

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

-----X  
:  
*In re* : Chapter 11  
:  
MAGNA ENTERTAINMENT CORP., : Case No. 09-10720 (MFW)  
*et al.*, :  
:  
Debtors. : Jointly Administered  
:  
Hearing Date: April 3, 2009 at 9:30 a.m.  
:  
Objection Deadline: March 27, 2009 at 4:00 p.m.  
-----X

**MOTION OF DEBTORS FOR AN ORDER, PURSUANT TO  
SECTIONS 105, 363 AND 365 OF THE BANKRUPTCY CODE AND  
BANKRUPTCY RULES 2002, 6004 AND 6006, (I)(A)  
SCHEDULING AN AUCTION AT WHICH THE DEBTORS  
WILL SOLICIT HIGHER AND BETTER OFFERS IN CONNECTION  
WITH THE SALE OF CERTAIN ASSETS, (B) APPROVING THE BIDDING  
PROCEDURES FOR SUCH ASSETS, (C) APPROVING  
THE FORM AND SCOPE OF NOTICE AND (D) GRANTING  
RELATED RELIEF; (II) APPROVING THE SALE OF THE ASSETS  
FREE AND CLEAR OF ALL LIENS, CLAIMS, AND ENCUMBRANCES;  
AND (III) GRANTING RELATED RELIEF AS REQUESTED HEREIN**

Magna Entertainment Corp. (“Magna Entertainment”) and its affiliated debtors, as debtors in possession (together, the “Debtors” and, collectively with Magna Entertainment’s non-debtor subsidiaries, “MEC”),<sup>1</sup> respectfully represent:

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: (i) Magna Entertainment Corp., 8374; (ii) The Santa Anita Companies, Inc., 6180; (iii) Los Angeles Turf Club, Incorporated, 6200; (iv) Pacific Racing Association, 5367; (v) MEC Land Holdings (California) Inc., 7410; (vi) Gulfstream Park Racing Association Inc., 6292; (vii) GPRA Thoroughbred Training Center, Inc., 2326; (viii) MEC Dixon, Inc., 7005; (ix) MEC Holdings (USA) Inc., 8494; (x) Sunshine Meadows Racing, Inc., 4288; (xi) Thistledown, Inc., 5742; (xii) MEC Maryland Investments, Inc., 4637; (xiii) 30000 Maryland Investments LLC, 1704; (xiv) Remington Park, Inc., 2024; (xv) GPRA Commercial Enterprises Inc., 6156; (xvi) Pimlico Racing Association, Inc., 4527; (xvii) The Maryland Jockey Club of Baltimore City, Inc., 3840; (xviii) Laurel Racing Association Limited Partnership, 0504; (xix) Laurel Racing Assoc., Inc., 0505; (xx) Prince George’s Racing, Inc., 6493; (xxi) Southern Maryland Racing, Inc., 9850; (xxii) Southern Maryland Agricultural Association, 9661; (xxiii) Maryland Jockey Club, Inc., 3124; and (xxiv) AmTote International, Inc., 1143.



## Preliminary Statement

1. Over the past ten years, the Debtors have accumulated or created assets or businesses that have propelled the Debtors' operations into the forefront of the racing and wagering industries. Such operations span the gamut – training to racing to on-track, simulcast and internet wagering to the televised production or airing of races from throughout the world. Additionally, the Debtors' assets include real estate holdings near or connected to racing operations, each designed to either enhance the racing experience and attract patrons to the Debtors' racing facilities or to otherwise generate value and revenues from premium-located holdings in Florida and California.

2. Notwithstanding such a position of prominence, the Debtors believe that it is in the best interests of the Debtors and their creditors that the Debtors undertake a marketing and sales process for the sale of substantially all of the Debtors' assets. Prepetition levels of indebtedness, the rights of secured parties and the results of operations dictate that such alternative be explored. Hopefully, such efforts shall generate significant offers that the Debtors, their creditors and the Court are able to endorse.

3. To provide the Debtors and their affiliates with an adequate runway to generate maximum value for their respective assets, the Debtors procured a \$62.5 million debtor in possession financing facility (the "DIP Facility") to fund their operations during the sales process. In conjunction therewith, and prior to the Petition Date, as defined below, certain of the Debtors and certain of their wholly-owned non-debtor subsidiaries and MI Developments Inc. ("MID"), entered into that certain Purchase Agreement, dated as of March 5, 2009 (the "MID Purchase Agreement"),

providing for the sale of, among other assets, Gulfstream Park, Golden Gate Fields, and Lone Star Park, through conveyance of the common stock of certain of Magna Entertainment's wholly-owned subsidiaries, as reorganized, and certain other interests of the Debtors and their non-debtor subsidiaries (collectively, the "MID Assets"), subject to the submission of higher or better offers. The hearing to consider the motion for an order approving, among other things, bidding procedures governing the sale of the MID Assets (the "MID Sale Motion"), is scheduled for April 3, 2009.

4. By this Motion, the Debtors seek to continue the sales process and establish bidding and sale procedures for substantially all of their remaining significant assets (collectively, the "Assets"), including:

- (a) Racetracks: Santa Anita Park, Pimlico Race Course, Laurel Park, Thistledown, Remington Park, Portland Meadows, and Magna Racino.
- (b) Joint Venture Interests: MEC's joint venture interests in The Shops at Santa Anita, TrackNet Media, and HