributable to noncontrolling interest	0.2	0.3	(0.1)
Net (loss) income before noncontrolling interest	(82.1)	137.2	(219.3)
Loss from discontinued operations, net of tax	95.4	2.4	93.0
Income from continuing operations, net of tax	13.3	139.6	(126.3)
Additions:			
Depreciation and amortization	92.9	96.4	(3.5)
Interest expense	80.0	70.9	9.1
Income tax (benefit) provision	(5.3)	56.8	(62.1)
<b>EBITDA</b>	<b>\$ 180.9</b>	<b>\$ 363.7</b>	<b>\$ (182.8)</b>
Adjustments to EBITDA:			
Selling, general and administrative:			
Stock-based compensation expense	\$ 23.7	\$ 23.8	\$ (0.1)
Legal reserves	—	3.6	(3.6)
Other, net	0.8	0.4	0.4
Pre-opening expense	11.2	5.1	6.1
Other income, expense:			
Interest, depreciation and amortization expense related to equity investments	38.5	32.6	5.9
Changes in fair value of Midwest Gaming's interest rate swaps	12.9	12.4	0.5
Midwest Gaming's recapitalization and transactions costs	—	4.7	(4.7)
Other charges and recoveries, net	—	(0.2)	0.2
Transaction expense, net	1.0	5.3	(4.3)
Impairment of tangible and other intangible assets	17.5	—	17.5
Total adjustments to EBITDA	105.6	87.7	17.9
<b>Adjusted EBITDA</b>	<b>\$ 286.5</b>	<b>\$ 451.4</b>	<b>\$ (164.9)</b>

## Consolidated Balance Sheet

The following table is a summary of our overall financial position:

<i>(in millions)</i>	As of December 31,		
	2020	2019	Change
Total assets	\$ 2,686.4	\$ 2,551.0	\$ 135.4
Total liabilities	2,319.3	2,040.0	279.3
Total shareholders' equity	367.1	511.0	(143.9)

- Total assets increased \$135.4 million driven by a \$144.8 million increase in property and equipment, net, due to the construction of Oak Grove and Newport; a \$34.9 million increase in income taxes receivable as a result of our current year income tax benefit; and a \$3.7 million increase in all other assets. Partially offsetting these increases was a \$28.8 million decrease in cash and cash equivalents primarily driven by our project capital expenditures related to Oak Grove and Newport; and a \$19.2 million decrease in other intangibles primarily due the impairment of Presque Isle gaming rights and trademark.
- Total liabilities increased \$279.3 million driven by a \$146.5 million increase in long-term debt, non-current, primarily driven by borrowings from our senior secured revolving credit facility; a \$124.0 million increase in current liabilities of discontinued operations due to the settlement of Kater and Thimmegowda litigations; and a \$12.9 million increase

in accounts payable primarily driven by timing. Partially offsetting these increases was a \$4.1 million decrease in all other liabilities.

- Total shareholders' equity decreased \$143.9 million driven by a \$81.9 million current year net loss attributable to Churchill Downs Incorporated, \$27.9 million in repurchases of common stock, \$31.4 million in settlement of stock awards, \$25.1 million from our annual dividend declared in December 2020, and a \$1.3 million decrease in other equity components. Partially offsetting these decreases was a \$23.7 million increase resulting from stock-based compensation.

### Liquidity and Capital Resources

The following table is a summary of our liquidity and cash flows:

<i>(in millions)</i>	Year Ended December 31,		Change
	2020	2019	
Cash Flows from:			
Operating activities	\$ 141.9	\$ 289.6	\$ (147.7)
Investing activities	(239.4)	(781.2)	541.8
Financing activities	76.0	460.8	(384.8)

Included in cash flows from investing activities are capital maintenance expenditures and capital project expenditures. Capital maintenance expenditures relate to the replacement of existing fixed assets with a useful life greater than one year that are obsolete, exhausted, or no longer cost effective to repair. Capital project expenditures represent fixed asset additions related to land or building improvements to new or existing assets or purchases of new (non-replacement) equipment or software related to specific projects deemed necessary expenditures.

#### ***Year Ended December 31, 2020, Compared to the Year Ended December 31, 2019***

- Cash provided by operating activities decreased \$147.7 million driven by a \$138.0 million decrease in operating income related to continuing operations, net of the \$17.5 million non-cash impairment of Presque Isle's intangible assets; a \$17.9 million increase in cash interest paid; and a \$13.7 million decrease from all other operating activities. Partially offsetting these decreases was a \$21.9 million decrease in cash taxes paid. We anticipate that cash flows from operations over the next twelve months will be adequate to fund our business operations and capital expenditures.
- Cash used in investing activities decreased \$541.8 million driven by a \$648.8 million decrease in cash used for our investment and acquisitions in 2019 related to the equity investment in Midwest Gaming, the Presque Isle Transaction, the Turfway Park Acquisition, and other investments in intangible assets, and a \$25.3 million decrease in capital maintenance expenditures. Partially offsetting these decreases were a \$128.3 million increase for capital project expenditures and a \$4.0 million increase in funds used in other investing activities.
- Cash provided by financing activities decreased \$384.8 million driven by a \$450.3 million decrease in net borrowings under our long-term debt obligations primarily related to the issuance of our 2027 Senior Notes in 2019, partially offset by borrowings from our senior secured revolving credit facility during 2020, and a \$19.8 million increase in cash paid to settle stock awards and pay taxes related to the settlement of stock awards. Partially offsetting these decreases was a \$66.6 million decrease in share repurchases in 2020 and an \$18.7 million decrease from other financing activities.

### Credit Facilities and Indebtedness

The following table presents our debt outstanding, bond premium and debt issuance costs:

(in millions)	As of December 31,		
	2020	2019	Change
Term Loan B due 2024	\$ 388.0	\$ 392.0	\$ (4.0)
Revolver	149.7	—	149.7
2027 Senior Notes	600.0	600.0	—
2028 Senior Notes	500.0	500.0	—
Total Debt	1,637.7	1,492.0	145.7
Current maturities of long-term debt	4.0	4.0	—
Total debt, net of current maturities	1,633.7	1,488.0	145.7
Issuance cost and fees	(15.4)	(18.1)	2.7
Net debt	\$ 1,618.3	\$ 1,469.9	\$ 148.4

### Credit Agreement

On December 27, 2017, we entered into a senior secured credit agreement (as amended, the "Credit Agreement") among the Company, the subsidiary guarantors party thereto, JPMorgan Chase Bank, N.A., as Administrative Agent, and the lenders and other financial institutions party thereto. The Credit Agreement provides for a \$700.0 million senior secured revolving credit facility due 2022 (the "Revolver") and a \$400.0 million senior secured term loan B due 2024 (the "Term Loan B"). Included in the maximum borrowing of \$700.0 million under the Revolver is a letter of credit sub facility not to exceed \$50.0 million and a swing line commitment up to a maximum principal amount of \$50.0 million. The Credit Amendment is secured by substantially all wholly-owned assets of the Company. The Company capitalized \$1.6 million of debt issuance costs associated with the Revolver which is being amortized as interest expense over 5 years. The Company also capitalized \$5.1 million of deferred financing costs associated with the Term Loan B portion of the Credit Agreement which is being amortized as interest expense over 7 years.

The interest rates applicable to the Company's borrowings under the Credit Agreement are LIBOR-based plus a spread, as determined by the Company's consolidated total net leverage ratio. The Term Loan B requires quarterly payments of 0.25% of the original \$400.0 million balance, or \$1.0 million per quarter. The Term Loan B may be subject to additional mandatory prepayment from excess cash flow on an annual basis per the provisions of the Credit Agreement. The Company is required to pay a commitment fee on the unused portion of the Revolver determined by a pricing grid based on the consolidated total net leverage ratio of the Company. For the period ended December 31, 2020, the Company's commitment fee rate was 0.30%.

The Company had an outstanding balance of \$149.7 million and had \$545.8 million available on the Revolver on December 31, 2020. The Company had \$67.4 million of cash and cash equivalents on December 31, 2020. On March 16, 2020, we borrowed \$675.4 million on the Revolver to provide the Company with additional financial flexibility. On December 31, 2020, we repaid \$545.0 million of the borrowings on the Revolver.

On March 16, 2020, the Company entered into the First Amendment (the "First Amendment") to the Credit Agreement. The First Amendment extended the maturity of the Company's Revolver from December 27, 2022 to at least September 27, 2024, which is 91 days prior to the latest maturity date of the term loan facility on December 27, 2024. The First Amendment also lowered the upper limit of the applied spreads with respect to revolving loans from 2.25% to 1.75% and for commitment fees with respect thereto from 0.35% to 0.30% and provides a reduced pricing schedule for outstanding borrowings and commitment fees with respect to the Revolver across all other leverage pricing levels. The First Amendment did not alter the Company's borrowing capacity. The Company capitalized \$2.0 million of debt issuance costs associated with the First Amendment which are being amortized as interest expense over the remaining duration of the Revolver.

On April 28, 2020, the Company entered into a Second Amendment to the Credit Agreement, which (i) provides for a financial covenant relief period through the date on which the Company delivers the Company's quarterly financial statements and compliance certificate for the fiscal quarter ending June 30, 2021, subject to certain exceptions (the "Financial Covenant Relief Period"), (ii) amends the definition of "Consolidated EBITDA" in the Credit Agreement with respect to the calculation of Consolidated EBITDA for the first two fiscal quarters after the termination of the Financial Covenant Relief Period, (iii) extends certain deadlines and makes certain other amendments to the Company's financial reporting obligations, (iv) places certain restrictions on restricted payments during the Financial Covenant Relief Period, and (v) amends the definitions of "Material Adverse Effect" and "License Revocation" in the Credit Agreement to take into consideration COVID-19.

During the Financial Covenant Relief Period, the Company will not be required to comply with the consolidated total secured net leverage ratio financial covenant and the interest coverage ratio financial covenant. The Company has agreed to a minimum liquidity financial covenant that requires the Company and restricted subsidiaries to maintain liquidity of at least \$150.0 million during the Financial Covenant Relief Period. While the Second Amendment is in effect, the Company agreed to limit restricted payments to \$26.0 million.

On February 1, 2021, the Company entered into the Third Amendment to the Credit Agreement to increase the restricted payments capacity during the Financial Covenant Relief Period, as defined in the Second Amendment, from \$26.0 million to \$226.0 million to accommodate a share repurchase from an affiliate of The Duchossois Group, Inc. The Company repurchased the shares using available cash and borrowings under the Company's Revolver.

Although the Company was not required to meet the Company's financial covenants under the Credit Agreement on December 31, 2020 (as a result of the Second Amendment), the Company was compliant with all applicable covenants on December 31, 2020.

#### **2027 Senior Notes**

On March 25, 2019, we completed an offering of \$600.0 million in aggregate principal amount of 5.50% Senior Unsecured Notes that mature on April 1, 2027 (the "2027 Senior Notes") in a private offering to qualified institutional buyers pursuant to Rule 144A that is exempt from registration under the Securities Act of 1933, as amended (the "Securities Act"), and to certain non-U.S. persons in accordance with Regulation S under the Securities Act. The 2027 Senior Notes were issued at par, with interest payable on April 1<sup>st</sup> and October 1<sup>st</sup> of each year, commencing on October 1, 2019. The Company used the net proceeds from the offering to repay our outstanding balance on the Revolver portion of our Credit Agreement. In connection with the offering, we capitalized \$8.9 million of debt issuance costs which are being amortized as interest expense over the term of the 2027 Senior Notes.

The 2027 Senior Notes were issued pursuant to an indenture, dated March 25, 2019 (the "2027 Indenture"), among the Company, certain subsidiaries of the Company as guarantors (the "2027 Guarantors"), and U.S. Bank National Association, as trustee. The Company may redeem some or all of the 2027 Senior Notes at any time prior to April 1, 2022, at a price equal to 100% of the principal amount of the 2027 Senior Notes redeemed plus an applicable make-whole premium. On or after such date, the Company may redeem some or all of the 2027 Senior Notes at redemption prices set forth in the 2027 Indenture. In addition, at any time prior to April 1, 2022, the Company may redeem up to 40% of the aggregate principal amount of the 2027 Senior Notes at a redemption price equal to 105.50% of the principal amount thereof with the net cash proceeds of one or more equity offerings provided that certain conditions are met. The terms of the 2027 Indenture, among other things, limit the ability of the Company to: (i) incur additional debt and issue preferred stock; (ii) pay dividends or make other restricted payments; (iii) make certain investments; (iv) create liens; (v) allow restrictions on the ability of certain of our subsidiaries to pay dividends or make other payments; (vi) sell assets; (vii) merge or consolidate with other entities; and (viii) enter into transactions with affiliates.

In connection with the issuance of the 2027 Senior Notes, the Company and the 2027 Guarantors entered into a Registration Rights Agreement to register any 2027 Senior Notes under the Securities Act for resale that are not freely tradable 366 days from March 25, 2019.

#### **2028 Senior Notes**

On December 27, 2017, we completed an offering of \$500.0 million in aggregate principal amount of 4.75% Senior Unsecured Notes that mature on January 15, 2028 (the "2028 Senior Notes") in a private offering to qualified institutional buyers pursuant to Rule 144A that is exempt from registration under the Securities Act, and to certain non-U.S. persons in accordance with Regulation S under the Securities Act. The 2028 Senior Notes were issued at par, with interest payable on January 15<sup>th</sup> and July 15<sup>th</sup> of each year, commencing on July 15, 2018. The Company used the net proceeds from the 2028 Senior Notes and the Credit Agreement to repay the remaining outstanding amount of our \$600.0 million 5.375% Senior Unsecured Notes that were scheduled to mature on December 15, 2021. In connection with the offering, we capitalized \$7.7 million of debt issuance costs which are being amortized as interest expense over the term of the 2028 Senior Notes.

The 2028 Senior Notes were issued pursuant to an indenture, dated December 27, 2017 (the "2028 Indenture"), among the Company, certain subsidiaries of the Company as guarantors (the "2028 Guarantors"), and U.S. Bank National Association, as trustee. The Company may redeem some or all of the 2028 Senior Notes at any time prior to January 15, 2023, at a price equal to 100% of the principal amount of the 2028 Senior Notes redeemed plus an applicable make-whole premium. On or after such date the Company may redeem some or all of the 2028 Senior Notes at redemption prices set forth in the 2028 Indenture. In addition, at any time prior to January 15, 2021, the Company may redeem up to 40% of the aggregate principal amount of the 2028 Senior Notes at a redemption price equal to 104.75% of the principal amount thereof with the net cash proceeds of one or more equity offerings provided that certain conditions are met. The terms of the 2028 Indenture, among other things, limit the ability of the Company to: (i) incur additional debt and issue preferred stock; (ii) pay dividends or make other restricted

payments; (iii) make certain investments; (iv) create liens; (v) allow restrictions on the ability of certain of our subsidiaries to pay dividends or make other payments; (vi) sell assets; (vii) merge or consolidate with other entities; and (viii) enter into transactions with affiliates.

In connection with the issuance of the 2028 Senior Notes, the Company and the 2028 Guarantors entered into a Registration Rights Agreement to register any 2028 Senior Notes under the Securities Act for resale that are not freely tradable 366 days from December 27, 2017.

### **Contractual Obligations**

Our commitments to make future payments as of December 31, 2020, are estimated as follows:

<i>(in millions)</i>	<b>2021</b>	<b>2022-2023</b>	<b>2024-2025</b>	<b>Thereafter</b>	<b>Total</b>
Dividends	\$ 24.9	\$ —	\$ —	\$ —	\$ 24.9
Term Loan B	4.0	8.0	376.0	—	388.0
Interest on Term Loan B <sup>(1)</sup>	8.3	16.6	8.1	—	33.0
Revolver	—	—	149.7	—	149.7
Interest on Revolver <sup>(2)</sup>	2.8	5.7	2.8	—	11.3
2027 Senior Notes	—	—	—	600.0	600.0
2028 Senior Notes	—	—	—	500.0	500.0
Interest on 2027 Senior Notes	33.0	66.0	66.0	49.5	214.5
Interest on 2028 Senior Notes	23.8	47.5	47.5	59.4	178.2
Operating Leases	5.5	8.1	7.4	5.5	26.5
Minimum Guarantees <sup>(3)</sup>	9.0	19.0	19.0	13.2	60.2
<b>Total</b>	<b>\$ 111.3</b>	<b>\$ 170.9</b>	<b>\$ 676.5</b>	<b>\$ 1,227.6</b>	<b>\$ 2,186.3</b>

<sup>(1)</sup> Interest includes the estimated contractual payments under our Credit Facility assuming no change in the weighted average borrowing rate of 2.15%, which was the rate in place as of December 31, 2020.

<sup>(2)</sup> Assumes no change in the weighted average borrowing rate of 1.90%, which was the rate in place as of December 31, 2020.

<sup>(3)</sup> Includes the maximum estimated exposure where we are contractually obligated to make future minimum payments.

As of December 31, 2020, we had approximately \$3.9 million of unrecognized tax benefits.

### **Critical Accounting Policies and Estimates**

Our significant accounting policies and recently adopted accounting policies are more fully described in Note 2 to the notes to consolidated financial statements included in Item 8. Financial Statements and Supplementary Data of this Annual Report on Form 10-K.

Our consolidated financial statements have been prepared in conformity with GAAP, which requires management to make estimates, judgments and assumptions that we believe are reasonable based on our historical experience, contract terms, observance of known trends in our Company and the industry as a whole and information available from other outside sources. Our estimates affect the reported amounts of assets and liabilities and related disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expense during the reporting period. Actual results may differ from those initial estimates.

Our critical accounting estimates relate to goodwill and certain indefinite-lived intangible assets.

#### **Goodwill and certain indefinite-lived intangible assets**

##### *Acquisition of certain identifiable indefinite-lived intangible assets*

In conjunction with the acquisition of a business, the Company records identifiable indefinite-lived intangible assets acquired at their respective fair values as of the date of acquisition. Our indefinite-lived intangible assets primarily consist of gaming rights and trademarks. Gaming rights and trademarks are considered indefinite-lived intangible assets that do not require amortization based on our future expectations to operate our gaming facilities and use the trademarks indefinitely, and our historical experience in renewing these intangible assets at minimal cost with various state gaming commissions.

We use various valuation methods to determine initial fair value of our indefinite-lived intangible assets, including the Greenfield method and relief-from-royalty method of the income approach, all of which use significant unobservable inputs, or Level 3 inputs, as defined by the fair value hierarchy. The use of these valuation methods requires us to make significant

estimates and assumptions about future revenue and operating expenses, expected start-up costs, capital expenditures, royalty rate, and the discount rate. The fair values of gaming rights are generally determined using the Greenfield method, which is an income approach methodology that calculates the present value based on a projected cash flow stream. This method assumes that the gaming rights provides the opportunity to develop a casino in a specified region, and that the present value of the projected cash flows are a result of the realization of advantages contained in these rights. Under this methodology, the acquirer is expected to absorb all start-up costs, as well as incur all expenses pertaining to the acquisition and/or the creation of all tangible and intangible assets. The estimated future revenue and operating expenses, start-up costs of the acquired business, and the discount rate are the primary assumptions and estimates used in these valuations. The fair values of trademarks are generally determined using the relief-from-royalty method of the income approach, which estimates the fair value of the intangible asset by discounting the fair value of the hypothetical royalty payments a market participant would be willing to pay to enjoy the benefits of the trademarks. The estimated future revenue, royalty rate, and the discount rate are the primary assumptions and estimates used in these valuations. The discount rates used to discount expected future cash flows to present value are generally derived from the weighted average cost of capital analysis and adjusted for the size and/or risk of the asset.

#### *Assessments of goodwill and indefinite-lived intangible assets*

We perform our annual review for impairment of goodwill and indefinite-lived intangible assets on April 1 of each fiscal year, or more frequently if events or changes in circumstances indicate that it is more likely than not the asset is impaired. Adverse industry or economic trends, lower projections of profitability, or a sustained decline in our market capitalization, among other items, may be indications of potential impairment issues which are triggering events requiring the testing of an asset's carrying value for recoverability.

Goodwill and indefinite-lived intangible assets are required to be tested annually or more frequently if events or changes in circumstances indicate that it is more likely than not that an asset is impaired. An entity may first assess qualitative factors to determine whether it is necessary to complete the impairment test using a more likely than not criteria. If an entity believes it is more likely than not that the fair value of a reporting unit is greater than the reporting unit's carrying value, including goodwill, the quantitative impairment test can be bypassed. Alternatively, an entity has an unconditional option to bypass the qualitative assessment and proceed directly to performing the quantitative impairment test. If a quantitative impairment test of goodwill is required, we generally determine the fair value under the market and income valuation approaches using inputs primarily related to discounted projected cash flows and price multiples of publicly traded comparable companies. If a quantitative impairment test of our indefinite-lived intangible assets is required, we generally determine the fair value using the Greenfield method for gaming rights and relief-from-royalty method of the income approach for trademarks. Qualitative factors include macroeconomic conditions, industry and market conditions, cost factors and overall financial performance, among others. These factors require significant judgments and estimates, and application of alternative assumptions could produce materially different results. Evaluations of possible impairment require us to estimate, among other factors, forecasts of future operating results, revenue growth, operating expense, tax rates, start-up costs, capital expenditures, depreciation, working capital, discount rates, long-term growth rates, risk premiums, royalty rates, terminal values, and fair values of our reporting units and assets. The impairment tests for goodwill and indefinite-lived intangible assets are subject to uncertainties arising from such events as changes in competitive conditions, the current economic environment, material changes in growth rate assumptions that could positively or negatively impact anticipated future operating conditions and cash flows, changes in the discount rate, and the impact of strategic decisions. If any of these factors were to materially change, such change may require a reevaluation of our goodwill and indefinite-lived intangible assets. Changes in estimates or the application of alternative assumptions could produce significantly different results.

## ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are exposed to market risks arising from adverse changes in:

- general economic trends; and
- interest rate and credit risk.

### ***General economic trends***

Our business is sensitive to consumer confidence and reductions in consumers' discretionary spending, which may result from challenging economic conditions, unemployment levels and other changes in the economy. Demand for entertainment and leisure activities is sensitive to consumers' disposable incomes, which can be adversely affected by economic conditions and unemployment levels. This could result in fewer patrons visiting our racetracks, gaming and wagering facilities, and online wagering sites and/or may impact our customers' ability to wager with the same frequency and to maintain wagering levels.

### ***Interest rate and credit risk***

Our primary exposure to market risk relates to changes in interest rates. On December 31, 2020, we had \$537.6 million outstanding under our Credit Agreement, which bears interest at LIBOR based variable rates. We are exposed to market risk on variable rate debt due to potential adverse changes in these rates. Assuming the outstanding balance of the debt facility remains constant, a one-percentage point increase in the LIBOR rate would reduce net income and cash flows from operating activities by \$3.8 million. LIBOR is anticipated to be phased out by the end of 2022. We are unable to predict the use of alternative reference rates and corresponding interest rate risk at this time.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

**CHURCHILL DOWNS INCORPORATED**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE (LOSS) INCOME**  
**for the years ended December 31,**

(in millions, except per common share data)

	2020	2019	2018
<b>Net revenue:</b>			
Churchill Downs	\$ 142.8	\$ 274.2	\$ 195.8
Online Wagering	408.3	290.5	290.2
Gaming	441.4	692.4	449.5
All Other	61.5	72.6	73.5
<b>Total net revenue</b>	<u>1,054.0</u>	<u>1,329.7</u>	<u>1,009.0</u>
<b>Operating expense:</b>			
Churchill Downs	141.9	163.8	116.3
Online Wagering	273.3	205.8	196.1
Gaming	360.4	528.1	331.0
All Other	84.9	89.0	75.9
Selling, general and administrative expense	114.8	122.0	90.6
Impairment of intangible assets	17.5	—	—
Transaction expense, net	1.0	5.3	10.3
<b>Total operating expense</b>	<u>993.8</u>	<u>1,114.0</u>	<u>820.2</u>
<b>Operating income</b>	<u>60.2</u>	<u>215.7</u>	<u>188.8</u>
<b>Other income (expense):</b>			
Interest expense, net	(80.0)	(70.9)	(40.1)
Equity in income of unconsolidated investments	27.7	50.6	29.6
Gain on Ocean Downs/Saratoga transaction	—	—	54.9
Miscellaneous, net	0.1	1.0	0.7
<b>Total other (expense) income</b>	<u>(52.2)</u>	<u>(19.3)</u>	<u>45.1</u>
Income from continuing operations before provision for income taxes	8.0	196.4	233.9
Income tax benefit (provision)	5.3	(56.8)	(51.3)
Income from continuing operations, net of tax	13.3	139.6	182.6
(Loss) income from discontinued operations, net of tax	(95.4)	(2.4)	170.2
Net (loss) income	(82.1)	137.2	352.8
Net loss attributable to noncontrolling interest	(0.2)	(0.3)	—
<b>Net (loss) income attributable to Churchill Downs Incorporated</b>	<u>\$ (81.9)</u>	<u>\$ 137.5</u>	<u>\$ 352.8</u>
<b>Net income (loss) per common share data - basic:</b>			
Continuing operations	\$ 0.34	\$ 3.49	\$ 4.42
Discontinued operations	\$ (2.41)	\$ (0.06)	\$ 4.12
<b>Net (loss) income per common share - basic</b>	<u>\$ (2.07)</u>	<u>\$ 3.43</u>	<u>\$ 8.54</u>
<b>Net income (loss) per common share data - diluted:</b>			
Continuing operations	\$ 0.33	\$ 3.44	\$ 4.39
Discontinued operations	\$ (2.41)	\$ (0.06)	\$ 4.09
<b>Net (loss) income per common share - diluted</b>	<u>\$ (2.08)</u>	<u>\$ 3.38</u>	<u>\$ 8.48</u>
Weighted average shares outstanding:			
Basic	39.6	40.1	41.3
Diluted	40.1	40.6	41.6
<b>Other comprehensive income (loss):</b>			
Foreign currency translation, net of tax	\$ —	\$ —	\$ 0.6
Change in pension benefits, net of tax	—	—	(0.2)
Other comprehensive income	—	—	0.4
<b>Comprehensive (loss) income attributable to Churchill Downs Incorporated</b>	<u>\$ (81.9)</u>	<u>\$ 137.5</u>	<u>\$ 353.2</u>

The accompanying notes are an integral part of the consolidated financial statements.

**CHURCHILL DOWNS INCORPORATED**  
**CONSOLIDATED BALANCE SHEETS**  
**December 31,**

<i>(in millions)</i>	<b>ASSETS</b>	<u>2020</u>	<u>2019</u>
Current assets:			
Cash and cash equivalents		\$ 67.4	\$ 96.2
Restricted cash		53.6	46.3
Accounts receivable, net of allowance for doubtful accounts of \$4.9 in 2020 and \$4.4 in 2019		36.5	37.3
Income taxes receivable		49.4	14.5
Other current assets		28.2	26.9
Total current assets		<u>235.1</u>	<u>221.2</u>
Property and equipment, net		1,082.1	937.3
Investment in and advances to unconsolidated affiliates		630.6	634.5
Goodwill		366.8	367.1
Other intangible assets, net		350.6	369.8
Other assets		21.2	21.1
Total assets		<u>\$ 2,686.4</u>	<u>\$ 2,551.0</u>
	<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
Current liabilities:			
Accounts payable		\$ 70.7	\$ 57.8
Accrued expenses and other current liabilities		167.8	173.4
Current deferred revenue		32.8	42.5
Current maturities of long-term debt		4.0	4.0
Dividends payable		24.9	23.5
Current liabilities of discontinued operations		124.0	—
Total current liabilities		<u>424.2</u>	<u>301.2</u>
Long-term debt (net of current maturities and loan origination fees of \$3.2 in 2020 and \$4.0 in 2019)		530.5	384.0
Notes payable (net of debt issuance costs of \$12.2 in 2020 and \$14.1 in 2019)		1,087.8	1,085.9
Non-current deferred revenue		17.1	16.7
Deferred income taxes		213.9	212.8
Other liabilities		45.8	39.4
Total liabilities		<u>2,319.3</u>	<u>2,040.0</u>
Commitments and contingencies			
Shareholders' equity:			
Preferred stock, no par value; 0.3 shares authorized; no shares issued or outstanding		—	—
Common stock, no par value; 150.0 shares authorized; 39.5 shares issued and outstanding in 2020 and 39.7 shares in 2019		18.2	—
Retained earnings		349.8	509.2
Accumulated other comprehensive loss		(0.9)	(0.9)
Total Churchill Downs Incorporated shareholders' equity		<u>367.1</u>	<u>508.3</u>
Noncontrolling interest		—	2.7
Total shareholders' equity		<u>367.1</u>	<u>511.0</u>
Total liabilities and shareholders' equity		<u>\$ 2,686.4</u>	<u>\$ 2,551.0</u>

The accompanying notes are an integral part of the consolidated financial statements.

**CHURCHILL DOWNS INCORPORATED**  
**CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY**  
for the years ended December 31, 2020, 2019 and 2018

	Common Stock		Retained Earnings	Accumulated Other Comprehensive Loss	Noncontrolling Interest	Total Shareholders' Equity
	Shares	Amount				
<i>(in millions, except per common share data)</i>						
<b>Balance, December 31, 2017</b>	46.2	\$ 7.3	\$ 634.3	\$ (1.3)	\$ —	\$ 640.3
Net income			352.8			352.8
Issuance of common stock	0.3	1.5				1.5
Repurchase of common stock	(6.1)	(29.9)	(504.0)			(533.9)
Taxes paid related to net share settlement of stock awards	(0.1)		(15.6)			(15.6)
Issuance of restricted stock awards, net of forfeitures	0.1	—				—
Stock-based compensation		21.1				21.1
Adoption of ASC 606			29.7			29.7
Cash dividends (\$0.543 per share)			(23.0)			(23.0)
Foreign currency translation adjustment, net of \$(0.1) tax				0.6		0.6
Change in pension benefits, net of \$(0.1) tax				(0.2)		(0.2)
<b>Balance, December 31, 2018</b>	40.4	—	474.2	(0.9)	—	473.3
Net income			137.5		(0.3)	137.2
Contributions from noncontrolling interest					3.0	3.0
Issuance of common stock	0.2	1.9				1.9
Repurchase of common stock	(0.9)	(25.7)	(67.3)			(93.0)
Taxes paid related to net share settlement of stock awards	(0.1)		(11.5)			(11.5)
Issuance of restricted stock awards, net of forfeitures	0.1	—				—
Stock-based compensation		23.8				23.8
Adoption of ASC 842			(0.3)			(0.3)
Cash dividends (\$0.581 per share)			(23.4)			(23.4)
<b>Balance, December 31, 2019</b>	39.7	—	509.2	(0.9)	2.7	511.0
Net loss			(81.9)		(0.2)	(82.1)
Purchase of noncontrolling interest			(0.5)		(2.5)	(3.0)
Issuance of common stock	0.1	2.4				2.4
Repurchase of common stock	(0.2)	(4.3)	(23.6)			(27.9)
Cash settlement of stock awards			(12.7)			(12.7)
Taxes paid related to net share settlement of stock awards	(0.1)	(3.6)	(15.1)			(18.7)
Stock-based compensation		23.7				23.7
Adoption of ASC 326			(0.5)			(0.5)
Cash dividends (\$0.622 per share)			(25.1)			(25.1)
<b>Balance, December 31, 2020</b>	39.5	\$ 18.2	\$ 349.8	\$ (0.9)	\$ —	\$ 367.1

The accompanying notes are an integral part of the consolidated financial statements.

**CHURCHILL DOWNS INCORPORATED**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**for the years ended December 31,**

<i>(in millions)</i>	<u>2020</u>	<u>2019</u>	<u>2018</u>
<b>Cash flows from operating activities:</b>			
Net (loss) income	\$ (82.1)	\$ 137.2	\$ 352.8
Adjustments to reconcile net (loss) income to net cash provided by operating activities:			
Depreciation and amortization	92.9	96.4	63.6
Equity in income of unconsolidated affiliates	(27.7)	(50.6)	(29.6)
Distributions from unconsolidated affiliates	30.7	38.1	19.8
Stock-based compensation	23.7	23.8	21.1
Deferred income taxes	1.1	31.5	36.5
Impairment of intangible assets	17.5	—	—
Amortization of operating lease assets	5.0	4.6	—
Gain on Ocean Downs/Saratoga transaction	—	—	(54.9)
Gain on sale of Big Fish Games	—	—	(219.5)
Other	4.5	2.8	(1.2)
Changes in operating assets and liabilities, net of businesses acquired and dispositions:			
Income taxes	(34.3)	2.5	13.8
Deferred revenue	(8.3)	(9.3)	(10.3)
Current liabilities of discontinued operations	124.0	—	—
Other assets and liabilities	(5.1)	12.6	5.7
Net cash provided by operating activities	<u>141.9</u>	<u>289.6</u>	<u>197.8</u>
<b>Cash flows from investing activities:</b>			
Capital maintenance expenditures	(23.0)	(48.3)	(29.6)
Capital project expenditures	(211.2)	(82.9)	(119.8)
Acquisition of businesses, net of cash acquired	—	(206.6)	13.1
Investments in and advances to unconsolidated affiliates	—	(410.1)	—
Acquisition of other intangible assets	—	(32.1)	—
Proceeds from sale of Big Fish Games	—	—	970.7
Other	(5.2)	(1.2)	(10.3)
Net cash (used in) provided by investing activities	<u>(239.4)</u>	<u>(781.2)</u>	<u>824.1</u>
<b>Cash flows from financing activities:</b>			
Proceeds from borrowings under long-term debt obligations	726.1	1,236.3	135.0
Repayments of borrowings under long-term debt obligations	(580.4)	(640.3)	(381.0)
Payment of dividends	(23.4)	(22.2)	(23.7)
Repurchase of common stock	(28.4)	(95.0)	(531.4)
Cash settlement of stock awards	(12.7)	—	—
Taxes paid related to net share settlement of stock awards	(18.7)	(11.5)	(15.6)
Repayment of Ocean Downs debt	—	—	(54.7)
Big Fish Games earnout and deferred payments	—	—	(58.2)
Debt issuance costs	(2.0)	(8.9)	(0.8)
Change in bank overdraft	13.4	—	(4.4)
Other	2.1	2.4	1.5
Net cash provided by (used in) financing activities	<u>76.0</u>	<u>460.8</u>	<u>(933.3)</u>
<b>Net (decrease) increase in cash, cash equivalents and restricted cash</b>	<u>(21.5)</u>	<u>(30.8)</u>	<u>88.6</u>
Effect of exchange rate changes on cash	—	—	(0.8)
Cash, cash equivalents and restricted cash, beginning of year	142.5	173.3	85.5
Cash, cash equivalents and restricted cash, end of year	<u>\$ 121.0</u>	<u>\$ 142.5</u>	<u>\$ 173.3</u>

The accompanying notes are an integral part of the consolidated financial statements.

**CHURCHILL DOWNS INCORPORATED**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS (continued)**  
**for the years ended December 31,**

<i>(in millions)</i>	<b>2020</b>	<b>2019</b>	<b>2018</b>
<b>Supplemental disclosures of cash flow information:</b>			
Cash paid during the period for:			
Interest	\$ 79.6	\$ 61.7	\$ 31.1
Income taxes	1.6	23.5	48.6
<b>Schedule of non-cash investing and financing activities:</b>			
Dividends payable	\$ 25.8	\$ 23.5	\$ 22.5
Deferred tax liability assumed from equity investment	—	103.2	—
Property and equipment additions included in accounts payable and accrued expense and other current liabilities	12.9	12.4	6.6
Repurchase of common stock in payment of income taxes on stock-based compensation included in accrued expense and other current liabilities	—	3.9	2.5
Repurchase of common stock included in accrued expense and other current liabilities	—	0.5	2.5
Acquisition of Ocean Downs, net of cash acquired	—	—	115.2

The accompanying notes are an integral part of the consolidated financial statements.

## 1. DESCRIPTION OF BUSINESS

Churchill Downs Incorporated (the "Company", "we", "us", "our") is an industry-leading racing, online wagering and gaming entertainment company anchored by our iconic flagship event, the Kentucky Derby. We own and operate three pari-mutuel gaming entertainment venues with approximately 3,050 historical racing machines ("HRMs") in Kentucky. We also own and operate TwinSpires, one of the largest and most profitable online wagering platforms for horse racing, sports and iGaming in the U.S. and we have seven retail sportsbooks. We are also a leader in brick-and-mortar casino gaming in eight states with approximately 11,000 slot machines and video lottery terminals ("VLTs") and 200 table games. We were organized as a Kentucky corporation in 1928, and our principal executive offices are located in Louisville, Kentucky.

### *Impact of the COVID-19 Global Pandemic*

In March 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic. Considerable uncertainty still surrounds the COVID-19 virus and the potential effects of COVID-19, and the extent of and effectiveness of responses taken on international, national and local levels. Measures taken to limit the impact of COVID-19, including shelter-in-place orders, social distancing measures, travel bans and restrictions, and business and government shutdowns, have resulted and continue to result in significant negative economic impacts in the U.S. and in relation to our business. The long-term impact of COVID-19 on the U.S. and world economies and continuing impact on our business remains uncertain, the duration and scope of which cannot currently be predicted.

In response to the measures taken to limit the impact of COVID-19 described above, and for the protection of our employees, customers, and communities, we temporarily suspended operations at our properties in March 2020. In May 2020, we began to reopen our properties with patron restrictions and gaming limitations. One property temporarily suspended operations again in July 2020 and reopened in August 2020, and three properties temporarily suspended operations again in December 2020 and reopened in January 2021.

We implemented a number of initiatives to facilitate social distancing and enhanced cleaning, such as increased frequency of cleaning and sanitizing of all high-touch surfaces, mandatory temperature checks of all guests and team members upon entry and required training for all team members on safety protocols. Certain amenities at our properties have continued to be suspended, including food buffets and valet services, and certain restaurants and food outlets. A summary of the temporary closures and the current restrictions at each property is provided in Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations contained within this Report.

On March 25, 2020, as a result of the temporary closures and suspended operations described above, the Company announced the temporary furlough of employees at the Company's wholly-owned and managed gaming properties and certain racing operations. As the Company reopened these properties, certain employees have returned to work while others remain on temporary furlough due to the capacity restrictions at these properties. The Company provided health, dental, vision and life insurance benefits to furloughed employees through July 31, 2020 and during the subsequent property closure periods.

The Company also implemented a temporary salary reduction for all remaining non-furloughed salaried employees based on a percentage that varies dependent upon the amount of each employee's salary. The most senior level of executive management received the largest salary decrease, based on both percentage and dollar amount. Salaries for non-furloughed employees resumed at the annual base salary beginning with the start of the employee's first full pay period after July 31, 2020.

The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") provides an employee retention credit ("CARES Employee Retention Credit"), which is a refundable tax credit against certain employment taxes of up to \$5,000 per employee for eligible employers. The tax credit is equal to 50% of qualified wages paid to employees during a quarter, capped at \$10,000 of qualified wages per employee. The Company qualified for the tax credit and received additional tax credits for qualified wages, and the Company recorded a \$2.7 million benefit related to the CARES Employee Retention Credit in operating expense in the accompanying consolidated statement of comprehensive (loss) income for the year ended December 31, 2020. The CARES Act also provides for deferred payment of the employer portion of social security taxes through December 31, 2020, with 50% of the deferred amount due December 31, 2021 and the remaining 50% due December 31, 2022. Approximately \$5.3 million of deferred payments are recorded as liabilities within accrued expense and other current liabilities and other noncurrent liabilities in the accompanying consolidated balance sheet as of December 31, 2020.

The Company reduced planned maintenance and project capital expenditures for 2020 as a result of the temporary property and operations closures and prioritized capital investments based on the highest near-term return opportunities in order to maintain financial flexibility.

Refer to Note 12, Total Debt, for discussion of from borrowings and repayments on our revolving credit facility (the "Revolver") pursuant to the Credit Agreement, and the amendments entered into during 2020.

Based on our current projected operating cash flow needs, interest and debt repayments, and revised maintenance and project capital expenditures, we believe we have adequate cash to fund our business operations, meet all of our financial commitments, and invest in our prioritized key growth capital projects for well beyond the next twelve months.

## 2. SIGNIFICANT ACCOUNTING POLICIES

### *Principles of Consolidation*

The accompanying consolidated financial statements include the accounts of the Company and subsidiaries. All intercompany balances and transactions have been eliminated in consolidation.

We consolidate all subsidiaries in which we have a controlling financial interest and variable interest entities ("VIEs") for which we or one of our consolidated subsidiaries is the primary beneficiary. We consolidate a VIE when we have both the power to direct the activities that most significantly impact the results of the VIE and the right to receive benefits or the obligation to absorb losses of the entity that could be potentially significant to the VIE.

### *Use of Estimates*

Our financial statements have been prepared in conformity with U.S. generally accepted accounting principles ("GAAP"), which requires management to make estimates, judgments and assumptions that we believe are reasonable based on our historical experience, contract terms, observance of known trends in our Company and the industry as a whole and information available from other outside sources. Our estimates affect the reported amounts of assets and liabilities and related disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expense during the reporting period. Actual results may differ from those initial estimates.

### *Goodwill and Indefinite-Lived Intangible Assets*

Goodwill and indefinite-lived intangible assets are required to be tested annually or more frequently if events or changes in circumstances indicate that it is more likely than not that an asset is impaired. An entity may first assess qualitative factors to determine whether it is necessary to complete the impairment test using a more likely than not criteria. If an entity believes it is more likely than not that the fair value of a reporting unit is greater than the reporting unit's carrying value, including goodwill, the quantitative impairment test can be bypassed. Alternatively, an entity has an unconditional option to bypass the qualitative assessment and proceed directly to performing the quantitative impairment test. If a quantitative impairment test of goodwill is required, we generally determine the fair value under the market and income valuation approaches using inputs primarily related to discounted projected cash flows and price multiples of publicly traded comparable companies. If a quantitative impairment test of our indefinite-lived intangible assets is required, we generally determine the fair value using the Greenfield method for gaming rights and relief-from-royalty method of the income approach for trademarks. Qualitative factors include macroeconomic conditions, industry and market conditions, cost factors and overall financial performance, among others. These factors require judgments and estimates, and application of alternative assumptions could produce significantly different results. Evaluations of possible impairment require us to estimate, among other factors, forecasts of future operating results, revenue growth, operating expense, tax rates, start-up costs, capital expenditures, depreciation, working capital, discount rates, long-term growth rates, risk premiums, royalty rates, terminal values and fair market values of our reporting units and assets. Changes in estimates or the application of alternative assumptions could produce significantly different results.

We perform our annual review for impairment of goodwill and indefinite-lived intangible assets on April 1 of each fiscal year, or more frequently if events or changes in circumstances indicate that it is more likely than not the relevant asset is impaired. Adverse industry or economic trends, lower projections of profitability, or a sustained decline in our market capitalization, among other items, may be indications of potential impairment issues, which are triggering events requiring the testing of an asset's carrying value for recoverability. Goodwill is allocated and evaluated for impairment at the reporting unit level, which is defined as an operating segment or one level below an operating segment, referred to as a component. We are required to aggregate the components of an operating segment into one reporting unit if they have similar economic characteristics.

Our gaming rights and trademarks are considered indefinite-lived intangible assets that do not require amortization based on our future expectations to operate our gaming facilities and use the trademarks indefinitely and our historical experience in renewing these intangible assets at minimal cost with various state gaming commissions. The indefinite lived-intangible assets carrying value are tested annually, or more frequently, if indicators of impairment exist, by comparing the fair value of the recorded assets to the associated carrying amount. If the carrying amount of the gaming rights and trademark intangible assets exceed fair value, an impairment loss is recognized.

### *Property and Equipment*

We review the carrying value of our property and equipment to be held and used in our operations whenever events or changes in circumstances indicate that the carrying value of an asset may not be recoverable from estimated future undiscounted cash

flows expected to result from the asset's use and eventual disposition. Adverse industry or economic trends, lower projections of profitability, or a significant adverse change in legal factors or in the business climate, among other items, may be indications of potential impairment issues. If the undiscounted cash flows exceed the carrying value, no impairment is indicated. If the undiscounted cash flows do not exceed the carrying value, an impairment is recorded based on the fair value of the asset.

Depreciation is calculated using the straight-line method over the estimated useful lives of the related assets as follows: 10 to 40 years for grandstands and buildings, 2 to 10 years for equipment, 2 to 10 years for furniture and fixtures and 10 to 20 years for tracks and other improvements.

### **Revenue Recognition**

On January 1, 2018, the Company adopted Accounting Standards Update ("ASU") No. 2014-09, Revenue from Contracts with Customers ("ASC 606") using the modified retrospective method. The adoption of ASC 606 had no impact on cash provided by or used in operating, financing, or investing activities on our accompanying consolidated statements of cash flows. Due to the adoption of ASC 606, we made certain modifications to the classification of net revenue and operating expenses in the Online Wagering segment primarily due to the fact that under ASC 606, we are the principal in all import revenue contracts. Under ASC 606, in circumstances where we make advance sales and advance billings to customers, we recognize a receivable and deferred revenue when we have an unconditional right to receive payment. Previously, we recognized a receivable and deferred revenue at the time of the advance sale and billing if it was probable we would collect the receivable and recognize revenue.

We generate revenue from pari-mutuel wagering transactions with customers related to live races, simulcast races, and historical races as well as simulcast host fees earned from other wagering sites. Our racetracks that host live races also generate revenue through sponsorships, admissions (including luxury suites), personal seat licenses ("PSLs"), television rights, concessions, programs and parking. Concessions, programs, and parking revenue is recognized once the good or service is delivered.

Our live racetracks' revenue and income are influenced by our racing calendar. Similarly, Online Wagering horse racing revenue and income is influenced by racing calendars. Therefore, revenue and operating results for any interim quarter are not generally indicative of the revenue and operating results for the year and may not be comparable with results for the corresponding period of the previous year. We historically have had fewer live racing days during the first quarter of each year, and the majority of our live racing revenue occurs during the second quarter with the running of the Kentucky Oaks and Kentucky Derby.

For live races we present at our racetracks, we recognize revenue on wagers we accept from customers at our racetrack ("on-track revenue") and revenue we earn from exporting our live racing signals to other race tracks, off-track betting facilities ("OTBs"), and advance deposit wagering providers ("export revenue"). For simulcast races we display at our racetracks, OTBs, and Online Wagering platforms, we recognize revenue we earn from providing a wagering service to our customers on these imported live races ("import revenue"). Online Wagering import revenue is generated through advance deposit wagering which consists of patrons wagering through an advance deposit account. Each wagering contract for on-track revenue, and import revenue contains a single performance obligation and our export revenue contracts contain a series of distinct services that form a single performance obligation. The transaction price for on-track revenue and import revenue is fixed based on the established commission rate we are entitled to retain. The transaction price for export revenue is variable based on the simulcast host fee we charge our customers for exporting our signal. We may provide cash incentives in conjunction with wagering transactions we accept from Online Wagering customers. These cash incentives represent consideration payable to a customer and therefore are treated as a reduction of the transaction price for the wagering transaction. Our export revenue contracts generally have a duration of one year or less. These arrangements are licenses of intellectual property containing a usage-based royalty. As a result, we have elected to use the practical expedient to omit disclosure related to remaining performance obligations for our export revenue contracts. We recognize on-track revenue, export revenue, and import revenue once the live race event is made official by the relevant racing regulatory body.

We recognize revenue we earn from providing a wagering service to our customers on historical races at our HRM facilities. The transaction price for HRM revenue is based on the established commission rate we are entitled to retain for each wager on the HRM. We recognize HRM revenue once the historical race has been completed on the historical racing machine, net of the liability to the pool.

We evaluate our on-track revenue, export revenue, import revenue, and HRM revenue contracts in order to determine whether we are acting as the principal or as the agent when providing services, which we consider in determining if revenue should be reported gross or net. An entity is a principal if it controls the specified service before that service is transferred to a customer.

The revenue we recognize for on-track revenue, import revenue, and HRM revenue is the commission we are entitled to retain for providing a wagering service to our customers. For these arrangements, we are the principal as we control the wagering

service; therefore, any charges, including any applicable simulcast fees, we incur for delivering the wagering service are presented as operating expenses.

For export revenue, our customer is the third-party wagering site such as a racetrack, OTB, or advance deposit wagering provider. Therefore, the revenue we recognize for export revenue is the simulcast host fee we earn for exporting our racing signal to the third-party wagering site.

Our admission contracts are either for a single live racing event day or multiple days. Our PSLs, sponsorships, and television rights contracts generally relate to multiple live racing event days. Multiple day admission, PSLs, sponsorships, and television rights contracts contain a distinct series of services that form single performance obligations. Sponsorships contracts generally include performance obligations related to admissions and advertising rights at our racetracks. Television rights contracts contain a performance obligation related to the rights to distribute certain live racing events on media platforms. The transaction prices for our admissions, PSLs, sponsorships, and television rights contracts are fixed. We allocate the transaction price to our sponsorship contract performance obligations based on the estimated relative standalone selling price of each distinct service.

The revenue we recognize for admissions to a live racing event day is recognized once the related event is complete. For admissions, PSLs, sponsorships, and television rights contracts that relate to multiple live racing event days, we recognize revenue over time using an output method of each completed live racing event day as our measure of progress. Each completed live racing event day corresponds with the transfer of the relevant service to a customer and therefore is considered a faithful depiction of our efforts to satisfy the promises in these contracts. This output method results in measuring the value transferred to date to the customer relative to the remaining services promised under the contracts. Certain premium live racing event days such as the Kentucky Derby and Oaks result in a higher value of revenue allocated relative to other live racing event days due to, among other things, the quality of thoroughbreds racing, higher levels of on-track attendance, national broadcast audience, local and national media coverage, and overall entertainment value of the event. While these performance obligations are satisfied over time, the timing of when this revenue is recognized is directly associated with the occurrence of our live racing events, which is when the majority of our revenues recognized at a point in time are also recognized.

Timing of revenue recognition may differ from the timing of invoicing to customers for our long-term contracts for racing event-related services. We generally invoice customers prior to delivery of services for our admissions, PSLs, sponsorships, and television rights contracts. We recognize a receivable and a contract liability at the time we have an unconditional right to receive payment. When cash is received in advance of delivering services under our contracts, we defer revenue and recognize it in accordance with our policies for that type of contract. In situations where the timing of revenue recognition differs from the timing of invoicing, we have determined our contracts do not include a significant financing component. The primary purpose of our invoicing terms is to allow our customers to secure the right to the specific services provided under our contracts, not to receive financing from our customers.

Gaming revenue primarily consists of gaming wager transactions. Other operating revenue, such as food and beverage or hotel revenue, is recognized once delivery of the product or service has occurred.

The transaction price for gaming wager transactions is the difference between gaming wins and losses. Gaming wager revenue is recognized when the wager settles.

The majority of our HRM facilities and casinos offer loyalty programs that enable customers to earn loyalty points based on their play. Gaming and HRM wager transactions involve two performance obligations for those customers earning loyalty points under the Company's loyalty programs and a single performance obligation for customers who do not participate in the program. Loyalty points are primarily redeemable for free wagering activities and food and beverage. For purposes of allocating the transaction price in a gaming or HRM wagering transaction between the wagering performance obligation and the obligation associated with the loyalty points earned, the Company allocates an amount to the loyalty point contract liability based on the stand-alone selling price of the points earned, which is determined by the value of a loyalty point that can be redeemed for wagering activities or food and beverage. For gaming wagering transactions, an amount is allocated to the gaming wager performance obligation using the residual approach as the stand-alone price for wagers is highly variable and no set established price exists for such wagers. For HRM wagering transactions, the amount allocated to the HRM wager performance obligation is the commission rate we are entitled to retain. The loyalty point contract liability amount is deferred and recognized as revenue when the customer redeems the points for a wagering transaction or food and beverage, and such goods or services are delivered to the customer.

### ***Income Taxes***

We use estimates and judgments for financial reporting to determine our current tax liability and deferred taxes. In accordance with the liability method of accounting for income taxes, we recognize the amount of taxes payable or refundable for the current year and deferred tax assets and liabilities for the future tax consequences of events that have been recognized in the consolidated financial statements or tax returns.

Adjustments to deferred taxes are determined based upon the changes in differences between the book basis and tax basis of our assets and liabilities and measured using enacted tax rates we estimate will be applicable when these differences are expected to reverse. Changes in current tax laws, enacted tax rates or the estimated level of taxable income or non-deductible expense could change the valuation of deferred tax assets and liabilities and affect the overall effective tax rate and tax provision.

When tax returns are filed, it is highly certain that some positions taken will be sustained upon examination by the taxing authorities, while others are subject to uncertainty about the merits of the position taken or the amount of the position that will be ultimately sustained. The benefit of a tax position is recognized in the financial statements in the period during which, based on all available evidence, management believes it is more likely than not that the position will be sustained upon examination, including the resolution of appeals or litigation processes, if any. Tax positions taken are not offset or aggregated with other positions. Tax positions that meet the more-likely-than-not recognition threshold are measured as the largest amount of tax benefit that is more than 50 percent likely of being realized upon settlement with the applicable taxing authority. The portion of the benefits associated with the tax positions taken that exceeds the amount measured as described above is reflected as a liability for unrecognized tax benefits in the accompanying consolidated balance sheets, along with any associated interest and penalties that would be payable to the taxing authorities upon examination.

### ***Cash and Cash Equivalents***

We consider investments with original maturities of three months or less that are readily convertible to cash to be cash equivalents. We have, from time to time, cash in the bank in excess of federally insured limits. Under our cash management system, checks issued but not yet presented to banks that would result in negative bank balances when presented are classified as a current liability in the accompanying consolidated balance sheets.

### ***Restricted Cash and Account Wagering Deposit Liabilities***

Restricted cash includes deposits collected from our Online Wagering customers. Other amounts included in restricted cash represent amounts due to horsemen for purses, stakes and awards that are paid in accordance with the terms of our contractual agreements or statutory requirements.

### ***Allowance for Doubtful Accounts Receivable***

Upon our adoption of Accounting Standards Update ("ASU") No. 2016-13, Financial Instruments - Credit Losses ("ASC 326") on January 1, 2020, we maintain an allowance for doubtful accounts for current expected credit losses on our financial assets measured at amortized cost which are primarily included in accounts receivable, net in the accompanying consolidated balance sheets. The Company evaluates current expected credit losses on a collective (pool) basis when similar risk characteristics exist. Write-offs are recognized when the Company concludes that all or a portion of a financial asset is no longer collectible. Any subsequent recovery is recognized when it occurs.

Prior to adopting ASC 326, we maintained an allowance for doubtful accounts for estimated losses resulting from the inability of our customers to make required payments. The allowance is maintained at a level considered appropriate based on historical experience and other factors that affect our expectation of future collectability. Uncollectible accounts receivable are written off against the allowance for doubtful accounts receivable when management determines that the probability of payment is remote and collection efforts have ceased.

### ***Internal Use Software***

Internal use software costs for Online Wagering software are capitalized in property and equipment, net in the accompanying consolidated balance sheets, in accordance with accounting guidance governing computer software developed or obtained for internal use. Once the software is placed in operation, we amortize the capitalized software over the software's estimated economic useful life, which is generally three years. We capitalized internal use software of approximately \$10.5 million in 2020, \$9.8 million in 2019, and \$9.7 million in 2018. We incurred amortization expense of approximately \$9.4 million in 2020, \$8.8 million in 2019, and \$7.3 million in 2018, for projects which had been placed in service.

### ***Fair Value of Assets and Liabilities***

We adhere to a hierarchy for ranking the quality and reliability of the information used to determine fair values. Assets and liabilities that are carried at fair value are classified and disclosed in one of the following three categories: Level 1: Unadjusted quoted market prices in active markets for identical assets or liabilities; Level 2: Unadjusted quoted prices in active markets for similar assets or liabilities, unadjusted quoted prices for identical or similar assets or liabilities in markets that are not active, or inputs other than quoted prices that are observable for the asset or liability; and Level 3: Unobservable inputs for the asset or liability. We endeavor to utilize the best available information in measuring fair value. Financial assets and liabilities are classified based on the lowest level of input that is significant to the fair value measurement.

### ***Investments in and Advances to Unconsolidated Affiliates***

We have investments in unconsolidated affiliates accounted for under the equity method. Under the equity method, carrying value is adjusted for our share of the investees' income and losses, amortization of certain basis differences as well as capital contributions to and distributions from these companies. We use the cumulative earnings approach to present distributions received from equity method investees. Distributions in excess of equity method income are recognized as a return of investment and recorded as investing cash inflows in the accompanying consolidated statements of cash flows. We classify income and losses as well as gains and impairments related to our investments in unconsolidated affiliates as a component of other income (expense) in the accompanying consolidated statements of comprehensive (loss) income.

We evaluate our investments in unconsolidated affiliates for impairment whenever events or changes in circumstances indicate that the carrying value of the investment may have experienced an "other-than-temporary" decline in value. If such conditions exist, we compare the estimated fair value of the investment to the investment's carrying value to determine if an impairment is indicated and determine whether the impairment is "other-than-temporary" based on an assessment of all relevant factors, including consideration of our intent and ability to retain our investment until the recovery of the unrealized loss. We estimate fair value using a discounted cash flow analysis based on estimated future results of the investee.

### ***Leases***

On January 1, 2019, the Company adopted ASU No. 2016-02, Leases, and subsequently issued additional guidance (collectively, "ASC 842") using the modified transition method. As part of the transition to ASC 842, we elected the package of practical expedients that allowed us to not reassess: (1) whether any expired or existing contracts are or contain leases, (2) lease classification of any expired or existing leases and (3) initial direct costs of any expired or existing leases.

Due to the adoption of ASC 842, we recognize operating lease right-of-use assets ("ROUAs") and lease liabilities for our operating leases with lease terms greater than one year. We do not have any material finance leases or any material operating leases where we are the lessor.

Upon adopting ASC 842, we determine if an arrangement is a lease at inception. Operating and finance leases are included in property and equipment, net; accrued expense and other current liabilities; and other liabilities on our consolidated balance sheets. We generally do not separate lease and non-lease components for our lease contracts. We do not apply the ROUA and leases liability recognition requirements to short-term leases.

Operating lease ROUAs and lease liabilities are recognized based on the present value of the future minimum lease payments over the lease term at the commencement date. These leases do not provide an implicit rate, so therefore we use our incremental borrowing rate based on the information available at the commencement date in determining the present value of future lease payments. The operating lease ROUAs also include any lease payments made prior to commencement and exclude lease incentives and initial direct costs incurred. The lease terms include all non-cancelable periods and may include options to extend or terminate the lease when it is reasonably certain that we will exercise that option. Lease expense for minimum lease payments is recognized on a straight-line basis over the lease term.

### ***Debt Issuance Costs and Loan Origination Fees***

Debt issuance costs and loan origination fees associated with our term debt, revolver, and notes payable are amortized as interest expense over the term of each respective financial instrument. Debt issuance costs and loan origination fees associated with our term debt and notes payable are presented as a direct deduction from the carrying amount of the related liability. Debt issuance costs and loan origination fees associated with our revolver are presented as an asset.

### ***Casino and Pari-mutuel Taxes***

We recognize casino and pari-mutuel tax expense based on the statutory requirements of the federal, state, and local jurisdictions in which we conduct business. All of our casino taxes and the majority of our pari-mutuel taxes are gross receipts taxes levied on the gaming entity. We recognize these taxes as Churchill Downs, Online Wagering, Gaming, and All Other operating expenses in our consolidated statements of comprehensive (loss) income. In certain jurisdictions governing our pari-

mutuel contracts with customers, there are specific pari-mutuel taxes that are assessed on winning wagers from our customers, which we collect and remit to the government. These taxes are presented on a net basis.

#### ***Purse Expense***

We recognize purse expense based on the statutorily or contractually determined amount that is required to be paid out in the form of purses to the qualifying finishers of horse races run at our racetracks in the period in which wagering occurs. We incur a liability for all unpaid purses that will be paid out on a future live race event.

#### ***Self-insurance Accruals***

We are self-insured up to certain limits for costs associated with general liability, workers' compensation and employee health coverage, and we purchase insurance for claims that exceed our self-insurance retention or deductible levels. We record self-insurance reserves that include accruals of estimated settlements for known claims ("Case Reserves"), as well as accruals of third-party actuarial estimates for claims incurred but not yet reported ("IBNR"). Case Reserves represent estimated liabilities for unpaid losses, based on a claims administrator's estimates of future payments on individual reported claims, including allocated loss adjustment expense, which generally include claims settlement costs such as legal fees. IBNR includes the provision for unreported claims, changes in case reserves and future payments on reopened claims.

Key variables and assumptions include, but are not limited to, loss development factors and trend factors such as changes in workers' compensation laws, medical care costs and wages. These loss development factors and trend factors are developed using our actual historical losses. It is possible that reasonable alternative selections would produce different reserve estimates.

#### ***Advertising and Marketing***

We expense the costs of general advertising, marketing and associated promotional expenditures at the time the costs are incurred. We incurred advertising and marketing expense of approximately \$31.4 million in 2020, \$41.8 million in 2019, and \$28.8 million in 2018 in our accompanying consolidated statements of comprehensive (loss) income.

#### ***Stock-Based Compensation***

All stock-based payments to employees and directors, including grants of performance share units and restricted stock, are recognized as compensation expense over the service period based on the fair value on the date of grant. For awards that have a graded vesting schedule, we recognize expense on a straight-line basis for each separately vesting portion of the award. We recognize forfeitures of awards as incurred.

#### ***Computation of Net Income per Common Share***

Net income per common share is presented for both basic earnings per common share ("Basic EPS") and diluted earnings per common share ("Diluted EPS"). Basic EPS is based upon the weighted average number of common shares outstanding, excluding unvested stock awards, during the period plus vested common stock equivalents that have not yet been converted to common shares. Diluted EPS is based upon the weighted average number of shares used to calculate Basic EPS and potentially dilutive common shares outstanding during the period. Potentially dilutive common shares result from applying the treasury stock method to unvested stock awards.

#### ***Common Stock Share Repurchases***

From time-to-time, we repurchase shares of our common stock under share repurchase programs and privately negotiated transactions authorized by our Board of Directors. Share repurchases constitute authorized but unissued shares under the Kentucky laws under which we are incorporated. Our common stock has no par or stated value. We record the full value of share repurchases, upon the trade date, against common stock on our consolidated balance sheets except when to do so would result in a negative balance in such common stock account. In such instances, we record the cost of any further share repurchases as a reduction to retained earnings. Due to the large number of shares of our common stock repurchased over the past several years, our common stock balance frequently will be zero at the end of any given reporting period. Refer to Note 10, Shareholders' Equity, for additional information on our share repurchases.

#### ***Recent Accounting Pronouncements - Adopted on January 1, 2020***

In June 2016, the Financial Accounting Standards Board ("FASB") issued ASU No. 2016-13, Financial Instruments - Credit Losses, which introduces a new model for recognizing credit losses on financial instruments based on an estimate of current expected credit losses. The new model will apply to: (1) loans, accounts receivable, trade receivables, and other financial assets measured at amortized cost, (2) loan commitments and certain other off-balance sheet credit exposures, (3) debt securities and other financial assets measured at fair value through other comprehensive income, and (4) beneficial interests in securitized financial assets. We adopted ASC 326 on January 1, 2020 using the modified retrospective approach. We recognized the cumulative effect of applying ASC 326 as an opening balance sheet adjustment on January 1, 2020. The comparative

information has not been retrospectively adjusted and continues to be reported under the accounting standards in effect for those periods. The adoption of ASC 326 did not have a material impact on our business.

In August 2018, the FASB issued ASU No. 2018-15, Intangibles - Goodwill and Other: Internal - Use Software, which aligns the requirements for capitalizing implementation costs incurred in a hosting arrangement that is a service contract with the requirements for capitalizing implementation costs incurred to develop or obtain internal-use software. The new guidance also requires an entity to expense the capitalized implementation costs of a hosting arrangement over the term of the hosting arrangement. We adopted this guidance on January 1, 2020. This guidance is consistent with our current accounting policies, and therefore our adoption of this guidance did not have a material impact on our business.

In January 2017, the FASB issued ASU No. 2017-04, Intangibles - Goodwill and Other: Simplifying the Test for Goodwill Impairment. This new guidance simplifies the accounting for goodwill impairments by removing step two from the goodwill impairment test. Instead, if the carrying amount of a reporting unit exceeds the reporting unit's fair value, an impairment loss shall be recognized in an amount equal to that excess. We adopted this guidance on January 1, 2020. The new guidance did not result in a cumulative adjustment upon adoption and there was no impairment recognized under the new guidance for the year ended December 31, 2020.

**Recent Accounting Pronouncements - effective in 2021 or thereafter**

In March 2020, the FASB issued ASU 2020-04, Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting, which provides optional expedients and exceptions to applying the guidance on contract modifications, hedge accounting, and other transactions, to simplify the accounting for transitioning from the London Interbank Offered Rate (LIBOR), and other interbank offered rates expected to be discontinued, to alternative reference rates. The guidance was effective upon issuance; if elected, it is to be applied prospectively through December 31, 2022. We are currently evaluating the effect the adoption of this new accounting standard will have on our results of operations, financial condition, or cash flows.

In December 2019, the FASB issued ASU 2019-12, Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes, which simplifies the accounting for income taxes by removing certain exceptions to the general principles in ASC Topic 740, Income Taxes. The amendments also improve consistent application of and simplify GAAP for other areas of Topic 740 by clarifying and amending existing guidance. This ASU is effective for public business entities for fiscal years and interim periods beginning after December 15, 2020. The Company does not expect the adoption of this ASU to have a material impact on the Company's consolidated financial statements.

**3. ACQUISITIONS**

**Presque Isle**

On January 11, 2019, we completed the acquisition of Presque Isle located in Erie, Pennsylvania from Eldorado Resorts, Inc. ("ERI") for cash consideration of \$178.9 million (the "Presque Isle Transaction") and \$1.6 million of working capital and other purchase price adjustments. The following table summarizes the final fair values of the assets acquired and liabilities assumed, net of cash acquired of \$8.4 million, at the date of the acquisition.

<i>(in millions)</i>	<b>Total</b>
Current assets	\$ 2.1
Property and equipment	78.5
Goodwill	26.1
Intangible assets	71.2
Current liabilities	(5.2)
Non-current liabilities	(0.6)
	\$ 172.1

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

The fair value of the intangible assets consists of the following:

<i>(in millions)</i>	<u>Fair Value Recognized</u>	<u>Weighted-Average Useful Life</u>
Gaming rights	\$ 56.0	N/A
Trademark	15.2	N/A
Total intangible assets	<u>\$ 71.2</u>	

Current assets and current liabilities were valued at the existing carrying values as these items are short term in nature and represent management's estimated fair value of the respective items on January 11, 2019.

The property and equipment acquired primarily relates to land, buildings, equipment, and furniture and fixtures. The fair value of the land was determined using the market approach and the fair values of the remaining property and equipment were primarily determined using the cost replacement method which is based on replacement or reproduction costs of the assets.

The fair value of the Presque Isle gaming rights was determined using the Greenfield Method, which is an income approach methodology that calculates the present value of the overall business enterprise based on a projected cash flow stream. This method assumes that the gaming rights intangible asset provides the opportunity to develop a casino in a specified region, and that the present value of the projected cash flows is a result of the realization of advantages contained in these rights. Under this methodology, the acquirer is expected to absorb all start-up costs, as well as incur all expenses pertaining to the acquisition and/or the creation of all tangible and intangible assets. The estimated future revenue, future operating expenses, start-up costs, and discount rate were the primary inputs in the valuation. The gaming rights intangible asset was assigned an indefinite useful life based on the Company's expected use of the asset and determination that no legal, regulatory, contractual, competitive, economic, or other factors limit the useful life of the gaming rights. The renewal of the gaming rights in Pennsylvania is subject to various legal requirements. However, the Company's historical experience has not indicated, nor does the Company expect any limitations regarding the Company's ability to continue to renew our gaming rights in Pennsylvania.

The trademark intangible asset was valued using the relief-from-royalty method of the income approach, which estimates the fair value of the intangible asset by discounting the fair value of the hypothetical royalty payments a market participant would be willing to pay to enjoy the benefits of the asset. The estimated future revenue, royalty rate, and discount rate were the primary inputs in the valuation of the trademark. The trademark was assigned an indefinite useful life based on the Company's intention to keep the Presque Isle name for an indefinite period of time.

Goodwill of \$26.1 million was recognized due to the expected contribution of Presque Isle to the Company's overall business strategy. The goodwill was assigned to the Gaming segment and is deductible for tax purposes.

Refer to Note 8, Asset Impairment, for information regarding intangible asset impairments recognized during the first quarter of 2020 related to the Presque Isle gaming rights and trademark.

For the period from the Presque Isle Transaction on January 11, 2019 through December 31, 2019, net revenue was \$138.5 million and net income was not material.

The following unaudited pro forma consolidated financial information for the Company has been prepared assuming the Company's acquisition of Presque Isle occurred as of January 1, 2018. The unaudited pro forma financial information is not necessarily indicative of either future results of operations or results of operations that might have been achieved had the acquisition been consummated as of January 1, 2018. The unaudited pro forma net income giving effect to the Presque Isle Transaction was not materially different than our historical net income.

<i>(in millions)</i>	<u>Year Ended December 31,</u>	
	<u>2019</u>	<u>2018</u>
Net revenue	\$ 1,332.9	\$ 1,150.8

**Lady Luck Nemacolin**

On March 8, 2019, the Company assumed management and acquired certain assets related to the management of Lady Luck Nemacolin in Farmington, Pennsylvania, from ERI for cash consideration of \$100,000 (the "Lady Luck Nemacolin Transaction"). The Lady Luck Nemacolin Transaction did not meet the definition of a business and therefore was accounted for as an asset acquisition. The net assets acquired in conjunction with the Lady Luck Nemacolin Transaction were not material.

**Turfway Park**

On October 9, 2019, the Company completed the acquisition of Turfway Park from Jack Entertainment LLC ("JACK") and Hard Rock International ("Hard Rock") for total consideration of \$46.0 million in cash ("Turfway Park Acquisition"). Of the \$46.0 million total consideration, \$36.0 million, less \$0.9 million of working capital and purchase price adjustments, was accounted for as a business combination. The remaining \$10.0 million was paid to Hard Rock for the assignment of the purchase and sale agreement rights and was accounted for separately from the business combination as an intangible asset and was amortized through expense in the fourth quarter of 2019.

The cash purchase price paid to JACK was \$36.0 million, less \$0.9 million of working capital and purchase price adjustments. The preliminary fair values of the assets acquired and liabilities assumed, net of cash acquired of \$0.6 million, at the date of acquisition were as follows: property and equipment (primarily land) of \$18.8 million, indefinite-lived gaming rights of \$9.8 million, indefinite-lived trademark of \$5.5 million, goodwill of \$2.7 million, and current liabilities of \$2.3 million.

**Ocean Downs**

On July 16, 2018, the Company announced the entry into a tax-efficient partial liquidation agreement (the "Liquidation Agreement") for the remaining 50% ownership of the Casino at Ocean Downs and Ocean Downs Racetrack located in Berlin, Maryland ("Ocean Downs") owned by Saratoga Casino Holdings LLC ("SCH") in exchange for the Company's 25% equity interest in SCH, which is the parent company of Saratoga Casino Hotel in Saratoga Springs, New York ("Saratoga New York") and Saratoga Casino Black Hawk in Black Hawk, Colorado ("Saratoga Colorado") (collectively, the "Ocean Downs/Saratoga Transaction"). On August 31, 2018, the Company closed the Ocean Downs/Saratoga Transaction, which resulted in the Company owning 100% of Ocean Downs and having no further equity interest or management involvement in Saratoga New York or Saratoga Colorado.

As part of the Ocean Downs/Saratoga Transaction, Saratoga Harness Racing, Inc. ("SHRI") has agreed to grant the Company and our affiliates exclusive rights to operate online sports betting and iGaming on behalf of SHRI in New York and Colorado for a period of fifteen years from the date of the Liquidation Agreement, should such states permit SHRI to engage in sports betting and iGaming, subject to payment of commercially reasonable royalties to SHRI.

We consolidated Ocean Downs upon closing of the Ocean Downs/Saratoga Transaction on August 31, 2018. Prior to the Ocean Downs/Saratoga Transaction, the Company held an effective 62.5% ownership interest in Ocean Downs, and a 25% ownership interest in Saratoga New York and Saratoga Colorado, all of which were accounted for under the equity method. The consideration transferred to SCH to acquire the remaining interest in Ocean Downs was the Company's equity investments in Saratoga New York and Saratoga Colorado, which had an aggregate fair value of \$47.8 million at the acquisition date. Under the acquisition method, the fair values of the consideration transferred and the Company's equity method investment in Ocean Downs, which had a fair value of \$80.5 million at the acquisition date, were allocated to the assets acquired and liabilities assumed in the Ocean Downs/Saratoga Transaction. The Company's carrying values in these equity method investments were significantly less than their fair values, resulting in a pre-tax gain of \$54.9 million, which is included in the accompanying consolidated statements of comprehensive (loss) income. The fair values of the Company's equity method investments in Ocean Downs, Saratoga New York, and Saratoga Colorado were determined under the market and income valuation approaches using inputs primarily related to discounted projected cash flows and price multiples of publicly traded comparable companies.

The following table summarizes the final fair values of the assets acquired and liabilities assumed, net of cash acquired of \$13.1 million, at the acquisition date.

<i>(in millions)</i>	<b>Total</b>
Current assets	\$ 1.9
Property and equipment	57.4
Goodwill	20.4
Intangible assets	95.4
Current liabilities	(5.2)
Debt	(54.7)
	<u>\$ 115.2</u>

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

The final fair value of the intangible assets consisted of the following:

<i>(in millions)</i>	<b>Fair Value Recognized</b>	<b>Weighted-Average Useful Life</b>
Gaming rights	\$ 87.0	N/A
Trademark	8.3	N/A
Other	0.1	1.3 years
Total intangible assets	<u>\$ 95.4</u>	

Current assets and current liabilities were valued at the existing carrying values due to their short-term nature and represent management's estimated fair value of the respective items on August 31, 2018. The debt of \$54.7 million assumed by the Company was valued at the Company's outstanding principal balance, which approximated fair value on August 31, 2018. The Company subsequently paid off the debt in full on September 4, 2018.

The property and equipment acquired primarily relates to land, buildings, equipment, and furniture and fixtures. The fair values of the property and equipment were primarily determined using the cost replacement method, which is based on replacement or reproduction costs of the assets.

The fair value of the Ocean Downs gaming rights was determined using the Greenfield method, which is an income approach methodology that calculates the present value of the overall business enterprise based on a projected cash flow stream. This method assumes that the gaming rights intangible asset provides the opportunity to develop a casino in a specified region, and that the present value of the projected cash flows is a result of the realization of advantages contained in these rights. Under this methodology, the acquirer is expected to absorb all start-up costs, as well as incur all expenses pertaining to the acquisition and/or the creation of all tangible and intangible assets. The estimated future revenue and operating expenses and start-up costs of Ocean Downs were the primary inputs in the valuation. The gaming rights intangible asset was assigned an indefinite useful life based on the Company's expected use of the asset and determination that no legal, regulatory, contractual, competitive, economic, or other factors limit the useful life of the gaming rights. The renewal of the gaming rights in Maryland is subject to various legal requirements. However, the Company's historical experience has not indicated, nor does the Company expect any limitations regarding the Company's ability to continue to renew the Company's gaming rights in Maryland.

The trademark intangible asset was valued using the relief-from-royalty method of the income approach, which estimates the fair value of the intangible asset by discounting the fair value of the hypothetical royalty payments a market participant would be willing to pay to enjoy the benefits of the asset. The trademark was assigned an indefinite useful life based on the Company's intention to keep the Ocean Downs name for an indefinite period of time.

Goodwill of \$20.4 million was recognized due to the expected contribution of Ocean Downs to the Company's overall business strategy. The goodwill was assigned to the Gaming segment and is not deductible for tax purposes.

In connection with the Ocean Downs/Saratoga Transaction, the Company recorded a deferred tax liability and income tax expense of \$12.6 million. The deferred tax liability represents the excess of the financial reporting amounts of the net assets of Ocean Downs over their respective basis under federal, state, and local tax law expected to be applied to taxable income in the periods such differences are expected to be realized. After the closing of the Ocean Downs/Saratoga Transaction, for the period from September 1, 2018 through December 31, 2018, net revenue for Ocean Downs was \$25.9 million, and net income was not material.

The following unaudited pro forma consolidated financial information for the Company has been prepared assuming the Company's acquisition of the remaining 50% interest in Ocean Downs occurred as of January 1, 2018 and excludes the gain recognized from the Ocean Downs/Saratoga Transaction. The unaudited pro forma financial information is not necessarily indicative of either future results of operations or results of operations that might have been achieved had the acquisition been consummated as of January 1, 2018. The unaudited pro forma net income giving effect to the Ocean Downs/Saratoga Transaction was not materially different than our historical net income.

<i>(in millions)</i>	<b>Years Ended December 31, 2018</b>
Net revenue	<u>\$ 1,065.4</u>

#### 4. DISCONTINUED OPERATIONS

On November 29, 2017, the Company entered into a definitive Stock Purchase Agreement (the "Stock Purchase Agreement") to sell the Company's mobile gaming subsidiary, Big Fish Games, Inc. ("Big Fish Games"), a Washington corporation, to Aristocrat Technologies, Inc. (the "Purchaser"), a Nevada corporation, an indirect, wholly owned subsidiary of Aristocrat Leisure Limited, an Australian corporation (the "Big Fish Transaction"). On January 9, 2018, pursuant to the Stock Purchase Agreement, the Company completed the Big Fish Transaction. The Purchaser paid an aggregate consideration of \$990.0 million in cash in connection with the Big Fish Transaction, subject to customary adjustments for working capital and indebtedness and certain other adjustments as set forth in the Stock Purchase Agreement.

The Big Fish Games segment and related Big Fish Transaction meet the criteria for held for sale and discontinued operation presentation. The consolidated statements of comprehensive (loss) income and the notes to consolidated financial statements reflect the Big Fish Games segment as discontinued operations for all periods presented. Unless otherwise specified, disclosures in these consolidated financial statements reflect continuing operations only. The consolidated statements of cash flows includes both continuing and discontinued operations.

The Company received cash proceeds of \$970.7 million which was net of \$5.2 million of working capital adjustments and \$14.1 million of transaction costs. The Company recognized a gain of \$219.5 million upon the sale recorded in income from discontinued operations in the accompanying consolidated statements of comprehensive (loss) income in 2018. The gain consisted of cash proceeds of \$970.7 million offset by the carrying value of Big Fish Games of \$751.2 million. The income tax provision on the gain was \$51.2 million, resulting in an after-tax gain of \$168.3 million.

##### ***Kater and Thimmegowda Settlement***

On May 22, 2020, we entered into an agreement in principle to settle Cheryl Kater v. Churchill Downs Incorporated ("Kater Litigation") and Manasa Thimmegowda v. Big Fish Games, Inc. (the "Thimmegowda Litigation"). The agreement in principle remains contingent on final court approval by the U.S. District Court for the Western District of Washington (the "District Court"). Under the terms of the settlement, which will take effect only after final court approval of the proposed class settlement:

- i. A total of \$155.0 million will be paid into a settlement fund. The Company will pay \$124.0 million pre-tax of the settlement from the Company's available cash and Aristocrat will pay the remaining \$31.0 million pre-tax of the settlement. The \$124.0 million pre-tax settlement related to the Company is included in loss from discontinued operations, net of tax in the accompanying consolidated statements of comprehensive (loss) income for the year ended December 31, 2020, and on a pre-tax basis in current liabilities of discontinued operations in the accompanying consolidated balance sheet as of December 31, 2020.
- ii. All members of the nationwide settlement class who do not exclude themselves will release all claims relating to the subject matter of the lawsuits.
- iii. Aristocrat has agreed to specifically release the Company of any and all indemnification obligations under the Stock Purchase Agreement arising from or related to the Kater Litigation and the Thimmegowda Litigation, including any claims of diminution of value of Big Fish Games and any claims by any person who opts out of the proposed class settlement.

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

The following table presents the financial results of Big Fish Games included in "Income from discontinued operations, net of tax" in the accompanying consolidated statements of comprehensive (loss) income:

<i>(in millions)</i>	<b>Years Ended December 31,</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
<b>Net revenue</b>	\$ —	\$ —	\$ 13.2
Operating expenses	—	—	8.4
Selling, general and administrative expense	0.1	3.5	6.0
Research and development	—	—	0.9
Legal settlement	124.0	—	—
<b>Total operating expense</b>	<u>124.1</u>	<u>3.5</u>	<u>15.3</u>
<b>Operating loss</b>	(124.1)	(3.5)	(2.1)
<b>Other income</b>			
Gain on sale of Big Fish Games	—	—	219.5
Other income	—	—	0.1
<b>Total other income</b>	—	—	219.6
(Loss) income from discontinued operations before provision for income taxes	(124.1)	(3.5)	217.5
Income tax benefit (provision)	28.7	1.1	(47.3)
<b>(Loss) income from discontinued operations, net of tax</b>	<u>\$ (95.4)</u>	<u>\$ (2.4)</u>	<u>\$ 170.2</u>

**Stock-Based Compensation**

As part of the Big Fish Transaction, the vesting dates for all outstanding unvested restricted stock awards, restricted stock unit awards, and performance share unit awards (collectively the "Stock Awards") for certain Big Fish Games' employees were accelerated to vest on the closing date. Most of these Stock Awards would not have vested prior to the closing date of the Big Fish Transaction. Therefore, the related stock-based compensation expense previously recognized through the modification date was reduced to zero and a new fair value of the Stock Awards was established on the date of the announcement of the Big Fish Transaction. The expense was amortized during the period from the date of the announcement to the closing of the Big Fish Transaction.

Total stock-based compensation expense related to Big Fish Games, which includes the accelerated vesting of the Stock Awards and stock options associated with the Company's employee stock purchase plan, was \$3.4 million in 2018.

**Earnout Liabilities**

As of December 31, 2017, we had \$34.2 million of deferred earnout consideration and \$28.4 million of deferred payments due to the founder of Big Fish Games, both of which were paid on January 3, 2018.

## 5. PROPERTY AND EQUIPMENT

Property and equipment, net is comprised of the following:

<i>(in millions)</i>	As of December 31,	
	2020	2019
Grandstands and buildings	\$ 785.5	\$ 625.2
Equipment	477.9	406.5
Tracks and other improvements	240.7	222.3
Land	164.2	162.4
Furniture and fixtures	89.7	79.2
Construction in progress	23.3	52.3
	1,781.3	1,547.9
Accumulated depreciation	(721.5)	(635.4)
Subtotal	1,059.8	912.5
Operating lease right-of-use assets	22.3	24.8
Total	\$ 1,082.1	\$ 937.3

Depreciation expense was \$88.0 million in 2020, \$81.4 million in 2019 and \$57.6 million in 2018 and is classified in operating expense in the accompanying consolidated statements of comprehensive (loss) income.

## 6. GOODWILL

Goodwill, by segment, is comprised of the following:

<i>(in millions)</i>	Churchill Downs	Online Wagering	Gaming	All Other	Total
Balances as of December 31, 2018	\$ 49.7	\$ 148.2	\$ 139.1	\$ 1.0	\$ 338.0
Additions	—	—	26.1	3.0	29.1
Balances as of December 31, 2019	49.7	148.2	165.2	4.0	367.1
Adjustments	—	—	—	\$ (0.3)	(0.3)
Balances as of December 31, 2020	\$ 49.7	\$ 148.2	\$ 165.2	\$ 3.7	\$ 366.8

In 2019, we established goodwill of \$26.1 million related to the Presque Isle Transaction, and \$3.0 million related to the Turfway Park Acquisition.

We performed our annual goodwill impairment analysis as of April 1, 2020. We assessed goodwill for impairment by performing qualitative or quantitative analyses for each reporting unit. Based on the results of these analyses, no goodwill impairments were identified in connection with our annual impairment testing. During 2020, we recorded an immaterial measurement period adjustment for the Turfway Park Acquisition that impacted the All Other goodwill balance.

## 7. OTHER INTANGIBLE ASSETS

Other intangible assets, net is comprised of the following:

<i>(in millions)</i>	December 31, 2020			December 31, 2019		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Definite-lived intangible assets:						
Favorable contracts	\$ 11.0	\$ (8.8)	\$ 2.2	\$ 11.0	\$ (8.1)	\$ 2.9
Other	10.4	(3.5)	6.9	10.5	(3.3)	7.2
Customer relationships	4.7	(2.2)	2.5	4.7	(1.6)	3.1
Gaming licenses	5.1	(2.1)	3.0	5.1	(2.0)	3.1
	\$ 31.2	\$ (16.6)	\$ 14.6	\$ 31.3	\$ (15.0)	\$ 16.3
Indefinite-lived intangible assets:						
Trademarks			47.7			50.2
Gaming rights			288.2			303.2
Other			0.1			0.1
Total			\$ 350.6			\$ 369.8

In 2019, we established indefinite-lived intangible assets of \$56.0 million for gaming rights and \$15.2 million for trademarks related to the Presque Isle Transaction. We also acquired indefinite-lived intangible assets of \$8.0 million for online gaming rights in Pennsylvania related to our Online Wagering operations, \$10.0 million for retail sports betting gaming rights at Presque Isle and online sports betting gaming rights in Pennsylvania, as well as \$3.0 million for other gaming rights at Presque Isle. We also established indefinite-lived intangible assets of \$5.5 million for trademarks and \$9.8 million for gaming rights related to the Turfway Park acquisition.

In 2018, we established indefinite-lived intangible assets of \$87.0 million for gaming rights and \$8.3 million for trademarks related to the Ocean Downs/Saratoga Transaction. We also established definite-lived intangible assets of \$2.3 million relating to the opening of Derby City Gaming and \$0.1 million relating to the Ocean Downs/Saratoga Transaction for other intangibles.

Amortization expense for definite-lived intangible assets was \$4.9 million in 2020, \$15.0 million in 2019, and \$6.0 million in 2018, and is classified in operating expense in the accompanying consolidated statements of comprehensive (loss) income. As described further in Note 3, Acquisitions, we accelerated the amortization for the assignment of the Turfway Park Acquisition purchase and sale agreement rights of \$10.0 million in the fourth quarter of 2019, which is included in All Other in the accompanying consolidated statements of comprehensive (loss) income. We submitted payments of \$2.3 million in 2020 and 2019 for annual license fees for Calder, which are being amortized to expense over the annual license period.

Indefinite-lived intangible assets consist primarily of trademarks and state gaming rights in Maine, Maryland, Mississippi, Louisiana, Pennsylvania and Kentucky.

Refer to Note 8, Asset Impairment, for information regarding intangible asset impairments recognized during the first quarter of 2020.

We performed our annual indefinite-lived intangible assets impairment analysis as of April 1, 2020, which included an assessment of qualitative and quantitative factors to determine whether it is more likely than not that the fair values of the indefinite-lived intangible assets are less than the carrying amount. We concluded that the fair values of our indefinite-lived intangible assets exceeded their carrying value.

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

Future estimated aggregate amortization expense on existing definite-lived intangible assets for each of the next five fiscal years is as follows (in millions):

<b>Years Ended December 31,</b>	<b>Estimated Amortization Expense</b>
2021	\$ 3.6
2022	2.5
2023	2.4
2024	1.9
2025	1.2

Future estimated amortization expense does not include additional payments of \$2.3 million in 2021 and in each year thereafter for the ongoing amortization of future expected annual Calder license fees not yet incurred or paid.

## 8. ASSET IMPAIRMENT

During the quarter ended March 31, 2020, the Company evaluated whether events or circumstances changed that would indicate it is more likely than not that any of the Company's intangible assets, goodwill, or property and equipment, were impaired ("Trigger Event"), or if there were any other than temporary impairments of our equity investments. Factors considered in this evaluation included, among other things, the amount of the fair value over carrying value from the annual impairment testing performed as of April 1, 2019, changes in carrying values, changes in discount rates, and the impact of temporary property closures due to the COVID-19 global pandemic on cash flows. Because Presque Isle was acquired in 2019, we did not expect the estimated fair value and the carry value to be significantly different. Based on the Company's evaluation, the Company concluded that a Trigger Event occurred related to the Presque Isle gaming rights, trademark, and the reporting unit's goodwill due to the impact and uncertainty of the COVID-19 global pandemic.

The initial fair value of Presque Isle gaming rights in the first quarter of 2019 was determined using the Greenfield Method, which is an income approach methodology that calculates the present value based on a projected cash flow stream. This method assumes that the Presque Isle gaming rights provide the opportunity to develop a casino and online wagering platform in a specified region, and that the present value of the projected cash flows are a result of the realization of advantages contained in these rights. Under this methodology, the acquirer is expected to absorb all start-up costs, as well as incur all expenses pertaining to the acquisition and / or the creation of all tangible and intangible assets. The estimated future revenue, operating expenses, start-up costs, and discount rate were the primary inputs in the valuation.

Based on the Trigger Event, the Company updated the discount rate to reflect the increased uncertainty of the cash flows and updated the projected cash flow stream. As a result, the \$77.6 million carrying value of the Presque Isle gaming rights exceeded the fair value of \$62.6 million and the Company recognized an impairment of \$15.0 million in first quarter of 2020 for the Presque Isle gaming rights (\$12.5 million related to the Gaming segment and \$2.5 million related to the Online Wagering segment).

The Presque Isle trademark was initially valued in first quarter of 2019 using the relief-from-royalty method of the income approach, which estimates the fair value of the intangible asset by discounting the fair value of the hypothetical royalty payments a market participant would be willing to pay to enjoy the benefits of the asset. The estimated future revenue, royalty rate, and discount rate were the primary inputs in the valuation of the trademark.

Based on the Trigger Event, the Company updated the discount rate to reflect the increased uncertainty of the cash flows and updated projected cash flow stream. As a result, the Company recognized an impairment of \$2.5 million in the first quarter of 2020 for the Presque Isle trademark.

The fair value of the Presque Isle reporting unit's goodwill was determined under the market and income valuation approaches using inputs primarily related to discounted projected cash flows and price multiples of publicly traded comparable companies.

In accordance with Accounting Standards Codification 350, Intangibles - Goodwill and Other, the Company performed the impairment testing of the Presque Isle gaming rights and trademark prior to testing Presque Isle goodwill. Based on the Trigger Event, the Company updated the discount rate to reflect the increased uncertainty of the cash flows and updated project cash flow stream. As a result, the Company did not recognize an impairment for Presque Isle goodwill in the first quarter of 2020 because the fair value exceeded the carrying value.

## 9. INCOME TAXES

Components of the (benefit) provision for income taxes are as follows:

<i>(in millions)</i>	Years Ended December 31,		
	2020	2019	2018
Current (benefit) provision:			
Federal	\$ (38.7)	\$ 19.2	\$ 10.1
State and local	3.0	6.0	3.8
Foreign	0.1	—	—
	(35.6)	25.2	13.9
Deferred provision:			
Federal	28.7	16.1	35.0
State and local	1.5	15.5	2.5
Foreign	0.1	—	(0.1)
	30.3	31.6	37.4
Income tax (benefit) provision	\$ (5.3)	\$ 56.8	\$ 51.3

Income from continuing operations before provision for income taxes were as follows:

<i>(in millions)</i>	Years Ended December 31,		
	2020	2019	2018
Domestic	\$ 8.2	\$ 196.4	\$ 234.2
Foreign	(0.2)	—	(0.3)
Income from continuing operations before provision for income taxes	\$ 8.0	\$ 196.4	\$ 233.9

Our income tax (benefit) expense is different from the amount computed by applying the federal statutory income tax rate to income from continuing operations before taxes as follows:

<i>(in millions)</i>	Years Ended December 31,		
	2020	2019	2018
Federal statutory tax on earnings before income taxes	\$ 1.7	\$ 41.2	\$ 49.1
State income taxes, net of federal income tax benefit	(0.6)	8.0	5.4
Net operating loss carry back - CARES Act	(13.3)	—	—
Windfall deduction from equity compensation	(5.1)	(5.2)	(4.7)
Non-deductible officer's compensation	7.3	5.5	2.6
Re-measurement of deferred taxes	1.9	8.3	—
Uncertain tax positions	1.7	(1.0)	—
Valuation allowance - state and foreign net operating losses	1.1	—	—
Other	—	—	(1.1)
Income tax (benefit) provision	\$ (5.3)	\$ 56.8	\$ 51.3

On December 22, 2017, the Tax Cuts and Jobs Act (the "Tax Act") was signed into law. The Tax Act significantly revised the U.S. corporate income tax by, among other things, lowering the statutory corporate tax rate from 35% to 21%, eliminating certain deductions, imposing a one-time tax on accumulated earnings of foreign subsidiaries as of 2017, introducing new tax regimes, and changing how foreign earnings are subject to U.S. tax. The Tax Act also enhanced and extended through 2026 the option to claim accelerated depreciation deductions on qualified property.

The CARES Act provides, among other things, that any net operating loss arising in a tax year beginning in 2018, 2019 or 2020 may be carried back five years or carried forward indefinitely, offsetting up to 100% of taxable income in tax years beginning

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

before 2021. The Company intends to carry back our 2020 net operating loss to claim a refund of taxes paid in a year before the statutory corporate tax rate was reduced from 35% to 21% by the Tax Act. Due to the higher statutory rate applied to this net operating loss, the Company recognized an income tax benefit of \$13.3 million for the year ended December 31, 2020.

The Company recognized \$1.9 million during 2020 and \$8.3 million during 2019 of income tax expense from the re-measurement of our net deferred tax liabilities based on an increase in income attributable to states with higher tax rates compared to the prior period.

The Company will generate a capital loss associated with the Kater litigation. We have recorded a \$29.0 million deferred tax asset without a valuation allowance for the capital loss in 2020, as we fully expect to be able to offset the capital loss with previously recognized capital gains.

Components of our deferred tax assets and liabilities were as follows:

<i>(in millions)</i>	<b>As of December 31,</b>	
	<b>2020</b>	<b>2019</b>
Deferred tax assets:		
Capital loss	\$ 29.0	\$ —
Net operating losses and credit carryforward	9.3	3.4
Lease liabilities	7.7	6.8
Deferred compensation plans	6.7	5.9
Deferred income	5.5	4.8
Deferred liabilities	2.8	2.7
Allowance for uncollectible receivables	1.2	1.0
Deferred tax assets	62.2	24.6
Valuation allowance	(1.4)	(0.2)
Net deferred tax asset	60.8	24.4
Deferred tax liabilities:		
Equity investments in excess of tax basis	121.6	114.8
Property and equipment in excess of tax basis	77.9	53.4
Intangible assets in excess of tax basis	65.6	60.2
Right-of-use assets	7.4	6.8
Other	2.2	2.0
Deferred tax liabilities	274.7	237.2
Net deferred tax liability	\$ (213.9)	\$ (212.8)

As of December 31, 2020, we had federal net operating losses of \$3.2 million which were acquired in conjunction with the 2010 acquisition of Yobet.com. The utilization of these losses, which expire in 2025 and 2026, is limited on an annual basis pursuant to Internal Revenue Code § 382. We believe that we will be able to fully utilize all of these losses. We also have state net operating losses of \$7.3 million. We have recorded a valuation allowance of \$1.1 million against the state net operating losses due to the fact that it is unlikely that we will generate income in certain states which is necessary to utilize the deferred tax assets.

The Internal Revenue Service has completed audits through 2012. Tax years 2017 and after are open to examination. As of December 31, 2020, we had approximately \$3.9 million of total gross unrecognized tax benefits, excluding interest of \$0.2 million. If the total gross unrecognized tax benefits were recognized, there would be a \$3.4 million effect to the annual effective tax rate. We anticipate a decrease in our unrecognized tax positions of approximately \$0.8 million during the next twelve months primarily due to the expiration of statutes of limitation.

A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows:

<i>(in millions)</i>	<b>2020</b>	<b>2019</b>	<b>2018</b>
Balance as of January 1	\$ 1.8	\$ 2.8	\$ 2.9
Additions for tax positions related to the current year	0.1	0.1	0.1
Additions for tax positions of prior years	2.6	—	0.1
Reductions for tax positions of prior years	(0.6)	(1.1)	(0.3)
Balance as of December 31	<u>\$ 3.9</u>	<u>\$ 1.8</u>	<u>\$ 2.8</u>

## 10. SHAREHOLDERS' EQUITY

### **Stock Repurchase Program**

On November 29, 2017, the Board of Directors of the Company authorized a \$500.0 million share repurchase program in a "modified Dutch auction" tender offer (the "Tender Offer") utilizing a portion of the proceeds from the Big Fish Transaction. The Company completed the Tender Offer on February 12, 2018, and repurchased 5,660,376 shares of the Company's common stock at a purchase price of \$88.33 per share with an aggregate cost of \$500.0 million, excluding fees and expenses related to the Tender Offer.

On October 30, 2018, the Board of Directors of the Company approved a new common stock repurchase program of up to \$300.0 million. Repurchases may be made at management's discretion from time to time on the open market (either with or without a 10b5-1 plan) or through privately negotiated transactions. The repurchase program has no time limit and may be suspended or discontinued at any time.

For the year ended December 31, 2020, we repurchased 235,590 shares of our common stock under the October 2018 stock repurchase program at a total cost of \$27.9 million. We had \$147.1 million of repurchase authority remaining under this program at December 31, 2020.

For the year ended December 31, 2019, we repurchased 864,233 shares of our common stock under the October 2018 stock repurchase program at a total cost of \$93.0 million. As of December 31, 2019, we accrued \$0.5 million for the future cash settlement of executed repurchases of our common stock.

For the year ended December 31, 2018, excluding the shares purchased under the Tender Offer, we repurchased 372,282 shares of our common stock under the October 2018 stock repurchase program at a total cost of \$32.0 million.

### **Privately Negotiated Share Repurchase**

Refer to Note 23, Subsequent Events, for information regarding the Company's privately negotiated share repurchase on February 1, 2021.

### **Stock Split**

On October 30, 2018, the Company's Board of Directors approved a three-for-one stock split (the "Stock Split") and an amendment to the Company's Articles of Incorporation to increase the number of shares of common stock the Company is authorized to issue from 50,000,000 shares, no par value, to 150,000,000 shares, no par value. This amendment to the Company's Articles of Incorporation became effective on January 25, 2019 and our common stock began trading at the split-adjusted price on January 28, 2019. All share and per-share amounts in the Company's consolidated financial statements and related notes have been retroactively adjusted to reflect the effects of the Stock Split.

## 11. STOCK-BASED COMPENSATION PLANS

Our total compensation expense, which includes expense related to restricted stock awards, restricted stock unit awards, performance share unit awards, and stock options associated with our employee stock purchase plan, was \$23.7 million in 2020, \$23.8 million in 2019, and \$17.7 million in 2018. The income tax benefit related to stock-based employee compensation expense was \$1.9 million in 2020, \$2.1 million in 2019, and \$2.7 million in 2018. Our stock-based employee compensation plans are described below.

### **2016 Omnibus Stock Incentive Plan**

We have a stock-based employee compensation plan with awards outstanding under the Churchill Downs Incorporated 2016 Omnibus Stock Incentive Plan (the "2016 Plan") and Executive Long-Term Incentive Compensation Plan, which was adopted pursuant to the 2016 Plan. The 2016 Incentive Plan is intended to advance our long-term success by encouraging stock ownership among key employees and the Board of Directors. Awards may be in the form of stock options, stock appreciation

rights, restricted stock ("RSA"), restricted stock units ("RSU"), performance share units ("PSU"), performance units, or performance cash. The 2016 Incentive Plan has a minimum vesting period of one year for awards granted.

**Restricted Stock, Restricted Stock Units, and Performance Share Units**

The 2016 Incentive Plan permits the award of RSAs, RSUs, or PSUs to directors and key employees responsible for the management, growth and protection of our business. The fair value of RSAs and RSUs that vest solely based on continued service under the Plan is determined by the product of the number of shares granted and the grant date market price of our common stock.

RSAs and RSUs granted to employees under the 2016 Plan generally vests either in full upon three years from the date of grant or on a pro rata basis over a three-year term. RSAs are legally issued common stock at the time of grant, with certain restrictions placed on them. RSUs granted to employees are converted into shares of our common stock at vesting. The RSUs granted to directors under the 2016 Plan generally vests in full upon one year from the date of grant. RSUs granted to directors are converted into shares of our common stock at the time of the director's retirement.

In 2018, 2019, and 2020, the Company granted three-year performance and total shareholder return ("TSR") PSU awards (the "PSU Awards") to certain named executive officers ("NEOs"). The two performance criteria for the PSU Awards are: (1) a cumulative Adjusted EBITDA target that was set at the beginning of the plan performance period for the three-year period; and (2) a cash flow metric that is the aggregate of the cash flow targets for the three individual years that is set annually at the beginning of each year. The cash flow metric is defined as cash flow from operating activities, excluding the change in restricted cash, plus distributions of capital from equity investments less capital maintenance expenditures. The Compensation Committee of the Board of Directors (the "Compensation Committee") can make adjustments as it may deem appropriate to these metrics. Measurement against these criteria will be determined against a payout curve which provides up to 200% of performance share units based on the original award.

The PSU Awards may be adjusted based on the Company's TSR performance relative to the TSR performance during the performance period of the Companies remaining in the Russell 2000 index at the end of the performance period as follows:

1. The PSU Awards will increase by 25% if the Company's TSR is in the top quartile;
2. The PSU Awards will decrease by 25% if the Company's TSR is in the bottom quartile; and
3. The PSU Awards will not change if the Company's TSR is in the middle two quartiles.

The maximum number of PSU Awards, including the impact of the TSR performance, that can be earned for a performance period is 250% of the original award.

On February 12, 2020, the Compensation Committee offered, and the NEOs accepted, to settle the 2017 PSU Awards in cash.

In October 2018, the Company granted a special equity award to two NEOs ("7-Year Grant") consisting of PSU Awards that may be adjusted up to 200% based on the Company's relative TSR performance versus the Russell 2000 over a three-year period, and service-based RSU awards, both of which vest which vest in 25% annual increments over four years beginning on the fourth anniversary of the grant date, totaling seven years to be fully vested.

The total compensation cost recognized for PSU Awards is determined using the Monte Carlo valuation methodology, which factors in the value of the TSR when determining the grant date fair value of the award. Compensation cost for the PSU Awards is recognized during the three-year performance and service period based on the probable achievement of the two performance criteria, with the exception of the 7-Year Grant, which compensation cost is recognized during the seven-year service period. All PSUs awards are converted into shares of our common stock at the time the award value is finalized.

A summary of the 2020 RSUs, and PSUs granted to certain NEOs, employees, and the Board of Directors is presented below (shares/units in thousands):

Grant Year	Award Type	Number of Units Awarded <sup>(1)</sup>	Vesting Terms
2020	RSU	82	Vest equally over three service periods ending in 2021, 2022, and 2023
2020	PSU	37	Three-year performance and service period ending in 2022
2020	RSU	12	One year service period ending in 2021

(1) PSUs presented are based on the target number of units for the original PSU grant.

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

Activity for our RSAs, RSUs, and PSUs is presented below (shares/units in thousands):

	PSUs		RSAs and RSUs		Total	
	Number of Shares/Units	Weighted Average Grant Date Fair Value	Number of Shares/Units	Weighted Average Grant Date Fair Value	Number of Shares/Units	Weighted Average Grant Date Fair Value
<i>(in thousands, except grant date values)</i>						
<b>Balance as of December 31, 2017</b>	124	\$ 51.59	316	\$ 45.51	440	\$ 47.23
Granted	256	\$ 68.32	193	\$ 84.78	449	\$ 75.39
Performance adjustment <sup>(1)</sup>	70	\$ 47.01	—	\$ —	70	\$ 47.01
Vested	(129)	\$ 47.01	(217)	\$ 46.35	(346)	\$ 46.60
Canceled/forfeited	—	\$ —	(17)	\$ 54.49	(17)	\$ 54.49
<b>Balance as of December 31, 2018</b>	321	\$ 65.77	275	\$ 72.03	596	\$ 68.66
Granted	58	\$ 92.90	130	\$ 94.42	188	\$ 93.96
Performance adjustment <sup>(1)</sup>	87	\$ 55.75	—	\$ —	87	\$ 55.75
Vested	(152)	\$ 55.75	(135)	\$ 68.15	(287)	\$ 61.57
Canceled/forfeited	—	\$ —	(5)	\$ 77.59	(5)	\$ 77.59
<b>Balance as of December 31, 2019</b>	314	\$ 72.84	265	\$ 85.07	579	\$ 78.45
Granted	37	\$ 182.45	94	\$ 150.12	131	\$ 159.3
Performance adjustment <sup>(1)</sup>	41	\$ 90.73	—	\$ —	41	\$ 90.73
Vested	(90)	\$ 90.73	(121)	\$ 90.01	(211)	\$ 90.32
Canceled/forfeited	—	\$ —	(3)	\$ 121.39	(3)	\$ 121.39
<b>Balance as of December 31, 2020</b>	<u>302</u>	<u>\$ 83.40</u>	<u>235</u>	<u>\$ 107.90</u>	<u>537</u>	<u>\$ 94.14</u>

(1) Adjustment to number of target units awarded for PSUs based on achievement of performance and TSR goals.

The fair value of shares and units vested was \$36.9 million in 2020 and 2019, and \$32.4 million in 2018.

A summary of total unrecognized stock-based compensation expense related to RSAs, RSUs, and PSUs (based on current performance estimates), at December 31, 2020 is presented below:

	December 31, 2020	Weighted Average Remaining Vesting Period (Years)
<i>(in millions, except years)</i>		
Unrecognized expense:		
RSA	\$ 0.8	1.02
RSU	9.9	2.29
PSU	14.2	2.72
Total	<u>\$ 24.9</u>	2.49

**Employee Stock Purchase Plan**

Under the Employee Stock Purchase Plan (the "ESP Plan"), we are authorized to sell, pursuant to short-term stock options, shares of our common stock to our full-time and qualifying part-time employees at a discount from our common stock's fair market value. The ESP Plan operates on the basis of recurring, consecutive one-year periods. Each period commences on August 1 and ends on the following July 31. Compensation expense related to the ESP Plan was not material for any year included in our accompanying consolidated statements of comprehensive (loss) income.

## 12. TOTAL DEBT

The following table presents our total debt outstanding:

<i>(in millions)</i>	As of December 31, 2020		
	Outstanding Principal	Issuance Costs and Fees	Long-Term Debt, Net
Term Loan B due 2024	\$ 388.0	\$ 3.2	\$ 384.8
Revolver	149.7	—	149.7
2027 Senior Notes	600.0	6.8	593.2
2028 Senior Notes	500.0	5.4	494.6
Total debt	1,637.7	15.4	1,622.3
Current maturities of long-term debt	4.0	—	4.0
Total debt, net of current maturities	\$ 1,633.7	\$ 15.4	\$ 1,618.3

<i>(in millions)</i>	As of December 31, 2019		
	Outstanding Principal	Issuance Costs and Fees	Long-Term Debt, Net
Term Loan B due 2024	\$ 392.0	\$ 4.0	\$ 388.0
2027 Senior Notes	600.0	8.0	592.0
2028 Senior Notes	500.0	6.1	493.9
Total debt	1,492.0	18.1	1,473.9
Current maturities of long-term debt	4.0	—	4.0
Total debt, net of current maturities	\$ 1,488.0	\$ 18.1	\$ 1,469.9

### Credit Agreement

On December 27, 2017, we entered into a senior secured credit agreement (as amended, the "Credit Agreement") with a syndicate of lenders. The Credit Agreement provides for a \$700.0 million senior secured revolving credit facility due 2022 (the "Revolver") and a \$400.0 million senior secured term loan B due 2024 (the "Term Loan B"). Included in the maximum borrowing of \$700.0 million under the Revolver is a letter of credit sub facility not to exceed \$50.0 million and a swing line commitment up to a maximum principal amount of \$50.0 million. The Credit Agreement is collateralized by substantially all of the wholly-owned assets of the Company.

The Company capitalized \$1.6 million of debt issuance costs associated with the Revolver which is being amortized as interest expense over the shorter of the respective debt period or 5 years. The Company also capitalized \$5.1 million of debt issuance costs associated with the Term Loan B portion of the Credit Agreement which is being amortized as interest expense over the shorter of the respective debt period or 7 years.

The interest rates applicable to the Company's borrowings under the Credit Agreement are LIBOR-based plus a spread, as determined by the Company's consolidated total net leverage ratio. The Term Loan B requires quarterly payments of 0.25% of the original \$400.0 million balance, or \$1.0 million per quarter. The Term Loan B may be subject to additional mandatory prepayment from excess cash flow on an annual basis per the provisions of the Credit Agreement. The Company is required to pay a commitment fee on the unused portion of the Revolver as determined by a pricing grid based on the consolidated total net secured leverage ratio of the Company. For the period ended December 31, 2020, the Company's commitment fee rate was 0.30%.

The Credit Agreement contains certain customary affirmative and negative covenants, which include limitations on liens, investments, indebtedness, dispositions, mergers and acquisitions, the making of restricted payments, changes in the nature of business, changes in fiscal year, and transactions with affiliates. The Credit Agreement also contains financial covenants providing for the maintenance of a maximum consolidated secured net leverage ratio (4.0 to 1.0 or 4.5 to 1.0 for the year following any permitted acquisition greater than \$100.0 million) and the maintenance of a minimum consolidated interest coverage ratio of 2.5 to 1.0.

On March 16, 2020, the Company entered into the First Amendment to the Credit Agreement (the "First Amendment"). The First Amendment extended the maturity for the Company's Revolver from December 27, 2022 to at least September 27, 2024,

which is 91 days prior to the latest maturity date of the Company's term loan facility on December 27, 2024. The First Amendment also lowered the upper limit of the applied spreads with respect to revolving loans from 2.25% to 1.75% and for commitment fees with respect thereto from 0.35% to 0.30% and provides a reduced pricing schedule for outstanding borrowings and commitment fees with respect to the Revolver across all other leverage pricing levels. The First Amendment did not alter the Company's borrowing capacity. The Company capitalized \$2.0 million of debt issuance costs associated with the First Amendment which will be amortized as interest expense over the remaining duration of the Revolver.

The Company had an outstanding balance of \$149.7 million and had \$545.8 million available on the Revolver as of December 31, 2020. The Company had \$67.4 million of cash and cash equivalents as of December 31, 2020.

On April 28, 2020, the Company entered into a Second Amendment to the Credit Agreement (the "Second Amendment"). The Second Amendment (i) provides for a financial covenant relief period through the date on which the Company delivers the Company's quarterly financial statements and compliance certificate for the fiscal quarter ending June 30, 2021, subject to certain exceptions (the "Financial Covenant Relief Period"), (ii) amends the definition of "Consolidated EBITDA" in the Credit Agreement with respect to the calculation of Consolidated EBITDA for the first two fiscal quarters after the termination of the Financial Covenant Relief Period, (iii) extends certain deadlines and makes certain other amendments to the Company's financial reporting obligations, (iv) places certain restrictions on restricted payments during the Financial Covenant Relief Period, and (v) amends the definitions of "Material Adverse Effect" and "License Revocation" in the Credit Agreement to take into consideration COVID-19.

During the Financial Covenant Relief Period, the Company will not be required to comply with the consolidated total secured net leverage ratio financial covenant and the interest coverage ratio financial covenant. The Company has agreed to a minimum liquidity financial covenant that requires the Company and restricted subsidiaries to maintain liquidity of at least \$150.0 million during the Financial Covenant Relief Period. While the Second Amendment is in effect, the Company agreed to limit restricted payments to \$26.0 million.

On February 1, 2021, the Company entered into the Third Amendment to the Credit Agreement to increase the restricted payments capacity during the Financial Covenant Relief Period, as defined in the Second Amendment, from \$26.0 million to \$226.0 million to accommodate a share repurchase from an affiliate of The Duchossois Group, Inc. The Company repurchased the shares using available cash and borrowings under the Company's Revolver. Refer to Note 23, Subsequent Events, for information regarding this transaction.

The interest rate on the Revolver on December 31, 2020 was LIBOR plus 175 points based on the Revolver pricing grid in the Second Amendment and the Company's net leverage ratio as of December 31, 2020. The Term Loan B bears interest at LIBOR plus 200 basis points.

Although the Company was not required to meet the Company's financial covenants under the Credit Agreement on December 31, 2020 (as a result of the Second Amendment), the Company was compliant with all applicable covenants on December 31, 2020.

#### **2027 Senior Notes**

On March 25, 2019, we completed an offering of \$600.0 million in aggregate principal amount of 5.50% Senior Unsecured Notes that mature on April 1, 2027 (the "2027 Senior Notes") in a private offering to qualified institutional buyers pursuant to Rule 144A that is exempt from registration under the Securities Act of 1933, as amended (the "Securities Act"), and to certain non-U.S. persons in accordance with Regulation S under the Securities Act. The 2027 Senior Notes were issued at par, with interest payable on April 1<sup>st</sup> and October 1<sup>st</sup> of each year, commencing on October 1, 2019. The Company used the net proceeds from the offering to repay our outstanding balance on the Credit Agreement. In connection with the offering, we capitalized \$8.9 million of debt issuance costs which are being amortized as interest expense over the term of the 2027 Senior Notes.

The 2027 Senior Notes were issued pursuant to an indenture, dated March 25, 2019 (the "2027 Indenture"), among the Company, certain subsidiaries of the Company as guarantors (the "2027 Guarantors"), and U.S. Bank National Association, as trustee. The Company may redeem some or all of the 2027 Senior Notes at any time prior to April 1, 2022, at a price equal to 100% of the principal amount of the 2027 Senior Notes redeemed plus an applicable make-whole premium. On or after such date, the Company may redeem some or all of the 2027 Senior Notes at redemption prices set forth in the 2027 Indenture. At any time prior to April 1, 2022, the Company may redeem up to 40% of the aggregate principal amount of the 2027 Senior Notes at a redemption price equal to 105.5% of the principal amount thereof with the net cash proceeds of one or more equity offerings provided that certain conditions are met. The terms of the 2027 Indenture, among other things, limit the ability of the Company to: (i) incur additional debt and issue preferred stock; (ii) pay dividends or make other restricted payments; (iii) make certain investments; (iv) create liens; (v) allow restrictions on the ability of certain of our subsidiaries to pay dividends or make other payments; (vi) sell assets; (vii) merge or consolidate with other entities; and (viii) enter into transactions with affiliates.

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

In connection with the issuance of the 2027 Senior Notes, the Company and the 2027 Guarantors entered into a Registration Rights Agreement to register any 2027 Senior Notes under the Securities Act for resale that are not freely tradable 366 days from March 25, 2019.

**2028 Senior Notes**

On December 27, 2017, we completed an offering of \$500.0 million in aggregate principal amount of 4.75% Senior Unsecured Notes that mature on January 15, 2028 (the "2028 Senior Notes") in a private offering to qualified institutional buyers pursuant to Rule 144A that is exempt from registration under the Securities Act, and to certain non-U.S. persons in accordance with Regulation S under the Securities Act. The 2028 Senior Notes were issued at par, with interest payable on January 15<sup>th</sup> and July 15<sup>th</sup> of each year, commencing on July 15, 2018. The Company used the net proceeds from the offering to repay a portion of our \$600.0 million 5.375% Senior Unsecured Notes (the "2021 Senior Notes"). In connection with the offering, we capitalized \$7.7 million of debt issuance costs which are being amortized as interest expense over the term of the 2028 Senior Notes.

The 2028 Senior Notes were issued pursuant to an indenture, dated December 27, 2017 (the "2028 Indenture"), among the Company, certain subsidiaries of the Company as guarantors (the "2028 Guarantors"), and U.S. Bank National Association, as trustee. The Company may redeem some or all of the 2028 Senior Notes at any time prior to January 15, 2023, at a price equal to 100% of the principal amount of the 2028 Senior Notes redeemed plus an applicable make-whole premium. On or after such date, the Company may redeem some or all of the 2028 Senior Notes at redemption prices set forth in the 2028 Indenture. At any time prior to January 15, 2021, the Company may redeem up to 40% of the aggregate principal amount of the 2028 Senior Notes at a redemption price equal to 104.75% of the principal amount thereof with the net cash proceeds of one or more equity offerings provided that certain conditions are met. The terms of the 2028 Indenture, among other things, limit the ability of the Company to: (i) incur additional debt and issue preferred stock; (ii) pay dividends or make other restricted payments; (iii) make certain investments; (iv) create liens; (v) allow restrictions on the ability of certain of our subsidiaries to pay dividends or make other payments; (vi) sell assets; (vii) merge or consolidate with other entities; and (viii) enter into transactions with affiliates.

In connection with the issuance of the 2028 Senior Notes, the Company and the 2028 Guarantors entered into a Registration Rights Agreement to register any 2028 Senior Notes under the Securities Act for resale that are not freely tradable 366 days from December 27, 2017.

Future aggregate maturities of total debt are as follows (in millions):

	<b>Years Ended December 31,</b>	
2021	\$	4.0
2022		4.0
2023		4.0
2024		525.7
2025		—
Thereafter		1,100.0
Total	\$	1,637.7

**13. REVENUE FROM CONTRACTS WITH CUSTOMERS**

**Performance Obligations**

As of December 31, 2020, our Churchill Downs segment had remaining performance obligations on contracts with a duration greater than one year relating to television rights, sponsorships, personal seat licenses, and admissions, with an aggregate transaction price of \$131.8 million. The revenue we expect to recognize on these remaining performance obligations is \$32.8 million in 2021, \$36.6 million in 2022, \$23.2 million in 2023, and the remainder thereafter.

As of December 31, 2020, our remaining performance obligations on contracts with a duration greater than one year in segments other than Churchill Downs were not material.

**Contract Assets and Contract Liabilities**

Contract assets were not material as of December 31, 2020 and 2019.

Contract liabilities were \$53.7 million as of December 31, 2020 and \$63.1 million as of December 31, 2019. Contract liabilities are included in current deferred revenue, non-current deferred revenue, and accrued expense and other current liabilities in the

accompanying consolidated balance sheets. Contract liabilities primarily relate to our Churchill Downs segment and the decrease was primarily due to revenue recognized for performance obligations related to Churchill Downs Racetrack that were fulfilled in 2020. We recognized \$6.7 million of revenue during the year ended December 31, 2020 that was included in the contract liabilities balance at December 31, 2019. We recognized \$51.2 million of revenue during the year ended December 31, 2019 that was included in the contract liabilities balance at December 31, 2018. We recognized \$53.7 million of revenue during the year ended December 31, 2018 that was included in the contract liabilities balance at January 1, 2018.

***Disaggregation of Revenue***

In Note 21, Segment Information, the Company has included its disaggregated revenue disclosures as follows:

- For the Churchill Downs segment, revenue is disaggregated between Churchill Downs Racetrack and Derby City Gaming given that Churchill Downs Racetrack's revenues primarily revolve around live racing events while Derby City Gaming's revenues primarily revolve around historical racing events. Within the Churchill Downs segment, revenue is further disaggregated between live and simulcast racing, historical racing, racing event-related services, and other services.
- For the Online Wagering segment, revenue is disaggregated between the TwinSpires Horse Racing business and our TwinSpires Sports and Casino business given that TwinSpires' Horse Racing revenue is primarily related to online pari-mutuel wagering on live race events while the TwinSpires Sports and Casino revenue relates to sports and casino gaming service offerings. Within the Online Wagering segment, revenue is further disaggregated between live and simulcast racing, gaming, and other services.
- For the Gaming segment, revenue is disaggregated by location given the geographic economic factors that affect the revenue of Gaming service offerings. Within the Gaming segment, revenue is further disaggregated between live and simulcast racing, racing event-related services, gaming, and other services.

We believe that these disclosures depict how the amount, nature, timing, and uncertainty of cash flows are affected by economic factors.

**14. OTHER BALANCE SHEET ITEMS**

***Accounts receivable***

Accounts receivable is comprised of the following:

<i>(in millions)</i>	As of December 31,	
	2020	2019
Trade receivables	\$ 6.5	\$ 12.3
Simulcast and online wagering receivables	26.7	20.9
Other receivables	8.2	8.5
	41.4	41.7
Allowance for doubtful accounts	(4.9)	(4.4)
Total	\$ 36.5	\$ 37.3

We recognized bad debt expense of \$2.5 million in 2020, \$2.1 million in 2019 and \$1.7 million in 2018.

***Accrued expenses and other current liabilities***

Accrued expenses and other current liabilities consisted of the following:

<i>(in millions)</i>	As of December 31,	
	2020	2019
Accrued salaries and related benefits	\$ 19.6	\$ 29.2
Account wagering deposits liability	38.1	28.9
Purses payable	18.5	19.9
Accrued interest	19.2	19.7
Other	72.4	75.7
Total	\$ 167.8	\$ 173.4

**15. INVESTMENTS IN AND ADVANCES TO UNCONSOLIDATED AFFILIATES**

Investments in and advances to unconsolidated affiliates as of December 31, 2020 and 2019 primarily consisted of a 50% interest in MVG, a 61.3% interest in Rivers Des Plaines (as described further below), and two other immaterial joint ventures.

***Miami Valley Gaming***

Delaware North Companies Gaming & Entertainment Inc. ("DNC") owns the remaining 50% interest in MVG. Since both we and DNC have participating rights over MVG, and both must consent to MVG's operating, investing and financing decisions, we account for MVG using the equity method.

Our investment in MVG was \$110.1 million as of December 31, 2020 and \$110.8 million as of December 31, 2019. The Company received distributions from MVG of \$20.0 million in 2020, \$23.8 million in 2019 and \$18.8 million in 2018.

### ***Rivers Des Plaines***

On March 5, 2019, the Company completed the acquisition of certain ownership interests of Midwest Gaming, the parent company of Rivers Des Plaines to acquire approximately 42% of Midwest Gaming from affiliates and co-investors of Clairvest Group Inc. ("Clairvest") and members of High Plains Gaming, LLC ("High Plains"), an affiliate of Rush Street Gaming, LLC and Casino Investors, LLC ("Casino Investors") for cash consideration of approximately \$406.6 million and \$3.5 million of certain transaction costs and working capital adjustments (the "Sale Transaction"). Following the closing of the Sale Transaction, the parties completed a recapitalization transaction on March 6, 2019 (the "Recapitalization"), pursuant to which Midwest Gaming used approximately \$300.0 million in proceeds from amended and extended credit facilities to redeem, on a pro rata basis, additional Midwest Gaming units held by High Plains and Casino Investors. As a result of the Recapitalization, the Company's ownership of Midwest Gaming increased to 61.3%. High Plains retained ownership of 36.0% of Midwest Gaming and Casino Investors retained ownership of 2.7% of Midwest Gaming.

We also recognized a \$103.2 million deferred tax liability and a corresponding increase in our investment in unconsolidated affiliates related to an entity we acquired in conjunction with our acquisition of the Clairvest ownership stake in Midwest Gaming.

A new limited liability company agreement was entered into by the members of Midwest Gaming as a result of the change in ownership structure. Under the new limited liability company agreement, both the Company and High Plains have participating rights over Midwest Gaming, and both must consent to Midwest Gaming's operating, investing and financing decisions. As a result, we account for Midwest Gaming using the equity method.

The Company's investment in Midwest Gaming is presented at our initial cost of investment plus the Company's accumulated proportional share of income or loss, including depreciation/accretion of the difference in the historical basis of the Company's contribution, less any distributions it has received. Following the Sale Transaction and Recapitalization, the carrying value of the Company's investment in Midwest Gaming was \$835.0 million higher than the Company's underlying equity in the net assets of Midwest Gaming. This equity method basis difference was comprised of \$853.7 million related to goodwill and indefinite-lived intangible assets, \$(13.7) million related to non-depreciable land, \$(9.5) million related to buildings that will be accreted into income over a weighted average useful life of 35.3 years, and \$4.5 million related to personal property that will be depreciated over a weighted average useful life of 3.7 years. As of December 31, 2020, the net aggregate basis difference between the Company's investment in Midwest Gaming and the amounts of the underlying equity in net assets was \$833.3 million.

Our investment in Rivers Des Plaines was \$519.0 million as of December 31, 2020 and \$522.1 million as of December 31, 2019. The Company received distributions from Rivers Des Plaines of \$10.7 million in 2020 and \$14.2 million in 2019.

### ***Ocean Downs***

Ocean Downs was accounted for under the equity method prior to August 31, 2018. On August 31, 2018, the Company completed the acquisition of the remaining 50% ownership of Ocean Downs owned by SCH in exchange for liquidating the Company's 25% equity interest in SCH, which is the parent company of Saratoga New York and Saratoga Colorado. As of August 31, 2018, the Company owns 100% of Ocean Downs and has no equity interest or management involvement in Saratoga New York or Saratoga Colorado.

### ***Summarized Financial Results for our Unconsolidated Affiliates***

The financial results for our unconsolidated affiliates are summarized below. The summarized income statement information for 2020 and summarized balance sheet information as of December 31, 2020 includes the following equity investments: MVG, Rivers Des Plaines, and one other immaterial joint venture. The summarized income statement information for 2019 and summarized balance sheet information as of December 31, 2019 includes the following equity investments: MVG, Rivers Des Plaines from the transaction date of March 5, 2019, and two other immaterial joint ventures. The summarized income statement information for 2018 includes the following equity investments: MVG, Saratoga New York, Saratoga Colorado, Ocean Downs,

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

and two other immaterial joint ventures. The 2018 summarized income statement information includes the results of Ocean Downs, Saratoga New York, and Saratoga Colorado through August 31, 2018.

<i>(in millions)</i>	December 31,	
	2020	2019
<b>Assets</b>		
Current assets	\$ 132.8	\$ 64.0
Property and equipment, net	267.5	256.1
Other assets, net	244.9	240.1
Total assets	\$ 645.2	\$ 560.2
<b>Liabilities and Members' Deficit</b>		
Current liabilities	\$ 133.5	\$ 73.3
Long-term debt	753.5	745.0
Other liabilities	42.3	20.6
Members' deficit	(284.1)	(278.7)
Total liabilities and members' deficit	\$ 645.2	\$ 560.2

<i>(in millions)</i>	Years Ended December 31,		
	2020	2019	2018
Net revenue	\$ 386.3	\$ 585.5	\$ 367.2
Operating and SG&A expense	252.1	411.4	271.9
Depreciation and amortization	17.0	13.0	22.2
<b>Operating income</b>	117.2	161.1	73.1
Interest and other expense, net	(63.1)	(67.0)	(6.3)
<b>Net income</b>	\$ 54.1	\$ 94.1	\$ 66.8

## 16. LEASES

Our operating leases with terms greater than one year are primarily related to buildings and land. Our operating leases with terms less than one year are primarily related to equipment. Most of our building and land leases have terms of 2 to 10 years and include one or more options to renew, with renewal terms that can extend the lease term from 1 to 5 years or more. Certain of our lease agreements include lease payments based on a percentage of net gaming revenue and others include rental payment adjustments periodically for inflation. The estimated discount rate for each of our leases is determined based on adjustments made to our secured debt borrowing rate.

The components of total lease cost were as follows:

<i>(in millions)</i>	Year Ended December 31, 2020	Year Ended December 31, 2019
Short-term lease cost <sup>(a) (b)</sup>	\$ 6.5	\$ 14.3
Operating lease cost <sup>(b)</sup>	6.6	6.7
Finance lease interest expense	0.1	—
Finance lease amortization expense <sup>(b)</sup>	0.2	—
Total lease cost	\$ 13.4	\$ 21.0

(a) Includes leases with terms of one month or less

(b) Includes variable lease costs, which were not material

Supplemental cash flow information related to leases are as follows:

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

*(in millions)*

	Year Ended December 31, 2020	Year Ended December 31, 2019
<b>Cash paid for amounts included in the measurement of lease liabilities</b>		
Operating cash flows from operating leases	\$ 6.0	\$ 5.2
Operating cash flows from finance leases	\$ 0.1	\$ —
Financing cash flows from finance lease	\$ 0.1	\$ —
<b>ROUAs obtained in exchange for lease obligations</b>		
Operating leases	\$ 2.8	\$ 3.7
Finance leases	\$ 5.1	\$ 1.5

Other information related to operating leases was as follows:

	As of December 31,	
	2020	2019
<b>Weighted Average Remaining Lease Term</b>		
Operating leases	5.9 years	6.5 years
Finance leases	18.4 years	14.9 years
<b>Weighted Average Discount Rate</b>		
Operating leases	3.8 %	3.9 %
Finance leases	2.9 %	3.9 %

As of December 31, 2020, the future undiscounted cash flows associated with the Company's operating and financing lease liabilities were as follows:

*(in millions)*

Years Ended December 31,	Operating Leases	Finance Leases
2021	\$ 5.5	\$ 0.4
2022	4.3	0.4
2023	3.8	0.4
2024	3.8	0.4
2025	3.6	0.4
Thereafter	5.5	6.0
Total future minimum lease payments	26.5	8.0
Less: Imputed interest	2.8	1.8
Present value of lease liabilities	<u>\$ 23.7</u>	<u>\$ 6.2</u>
Reported lease liabilities as of December 31, 2020		
Accrued expense and other current liabilities (current maturities of leases)	\$ 4.7	\$ 0.2
Other liabilities (non-current maturities of leases)	19.0	6.0
Present value of lease liabilities	<u>\$ 23.7</u>	<u>\$ 6.2</u>

## 17. BOARD OF DIRECTOR AND EMPLOYEE BENEFIT PLANS

### *Board of Directors and Officers Retirement Plan*

We provide eligible executives and members of our Board of Directors an opportunity to defer to a future date the receipt of base and bonus compensation for services as well as director's fees through the 2005 Deferred Compensation Plan (the "Deferred Plan"). Our matching contribution on base compensation deferral of executives equals the matching contribution of our profit-sharing plan with certain limits.

Members of our Board of Directors may elect to invest the deferred director fee compensation into our common stock within the Deferred Plan. Investments in our common stock are credited as hypothetical shares of common stock based on the market price of the stock at the time the compensation was earned. Upon the end of the director's service, common stock shares are issued to the director.

On December 13, 2019, the Compensation Committee elected to freeze the Deferred Plan with respect to employee participant deferrals after the 2019 plan year. Members of our Board of Directors may continue to participate in the Deferred Plan.

On December 13, 2019, the Compensation Committee adopted the Churchill Downs Incorporated Restricted Stock Unit Deferral Plan, effective January 1, 2020. Certain individual employees who are management or highly compensated employees of the Company may elect to defer settlement of RSUs granted pursuant to the 2016 Incentive Plan.

### *Other Retirement Plans*

We have a profit-sharing plan for all employees with three months or more of service who are not otherwise participating in an associated profit-sharing plan. We match contributions made by employees up to 3% of the employee's annual compensation and match at 50% any contributions made by the employee up to an additional 2% of compensation with certain limits. We may also contribute a discretionary amount determined annually by the Board of Directors as well as a year-end discretionary match not to exceed 4% of compensation. Our cash contribution to the plan was \$3.7 million in 2020, \$4.1 million in 2019, and \$3.0 million in 2018.

We are a member of a noncontributory defined benefit multi-employer retirement plan for all members of the Pari-mutuel Clerk's Union of Kentucky and several other collectively bargained retirement plans, which are administered by unions. Cash contributions are made in accordance with negotiated labor contracts. Retirement plan expense was \$0.3 million in 2020, \$0.6 million in 2019, and \$0.7 million in 2018. Our policy is to fund this expense as accrued, and we currently estimate that future contributions to these plans will not increase significantly from prior years.

## 18. FAIR VALUE OF ASSETS AND LIABILITIES

We endeavor to utilize the best available information in measuring fair value. Financial assets and liabilities are classified based on the lowest level of input that is significant to the fair value measurement.

The following methods and assumptions are used to estimate the fair value of each class of financial instruments for which it is practicable to estimate:

### *Restricted Cash*

Our restricted cash accounts that are held in interest-bearing accounts qualify for Level 1 in the fair value hierarchy, which includes unadjusted quoted market prices in active markets for identical assets.

### *Debt*

The fair value of the Company's 2028 Senior Notes and 2027 Senior Notes are estimated based on unadjusted quoted prices for identical or similar liabilities in markets that are not active and as such are Level 2 measurements. The fair value of the Company's Senior Secured Term Loan B due 2024 (the "Term Loan B") and the Revolver approximates the gross carrying value as both are variable rate debt and as such are Level 2 measurements.

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

The carrying amounts and estimated fair values by input level of the Company's financial instruments are as follows:

		<b>December 31, 2020</b>				
<i>(in millions)</i>	<b>Carrying Amount</b>	<b>Fair Value</b>	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>	
<b>Financial assets:</b>						
Restricted cash	\$ 53.6	\$ 53.6	\$ 53.6	\$ —	\$ —	
<b>Financial liabilities:</b>						
Term Loan B	384.8	388.0	—	388.0	—	
Revolver	149.7	149.7	—	149.7	—	
2027 Senior Notes	593.2	635.2	—	635.2	—	
2028 Senior Notes	494.6	526.9	—	526.9	—	

		<b>December 31, 2019</b>				
<i>(in millions)</i>	<b>Carrying Amount</b>	<b>Fair Value</b>	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>	
<b>Financial assets:</b>						
Restricted cash	\$ 46.3	\$ 46.3	\$ 46.3	\$ —	\$ —	
<b>Financial liabilities:</b>						
Term Loan B	388.0	392.0	—	392.0	—	
2027 Senior Notes	592.0	636.0	—	636.0	—	
2028 Senior Notes	493.9	515.2	—	515.2	—	

## 19. CONTINGENCIES

We are involved in litigation arising in the ordinary course of conducting business. We carry insurance for workers' compensation claims from our employees and general liability for claims from independent contractors, customers and guests. We are self-insured up to an aggregate stop loss for our general liability and workers' compensation coverages.

We review all litigation on an ongoing basis when making accrual and disclosure decisions. For certain legal proceedings, we cannot reasonably estimate losses or a range of loss, if any, particularly for proceedings that are in the early stages of development or where the plaintiffs seek indeterminate damages. Various factors, including but not limited to, the outcome of potentially lengthy discovery and the resolution of important factual questions, may need to be determined before probability can be established or before a loss or range of loss can be reasonably estimated. In accordance with current accounting standards for loss contingencies and based upon information currently known to us, we establish reserves for litigation when it is probable that a loss associated with a claim or proceeding has been incurred and the amount of the loss or range of loss can be reasonably estimated. When no amount within the range of loss is a better estimate than any other amount, we accrue the minimum amount of the estimable loss. To the extent that such litigation against us may have an exposure to a loss in excess of the amount we have accrued, we believe that such excess would not be material to our consolidated financial condition, results of operations, or cash flows. Legal fees are expensed as incurred.

If the loss contingency in question is not both probable and reasonably estimable, we do not establish an accrual and the matter will continue to be monitored for any developments that would make the loss contingency both probable and reasonably estimable. In the event that a legal proceeding results in a substantial judgment against, or settlement by us, there can be no assurance that any resulting liability or financial commitment would not have a material adverse impact on our business.

## 20. NET INCOME PER COMMON SHARE COMPUTATIONS

The following is a reconciliation of the numerator and denominator of the net income per common share computations:

<i>(in millions, except per share data)</i>	Years Ended December 31,		
	2020	2019	2018
Numerator for basic net income (loss) per common share:			
Net income from continuing operations	\$ 13.3	\$ 139.6	\$ 182.6
Net loss attributable to noncontrolling interest	(0.2)	(0.3)	—
Net income from continuing operations, net of loss attributable to noncontrolling interests	13.5	139.9	182.6
Net (loss) income from discontinued operations	(95.4)	(2.4)	170.2
Numerator for basic net (loss) income per common share	\$ (81.9)	\$ 137.5	\$ 352.8
Numerator for diluted net income from continuing operations per common share	\$ 13.5	\$ 139.9	\$ 182.6
Numerator for diluted net (loss) income per common share	\$ (81.9)	\$ 137.5	\$ 352.8
Denominator for net (loss) income per common share:			
Basic	39.6	40.1	41.3
Plus dilutive effect of stock awards	0.5	0.5	0.3
Diluted	40.1	40.6	41.6
Net (loss) income per common share data:			
Basic			
Continuing operations	\$ 0.34	\$ 3.49	\$ 4.42
Discontinued operations	\$ (2.41)	\$ (0.06)	\$ 4.12
Net (loss) income per common share - basic	\$ (2.07)	\$ 3.43	\$ 8.54
Diluted			
Continuing operations	\$ 0.33	\$ 3.44	\$ 4.39
Discontinued operations <sup>(1)</sup>	\$ (2.41)	\$ (0.06)	\$ 4.09
Net (loss) income per common share - diluted	\$ (2.08)	\$ 3.38	\$ 8.48

(1) Amounts exclude all potential common equivalent shares for periods when there is a net loss from discontinued operations.

## 21. SEGMENT INFORMATION

We manage our operations through three reportable segments: Churchill Downs, Online Wagering and Gaming. Our operating segments reflect the internal management reporting used by our chief operating decision maker to evaluate results of operations and to assess performance and allocate resources.

- **Churchill Downs**

The Churchill Downs segment includes live and historical pari-mutuel racing related revenue and expenses at Churchill Downs Racetrack and Derby City Gaming.

Churchill Downs Racetrack is the home of the Kentucky Derby and conducts live racing during the year. Derby City Gaming is an HRM facility that operates under the Churchill Downs pari-mutuel racing license at the auxiliary training facility for Churchill Downs Racetrack in Louisville, Kentucky.

Churchill Downs Racetrack and Derby City Gaming earn commissions primarily from pari-mutuel wagering on live races at Churchill Downs and on historical races at Derby City Gaming, simulcast fees earned from other wagering sites, admissions, personal seat licenses, sponsorships, television rights, and other miscellaneous services (collectively "racing event-related services"), as well as food and beverage services.

- **Online Wagering**

The Online Wagering segment includes the revenue and expenses for the TwinSpires Horse Racing business and the TwinSpires Sports and Casino business. Both businesses are headquartered in Louisville, Kentucky.

TwinSpires Horse Racing operates the online horse racing wagering business for TwinSpires.com, BetAmerica.com, and other white-label platforms; facilitates high dollar wagering by international customers (through Velocity); and provides the Bloodstock Research Information Services platform for horse racing statistical data.

Our TwinSpires Sports and Casino business operates our sports betting and casino iGaming platform in multiple states, including Colorado, Indiana, Michigan, Mississippi, New Jersey, and Pennsylvania. The TwinSpires sports and casino business includes the mobile and online sports betting and casino results and the results of our three retail sportsbooks in Colorado, Indiana and Michigan which utilize a third party's casino license.

The results of the two retail sportsbooks at our Mississippi properties, our retail sportsbook at Presque Isle in Pennsylvania and the retail and online BetRivers sportsbook in Illinois provided by Rivers Des Plaines and managed by Rush Street Interactive, are included in the Gaming segment.

- **Gaming**

The Gaming segment includes revenue and expenses for the casino properties and associated racetrack or jai alai facilities which support the casino license as applicable. The Gaming segment has approximately 11,000 slot machines and video lottery terminals ("VLTs") and 200 table games located in eight states.

The Gaming segment revenue and expenses includes the following properties:

- Calder Casino and Racing ("Calder")
- Fair Grounds Slots, Fair Grounds Race Course, and Video Services, LLC ("VSI") (collectively, "Fair Grounds and VSI")
- Harlow's Casino Resort and Spa ("Harlow's")
- Lady Luck Casino Nemaquin management agreement
- Ocean Downs Casino and Racetrack ("Ocean Downs")
- Oxford Casino and Hotel ("Oxford")
- Presque Isle
- Riverwalk Casino Hotel ("Riverwalk")

The Gaming segment also includes net income for our ownership portion of the Company's equity investments in the following:

- 61.3% equity investment in Midwest Gaming, the parent company of Rivers Des Plaines in Des Plaines, Illinois
- 50% equity investment in MVG

The Gaming segment generates revenue and expenses from slot machines, table games, VLTs, video poker, retail sports betting, ancillary food and beverage services, hotel services, commission on pari-mutuel wagering, racing event-related services, and / or other miscellaneous operations.

We have aggregated the following businesses as well as certain corporate operations, and other immaterial joint ventures in "All Other" to reconcile to consolidated results:

- Oak Grove
- Newport
- Turfway Park
- Arlington International Racecourse ("Arlington")
- United Tote
- Corporate

Eliminations include the elimination of intersegment transactions. We utilize non-GAAP measures, including EBITDA (earnings before interest, taxes, depreciation and amortization) and Adjusted EBITDA. Our chief operating decision maker utilizes Adjusted EBITDA to evaluate segment performance, develop strategy and allocate resources. Adjusted EBITDA includes the following adjustments:

Adjusted EBITDA includes our portion of EBITDA from our equity investments.

Adjusted EBITDA excludes:

- Transaction expense, net which includes:
  - Acquisition and disposition related charges, including fair value adjustments related to earnouts and deferred payments;
  - Calder racing exit costs; and
  - Other transaction expense, including legal, accounting, and other deal-related expense;
- Stock-based compensation expense;
- Midwest Gaming's impact on our investments in unconsolidated affiliates from:
  - The impact of changes in fair value of interest rate swaps; and
  - Recapitalization and transaction costs;
- Asset impairments;
- Gain on Ocean Downs/Saratoga Transaction;
- Loss on extinguishment of debt;
- Legal reserves;
- Pre-opening expense; and
- Other charges, recoveries and expenses

We utilize the Adjusted EBITDA metric to provide a more accurate measure of our core operating results and enable management and investors to evaluate and compare from period to period our operating performance in a meaningful and consistent manner. Adjusted EBITDA should not be considered as an alternative to operating income as an indicator of performance, as an alternative to cash flows from operating activities as a measure of liquidity, or as an alternative to any other measure provided in accordance with GAAP. Our calculation of Adjusted EBITDA may be different from the calculation used by other companies and, therefore, comparability may be limited. For segment reporting, Adjusted EBITDA includes intercompany revenue and expense totals that are eliminated in the accompanying consolidated statements of comprehensive (loss) income.

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

The tables below present net revenue from external customers and intercompany revenue from each of our segments, Adjusted EBITDA by segment and reconciles comprehensive (loss) income to Adjusted EBITDA:

<i>(in millions)</i>	Years Ended December 31,		
	2020	2019	2018
<b>Net revenue from external customers:</b>			
<b>Churchill Downs:</b>			
Churchill Downs Racetrack	\$ 63.3	\$ 187.6	\$ 181.0
Derby City Gaming	79.5	86.6	14.8
Total Churchill Downs	142.8	274.2	195.8
<b>Online Wagering:</b>			
TwinSpires Horse Racing	403.4	289.9	290.2
TwinSpires Sports and Casino	4.9	0.6	—
Total Online Wagering	408.3	290.5	290.2
<b>Gaming:</b>			
Fair Grounds and VSI	97.6	123.0	117.7
Presque Isle	75.2	138.5	—
Ocean Downs	60.3	85.9	25.9
Calder	51.8	99.8	98.6
Oxford Casino	44.9	101.7	102.0
Riverwalk Casino	49.1	58.9	54.5
Harlow's Casino	41.8	55.3	50.2
Lady Luck Nemacolin	20.7	29.3	—
Saratoga	—	—	0.6
Total Gaming	441.4	692.4	449.5
All Other	61.5	72.6	73.5
Net revenue from external customers	\$ 1,054.0	\$ 1,329.7	\$ 1,009.0
<b>Intercompany net revenues:</b>			
Churchill Downs	\$ 17.7	\$ 15.2	\$ 12.7
Online Wagering	1.6	1.1	1.3
<b>Gaming:</b>			
Fair Grounds and VSI	2.2	1.8	1.6
Presque Isle	0.2	0.5	—
Calder	0.1	0.1	0.1
Total Gaming	2.5	2.4	1.7
All Other	13.2	11.6	11.2
Eliminations	(35.0)	(30.3)	(26.9)
Intercompany net revenue	\$ —	\$ —	\$ —

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

**Twelve Months Ended December 31, 2020**

(in millions)

**Net revenue from external customers**

Pari-mutuel:

	<b>Churchill Downs</b>	<b>Online Wagering</b>	<b>Gaming</b>	<b>Total Segments</b>	<b>All Other</b>	<b>Total</b>
Live and simulcast racing	\$ 39.4	\$ 387.5	\$ 22.9	\$ 449.8	\$ 25.3	\$ 475.1
Historical racing <sup>(a)</sup>	76.0	—	—	76.0	17.6	93.6
Racing event-related services	21.0	—	3.4	24.4	0.3	24.7
Gaming <sup>(a)</sup>	—	5.1	387.5	392.6	—	392.6
Other <sup>(a)</sup>	6.4	15.7	27.6	49.7	18.3	68.0
<b>Total</b>	<b>\$ 142.8</b>	<b>\$ 408.3</b>	<b>\$ 441.4</b>	<b>\$ 992.5</b>	<b>\$ 61.5</b>	<b>\$ 1,054.0</b>

**Twelve Months Ended December 31, 2019**

(in millions)

**Net revenue from external customers**

Pari-mutuel:

	<b>Churchill Downs</b>	<b>Online Wagering</b>	<b>Gaming</b>	<b>Total Segments</b>	<b>All Other</b>	<b>Total</b>
Live and simulcast racing	\$ 59.0	\$ 277.1	\$ 30.7	\$ 366.8	\$ 41.1	\$ 407.9
Historical racing <sup>(a)</sup>	81.6	—	—	81.6	—	81.6
Racing event-related services	118.7	—	4.1	122.8	5.6	128.4
Gaming <sup>(a)</sup>	—	0.6	585.2	585.8	—	585.8
Other <sup>(a)</sup>	14.9	12.8	72.4	100.1	25.9	126.0
<b>Total</b>	<b>\$ 274.2</b>	<b>\$ 290.5</b>	<b>\$ 692.4</b>	<b>\$ 1,257.1</b>	<b>\$ 72.6</b>	<b>\$ 1,329.7</b>

**Twelve Months Ended December 31, 2018**

(in millions)

**Net revenue from external customers**

Pari-mutuel:

	<b>Churchill Downs</b>	<b>Online Wagering</b>	<b>Gaming</b>	<b>Total Segments</b>	<b>All Other</b>	<b>Total</b>
Live and simulcast racing	\$ 54.9	\$ 278.4	\$ 27.1	\$ 360.4	\$ 43.1	\$ 403.5
Historical racing <sup>(a)</sup>	13.8	—	—	13.8	—	13.8
Racing event-related services	115.2	—	3.9	119.1	5.8	124.9
Gaming <sup>(a)</sup>	—	—	365.9	365.9	—	365.9
Other <sup>(a)</sup>	11.9	11.8	52.6	76.3	24.6	100.9
<b>Total</b>	<b>\$ 195.8</b>	<b>\$ 290.2</b>	<b>\$ 449.5</b>	<b>\$ 935.5</b>	<b>\$ 73.5</b>	<b>\$ 1,009.0</b>

- (a) Food and beverage, hotel, and other services furnished to customers for free as an inducement to wager or through the redemption of our customers' loyalty points are recorded at the estimated standalone selling prices in Other revenue with a corresponding offset recorded as a reduction in historical racing pari-mutuel revenue for HRMs or gaming revenue for our casino properties. These amounts were \$13.1 million in 2020, \$33.4 million in 2019, and \$26.1 million in 2018.

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

Adjusted EBITDA by segment is comprised of the following:

<i>(in millions)</i>	<b>Year Ended December 31, 2020</b>		
	<b>Churchill Downs</b>	<b>Online Wagering</b>	<b>Gaming</b>
Net revenue	\$ 160.5	\$ 409.9	\$ 443.9
Taxes and purses	(54.1)	(23.7)	(173.0)
Marketing and advertising	(4.1)	(16.5)	(7.5)
Salaries and benefits	(26.5)	(13.0)	(75.9)
Content expense	(1.0)	(204.9)	(3.5)
Selling, general and administrative expense	(7.0)	(8.9)	(25.4)
Other operating expense	(29.6)	(33.7)	(60.8)
Other income	0.1	0.1	78.9
Adjusted EBITDA	<u>\$ 38.3</u>	<u>\$ 109.3</u>	<u>\$ 176.7</u>

<i>(in millions)</i>	<b>Year Ended December 31, 2019</b>		
	<b>Churchill Downs</b>	<b>Online Wagering</b>	<b>Gaming</b>
Net revenue	\$ 289.4	\$ 291.6	\$ 694.8
Taxes and purses	(66.5)	(15.3)	(270.3)
Marketing and advertising	(7.1)	(12.2)	(21.5)
Salaries & benefits	(32.0)	(11.4)	(103.3)
Content expense	(2.4)	(152.8)	(6.0)
Selling, general and administrative expense	(8.0)	(7.2)	(29.0)
Other operating expense	(35.9)	(26.4)	(84.1)
Other income	0.2	—	100.3
Adjusted EBITDA	<u>\$ 137.7</u>	<u>\$ 66.3</u>	<u>\$ 280.9</u>

<i>(in millions)</i>	<b>Year Ended December 31, 2018</b>		
	<b>Churchill Downs</b>	<b>Online Wagering</b>	<b>Gaming</b>
Net revenue	\$ 208.5	\$ 291.5	\$ 451.2
Taxes and purses	(41.3)	(15.2)	(153.4)
Marketing and advertising	(5.7)	(6.0)	(15.5)
Salaries & benefits	(23.7)	(9.2)	(68.9)
Content expense	(2.2)	(152.0)	(4.1)
Selling, general and administrative expense	(5.3)	(5.9)	(18.6)
Other operating expense	(28.0)	(24.2)	(60.0)
Other income	0.1	—	43.3
Adjusted EBITDA	<u>\$ 102.4</u>	<u>\$ 79.0</u>	<u>\$ 174.0</u>

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

(in millions)	Years Ended December 31,		
	2020	2019	2018
<b>Reconciliation of Comprehensive (Loss) Income to Adjusted EBITDA:</b>			
<b>Comprehensive (loss) income attributable to Churchill Downs Incorporated</b>	\$ (81.9)	\$ 137.5	\$ 353.2
Foreign currency translation, net of tax	—	—	(0.6)
Change in pension benefits, net of tax	—	—	0.2
<b>Net (loss) income attributable to Churchill Downs Incorporated</b>	(81.9)	137.5	352.8
Net loss attributable to noncontrolling interest	0.2	0.3	—
Net (loss) income before noncontrolling interest	(82.1)	137.2	352.8
Loss (income) from discontinued operations, net of tax	95.4	2.4	(170.2)
Income from continuing operations, net of tax	13.3	139.6	182.6
Additions:			
Depreciation and amortization	92.9	96.4	63.6
Interest expense	80.0	70.9	40.1
Income tax (benefit) provision	(5.3)	56.8	51.3
<b>EBITDA</b>	\$ 180.9	\$ 363.7	\$ 337.6
Adjustments to EBITDA:			
Selling, general and administrative:			
Stock-based compensation expense	\$ 23.7	\$ 23.8	\$ 17.7
Legal reserves	—	3.6	—
Other, net	0.8	0.4	(0.6)
Pre-opening expense	11.2	5.1	4.8
Other income, expense:			
Interest, depreciation and amortization expense related to equity investments	38.5	32.6	13.9
Changes in fair value of Midwest Gaming's interest rate swaps	12.9	12.4	—
Midwest Gaming's recapitalization and transactions costs	—	4.7	—
Other charges and recoveries, net	—	(0.2)	—
Gain on Ocean Downs/Saratoga transaction	—	—	(54.9)
Transaction expense, net	1.0	5.3	10.3
Impairment of tangible and other intangible assets	17.5	—	—
Total adjustments to EBITDA	105.6	87.7	(8.8)
<b>Adjusted EBITDA</b>	\$ 286.5	\$ 451.4	\$ 328.8
<b>Adjusted EBITDA by segment:</b>			
Churchill Downs	\$ 38.3	\$ 137.7	\$ 102.4
Online Wagering	109.3	66.3	79.0
Gaming	176.7	280.9	174.0
Total segment Adjusted EBITDA	324.3	484.9	355.4
All Other	(37.8)	(33.5)	(26.6)
<b>Total Adjusted EBITDA</b>	\$ 286.5	\$ 451.4	\$ 328.8

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

The table below presents information about equity in income of unconsolidated affiliates included in our reported segments:

<i>(in millions)</i>	<b>Years Ended December 31,</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
Gaming	\$ 27.5	\$ 50.5	\$ 29.4
All Other	0.2	0.1	0.2
	<u>\$ 27.7</u>	<u>\$ 50.6</u>	<u>\$ 29.6</u>

The table below presents total asset information for each of our segments:

<i>(in millions)</i>	<b>As of December 31,</b>	
	<b>2020</b>	<b>2019</b>
<b>Total assets:</b>		
Churchill Downs	\$ 377.7	\$ 370.3
Online Wagering	249.1	241.5
Gaming	957.4	1,030.1
Total segment assets	<u>1,584.2</u>	<u>1,641.9</u>
All Other	1,102.2	909.1
	<u>\$ 2,686.4</u>	<u>\$ 2,551.0</u>

The table below presents total capital expenditures for each of our segments:

<i>(in millions)</i>	<b>Years Ended December 31,</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
<b>Capital expenditures:</b>			
Churchill Downs	\$ 38.2	\$ 31.4	\$ 109.6
Online Wagering	11.6	9.7	9.7
Gaming	6.5	37.1	20.7
Total segment capital expenditures	<u>56.3</u>	<u>78.2</u>	<u>140.0</u>
All Other	177.9	53.0	9.4
<b>Total capital expenditures</b>	<u>\$ 234.2</u>	<u>\$ 131.2</u>	<u>\$ 149.4</u>

## 22. RELATED PARTY TRANSACTIONS

Directors and employees may from time to time own or have interests in horses racing at our racetracks. All such races are conducted under the regulations of each state's respective regulatory agency, as applicable, and no director or employee receives any extra or special benefit with regard to having his or her horses selected to run in races or in connection with the actual running of races. There is no material financial statement impact attributable to directors or employees who may have interests in horses racing at our racetracks.

In the ordinary course of business, we may enter into transactions with certain of our officers and directors for the sale of personal seat licenses, suite accommodations, and tickets for our live racing events. We believe that each such transaction has been on terms no less favorable for us than could have been obtained in a transaction with a third party, and no officer or director received any extra or special benefit in connection with such transactions.

Refer to Note 23, Subsequent Events, for information regarding a related party transaction.

## 23. SUBSEQUENT EVENTS

### *Stock Repurchase Agreement*

On February 1, 2021, the Company entered into an agreement (the “Stock Repurchase Agreement”) with an affiliate of The Duchossois Group, Inc. (“TDG”) to repurchase 1,000,000 shares of the Company’s common stock for \$193.94 per share in a privately negotiated transaction. The aggregate purchase price was \$193.9 million. The Stock Repurchase Agreement contains customary representations, warranties and covenants of the parties.

The repurchase of shares of common stock from TDG pursuant to the Stock Repurchase Agreement was approved by the Company's Board of Directors separately from, and will not reduce the authorized amount remaining under, the existing common stock repurchase program from October 2018. The Company repurchased the shares using available cash and borrowings under the Revolver.

### *Amendment to Credit Agreement*

Also, on February 1, 2021, the Company entered into an amendment (the “Third Amendment”) to the Credit Agreement. The Third Amendment increased the amount of certain otherwise restricted payments permitted during the Financial Covenant Relief Period from \$26.0 million to \$226.0 million to accommodate the repurchase of shares of common stock from TDG described above.

### *Arlington Park*

On February 23, 2021, the Company launched a process to sell the 326 acres at Arlington Park.

## 24. QUARTERLY RESULTS OF OPERATIONS (UNAUDITED)

(in millions, except per common share data)

	<b>Year Ended December 31, 2020</b>			
	<b>First Quarter</b>	<b>Second Quarter</b>	<b>Third Quarter</b>	<b>Fourth Quarter</b>
Net revenues	\$ 252.9	\$ 185.1	\$ 337.8	\$ 278.2
Operating (loss) income	(11.6)	(0.4)	49.5	22.7
(Loss) income from continuing operations, net of tax	(22.6)	(23.6)	43.1	16.4
(Loss) income from discontinued operations, net of tax	(0.9)	(95.2)	—	0.7
Net (loss) income per common share - basic <sup>(c)</sup> :				
Continuing operations	\$ (0.57)	\$ (0.59)	\$ 1.09	\$ 0.41
Discontinued operations	\$ (0.02)	\$ (2.41)	\$ —	\$ 0.02
Net (loss) income per common share - basic	<u>\$ (0.59)</u>	<u>\$ (3.00)</u>	<u>\$ 1.09</u>	<u>\$ 0.43</u>
Net (loss) income per common share - diluted <sup>(c)</sup> :				
Continuing operations	\$ (0.57)	\$ (0.59)	\$ 1.08	\$ 0.41
Discontinued operations	\$ (0.02)	\$ (2.41)	\$ —	\$ 0.02
Net (loss) income per common share - diluted	<u>\$ (0.59)</u>	<u>\$ (3.00)</u>	<u>\$ 1.08</u>	<u>\$ 0.43</u>

Churchill Downs Incorporated  
Notes to Consolidated Financial Statements

(in millions, except per common share data)

	<b>Year Ended December 31, 2019</b>			
	<b>First Quarter<sup>(a)</sup></b>	<b>Second Quarter</b>	<b>Third Quarter</b>	<b>Fourth Quarter<sup>(b)</sup></b>
Net revenues	\$ 265.4	\$ 477.4	\$ 306.3	\$ 280.6
Operating income	28.0	156.4	27.8	3.5
Income from continuing operations, net of tax	11.9	108.3	15.2	4.2
Income (loss) from discontinued operations, net of tax	(0.3)	(1.2)	(0.4)	(0.5)
Net income (loss) per common share - basic <sup>(c)</sup> :				
Continuing operations	\$ 0.30	\$ 2.70	\$ 0.38	\$ 0.11
Discontinued operations	(0.01)	(0.03)	(0.01)	(0.01)
Net income per common share - basic	<u>\$ 0.29</u>	<u>\$ 2.67</u>	<u>\$ 0.37</u>	<u>\$ 0.10</u>
Net income (loss) per common share - diluted <sup>(c)</sup> :				
Continuing operations	\$ 0.30	\$ 2.66	\$ 0.37	\$ 0.11
Discontinued operations	(0.01)	(0.03)	(0.01)	(0.01)
Net income per common share - diluted	<u>\$ 0.29</u>	<u>\$ 2.63</u>	<u>\$ 0.36</u>	<u>\$ 0.10</u>

(a) First quarter of 2019 includes the acquisitions of Presque Isle and Lady Luck Nemaquin, and the equity investment in Midwest Gaming.

(b) Fourth quarter of 2019 includes the acquisition of Turfway Park and \$10.0 million accelerated amortization of the purchase and sale rights related to the Turfway Park Acquisition.

(c) Net (loss) income per common share calculations for each quarter are based on the weighted average number of shares outstanding during the respective period. The sum of the quarters may not equal the full-year income (loss) per share.

## Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of Churchill Downs Incorporated

### ***Opinions on the Financial Statements and Internal Control over Financial Reporting***

We have audited the accompanying consolidated balance sheets of Churchill Downs Incorporated and its subsidiaries (the “Company”) as of December 31, 2020 and 2019, and the related consolidated statements of comprehensive (loss) income, shareholders’ equity and cash flows for each of the three years in the period ended December 31, 2020, including the related notes and schedule of valuation and qualifying accounts for each of the three years in the period ended December 31, 2020 listed in the index appearing under Item 15(a)(2) (collectively referred to as the “consolidated financial statements”). We also have audited the Company’s internal control over financial reporting as of December 31, 2020, based on criteria established in *Internal Control - Integrated Framework* (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2020 and 2019, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2020 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2020, based on criteria established in *Internal Control - Integrated Framework* (2013) issued by the COSO.

### ***Changes in Accounting Principles***

As discussed in Note 2 to the consolidated financial statements, the Company changed the manner in which it accounts for leases in 2019 and the manner in which it accounts for revenue from contracts with customers in 2018.

### ***Basis for Opinions***

The Company’s management is responsible for these consolidated financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in Management’s Report on Internal Control over Financial Reporting appearing under Item 9A. Our responsibility is to express opinions on the Company’s consolidated financial statements and on the Company’s internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the consolidated financial statements included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

### ***Definition and Limitations of Internal Control over Financial Reporting***

A company’s internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company’s internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company’s assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

### ***Critical Audit Matters***

The critical audit matter communicated below is a matter arising from the current period audit of the consolidated financial statements that was communicated or required to be communicated to the audit committee and that (i) relates to accounts or disclosures that are material to the consolidated financial statements and (ii) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

#### ***Impairment Assessment for the Presque Isle Indefinite-Lived Gaming Rights Intangible Asset***

As described in Notes 2, 7, and 8 to the consolidated financial statements, the Company's indefinite-lived gaming rights intangible assets balance was \$288.2 million as of December 31, 2020, of which \$62.6 million relates to the Presque Isle indefinite-lived gaming rights intangible asset. Management performs an annual review for impairment as of April 1 of each fiscal year for its indefinite-lived intangible assets, or more frequently if events or circumstances indicate that it is more likely than not the relevant asset may be impaired. During the quarter ended March 31, 2020, management concluded it was more likely than not that the Presque Isle gaming rights intangible asset may be impaired due to the impact and uncertainty of the COVID-19 pandemic. Management performed an impairment assessment and recognized an impairment of \$15.0 million for the Presque Isle indefinite-lived gaming rights intangible asset. The fair value of the Presque Isle indefinite-lived gaming rights intangible asset was determined by management using the Greenfield Method, which is an income approach methodology that calculates the present value based on a projected cash flow stream. The primary inputs used by management in the estimation of the fair value of the Presque Isle indefinite-lived gaming rights intangible asset included estimated future revenue, operating expenses, start-up costs, and discount rate.

The principal considerations for our determination that performing procedures relating to the impairment assessment for the Presque Isle indefinite-lived gaming rights intangible asset is a critical audit matter are (i) the high degree of auditor judgment and subjectivity in performing procedures relating to the fair value measurement of the gaming rights indefinite-lived intangible asset due to the significant judgment by management when developing the fair value estimate; (ii) significant audit effort in evaluating the significant assumptions related to estimated future revenue, operating expenses, start-up costs, and discount rate; and (iii) the audit effort involved the use of professionals with specialized skill and knowledge.

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included testing the effectiveness of controls relating to the intangible asset impairment assessment, including controls over management's valuation of the Presque Isle indefinite-lived gaming rights intangible asset. These procedures also included, among others, testing management's process for developing the fair value of the Presque Isle indefinite-lived gaming rights intangible asset; evaluating the appropriateness of the Greenfield Method; testing the completeness and accuracy of underlying data used in the Greenfield Method; and evaluating the reasonableness of significant assumptions used by management related to estimated future revenue, operating expenses, start-up costs, and discount rate. Evaluating management's assumptions related to estimated future revenue, operating expenses, and start-up costs involved evaluating whether the assumptions used were reasonable considering the current and past performance of Presque Isle and relevant third-party economic and industry data. Professionals with specialized skill and knowledge were used to assist in evaluating the appropriateness of the Greenfield Method and evaluating the reasonableness of the discount rate assumption.

/s/ PricewaterhouseCoopers LLP

Louisville, Kentucky

February 24, 2021

We have served as the Company's auditor since 1990.

**ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

None.

**ITEM 9A. CONTROLS AND PROCEDURES**

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures designed to ensure that information required to be disclosed in our reports that we filed or submitted under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized, and reported within the time periods specified in the Securities and Exchange Commission rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosures.

As required by the Securities and Exchange Commission Rule 13a-15(e), we carried out an evaluation, under the supervision and with the participation of management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of December 31, 2020. Based upon the foregoing, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective.

Changes in Internal Control over Financial Reporting

There has been no change in our internal controls over financial reporting during our most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting. Our process for evaluating controls and procedures is continuous and encompasses constant improvement of the design and effectiveness of established controls and procedures.

Management's Report on Internal Control over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting of Churchill Downs Incorporated, as defined in Rules 13a-15(f) or 15d-15(f) under the Securities Exchange Act of 1934, as amended. Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of Churchill Downs Incorporated's internal control over financial reporting based upon the framework in the *Integrated Control-Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based upon our evaluation under the framework in the *Internal Control-Integrated Framework (2013)* management has concluded that Churchill Downs Incorporated's internal control over financial reporting was effective as of December 31, 2020.

/s/ William C. Carstanjen

William C. Carstanjen  
Chief Executive Officer  
February 24, 2021

/s/ Marcia A. Dall

Marcia A. Dall  
Executive Vice President and  
Chief Financial Officer  
February 24, 2021

/s/ Chad E. Dobson

Chad E. Dobson  
Vice President and  
Chief Accounting Officer  
February 24, 2021

The effectiveness of the Company's internal control over financial reporting as of December 31, 2020 has been audited by PricewaterhouseCoopers LLP, an independent registered public accounting firm, as stated in their report which appears herein.

**ITEM 9B. OTHER INFORMATION**

None.

**PART III**

**ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE**

The information with respect to our directors and audit committee is incorporated by reference to the definitive proxy statement on Schedule 14A to be filed with the Securities and Exchange Commission no later than 120 days after December 31, 2020.

We have adopted a Code of Conduct that applies to all directors, employees, and officers, including our Chief Executive Officer, Chief Financial Officer and principal financial officers. This Code of Conduct is available on our corporate website, [www.churchilldownsincorporated.com](http://www.churchilldownsincorporated.com), under the "Corporate Governance" subheading of the "Investors" heading and is also available to shareholders upon request.

**Information about our Executive Officers**

Name	Age as of 2/24/2021	Principal Occupation for the Past Five Years and Position with Churchill Downs Incorporated
William C. Carstanjen	53	Chief Executive Officer since August 2014; President and Chief Operating Officer from March 2011 to August 2014.
William E. Mudd	49	President and Chief Operating Officer since October 2015; President and Chief Financial Officer from August 2014 to October 2015; Executive Vice President and Chief Financial Officer from October 2007 to August 2014.
Marcia A. Dall	57	Executive Vice President and Chief Financial Officer since October 2015; Executive Vice President and Chief Financial Officer of Erie Insurance Group and Erie Indemnity Company, a public corporation (Nasdaq: ERIE), from March 2009 through October 2015.
Austin W. Miller	57	Senior Vice President of Gaming Operations since August 2013.

**ITEM 11. EXECUTIVE COMPENSATION**

The information required by this item with respect to executive compensation is incorporated by reference to the definitive proxy statement on Schedule 14(a) to be filed with the Securities and Exchange Commission no later than 120 days after December 31, 2020; provided, that the Compensation Committee Report will not be deemed to be "filed" with this Report.

**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED SHAREHOLDER MATTERS**

The information required by this item with respect to security ownership of certain beneficial owners and management and related shareholder matters is with respect to securities authorized for issuance under equity compensation plans incorporated by reference to the definitive proxy statement on Schedule 14A to be filed with the Securities and Exchange Commission no later than 120 days after December 31, 2020.

**ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE**

The information required by this item with respect to transactions with related persons and director independence matters is incorporated by reference to the definitive proxy statement on Schedule 14A to be filed with the Securities and Exchange Commission no later than 120 days after December 31, 2020.

**ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES**

The information required by this Item with respect to principal accounting fees and services is incorporated by reference to the definitive proxy statement on Schedule 14A to be filed with the Securities and Exchange Commission no later than 120 days after December 31, 2020.

**PART IV**

**ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULE**

	<b><u>Pages</u></b>
(a) (1) Consolidated Financial Statements	
The following financial statements of Churchill Downs Incorporated for the years ended 2020, 2019 and 2018 are included in Part II, Item 8:	
<u>Consolidated Balance Sheets</u>	<u>53</u>
<u>Consolidated Statements of Comprehensive (Loss) Income</u>	<u>52</u>
<u>Consolidated Statements of Shareholders' Equity</u>	<u>54</u>
<u>Consolidated Statements of Cash Flows</u>	<u>55</u>
<u>Notes to Consolidated Financial Statements</u>	<u>57</u>
<u>Report of Independent Registered Public Accounting Firm</u>	<u>99</u>
(2) <u>Schedule II—Valuation and Qualifying Accounts</u>	<u>110</u>
All other schedules are omitted because they are not applicable, not significant or not required, or because the required information is included in the consolidated financial statements or notes thereto.	
(3) For the list of required exhibits, see exhibit index.	<u>104</u>
(b) Exhibits	<u>104</u>
<u>See exhibit index.</u>	
(c) All financial statements and schedules except those items listed under Items 15(a)(1) and (2) above are omitted because they are not applicable or not required, or because the required information is included in the consolidated financial statements or notes thereto.	

## EXHIBIT INDEX

<u>Numbers</u>	<u>Description</u>	<u>By Reference To</u>
3	(a) Amended and Restated Articles of Incorporation of Churchill Downs Incorporated, as amended and restated on January 25, 2019	Exhibit 3.2 to Current Report on Form 8-K filed January 17, 2019
	(b) Amended and Restated Bylaws of Churchill Downs Incorporated, as amended July 3, 2012	Exhibit 3.2 to Current Report on Form 8-K filed July 10, 2012
4	(a) Rights Agreement, dated as of March 19, 2008 by and between Churchill Downs Incorporated and National City Bank	Exhibit 4.1 to Current Report on Form 8-K filed March 17, 2008
	(b) Indenture, dated as of December 27, 2017, by and among Churchill Downs Incorporated, the guarantors party thereto and U.S. Bank National Association	Exhibit 4.1 to Current Report on Form 8-K filed December 27, 2017
	(c) Indenture, dated as of March 25, 2019, by and among Churchill Downs Incorporated, the guarantors party thereto and U.S. Bank National Association	Exhibit 4.1 to Current Report on Form 8-K filed March 26, 2019
	(d) Registration Rights Agreement, dated as of December 27, 2017, by and among Churchill Downs Incorporated, the guarantors party thereto and J.P. Morgan Securities LLC	Exhibit 4.2 to Current Report on Form 8-K filed December 27, 2017
	(e) Registration Rights Agreement, dated as of March 25, 2019, by and among Churchill Downs Incorporated, the guarantors party thereto and J.P. Morgan Securities, LLC	Exhibit 4.2 to Current Report on Form 8-K filed March 26, 2019
	(f) Description of the Registrant's Securities Registered Pursuant to Section 12 of the Securities Exchange Act of 1934***	
10	(a) Churchill Downs Incorporated Amended and Restated Supplemental Benefit Plan effective December 1, 1998*	Exhibit 10(a) to Annual Report on Form 10-K for the fiscal year ended December 31, 1998 filed March 31, 1999
	(b) Churchill Downs Incorporated Amended and Restated Deferred Compensation Plan for Employees and Directors*	Exhibit 10(a) to Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2001 filed May 15, 2001
	(c) Lease Agreement, dated as of January 1, 2002, by and between the City of Louisville, Kentucky and Churchill Downs Incorporated	Exhibit 2.1 to Current Report on Form 8-K filed January 6, 2003
	(d) 2005 Churchill Downs Incorporated Deferred Compensation Plan*	Exhibit 10.1 to Current Report on Form 8-K filed June 21, 2005
	(e) 2006 Amendment to 2005 Churchill Downs Incorporated Deferred Compensation Plan*	Exhibit 10.1 to Current Report on Form 8-K filed June 8, 2006
	(f) Churchill Downs Incorporated 2007 Omnibus Stock Incentive Plan*	Exhibit A to Schedule 14A filed April 30, 2007
	(g) Amendment to Churchill Downs Incorporated 2005 Deferred Compensation Plan Adopted June 28, 2007*	Exhibit 10(b) to Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2007 filed August 7, 2007
	(h) Third Amendment to the 2005 Churchill Downs Incorporated Deferred Compensation Plan*	Exhibit 10.2 to Current Report on Form 8-K filed December 19, 2019
	(i) Amended and Restated Terms and Conditions of Performance Stock Awards Issued Pursuant to the Churchill Downs Incorporated 2007 Omnibus Stock Incentive Plan, dated as of December 19, 2008*	Exhibit 10.1 to Current Report on Form 8-K filed December 22, 2008
	(j) First Amendment to the Churchill Downs Incorporated Amended and Restated Incentive Compensation Plan (1997), effective November 14, 2008*	Exhibit 10 (vv) to Annual Report on Form 10-K for the fiscal year ended December 31, 2008 filed March 4, 2009

<b><u>Numbers</u></b>	<b><u>Description</u></b>	<b><u>By Reference To</u></b>
(k)	2005 Churchill Downs Incorporated Deferred Compensation Plan (As Amended as of December 1, 2008)*	Exhibit 10 (ww) to Annual Report on Form 10-K for the fiscal year ended December 31, 2008 filed March 4, 2009
(l)	Churchill Downs Incorporated Executive Severance Policy (Amended Effective as of November 12, 2008)*	Exhibit 10 (xx) to Annual Report on Form 10-K for the fiscal year ended December 31, 2008 filed March 4, 2009
(m)	Form of Churchill Downs Incorporated Restricted Stock Agreement pursuant to the 2007 Omnibus Stock Incentive Plan*	Exhibit 10(LL) to Annual Report on Form 10-K for the fiscal year ended December 31, 2011 filed March 12, 2012
(n)	Churchill Downs Incorporated Executive Annual Incentive Plan, effective January 1, 2013*	Exhibit A to Schedule 14A filed May 3, 2012
(o)	Amendment to the Churchill Downs Incorporated 2007 Omnibus Stock Incentive Plan*	Exhibit B to Schedule 14A filed May 3, 2012
(p)	Form of Restricted Stock Agreement pursuant to the 2007 Omnibus Stock Incentive Plan, dated as of February 9, 2015, by and between Churchill Downs Incorporated and each of William C. Carstanjen and William E. Mudd*	Exhibit 10.1 to Current Report on Form 8-K filed February 12, 2015
(q)	Form of Churchill Downs Incorporated Restricted Stock Unit Agreement pursuant to the 2007 Omnibus Stock Incentive Plan*	Exhibit 10.1A to Current Report on Form 8-K filed September 28, 2015
(r)	Form of Churchill Downs Incorporated Performance Share Unit Agreement pursuant to the 2007 Omnibus Stock Incentive Plan*	Exhibit 10.1B to Current Report on Form 8-K filed September 28, 2015
(s)	Stock Repurchase Agreement, dated as of June 9, 2017, by and between Churchill Downs Incorporated and CDI Holdings, LLC	Exhibit 10.1 to Current Report on Form 8-K filed June 12, 2017
(t)	Amended and Restated Stockholder's Agreement, dated as of June 9, 2017, by and between Churchill Downs Incorporated and CDI Holdings, LLC	Exhibit 10.2 to Current Report on Form 8-K filed June 12, 2017
(u)	Stock Repurchase Agreement, dated February 1, 2021, between Churchill Downs Incorporated and CDI Holdings, LLC	Exhibit 10.1 to Current Report on Form 8-K filed February 2, 2021
(v)	Credit Agreement, dated as of December 27, 2017, by and among Churchill Downs Incorporated, the subsidiary guarantors party thereto, the lenders party thereto, JPMorgan Chase Bank, N.A. and PNC Bank, National Association	Exhibit 4.3 to Current Report on Form 8-K filed December 27, 2017
(w)	First Amendment to Credit Agreement, dated March 16, 2020, among Churchill Downs Incorporated, the subsidiary guarantors party thereto, the lenders party thereto, JPMorgan Chase Bank, N.A., and PNC Bank, National Association	Exhibit 10.1 to Current Report on Form 8-K filed March 16, 2020
(x)	Second Amendment to Credit Agreement, dated April 28, 2020, among Churchill Downs Incorporated, the subsidiary guarantors and the lenders party thereto, and JPMorgan Chase Bank, N.A., and PNC Bank, National Association	Exhibit 10.1 to Current Report on Form 8-K filed April 29, 2020
(y)	Third Amendment to Credit Agreement, dated February 1, 2021, among Churchill Downs Incorporated, the subsidiary guarantors and the lenders parties thereto, and JPMorgan Chase Bank, N.A.	Exhibit 10.2 to Current Report on Form 8-K filed February 2, 2021
(z)	Form of Churchill Downs Incorporated Non-Employee Director Restricted Share Units Agreement*	Exhibit 10(a) to Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2016 filed August 3, 2016
(aa)	Churchill Downs Incorporated 2016 Omnibus Stock Incentive Plan*	Exhibit 10.1 to Current Report on Form 8-K filed April 29, 2016

<b><u>Numbers</u></b>	<b><u>Description</u></b>	<b><u>By Reference To</u></b>
(bb)	First Amended and Restated Churchill Downs Incorporated 2000 Employee Stock Purchase Plan*	Exhibit B to Schedule 14A filed March 29, 2016
(cc)	Churchill Downs Incorporated Restricted Stock Unit Deferred Compensation Plan*	Exhibit 10.1 to Current Report on Form 8-K filed December 19, 2019
(dd)	Form of Performance Share Unit Agreement pursuant to the 2016 Omnibus Stock Incentive Plan by and between Churchill Downs Incorporated and each of William C. Carstanjen and William E. Mudd*	Exhibit 10.1 to Current Report on Form 8-K filed November 5, 2018
(ee)	Form of Restricted Stock Unit Agreement pursuant to the 2016 Omnibus Stock Incentive Plan by and between Churchill Downs Incorporated and each of William C. Carstanjen and William E. Mudd*	Exhibit 10.2 to Current Report on Form 8-K filed November 5, 2018
(ff)	Executive Change in Control, Severance and Indemnity Agreement, dated as of October 30, 2018, by and between Churchill Downs Incorporated and William C. Carstanjen*	Exhibit 10.3 to Current Report on Form 8-K filed November 5, 2018
(gg)	Executive Change in Control, Severance and Indemnity Agreement, dated as of October 30, 2018, by and between Churchill Downs Incorporated and William E. Mudd*	Exhibit 10.4 to Current Report on Form 8-K filed November 5, 2018
(hh)	Change in Control, Severance, and Indemnity Agreement, dated as of October 1, 2019, by and between Churchill Downs Incorporated and Austin W. Miller*	Exhibit 10.1 to Current Report on Form 8-K filed October 2, 2019
(ii)	Executive Change in Control, Severance and Indemnity Agreement, dated as of July 27, 2020, by and between Churchill Downs Incorporated and Marcia A. Dall*	Exhibit 10.1 to Current Report on Form 8-K filed July 30, 2020
(jj)	First amendment to the Churchill Downs Incorporated Restricted Stock Unit Deferral Plan, dated as of February 12, 2020*	Exhibit 10(ff) to Annual Report on Form 10-K for the fiscal year ended December 31, 2019 filed February 26, 2020
(kk)	Class Action Settlement Agreement, dated as of July 24, 2020, by and between Kater et al. and Churchill Downs Incorporated et al.**	
21	Subsidiaries of the Registrant**	
23	Consent of PricewaterhouseCoopers LLP, Independent Registered Public Accounting Firm**	
31	(a) Certification of Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**	
	(b) Certification of Principal Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**	
32	Certification of Chief Executive Officer and Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, As Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished pursuant to Rule 13a-14(b))* **	
101	INS Inline XBRL Instance Document**	
101	SCH Inline XBRL Taxonomy Extension Schema Document**	
101	CAL Inline XBRL Taxonomy Extension Calculation Linkbase Document**	

<b><u>Numbers</u></b>	<b><u>Description</u></b>	<b><u>By Reference To</u></b>
101 DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document**	
101 LAB	Inline XBRL Taxonomy Extension Label Linkbase Document**	
101 PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document**	
104	Cover Page Interactive Data File (formatted in inline XBRL and contained in Exhibit 101)	

\* Management contract or compensatory plan or arrangement.

\*\* Filed herewith.

\*\*\* Furnished herewith.

**ITEM 16. FORM 10-K SUMMARY**

None.

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on the Company's behalf by the undersigned, thereunto duly authorized.

### CHURCHILL DOWNS INCORPORATED

/s/ William C. Carstanjen

William C. Carstanjen  
Chief Executive Officer  
(Principal Executive Officer)  
February 24, 2021

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

/s/ William C. Carstanjen

William C. Carstanjen  
Chief Executive Officer  
February 24, 2021  
(Director and Principal Executive Officer)

/s/ William E. Mudd

William E. Mudd  
President and  
Chief Operating Officer  
February 24, 2021

/s/ Marcia A. Dall

Marcia A. Dall  
Executive Vice President and  
Chief Financial Officer  
February 24, 2021  
(Principal Financial and  
Accounting Officer)

/s/ R. Alex Rankin

R. Alex Rankin  
February 24, 2021  
(Chairman of the Board)

/s/ Ulysses L. Bridgeman

Ulysses L. Bridgeman  
February 24, 2021  
(Director)

/s/ Robert L. Fealy

Robert L. Fealy  
February 24, 2021  
(Director)

/s/ Douglas C. Grissom

Douglas C. Grissom  
February 24, 2021  
(Director)

/s/ Daniel P. Harrington

Daniel P. Harrington  
February 24, 2021  
(Director)

/s/ Karole F. Lloyd

Karole F. Lloyd  
February 24, 2021  
(Director)

/s/ Paul C. Varga

Paul C. Varga  
February 24, 2021  
(Director)

**CHURCHILL DOWNS INCORPORATED**  
**SCHEDULE II—VALUATION AND QUALIFYING ACCOUNTS**

<i>(in millions)</i>	<u>Balance Beginning of Year</u>	<u>Change in Accounting Standard</u>	<u>Charged to Expense</u>	<u>Deductions</u>	<u>Balance End of Year</u>
Allowance for doubtful accounts:					
2020	\$ 4.4	\$ 0.5	\$ 2.5	\$ (2.5)	\$ 4.9
2019	4.0	—	2.1	(1.7)	4.4
2018	3.6	—	3.0	(2.6)	4.0

<i>(in millions)</i>	<u>Balance Beginning of Year</u>	<u>Additions</u>	<u>Deductions</u>	<u>Balance End of Year</u>
Deferred income tax asset valuation allowance:				
2020	\$ 0.2	\$ 1.2	\$ —	\$ 1.4
2019	0.2	—	—	0.2
2018	0.2	—	—	0.2

**DESCRIPTION OF THE REGISTRANT'S  
SECURITIES REGISTERED PURSUANT TO  
SECTION 12 OF THE SECURITIES EXCHANGE  
ACT OF 1934**

Churchill Downs Incorporated (the "Corporation") has one class of its securities registered under Section 12 of the Securities Exchange Act of 1934, as amended: our common stock. Our common stock is listed on The Nasdaq Stock Market LLC under the symbol "CHDN."

The following summary of the terms of our capital stock is based upon our Amended and Restated Articles of Incorporation (the "Articles of Incorporation") and our Amended and Restated Bylaws (the "Bylaws"). The summary is a description of the material terms of, and is qualified in its entirety by, our Articles of Incorporation and our Bylaws, each of which is provided as an exhibit to our Annual Report on Form 10-K and is incorporated herein by reference. We encourage you to read our Articles of Incorporation and our Bylaws for additional information. Please also refer to the applicable provisions of the Kentucky Business Corporation Act ("KBCA") for additional information.

**Authorized Capital Shares**

Our authorized capital stock consists of 150,000,000 shares of common stock, no par value, and 250,000 shares of preferred stock, no par value, 50,000 of which have been designated as Series A Junior Participating Preferred Stock. All outstanding shares of common stock are fully paid and non-assessable. No shares of preferred stock are outstanding.

**Rights of Holders of Common Stock**

Holders of our common stock are entitled:

- to cast one vote for each share of common stock standing in their name on the books of the Corporation on all matters which require their vote;
- to receive dividends, if any, on a pro rata basis, that the Board of Directors may declare out of legally available funds, subject to preferences that may be applicable to any preferred stock then outstanding; and
- upon our liquidation, dissolution, or winding up, to share ratably in any assets remaining after the payment of all debt and other liabilities, subject to any prior rights of holders of any outstanding shares of preferred stock.

All actions to be taken by our shareholders other than the election of directors will be approved if the votes cast favoring the action exceed the votes cast opposing the action at a meeting of shareholders at which a quorum is present. Directors are elected by a plurality of votes cast by our shares of common stock entitled to vote in the election of directors at a meeting of shareholders at which a quorum is present. A "plurality" means that the individuals with the largest number of votes are elected as directors up to the maximum number of directors to be chosen at the election.

The holders of our common stock do not have any preemptive, cumulative voting, subscription, conversion, redemption, or sinking fund rights. The rights and preferences of the holders of common stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of preferred stock that we may designate and issue in the future.

**Anti-Takeover Effects of Our Articles of Incorporation and Bylaws and Certain Provisions of Kentucky Law**

The provisions of our Articles of Incorporation and Bylaws and of the KBCA, summarized in the preceding and following paragraphs, may have an anti-takeover effect and could impact the following transactions: acquisition by means of a tender offer and acquisition by means of a proxy contest or otherwise. It is possible that these provisions could make it more difficult to complete or could deter, delay, or prevent transactions that shareholders may otherwise consider to be in their best interest or in the best interests of the Corporation, including transactions that might result in a premium over the market price for shares of our common stock.

### ***Preferred Stock***

Because the Board of Directors has the power to establish the rights, preferences and limitations of the shares of any series of preferred stock, it may afford holders of any preferred stock rights and preferences, including voting and dividend rights, senior to the rights of holders of our common stock, which could adversely affect the holders of the common stock and could delay, discourage, or prevent a takeover of us even if a change of control of the Corporation would be beneficial to the interests of our shareholders.

### ***Board of Directors.***

Our Articles of Incorporation provide that our Board of Directors is divided into three classes, with each class consisting, as nearly as possible, of one-third of the total number of directors constituting the entire Board of Directors. Each class will generally serve for a term of three years with only one class of directors being elected each year. At any given annual meeting of shareholders, only a portion of our Board of Directors may be considered for election. Our Articles of Incorporation also provide that any vacancies in the Board of Directors (other than a vacancy that results from an increase in the number of directors) may be filled by a majority of the directors then in office, although less than a quorum, or by the sole remaining director. Any vacancy that results from an increase in the number of directors may be filled by a majority of the Board of Directors then in office. The classified nature of our Board of Directors could have the interim effect of delaying or discouraging an acquisition of us or a change in our Board of Directors or management.

Additionally, our Articles of Incorporation provide that the provisions in such Articles of Incorporation addressing the Board of Directors may only be amended by the affirmative vote of shareholders holding at least eighty percent (80%) of the votes entitled to be cast by the holders of all then-outstanding shares of voting stock of the Corporation, voting together as a single class (unless such action has been previously approved by a three-fourths (3/4) vote of the full Board of Directors).

### ***Special Meetings of Shareholders.***

Our Articles of Incorporation provide that a special meeting of shareholders may be called only by our Board of Directors or the shareholders holding at least sixty-six and two-thirds percent (66 2/3%) of all shares entitled to cast votes on any issue proposed to be considered at the proposed special meeting, upon such holders signing and delivering to our Secretary a written demand for the meeting, which demand must include a description of the purpose for which the meeting is to be held.

### ***Removal of Directors.***

Our Articles of Incorporation provide that directors may be removed without cause by shareholders upon the affirmative vote of eighty percent (80%) of the votes entitled to be cast by the holders of all then-outstanding shares of voting stock of the Corporation, voting together as a single class.

### ***Shareholder Advance Notice Procedure.***

Our Bylaws establish advance notice procedures for shareholders to make nominations of candidates for election as directors or to bring other business before an annual meeting of our shareholders. The Bylaws

provide that any shareholder wishing to nominate persons for election as directors at, or bring other business before, an annual meeting must deliver to our Secretary a written notice of the shareholder's intention to do so within the deadlines specified in our Bylaws. These provisions may have the effect of precluding the conduct of certain business at a meeting if the proper procedures are not followed. We expect that these provisions may also discourage or deter a potential acquirer from conducting a solicitation of proxies to elect the acquirer's own slate of directors or otherwise attempting to obtain control of the Corporation.

***Section 271B.12 of the KBCA***

We are governed by Section 271B.12 of the KBCA. Section 271B.12-210, with specified exceptions, prohibits a Kentucky corporation from engaging in any business combination with any interested shareholder (generally defined as a beneficial owner of 10% or more of the voting power of the corporation's outstanding voting shares), for a period of five years following the time that the shareholder became an interested shareholder, unless a majority of the independent members of the board of directors of the corporation approved such business combination prior to such date on which the interested shareholder became an interested shareholder. In addition, the KBCA requires that, absent an exemption, certain business combinations by a corporation or a subsidiary with an interested shareholder must either be approved by a majority of the independent members of the board of directors of the corporation or by the affirmative vote of at least (i) eighty percent (80%) of the votes entitled to be cast by the corporation's voting stock and (ii) sixty-six and two-thirds percent (66 2/3%) of the votes entitled to be cast by holders of such voting stock other than voting stock owned by the interested shareholder, its affiliates and associates.

## **CLASS ACTION SETTLEMENT AGREEMENT**

This Class Action Settlement Agreement (the “Agreement,” “Settlement,” or “Settlement Agreement”) is entered into by and among Plaintiffs Cheryl Kater (“Kater”), Suzie Kelly (“Kelly”), and Manasa Thimmegowda (“Thimmegowda”) (collectively “Plaintiffs”), for themselves individually and on behalf of the Settlement Class (as defined below), and Defendants Churchill Downs Incorporated (“CDI”), Aristocrat Leisure Ltd. (“ALL”), Aristocrat Technologies, Inc. (“ATI”), and Big Fish Games, Inc. (“Big Fish”) (collectively “Defendants”) (Plaintiffs and Defendants are collectively referred to as the “Parties”). This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below), upon and subject to the terms and conditions of this Agreement and subject to the final approval of the Court.

### **RECITALS**

A. On April 17, 2015, Kater filed a putative class action complaint against CDI in the United States District Court for the Western District of Washington, Case No. 15-cv-00612 (the “Kater” litigation). The complaint was later amended to add Suzie Kelly as an additional plaintiff and class representative and to add Big Fish as an additional defendant.

B. On February 11, 2019, Thimmegowda filed a putative class action lawsuit against ALL, ATI (together, “Aristocrat”), CDI, and Big Fish in the United States District Court for the Western District of Washington, Case No. 19-cv-00199 (the “Thimmegowda” litigation).

C. Plaintiffs in both matters allege that Defendants’ Applications (as defined below) fall within the definition of an illegal gambling game and that players can recover their losses under Washington law, setting forth claims for violations of RCW 4.24.070 (the “Recovery of Money Lost at Gambling Act” or “RMLGA”), violations of RCW 19.86.010 *et seq.* (the “Washington Consumer Protection Act” or “CPA”) and unjust enrichment, based on Plaintiffs’ use of and purchases of virtual items in Defendants’ Applications (as defined below).

D. On June 30, 2015, CDI moved to dismiss pursuant to Fed. R. Civ. P. 12 on grounds that the Applications do not fall under Washington’s definition of gambling. On November 19, 2015, the district court granted the motion with prejudice.

E. On January 5, 2016, Kater noticed an appeal of dismissal to the United States Court of Appeals for the Ninth Circuit. On March 28, 2018, the Ninth Circuit reversed the district court’s order, and on June 12, 2018, CDI’s motion for rehearing en banc was denied.

F. On July 20, 2018, after the case was returned to the district court’s jurisdiction, CDI filed a motion to compel arbitration.

G. On November 2, 2018, the Court denied CDI’s motion. CDI then answered the complaint on November 16, 2018.

H. In January 2019, discovery in *Kater* commenced, Kater propounded written discovery, and CDI timely responded.

I. On February 11, 2019, the complaint in *Thimmegowda* was filed.

J. On March 20, 2019, Kater amended her complaint to add the claims of Suzie Kelly and add Big Fish as a defendant.

K. On May 10, 2019, in *Thimmegowda*, Big Fish and Aristocrat moved to compel arbitration, and Aristocrat moved to dismiss for lack of personal jurisdiction. The same day, in *Kater*, Big Fish and CDI moved to compel arbitration. On September 12, 2019, these motions were terminated with leave to refile when the Court stayed both cases pending the Ninth Circuit's disposition of an interlocutory appeal in a related case, *Wilson v. Huuuge, Inc.*, Case. No. 18-cv-05276 (W.D. Wash.).

L. In October 2019, Big Fish displayed a pop-up window in certain of its Applications that required players, if they wished to continue playing the Applications, to click to accept the Big Fish Terms of Use, which included a Dispute Resolution Provision and one- year limitation on the recovery of any damages. The Terms of Use explained how players could opt out of the Dispute Resolution Provision. Plaintiffs moved for a temporary restraining order to, *inter alia*, enjoin Big Fish from displaying the pop-up window. On November 19, 2019, the Court granted in part and denied in part Plaintiffs' motions and invited the Parties to propose language regarding any future similar pop-up windows. The Parties submitted competing proposals and, on December 19, 2019, the Court approved of Defendants' proposed pop-up language.

M. In December 2019, January 2020, and April 2020, Big Fish displayed a pop-up window that incorporated the Court-approved language.

N. In January 2020, Class Counsel established a website to assist putative class members who wished to opt-out of the "Dispute Resolution Provision" within the Big Fish Terms of Use.

O. In January 2020, Defendants filed a motion for a protective order that sought, *inter alia*, to require Class Counsel to cease operation of the website. On March 4, 2020, the Court denied Defendants' motion.

P. On February 20, 2020, Plaintiffs moved to certify a class under Fed. R. Civ. P. 23(b)(2) and sought a preliminary injunction to enjoin the sale of virtual chips in the Applications. On March 4, 2020, the Court denied Plaintiffs' motions without prejudice.

Q. On March 23, 2020 the Court ordered deadlines for the Parties to exchange discovery related to Defendants' potential renewed motions to compel arbitration (in *Kater* and *Thimmegowda*) and Aristocrat's and CDI's potential renewed motions to dismiss for lack of personal jurisdiction (in *Thimmegowda*). Over the following weeks, the Parties responded to Court-ordered discovery.

R. On April 10, 2020, Defendants filed their renewed motions to compel arbitration and CDI filed a renewed motion to dismiss for lack of personal jurisdiction. The Parties fully briefed those motions.

S. In April 2020, the Parties agreed to engage the Honorable Layn Phillips (ret.) at Phillips ADR to facilitate a mediation of the Actions.

T. After exchanging information in advance of the mediation and participating in a full-day (indeed, more than twelve-hour-long) mediation on May 22, 2020, the Parties agreed to a settlement in principle, which was memorialized in the form of a binding Confirmation of Settlement.

U. Plaintiffs and Class Counsel have conducted a comprehensive examination of the law and facts regarding the claims against Defendants, and the potential defenses available.

V. Plaintiffs believe that their claims have merit, that they would have ultimately succeeded in obtaining adversarial certification of the proposed Settlement Class, and prevailed on the merits at summary judgment or at trial. Nonetheless, Plaintiffs and Class Counsel recognize that Defendants have raised factual and legal claims and defenses that present a risk that Plaintiffs may not prevail on their claims, that Plaintiffs' claims might be compelled to arbitration proceedings, and/or that the putative classes might not be certified. Plaintiffs and Class Counsel have also taken into account the uncertain outcome and risks of any litigation, especially in complex actions, as well as the difficulty and delay inherent in such litigation. Therefore, Plaintiffs believe that it is desirable that the Released Claims be fully and finally compromised, settled, resolved with prejudice, and barred pursuant to the terms and conditions set forth in this Agreement.

W. Based on their comprehensive examination and evaluation of the law and facts relating to the matters at issue, Class Counsel have concluded that the terms and conditions of this Agreement are fair, reasonable, and adequate to resolve the alleged claims of the Settlement Class and that it is in the best interests of the Settlement Class Members to settle the Released Claims pursuant to the terms and conditions set forth in this Agreement.

X. Defendants have at all times denied—and continue to deny—all allegations of wrongdoing and liability and deny all material allegations in the Actions. Specifically, Defendants deny that the Applications constitute or constituted illegal gambling, and that any aspect of the Applications' operation constituted unfair business practices. Defendants are prepared to continue their vigorous defense. Even so, taking into account the uncertainty and risks inherent in the motions to dismiss, class certification, summary judgment, and trial, Defendants have concluded that continuing to defend the Actions would be burdensome and expensive. Defendants have further concluded that it is desirable to settle the Released Claims pursuant to the terms and conditions set forth in this Agreement to avoid the time, risk, and expense of defending protracted litigation and to resolve finally and completely the pending and potential claims of Plaintiffs and the Settlement Class.

NOW, THEREFORE, IT IS HEREBY AGREED by and among Plaintiffs, the Settlement Class, and Defendants that, subject to the Court's final approval after a hearing as provided for in this Agreement, and in consideration of the benefits flowing to the Parties from the Settlement set forth herein, the Released Claims shall be fully and finally compromised, settled, and released, and the Actions shall be dismissed with prejudice, upon and subject to the terms and conditions set forth in this Agreement.

## **AGREEMENT**

### **1. DEFINITIONS**

As used herein, in addition to any definitions set forth elsewhere in this Agreement, the following terms shall have the meanings set forth below:

**1.1 "Actions"** means the cases captioned *Cheryl Kater and Suzie Kelly v. Churchill Downs Incorporated et al.*, Case No. 15-cv-00612, and *Manasa Thimmegowda v. Big Fish*

*Games, Inc. et al.*, Case No. 19-cv-00199, both pending in the United States District Court for the Western District of Washington.

**1.2 “Agreement” or “Settlement” or “Settlement Agreement”** means this Class Action Settlement Agreement.

**1.3 “Applications”** means Big Fish Casino, Jackpot Magic Slots, and Epic Diamond Slots.

**1.4 “Approved Claim”** means a Claim Form submitted by a Settlement Class Member that is timely and submitted in accordance with the directions on the Claim Form and the terms of this Agreement, or is otherwise accepted by the Court or Settlement Administrator and satisfies the conditions of eligibility for a Settlement Payment as set forth in this Agreement.

**1.5 “Claim Form”** means the document substantially in the form attached hereto as Exhibit A, as approved by the Court. The Claim Form, to be completed by Settlement Class Members who wish to file a claim for a Settlement Payment, shall be available in electronic and paper format. The Claim Form shall request that the Settlement Class Member provide the following information: (i) full legal name, (ii) List of any and all Application(s) played (iii) Friend Code(s) associated with any and all Application(s) account(s), (iv) email address(es) associated with any and all Application(s) account(s), (v) email addresses associated with Amazon, Facebook, Apple, and/or Google accounts from which in-Application purchases were made, and (vi) current telephone number, U.S. Mail address, and email address.

**1.6 “Claims Deadline”** means the date by which all Claim Forms must be postmarked or submitted on the Settlement Website to be considered timely and shall be fifty-six (56) days after the Notice Date. The Claims Deadline shall be clearly set forth in the order preliminarily approving the Settlement, as well as in the Notice and the Claim Form.

**1.7 “Class Counsel”** means Jay Edelson, Rafey Balabanian, Todd Logan, Alexander G. Tievsky, and Brandt Silver-Korn of Edelson PC.

**1.8 “Class Representatives”** means Plaintiffs Cheryl Kater, Suzie Kelly, and Manasa Thimmegowda.

**1.9 “Court”** means the United States District Court for the Western District of Washington, the Honorable Ronald B. Leighton, presiding, or any Judge who shall succeed him as the Judge assigned to the Actions.

**1.10 “Defendants”** means Big Fish Games, Inc., Churchill Downs Incorporated, Aristocrat Technologies, Inc., and Aristocrat Leisure Ltd., the defendants in the Actions.

**1.11 “Defendants’ Counsel”** means Covington & Burling LLP and Orrick, Herrington & Sutcliffe LLP.

**1.12 “Effective Date”** means the date upon which the last (in time) of the following events occurs: (i) the date upon which the time expires for filing or noticing any appeal of the Final Judgment, if no appeal is timely filed; (ii) if there is an appeal or appeals, the date of completion, in a manner that finally affirms and leaves in place the Final Judgment without any material modification, of all proceedings arising out of the appeal(s) (including, but not limited to, the expiration of all deadlines for motions for reconsideration or petitions for review and/or

certiorari, all proceedings ordered on remand, and all proceedings arising out of any subsequent appeal(s) following decisions on remand); or (iii) the date of final dismissal of any appeal or the final dismissal of any proceeding on certiorari with respect to the Final Judgment. The Effective Date is further subject to the conditions set forth in Section 9.1.

**1.13 “Escrow Account”** means the separate, interest-bearing escrow account to be established by the Settlement Administrator under terms acceptable to all Parties. The Escrow Account will be at a depository institution of the Settlement Administrator’s choice (subject to either party’s reasonable veto) that is insured by the Federal Deposit Insurance Corporation. The Settlement Amount shall be deposited by Defendants into the Escrow Account consistent with the provisions in Section 2.1 below, and the money in the Escrow Account shall be invested in the following types of accounts and/or instruments and no other: (i) demand deposit accounts and/or (ii) time deposit accounts and certificates of deposit, in either case with maturities of forty-five (45) days or less. The costs of establishing and maintaining the Escrow Account shall be paid from the Settlement Fund.

**1.14 “Fee Award”** means the amount of attorneys’ fees and reimbursement of expenses awarded by the Court to Class Counsel, which will be paid out of the Settlement Fund.

**1.15 “Final Approval Hearing”** means the hearing before the Court where the Parties will request that the Final Judgment be entered by the Court finally approving the Settlement as fair, reasonable, and adequate, and approving any Fee Award and the incentive awards to the Class Representatives.

**1.16 “Final Judgment”** means the final judgment and order to be entered by the Court approving the Agreement after the Final Approval Hearing.

**1.17 “Friend Code”** means the unique identifier attached to a person who has a Big Fish Casino, Jackpot Magic Slots, or Epic Diamond Slots account and/or login.

**1.18 “Lifetime Spending Amount”** means the total amount of money a Settlement Class Member spent within the Applications through and including July 23, 2020.

**1.19 “Notice”** means the notice of this Settlement and Final Approval Hearing, which is to be sent to the Settlement Class substantially in the manner set forth in this Agreement and approved by the Court, consistent with the requirements of Due Process and Rule 23, and substantially in the form of Exhibits B, C, and D, attached hereto.

**1.20 “Net Settlement Fund”** means the Settlement Fund, plus any interest or investment income earned on the Settlement Fund, less any Fee Award, incentive awards to the Class Representatives, taxes, and Settlement Administration Expenses.

**1.21 “Notice Date”** means the date upon which the Notice set forth in Section 4 is complete, which shall be a date no later than thirty-five (35) days after entry of Preliminary Approval.

**1.22 “Objection/Exclusion Deadline”** means the date by which a written objection to this Settlement Agreement or a request for exclusion submitted by a member of the Settlement Class must be postmarked and/or filed with the Court, which shall be designated as a date no later than fifty-six (56) days following the Notice Date and no sooner than fourteen (14) days

after papers supporting the Fee Award are filed with the Court and posted to the Settlement Website, or such other date as ordered by the Court.

**1.23 “Plaintiffs”** means Cheryl Kater, Suzie Kelly, and Manasa Thimmegowda, the plaintiffs in the Actions.

**1.24 “Platform Provider(s)”** means Amazon, Apple, Facebook, and/or Google.

**1.25 “PlayerId”** means the unique identifier assigned by a Platform Provider to a person who has a Platform Provider account and/or login. For avoidance of doubt, PlayerIds are not assigned/generated by or known to Big Fish.

**1.26 “Preliminary Approval”** means the order preliminarily approving the Settlement, preliminarily certifying the Settlement Class for settlement purposes, preliminarily appointing Class Counsel and the Class Representatives, and approving the form and manner of the Notice.

**1.27 “Released Claims”** means any and all actual, potential, filed, unfiled, known or unknown, fixed or contingent, claimed or unclaimed, suspected or unsuspected, claims, demands, liabilities, rights, causes of action, contracts or agreements, extra-contractual claims, damages, expenses, costs, attorneys’ fees and/or obligations (including “Unknown Claims” as defined below), whether in law or in equity, accrued or unaccrued, direct, individual, or representative, of every nature and description whatsoever, whether based on violations of Washington or other federal, state, local, statutory, or common law or any other law, including the law of any jurisdiction outside the United States, that are or have been alleged or otherwise raised in the Actions, or that arise out of or relate to facts, transactions, events, matters, occurrences, acts, disclosures, statements, representations, omissions or failures to act relating to the operation of the Applications and/or the sale of virtual chips in the Applications, such as claims that the Applications are illegal gambling, that virtual chips in the Applications are “things of value,” or that aspects of the Applications are deceptive or unfair, against the Released Parties, or any of them. For the avoidance of doubt, this release includes (1) claims potentially subject to arbitration agreements; and (2) claims for amounts spent on in-Application purchases that are attributable to Platform Provider fees.

**1.28 “Released Parties”** means each Defendant, and their present or former administrators, predecessors, successors, assigns, parents, subsidiaries, corporate affiliates, holding companies, investors, divisions, employees, agents, representatives, consultants, independent contractors, service providers, vendors, directors, managing directors, officers, partners, principals, members, attorneys, accountants, fiduciaries, financial and other advisors, investment bankers, insurers, reinsurers, employee benefit plans, underwriters, shareholders, lenders, auditors, and investment advisors, including but not limited to all Platform Providers.

**1.29 “Releasing Parties”** means Plaintiffs and other Settlement Class Members and their respective past, present, and future heirs, children, spouses, beneficiaries, conservators, executors, estates, administrators, assigns, agents, consultants, independent contractors, insurers, attorneys, accountants, financial and other advisors, investment bankers, underwriters, and lenders, and any other representatives of any of these persons and entities.

**1.30 “Settlement Administration Expenses”** means (i) the expenses incurred by the Settlement Administrator in providing Notice, processing claims, responding to inquiries from members of the Settlement Class, distributing funds for Approved Claims, and related services, and (ii) the fees and expenses of any Settlement Special Master the Court may appoint, if applicable.

**1.31 “Settlement Administrator”** means Angeion Group, subject to approval of the Court, which will administer certain aspects of the Notice and Settlement Website, process Approved Claims, and distribute Settlement Payments to Settlement Class Members as set forth in this Agreement.

**1.32 “Settlement Amount”** means the amount of one hundred fifty-five million dollars (\$155,000,000.00) to be deposited by Defendants into the Escrow Account consistent with the provisions set forth in Section 2.1 below. The Settlement Amount represents the total extent of Defendants’ monetary obligations under this Agreement. In no event shall Defendants’ total monetary obligation with respect to this Agreement exceed or be less than one hundred fifty-five million dollars (\$155,000,000.00).

**1.33 “Settlement Class”** means all persons in the United States who played Big Fish Casino, Jackpot Magic Slots, or Epic Diamond Slots on or before Preliminary Approval of the Settlement. Excluded from the Settlement Class are (1) any Judge or Magistrate presiding over this action and members of their families, (2) Defendants, Defendants’ subsidiaries, parent companies, successors, predecessors, and any entity in which Defendants or their parents have a controlling interest and their current or former officers, directors, and employees, (3) persons who properly execute and file a timely request for exclusion from the settlement class, and (4) the legal representatives, successors, or assigns of any such excluded persons.

**1.34 “Settlement Class Member”** means any person who falls within the definition of the Settlement Class and who does not submit a valid request for exclusion from the Settlement Class.

**1.35 “Settlement Fund”** means the non-reversionary cash fund that shall be established by Defendants in the total amount of the Settlement Amount, plus all interest earned thereon. From the Settlement Fund, the Settlement Administrator shall pay all Approved Claims made by Settlement Class Members, Settlement Administration Expenses, any incentive award to the Class Representatives, taxes, and any Fee Award to Class Counsel. The Settlement Fund shall be kept in the Escrow Account with permissions granted to the Settlement Administrator to access said funds until such time as the above-listed payments are made. The Settlement Administrator shall be responsible for all tax filings with respect to any earnings on the amounts in the Settlement Fund and the payment of all taxes that may be due on such earnings.

**1.36 “Settlement Payment(s)”** means the payments from the Net Settlement Fund to be made to Settlement Class Members with Approved Claims according to the plan of allocation attached as Exhibit E (the “Plan of Allocation”).

**1.37 “Settlement Website”** means the website to be created, launched, and maintained by the Settlement Administrator which shall allow for the electronic submission of Claim Forms and shall provide access to relevant case documents including the Notice, information about the submission of Claim Forms, and other relevant documents. The Settlement Website shall also

advise the Settlement Class of the total value of the Settlement Fund and give Settlement Class Members the ability to estimate their Settlement Payment. The Settlement Website shall remain accessible until at least thirty (30) days after the Effective Date.

**1.38 “Unknown Claims”** means claims that could have been raised in the Action and that any or all of the Releasing Parties do not know or suspect to exist, which, if known by him or her, might affect his or her agreement to release the Released Parties or the Released Claims or might affect his or her decision to agree, object or not to object to the Settlement, or seek exclusion from the Settlement Class. Upon the Effective Date, the Releasing Parties shall be deemed to have, and shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of § 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Upon the Effective Date, the Releasing Parties also shall be deemed to have, and shall have, waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States, which is similar, comparable, or equivalent to § 1542 of the California Civil Code. The Releasing Parties acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever settle and release the Released Claims, notwithstanding any Unknown Claims they may have, as that term is defined in this Paragraph.

## **2 SETTLEMENT RELIEF**

### **2.1 Monetary Compensation.**

- (a) Defendants shall pay or cause to be paid into the Escrow Account the full Settlement Amount (\$155,000,000.00) within fourteen (14) calendar days after the entry of Final Approval.
- (b) Settlement Class Members shall have until the Claims Deadline to submit a Claim Form. Each Settlement Class Member with an Approved Claim shall be entitled to a Settlement Payment from the Net Settlement Fund.
- (c) The Settlement Payment will be determined according to the Plan of Allocation attached as Exhibit E. The Plan of Allocation is divided into two baseline categories: (i) claims that are not subject to Big Fish’s Dispute Resolution Provision (“Non-DRP Claims”) and (ii) claims that are potentially subject to Big Fish’s Dispute Resolution Provision (“DRP Claims”). Non-DRP Claims are the claims held by persons in the Settlement Class who did not click “I agree” on Defendants’ December 2019, January 2020, or April 2020 pop-up windows, or who timely opted out of Defendants’ Dispute Resolution Provision. DRP Claims are claims held by persons who did click “I agree” on Defendants’ December 2019, January 2020, or April 2020 pop-up windows and did not timely opt-out of Defendants’ Dispute Resolution Provision. The

Settlement Payments for Non-DRP and DRP Claims are each paid according to escalating marginal recovery percentages.

(d) Non-DRP Claims and DRP Claims are determined at an identity (person) level rather than at an account level, according to the following rules:

- (1) If a person **has never** clicked “I agree” on the December 2019, January 2020, or April 2020 pop-up windows (irrespective of Application or account), that person has **all Non-DRP Claims** (irrespective of Application or account).
- (2) If a person **has** clicked “I agree” on either the December 2019, January 2020, or April 2020 pop-up windows (irrespective of Application or account) and **has not** timely opted-out with respect to **any** of those “clicks,” that person has **all DRP Claims** (irrespective of Application or account).
- (3) If a person has clicked “I agree” on either the December 2019, January 2020, or April 2020 pop-up windows (irrespective of Application or account) and **has** timely opted-out with respect to **any** of those “clicks,” that person has **all Non-DRP Claims** (irrespective of Application or account).
- (4) The primary purpose of these rules is to recognize that (1) **any** click on the December 2019, January 2020, or April 2020 pop-up windows (irrespective of Application or account) by a person renders **all** of his/her claims DRP for purposes of this Settlement, and that (2) **any** timely opt-out by a person (irrespective of Application or account) renders **all** of his/her claims Non-DRP Claims for purposes of this Settlement (irrespective of Application or account, and irrespective of whether that person clicked any of the December 2019, January 2020, or April 2020 pop-up windows).
- (5) No individual holds both DRP Claims and Non-DRP Claims.
- (6) An opt-out notice is timely for purposes of this Settlement if it was postmarked within thirty (30) days after when the individual “clicked” the December 2019, January 2020, or April 2020 pop-up window and received by Defendants before July 23, 2020.
- (7) **Example One:** If Jane Doe holds Account A and Account B on Big Fish Casino, clicked “I agree” on either the December 2019, January 2020, or April 2020 pop-up windows on both accounts, and only timely opted out of Defendants’ Dispute Resolution Provision as to Account B, Ms. Doe’s claims are Non-DRP Claims as to the money she spent playing with both Account A and Account B.

- (8) **Example Two:** If John Doe holds Account Y and Account Z on Big Fish Casino, but only clicked “I agree” on either the December 2019, January 2020, or April 2020 pop-up windows while playing on Account Z, and did not timely opt-out, Mr. Doe’s claims are DRP Claims as to the money he spent playing with both Account Y and Account Z.
- (9) **Example Three:** If Richard Roe holds Account L and Account M on Big Fish Casino and Account N on Jackpot Magic Slots, clicked “I agree” on either the December 2019, January 2020, or April 2020 pop-up windows while playing on Account N, and timely opted out of Defendants’ Dispute Resolution Provision, Mr. Roe’s claims are Non-DRP Claims as to the money he spent playing with Account L, Account M, and Account N.

(e) If the total Approved Claims do not exhaust the Net Settlement Fund under the baseline marginal recovery percentages in the Plan of Allocation, the marginal recovery percentages, for both Non-DRP and DRP Claims, will be increased pro rata so that the Settlement Payments will exhaust or leave only *de minimis* funds in the Net Settlement Fund.

(f) Within sixty (60) days after the Effective Date, or such other date as the Court may set, the Settlement Administrator shall pay from the Settlement Fund all Approved Claims by check or electronic payment.

(g) Each payment issued to a Settlement Class Member via check will state on the face of the check that it will become null and void unless cashed within ninety (90) calendar days after the date of issuance.

(h) In the event that an electronic deposit to a Settlement Class Member is unable to be processed, the Settlement Administrator shall attempt to contact the Settlement Class Member within thirty (30) calendar days to correct the problem.

(i) To the extent that a check issued to a Settlement Class Member is not cashed within ninety (90) calendar days after the date of issuance, or an electronic deposit is unable to be processed within ninety (90) calendar days after the first attempt, such funds shall remain in the Net Settlement Fund and shall be apportioned pro rata to participating Settlement Class Members in a second distribution, if practicable, subject to the provisions set forth in paragraph (e) above. To the extent that any second distribution is impracticable or would violate the provisions set forth in paragraph (e) above, or that any second-distribution funds remain in the Net Settlement Fund after an additional ninety (90) calendar days, such funds shall revert to the Rose Foundation of Oakland, California, for the purpose of establishing a consumer protection fund, as approved by the Court.

(j) No amount paid by Defendants into the Escrow Account shall revert to Defendants unless the Settlement is terminated in accordance with Sections 4.6 or 7.1. In no event shall any such amount be paid to Class Counsel except for the amount of any approved Fee Award.

**2.2 Prospective Measures.** Defendants shall take the following steps in connection with this Settlement within fifty-six (56) days after an order granting Preliminary Approval:

(a) Big Fish will place resources relating to video game behavior disorders within the Applications. Within the self-service resources available to players, Big Fish shall add an additional button or link with labeling referring to video game behavior disorder resources. This link or button shall be similarly prominent to other links or buttons within the self-service resources. When clicked, the link or button will take players to a webpage that (1) encourages responsible gameplay; (2) describes what video game behavior disorders are; (3) provides or links to resources relating to video game behavior disorders; and (4) includes a link to Big Fish's self-exclusion policy. Customer service representatives will provide the same information to any player that contacts them and references or exhibits video game behavior disorders, and will face no adverse employment consequences for providing players with this information.

(b) Big Fish shall publish on its website a voluntary self-exclusion policy. That policy shall provide that, when a player self-excludes by specifying the Friend Code(s) that the player wishes to ban, Big Fish shall use commercially reasonable efforts to immediately ban the account(s) associated with those Friend Code(s). Big Fish shall retain discretion as to the particular method by which players may self-exclude; for example, Big Fish may permit players to self-exclude by contacting Big Fish Customer Support, completing a form on Big Fish's website, or any other reasonably accessible means. Big Fish shall use commercially reasonable efforts to prevent any use of the Application specified by the player, including by creation of a new Application account, from any device ID determined by Big Fish, using commercially reasonable efforts, to be associated with the excluded account. After a self-exclusion request is responded to in full by Big Fish, Big Fish shall not remove these restrictions for a period of at least one year. Beginning one year after the self-exclusion request is responded to in full by Big Fish, Big Fish may choose to honor a player's request to reinstate the player's account. Big Fish shall not automatically reinstate self-excluded accounts. Big Fish shall make no attempt to communicate with a player who has requested self-exclusion except in response to a direct inquiry from the player.

(c) Big Fish will change game mechanics for the Big Fish Casino and Jackpot Magic Slots Applications to ensure that players who run out of sufficient virtual chips to continue to play the game they are playing will be able to continue to play games within the Application they are playing without needing to purchase additional virtual chips or wait until they would have otherwise received free additional virtual chips in the ordinary course. Specifically, players who run out of chips will be able to continue to play at least one game within the Application they are playing that is similar in kind to other games within the Application.

### **3. RELEASES**

**3.1** The obligations incurred pursuant to this Settlement Agreement shall be a full and final disposition of the Actions and any and all Released Claims, as against all Released Parties.

**3.2** Upon the Effective Date, the Releasing Parties, and each of them, shall be deemed to have, and by operation of the Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties, and each of them.

**3.3** Upon the Effective Date, the Released Parties, and each of them, shall by operation of the Final Judgment have fully, finally, and forever released, relinquished, and discharged all claims against Plaintiffs, the Settlement Class, and Class Counsel that arise out of or relate to the commencement, prosecution, settlement, or resolution of the Actions, except for claims to enforce the terms of the Settlement.

**3.4** All Plaintiffs and all other Settlement Class Members further stipulate that, with the changes delineated in Sections 2.2(a)-2.2(c), virtual chips in the Applications are gameplay enhancements, not “things of value” as defined by RCW 9.46.0285. As long as those prospective measures remain implemented in the Applications as described, all Settlement Class Members are estopped from contending that virtual chips in the Applications are “things of value” under current Washington law or that aspects of the Applications at issue in these cases render the Applications deceptive or unfair under Washington law.

#### **4 NOTICE**

**4.1 Class List.** To effectuate the Notice Plan, within fourteen (14) calendar days after the execution of this Settlement Agreement:

(a) Defendants shall provide Class Counsel and the Settlement Administrator all Settlement Class Member contact information reasonably available to Defendants, including names, phone numbers, email addresses, and mailing addresses. For each Friend Code with a Lifetime Spending Amount greater than zero, Defendants shall further provide: (i) the Friend Code’s Lifetime Spending Amount, and (ii) information sufficient to determine whether the Friend Code clicked to accept the Big Fish Terms of Use in or after December 2019 but before July 23, 2020.

(b) Defendants and Class Counsel shall each provide the Settlement Administrator the information reflected in any opt-out letters received by Defendants before July 23, 2020.

(c) Class Counsel and Defendants’ Counsel shall cooperate to work with the Platform Providers to obtain all contact information in the Platform Providers’ possession, including all names, usernames/PlayerIds, phone numbers, email addresses, and mailing addresses, of all persons in the Settlement Class with a Lifetime Spending Amount greater than zero.

(d) Class Counsel and Defendants’ counsel shall cooperate to work with the Platform Providers to obtain all Lifetime Spending Amounts greater than zero for each username/PlayerId associated with a Settlement Class Member whose contact information is obtained pursuant to Section 4.1(c).

(e) Class Counsel and Defendants’ Counsel shall provide all information obtained through Sections 4.1(c)-(d) to the Settlement Administrator.

(f) The Settlement Administrator will use the information obtained through Sections 4.1(a)-(e) to create the “Class List.” The Settlement Administrator shall keep the Class List and all personal information obtained therefrom, including the identity, mailing, and e-mail addresses of all persons, strictly confidential. To prepare the Class List for potential Settlement Payments, the Settlement Administrator will (1) *first*, categorize each unique and identifiable

person as holding either DRP Claims or Non-DRP Claims, (2) *second*, attach to each unique and identifiable person all of his/her associated Applications accounts (*e.g.*, by Applications Friend Codes), (3) *third*, use Claim Forms to supplement, amend, verify, adjust, and audit the foregoing data, as necessary, (4) *fourth*, calculate the total Lifetime Spending Amount for each unique and identifiable person, and (5) *finally*, categorize each unique and identifiable person according to the appropriate Lifetime Spending Amount levels identified in the Plan of Allocation. For example, using Example 1 in Section 2.1(d)(7) as a starting point, if Jane Doe spent \$25,000 through Account A and \$60,000 through Account B on Big Fish Casino, clicked “I agree” on either the December 2019, January 2020, or April 2020 pop-up windows on both accounts, but only timely opted out of Defendants’ Dispute Resolution Provision as to Account B, the settlement administrator will categorize Jane Doe as holding Non-DRP Claims, calculate her Lifetime Spending Amount as \$85,000.00, and place her claim in the \$10,000-\$100,000 Lifetime Spending Amount level within Non-DRP Claims in the Plan of Allocation. The Class List may not be used by the Settlement Administrator for any purpose other than advising specific individual Settlement Class Members of their rights, distributing Settlement Payments, and otherwise effectuating the terms of the Settlement Agreement or the duties arising thereunder, including the provision of Notice of the Settlement.

**4.2 Notice Plan.** The Notice Plan shall consist of the following:

(a) *Direct Notice via Email and/or U.S. Mail.* No later than the Notice Date, the Settlement Administrator shall send Notice via email substantially in the form attached as Exhibit B, along with an electronic link to the Claim Form, to all Settlement Class Members for whom a valid email address is available in the Class List. In the event transmission of email notice results in any “bounce-backs,” the Settlement Administrator shall, where reasonable: correct any issues that may have caused the “bounce-back” to occur and make a second attempt to re-send the email notice, and (ii) send Notice substantially in the form attached as Exhibit C via First Class U.S. Mail provided an associated U.S. Mail address is contained in the Class List. The Settlement Administrator shall also send Notice substantially in the form attached as Exhibit C via First Class U.S. Mail to all Settlement Class Members with a Lifetime Spending Amount greater than \$100.00 provided an associated U.S. Mail address is contained in the Class List.

(b) *Reminder Notice.* Thirty (30) days prior to the Claims Deadline, the Settlement Administrator shall again send Notice via email substantially in the form attached as Exhibit B, along with an electronic link to the Claim Form, to all Settlement Class Members for whom a valid email address is available in the Class List.

(c) *Settlement Website.* Within seven (7) days after Preliminary Approval, Notice shall be provided on a website at [www.bigfishgamesettlement.com](http://www.bigfishgamesettlement.com), which shall be administered and maintained by the Settlement Administrator and shall include the ability to file Claim Forms online. The Notice provided on the Settlement Website shall be substantially in the form of Exhibit D hereto. The Settlement Website shall also advise the Settlement Class of the total value of the Settlement Fund and provide Settlement Class Members the ability to approximate their Settlement Payment.

(d) *Digital Publication Notice.* The Settlement Administrator will supplement the direct notice program with a digital publication notice program that will deliver more than fifty million (50,000,000) impressions to likely Settlement Class Members. The digital

publication notice campaign will run for at least one month and will contain active hyperlinks to the Settlement Website. The final digital notice advertisements, and the overall digital publication notice program to be used, shall be subject to the final approval of Defendants, which approval shall not be unreasonably withheld.

(e) *CAFA Notice.* Pursuant to 28 U.S.C. § 1715, not later than ten (10) days after the Agreement is filed with the Court, Defendants shall cause to be served upon the Attorneys General of each U.S. State in which Settlement Class Members are believed to reside, the Attorney General of the United States, and other required government officials, notice of the proposed settlement as required by law.

(f) *Contact from Class Counsel.* Class Counsel, in their capacity as counsel to Settlement Class Members, may from time to time contact Settlement Class Members to provide information about the Settlement Agreement and to answer any questions Settlement Class members may have about the Settlement Agreement.

**4.3** The Notice shall advise the Settlement Class of their rights under the Settlement, including the right to be excluded from or object to the Settlement or its terms. The Notice shall specify that any objection to the Settlement Agreement, and any papers submitted in support of said objection, shall be considered by the Court at the Final Approval Hearing only if, on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice, the Class Member making the objection files notice of an intention to do so and at the same time files copies of such papers he or she proposes to be submitted at the Final Approval Hearing. An unrepresented Class Member may submit such papers to the Clerk of the Court or through the Court's CM/ECF system. A Class Member represented by counsel *must* timely file any objection through the Court's CM/ECF system.

**4.4 Right to Object or Comment.** Any Settlement Class Member who intends to object to this Settlement must present the objection in writing, which must be personally signed by the objector and must include: (i) any Friend Codes, (ii) any email address(es) associated with use of the Applications, (iii) current contact telephone number, U.S. Mail address, and email address, (iv) the specific grounds for the objection, (v) all documents or writings that the Settlement Class Member desires the Court to consider, (vi) the name and contact information of any and all attorneys representing, advising, or in any way assisting the objector in connection with the preparation or submission of the objection or who may profit from the pursuit of the objection, and (vii) a statement indicating whether the objector intends to appear at the Final Approval Hearing (either personally or through counsel, who must file an appearance or seek *pro hac vice* admission). All written objections must be filed with or otherwise received by the Court, and e-mailed or delivered to Class Counsel and Defendants' Counsel, no later than the Objection/Exclusion Deadline. Any Settlement Class Member who fails to timely file or submit a written objection with the Court and notice of his or her intent to appear at the Final Approval Hearing in accordance with the terms of this Section and as detailed in the Notice, and at the same time provide copies to designated counsel for the Parties, shall not be permitted to object to this Settlement Agreement or appear at the Final Approval Hearing, and shall be foreclosed from seeking any review of this Settlement by appeal or other means and shall be deemed to have waived his or her objections and be forever barred from making any such objections in the Actions or any other action or proceeding.

**4.5 Right to Request Exclusion.** Any Settlement Class Member may request to be excluded from the Settlement Class by sending a written request that is received on or before the Objection/Exclusion Deadline approved by the Court and specified in the Notice. To exercise the right to be excluded, a person in the Settlement Class must timely send a written request for exclusion to the Settlement Administrator that (i) provides his/her name, (ii) identifies either or both of the case names, “*Cheryl Kater and Suzie Kelly v. Churchill Downs Incorporated et al.*, Case No. 15-cv-00612 (W.D. Wash.)” and “*Manasa Thimmegowda v. Big Fish Games, Inc. et al.*, Case No. 19-cv-00199 (W.D. Wash.),” (iii) states the individual’s Friend Codes and email addresses associated with use of the Applications, (iv) states the individual’s current contact telephone number, U.S. Mail address, and email address, (v) is physically signed by the individual seeking exclusion, and (vi) contains a statement to the effect that “I/We hereby request to be excluded from the proposed Settlement Class.” In light of the COVID-19 pandemic, the Settlement Administrator shall create a dedicated e-mail address to receive exclusion requests electronically. A request for exclusion that does not include all of the foregoing information, that is sent to an address other than that designated in the Notice, or that is not received within the time specified, shall be invalid and the individual serving such a request shall be deemed to remain a Settlement Class Member and shall be bound as a Settlement Class Member by this Settlement Agreement, if approved by the Court. Any person who timely and properly elects to request exclusion from the Settlement Class shall not (i) be bound by any orders or Final Judgment entered in the Action, (ii) be entitled to relief under this Agreement, (iii) gain any rights by virtue of this Agreement, or (iv) be entitled to object to any aspect of this Agreement. No person may request to be excluded from the Settlement Class through “mass” or “class” opt-outs.

**4.6** If the amount of the Base Payment Amounts, as defined in the Plan of Allocation, of persons in the Settlement Class who request exclusion exceeds 5% of the Settlement Fund, then any Party to this Settlement Agreement may notify the other parties in writing that they have elected to terminate this Settlement Agreement. Such notification of intent to terminate the Settlement Agreement must be provided a minimum of seven (7) calendar days before the filing deadline for the motion seeking Final Approval. If this Settlement Agreement is terminated, it will be deemed null and void ab initio.

## **5 CLAIMS PROCESS AND SETTLEMENT ADMINISTRATION**

**5.1** The Settlement Administrator shall, under the supervision of the Court, administer the relief provided by this Settlement Agreement by processing Claim Forms in a rational, responsive, cost effective, and timely manner. The Settlement Administrator shall maintain reasonably detailed records of its activities under this Agreement. The Settlement Administrator shall maintain all such records as are required by applicable law in accordance with its normal business practices and such records will be made available to Class Counsel and Defendants’ Counsel upon request. The Settlement Administrator shall also provide reports and other information to the Court as the Court may require. The Settlement Administrator shall provide Class Counsel and Defendants’ Counsel with information concerning Notice, administration, and implementation of the Settlement Agreement. Should the Court request, the Parties shall submit a timely report to the Court summarizing the work performed by the Settlement Administrator, including a post-distribution accounting of all amounts from the Settlement Fund paid to

Settlement Class Members, the number and value of checks not cashed, the number and value of electronic payments unprocessed, and the amount distributed to any *cy pres* recipient. Without limiting the foregoing, the Settlement Administrator shall:

- (a) Receive requests to be excluded from the Settlement Class and promptly provide Class Counsel and Defendants' Counsel copies thereof. If the Settlement Administrator receives any exclusion forms after the deadline for the submission of such forms, the Settlement Administrator shall promptly provide copies thereof to Class Counsel and Defendants' Counsel;
- (b) Provide weekly reports to Class Counsel and Defendants' Counsel regarding the number of Claim Forms received, the amount of the Settlement Payments associated with those Claim Forms, and the categorization and description of Claim Forms rejected, in whole or in part, by the Settlement Administrator; and
- (c) Make available for inspection by Class Counsel and Defendants' Counsel the Claim Forms received by the Settlement Administrator at any time upon reasonable notice.

**5.2** The Settlement Administrator shall distribute Settlement Payments according to the provisions enumerated in Section 2.1. To the extent it is unclear to the Settlement Administrator whether a Settlement Class Member holds a Non-DRP Claim or DRP Claim, the Settlement Administrator shall seek guidance from Class Counsel and Defendants' Counsel.

**5.3** The Settlement Administrator shall be obliged to employ reasonable procedures to screen claims for abuse or fraud and deny Claim Forms where there is evidence of abuse or fraud, including by cross-referencing Approved Claims with the Class List. The Settlement Administrator shall determine whether a Claim Form submitted by a Settlement Class Member is an Approved Claim and shall reject Claim Forms that fail to (a) comply with the instructions on the Claim Form or the terms of this Agreement, or (b) provide full and complete information as requested on the Claim Form. In the event a person submits a timely Claim Form by the Claims Deadline but the Claim Form is not otherwise complete, then the Settlement Administrator shall give such person reasonable opportunity to provide any requested missing information, which information must be received by the Settlement Administrator no later than twenty-eight (28) calendar days after the Claims Deadline. In the event the Settlement Administrator receives such information more than twenty-eight (28) calendar days after the Claims Deadline, then any such claim shall be denied. The Settlement Administrator may contact any person who has submitted a Claim Form to obtain additional information necessary to verify the Claim Form.

**5.4** Class Counsel and Defendants' Counsel shall both have the right to challenge the Settlement Administrator's acceptance or rejection of any particular Claim Form *or* the amount proposed to be paid on account of any particular Settlement Class Member's claim. The Settlement Administrator shall follow any joint decisions of Class Counsel and Defendants' Counsel as to the validity or amount of any disputed claim. Where Class Counsel and Defendants' Counsel disagree, the Settlement Administrator will finally resolve the dispute and the claim will be treated in the manner designated by the Settlement Administrator.

## **6 PRELIMINARY APPROVAL ORDER AND FINAL APPROVAL ORDER**

**6.1** Promptly after execution of this Agreement, Class Counsel shall move the Court to enter an order preliminarily approving the Settlement and attach this Agreement as an exhibit

to the motion. The proposed preliminary approval order shall include, among other provisions, a request that the Court:

- (a) preliminarily appoint Plaintiffs Cheryl Kater, Suzie Kelly, and Manasa Thimmegowda as Class Representatives of the Settlement Class;
  - (b) preliminarily appoint Class Counsel to represent the Settlement Class;
  - (c) preliminarily certify the Settlement Class under Fed. R. Civ. P. 23 for settlement purposes only;
  - (d) preliminarily approve this Agreement for purposes of disseminating Notice to the Settlement Class;
  - (e) approve the form and contents of the Notice and the method of its dissemination to the Settlement Class;
- and

(f) schedule a Final Approval Hearing to review comments and/or objections regarding the Settlement, to consider its fairness, reasonableness and adequacy, to consider the application for any Fee Award and incentive awards to the Class Representatives, and to consider whether the Court shall issue a Final Judgment approving this Agreement and dismissing the Actions with prejudice.

**6.2 Final Approval Order.** After Notice is given, and no earlier than 21 days following the Claims Deadline, Class Counsel shall move the Court for final approval and entry of a Final Judgment, which shall include, among other provisions, a request that the Court:

- (a) find that the Court has personal jurisdiction over all Settlement Class Members and Defendants for settlement purposes only and that the Court has subject matter jurisdiction to approve the Settlement Agreement, including all exhibits thereto;
- (b) approve the Settlement Agreement and the proposed settlement as fair, reasonable and adequate as to, and in the best interests of, the Settlement Class Members; direct the Parties and their counsel to implement and consummate the Settlement Agreement according to its terms and provisions; and declare the Settlement Agreement to be binding on, and have res judicata and preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiffs and the Releasing Parties with respect to the Released Claims;
- (c) find that the Notice implemented pursuant to the Agreement (i) constitutes the best practicable notice under the circumstances; (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action, their right to object to the Settlement or exclude themselves from the Settlement Class, and to appear at the Final Approval Hearing; (iii) is reasonable and constitutes due, adequate, and sufficient notice to all persons entitled to receive notice; and (iv) meets all applicable requirements of the Federal Rules of Civil Procedure, the Due Process Clause of the United States Constitution, and the rules of the Court;
- (d) find that the Class Representatives and Class Counsel adequately represent the Settlement Class for purposes of entering into and implementing the Settlement Agreement;

(e) dismiss the Actions (including all individual claims and class claims presented thereby) on the merits and with prejudice, without fees or costs to any party except as provided in the Settlement Agreement;

(f) incorporate the Releases set forth above, make the Releases effective as of the Effective Date, and forever discharge the Released Parties from the Released Claims as set forth herein;

(g) permanently bar and enjoin all Settlement Class Members who have not properly sought exclusion from the Settlement Class from filing, commencing, prosecuting, intervening in, or participating (as class members or otherwise) in, any lawsuit or other action in any jurisdiction based on the Released Claims; and

(h) without affecting the finality of the Final Judgment for purposes of appeal, retain jurisdiction as to all matters relating to administration, consummation, enforcement, and interpretation of the Settlement Agreement and the Final Judgment, and for any other necessary purpose.

**6.3** The Parties shall, in good faith, cooperate, assist and undertake all reasonable actions and steps in order to accomplish these required events on the schedule set by the Court, subject to the terms of this Settlement Agreement.

## **7 TERMINATION**

**7.1** Subject to Sections 9.1-9.3 below, and in addition to the rights described in Section 4.6 above, the Parties to this Settlement Agreement shall have the right to terminate this Agreement by providing written notice of the election to do so (“Termination Notice”) to all other Parties hereto within twenty-one (21) calendar days of any of the following events: (i) the Court’s refusal to grant Preliminary Approval of this Agreement; (ii) the Court’s refusal to grant final approval of this Agreement; (iii) the Court’s refusal to enter the Final Judgment in these Actions; (iv) the date upon which the Final Judgment is modified or reversed in any material respect by the Court of Appeals or the Supreme Court; or (v) the date upon which an Alternative Judgment, as defined in Section 9.1(e) of this Agreement, is modified or reversed in any material respect by the Court of Appeals or the Supreme Court.

## **8 INCENTIVE AWARD AND CLASS COUNSEL’S ATTORNEYS’ FEES AND REIMBURSEMENT OF EXPENSES**

**8.1 The Fee Award.** Pursuant to Fed. R. Civ. P. 23(h), Defendants agree that Class Counsel shall be entitled to an award of reasonable attorneys’ fees and costs out of the Settlement Fund in an amount determined by the Court as the Fee Award. Without the Parties having discussed the issue of the amount of attorneys’ fees at any point in their negotiations, and with no consideration given or received, Class Counsel will limit its petition for attorneys’ fees to no more than thirty percent (30%) of the Settlement Fund, plus reimbursement of expenses. Payment of any Fee Award shall be made from the Settlement Fund and should Class Counsel seek or be awarded less than this amount, the difference in the amount sought and/or the amount ultimately awarded pursuant to this paragraph shall remain in the Settlement Fund for distribution to eligible Settlement Class Members.

**8.2** The Fee Award shall be payable from the Settlement Fund within fourteen (14) business days after entry of the Court's Final Judgment, subject to Class Counsel executing the Undertaking Regarding Attorneys' Fees and Costs (the "Undertaking"), attached hereto as Exhibit F, and providing all payment routing information and tax I.D. numbers for Class Counsel. Payment of the Fee Award shall be made by wire transfer to Class Counsel in accordance with wire instructions to be provided to the Escrow Account agent, after completion of necessary forms, including but not necessarily limited to W-9 forms. Additionally, should any party to the Undertaking dissolve, merge, declare bankruptcy, become insolvent, or cease to exist prior to the final payment to Settlement Class Members, that party shall execute a new undertaking guaranteeing repayment of funds within fourteen (14) days of such an occurrence. All obligations set forth in this paragraph shall expire upon the Effective Date.

**8.3 Incentive Awards.** Class Counsel intend to file a motion for Court approval of incentive awards to the Class Representatives, to be paid from the Settlement Fund, in addition to any funds the Class Representatives stand to otherwise receive from the Settlement. With no consideration having been given or received for these limitations, Cheryl Kater will seek no more than \$10,000 as an incentive award; Manasa Thimmegowda will seek no more than \$10,000 as an incentive award; and Suzie Kelly will seek no more than \$100,000 as an incentive award. Plaintiffs shall provide Defendants a reasonable opportunity to review any incentive award petition, and shall consider any comments in good faith, before filing. Defendants explicitly reserve their right to challenge any incentive award petition.

## **9 CONDITIONS OF SETTLEMENT, EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION**

**9.1** Consistent with Section 1.12, the Effective Date shall not occur unless and until each of the following events occurs and shall be the date upon which the last (in time) of the following events occurs:

- (a) The Parties have executed this Agreement;
- (b) The Court has granted Preliminary Approval;
- (c) The Court has entered an order finally approving the Agreement, following Notice to the Settlement Class and a Final Approval Hearing, as provided in the Federal Rules of Civil Procedure, and has entered the Final Judgment, or a judgment consistent with this Agreement in all material respects;
- (d) Defendants have funded the Settlement Fund; and
- (e) In the event that the Court enters an order and final judgment in a form other than that provided above ("Alternative Judgment") to which the Parties have consented, such Alternative Judgment has become final and non-appealable as if it were a Final Judgment.

**9.2** If some or all of the conditions specified in Section 9.1 are not met, or in the event that this Agreement is not approved by the Court, or the settlement set forth in this Agreement is terminated or fails to become effective in accordance with its terms, then this Settlement Agreement shall be canceled and terminated subject to Section 7.1 unless Class Counsel and Defendants' Counsel mutually agree in writing to proceed with this Agreement. If any Party is in material breach of the terms hereof, any other Party, provided that it is in substantial compliance

with the terms of this Agreement, may terminate this Agreement on notice to all of the Parties. Notwithstanding anything herein, the Parties agree that the Court's failure to approve, in whole or in part, the attorneys' fees payment to Class Counsel and/or incentive awards to the Class Representatives set forth in Section 8 above shall not prevent the Agreement from becoming effective, nor shall it be grounds for termination.

**9.3** If this Settlement Agreement is terminated or fails to become effective for the reasons set forth above, the Parties shall be restored to their respective positions as of the date of the signing of this Agreement. In such event, any Final Judgment or other order entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, nunc pro tunc, and the Parties shall be returned to the status quo ante as if this Settlement Agreement had never been entered into.

**9.4** In the event the Settlement is terminated or fails to become effective for any reason, the Settlement Fund, together with any earnings thereon at the same rate as earned by the Settlement Fund, less any taxes paid or due, less Settlement Administrative Expenses actually incurred and paid or payable from the Settlement Fund, shall be returned to Defendants within thirty (30) calendar days after written notification of such event in accordance with instructions provided by Defendants' Counsel to Class Counsel. At the request of Defendants' Counsel, Class Counsel or their designees shall apply for any tax refund owed on the amounts in the Settlement Fund and pay the proceeds, after any deduction of any fees or expenses incurred in connection with such application(s), of such refund to Defendants or as otherwise directed.

## **10 CONFIDENTIALITY**

**10.1** Except as otherwise agreed by Class Counsel and Defendants' Counsel in writing and/or as required by legal disclosure obligations, all terms of this Agreement will remain confidential and subject to Rule 408 of the Federal Rules of Evidence until presented to the Court along with Plaintiffs' motion for preliminary approval.

## **11 MISCELLANEOUS PROVISIONS.**

**11.1** The Parties (a) acknowledge that it is their intent to consummate this Settlement Agreement; and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of this Agreement, to exercise their reasonable best efforts to accomplish the foregoing terms and conditions of this Agreement, to secure final approval, and to defend the Final Judgment through any and all appeals. Class Counsel and Defendants' Counsel agree to cooperate with one another in seeking Preliminary Approval, and entry of the Final Judgment, and promptly to agree upon and execute all such other documentation as may be reasonably required to obtain final approval of the Agreement.

**11.2** The Parties intend this Settlement Agreement to be a final and complete resolution of all disputes between them with respect to the Released Claims by Plaintiffs, Settlement Class Members, and each or any of them, on the one hand, against the Released Parties, and each or any of the Released Parties, on the other hand. Accordingly, the Parties agree not to assert in any forum that the Actions were brought by Plaintiffs or defended by Defendants, or each or any of them, in bad faith or without a reasonable basis.

**11.3** Each signatory to this Agreement warrants (a) that he, she, or it has all requisite power and authority to execute, deliver and perform this Settlement Agreement and to consummate the transactions contemplated herein, (b) that the execution, delivery and performance of this Settlement Agreement and the consummation by it of the actions contemplated herein have been duly authorized by all necessary corporate action on the part of each signatory, and (c) that this Settlement Agreement has been duly and validly executed and delivered by each signatory and constitutes its legal, valid and binding obligation.

**11.4** The Parties have relied upon the advice and representation of counsel, selected by them, concerning the claims hereby released. The Parties have read and understand fully this Settlement Agreement and have been fully advised as to the legal effect hereof by counsel of their own selection and intend to be legally bound by the same.

**11.5** Whether or not the Effective Date occurs or the Settlement Agreement is terminated, neither this Agreement nor the settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the settlement:

(a) is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them, as an admission, concession, or evidence of the validity of any Released Claims, the truth of any fact alleged by the Plaintiffs, the deficiency of any defense that has been or could have been asserted in the Action, the violation of any law or statute, the reasonableness of the settlement amount or the Fee Award, or of any alleged wrongdoing, liability, negligence, or fault of the Released Parties, or any of them;

(b) is, may be deemed, or shall be used, offered or received against Defendants, or each or any of them, as an admission, concession, or evidence of any fault, misrepresentation or omission with respect to any statement or written document approved or made by the Released Parties, or any of them;

(c) is, may be deemed, or shall be used, offered or received against the Released Parties, or each or any of them, as an admission or concession with respect to any liability, negligence, fault or wrongdoing as against any Released Parties, in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. However, the settlement, this Agreement, and any acts performed and/or documents executed in furtherance of or pursuant to this Agreement and/or Settlement may be used in any proceedings as may be necessary to effectuate the provisions of this Agreement. Further, if this Settlement Agreement is approved by the Court, any Party or any of the Released Parties may file this Agreement and/or the Final Judgment in any action that may be brought against such Party or Parties in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim;

(d) is, may be deemed, or shall be construed against Plaintiffs, the Settlement Class, the Releasing Parties, or each or any of them, or against the Released Parties, or each or any of them, as an admission or concession that the consideration to be given hereunder represents an amount equal to, less than or greater than that amount that could have or would have been recovered after trial; and

(e) is, may be deemed, or shall be construed as or received in evidence as an admission or concession against Plaintiffs, the Settlement Class, the Releasing Parties, or each and any of them, or against the Released Parties, or each or any of them, that any of Plaintiffs' claims are with or without merit or that damages recoverable in the Actions would have exceeded or would have been less than any particular amount.

**11.6** The Parties acknowledge and agree that any Party may request that the Court appoint a Settlement Special Master. Each Party explicitly reserves the right to oppose any such request. Any fees earned or costs incurred by any such Settlement Special Master shall be paid exclusively from the Settlement Fund.

**11.7** The Parties acknowledge and agree that no opinion concerning the tax consequences of the proposed Settlement to Settlement Class Members is given or will be given by the Parties, nor are any representations or warranties in this regard made by virtue of this Settlement Agreement. Each Settlement Class Member's tax obligations, and the determination thereof, are the sole responsibility of the Settlement Class Member, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member.

**11.8** The headings used herein are used for the purpose of convenience only and are not meant to have legal effect.

**11.9** The waiver by one Party of any breach of this Settlement Agreement by any other Party shall not be deemed as a waiver of any other prior or subsequent breaches of this Settlement Agreement.

**11.10** All of the Exhibits to this Settlement Agreement are material and integral parts hereof and are fully incorporated herein by reference.

**11.11** This Settlement Agreement and its Exhibits set forth the entire agreement and understanding of the Parties with respect to the matters set forth herein, and supersede all prior negotiations, agreements, arrangements and undertakings with respect to the matters set forth herein. No representations, warranties or inducements have been made to any party concerning this Settlement Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents. This Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all Parties or their respective successors-in-interest.

**11.12** Except as otherwise provided herein, each Party shall bear its own attorneys' fees and costs incurred in any way related to the Action.

**11.13** Plaintiffs represent and warrant that they have not assigned any claim or right or interest relating to any of the Released Claims against the Released Parties to any other person or party and that they are fully entitled to release the same.

**11.14** Each person executing this Settlement Agreement, any of its Exhibits, or any related settlement documents on behalf of any Party hereto, hereby warrants and represents that such person has the full authority to do so and has the authority to take appropriate action required or permitted to be taken pursuant to the Settlement Agreement to effectuate its terms.

**11.15** This Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Signature by digital, facsimile, or in PDF format will constitute sufficient execution of this Settlement Agreement. A complete set of original executed counterparts shall be filed with the Court if the Court so requests.

**11.16** The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Settlement Agreement, and all Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the settlement embodied in this Settlement Agreement.

**11.17** This Settlement Agreement shall be governed by and construed in accordance with the laws of the State of Washington without reference to the conflicts of laws provisions thereof.

**11.18** This Settlement Agreement is deemed to have been prepared by counsel for all Parties, as a result of arm's-length negotiations among the Parties. Whereas all Parties have contributed substantially and materially to the preparation of this Settlement Agreement, it shall not be construed more strictly against one Party than another.

**11.19** Where this Settlement Agreement requires notice to the Parties, such notice shall be sent to the following counsel. For Plaintiffs: Todd Logan, Edelson PC, 123 Townsend Street, Suite 100, San Francisco, California 94107. For Defendants: Emily Henn, Covington & Burling LLP, 3000 El Camino Real, 5 Palo Alto Square, 10th Floor, Palo Alto, California 94306 and Mark Parris, 701 5th Avenue, Suite 5600, Seattle, Washington 98104.

**11.20** All time periods and dates described in this Agreement are subject to the Court's approval. These time periods and dates may be changed by the Court or by the Parties' written agreement without notice to the Settlement Class. The Parties reserve the right, subject to the Court's approval, to negotiate any reasonable extensions of time that might be necessary to carry out any provision of this Agreement.

**[SIGNATURES APPEAR ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed.

Date: 7/22/2020  
**Cheryl Kater**  
/s/ Cheryl Kater  
By: Cheryl Kater

Date: 7/22/2020  
**Suzie Kelly**  
/s/ Suzie Kelly  
By: Suzie Kelly

Date: 7/24/2020  
**Manasa Thimmegowda**  
/s/ Manasa Thimmegowda  
By: Manasa Thimmegowda

Date: 7/23/2020  
**Big Fish Games, Inc.**  
/s/ Trevor Croker  
By: Trevor Croker, Chief Executive Officer

Date: 7/22/2020  
**Aristocrat Technologies, Inc.**  
/s/ Hector Fernandez  
By: Hector Fernandez, President, Aristocrat Americas

Date: 7/22/2020  
**Churchill Downs Incorporated**  
/s/ William Carstanjen  
By: William Carstanjen, Chief Executive Officer

**Executed** in accordance with section 127 of the Corporations Act 2001 by **Aristocrat Leisure Limited**

Date: 7/23/2020  
/s/ Trevor Croker  
Trevor Croker, Director Signature

Date: 7/22/2020  
/s/ Richard Bell  
Richard Bell, Company Secretary Signature



## SUBSIDIARIES OF THE REGISTRANT

December 31, 2020

Subsidiary	State/Jurisdiction of Incorporation/Organization
Arlington OTB Corp.	Delaware
Arlington Park Racecourse, LLC	Illinois
BB Development, LLC d/b/a Oxford Casino	Maine
BetAmerica LLC	Delaware
BG Kentucky Management, LLC	Delaware
CDTC, LLC	Nevada
CEP IV Chicago Holdco LLC	Delaware
Calder Race Course, Inc., d/b/a Calder Casino and Race Course	Florida
Churchill Downs Interactive Canada Ltd.	British Columbia
Churchill Downs Interactive Gaming, LLC	Delaware
Churchill Downs Louisiana Horseracing Company, L.L.C. d/b/a Fair Grounds Race Course & Slots	Louisiana
Churchill Downs Louisiana Video Poker Company, L.L.C.	Louisiana
Churchill Downs Management Company, LLC	Kentucky
Churchill Downs Racetrack, LLC	Kentucky
Churchill Downs Technology Initiatives Company d/b/a TwinSpires.com	Delaware
Derby City Gaming, LLC	Kentucky
GBKY, LLC	Delaware
GBKY Management, LLC	Delaware
HCRH, LLC	Delaware
KYCR Holdings, LLC	Delaware
LLN PA, LLC d/b/a Lady Luck Casino Nemaquin	Pennsylvania
Magnolia Hill, LLC d/b/a Riverwalk Casino Hotel, LLC	Delaware
Miami Valley Gaming & Racing, LLC	Delaware
Midwest Gaming Holdings, LLC	Delaware
Midwest Gaming & Entertainment, LLC	Delaware
MVGR, LLC	Delaware
NKYRG, LLC	Delaware
Old Bay Gaming and Racing, LLC	Delaware
PID, LLC d/b/a Presque Isle Downs & Casino	Pennsylvania
Quad City Downs, Inc.	Iowa
SW Gaming, LLC d/b/a Harlow's Casino Resort & Spa	Mississippi
Tropical Park, LLC	Florida
Turfway Park, LLC	Delaware
United Tote Canada, Inc.	Ontario
United Tote Company	Montana
Video Services, L.L.C.	Louisiana
WKY Development, LLC	Delaware
Youbet.com, LLC	Delaware

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 (Nos. 333-210943, 333-197102, 333-182929, 333-182928, 333-144192, 333-144191, 333-144182, 333-135360, 333-127057, 333-116734, 333-116733, 333-106310, 333-100574, 333-43486, 333-41376, 333-62013, and 033-61111) of Churchill Downs Incorporated of our report dated February 24, 2021 relating to the financial statements and financial statement schedules and the effectiveness of internal control over financial reporting, which appears in this Form 10-K.

/s/ PricewaterhouseCoopers LLP

Louisville, Kentucky

February 24, 2021

## CERTIFICATION OF CHIEF EXECUTIVE OFFICER

I, William C. Carstanjen, certify that:

1. I have reviewed this Annual Report on Form 10-K of Churchill Downs Incorporated;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 24, 2021

/s/ William C. Carstanjen

William C. Carstanjen  
Chief Executive Officer  
(Principal Executive Officer)

## CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

I, Marcia A. Dall, certify that:

1. I have reviewed this Annual Report on Form 10-K of Churchill Downs Incorporated;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 24, 2021

/s/ Marcia A. Dall

---

Marcia A. Dall  
Executive Vice President and Chief Financial Officer  
(Principal Financial & Accounting Officer)

**Certification of Chief Executive Officer and Chief Financial Officer Pursuant to  
18 U.S.C. Section 1350,  
As Adopted Pursuant to  
Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Annual Report on Form 10-K of Churchill Downs Incorporated (the "Company") for the year ended December 31, 2020, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), William C. Carstanjen, as Chief Executive Officer (Principal Executive Officer) of the Company, and Marcia A. Dall, as Executive Vice President and Chief Financial Officer (Principal Financial & Accounting Officer) of the Company, each hereby certifies, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, to the best of his or her knowledge, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ William C. Carstanjen

---

William C. Carstanjen  
Chief Executive Officer  
(Principal Executive Officer)  
February 24, 2021

/s/ Marcia A. Dall

---

Marcia A. Dall  
Executive Vice President and Chief Financial Officer  
(Principal Financial & Accounting Officer)  
February 24, 2021

This certification is being furnished to the Securities and Exchange Commission as an exhibit to the Report and shall not be deemed filed by the Company for purposes of § 18 of the Securities Exchange Act of 1934, as amended.

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to Churchill Downs Incorporated and will be retained by Churchill Downs Incorporated and furnished to the Securities and Exchange Commission or its staff upon request.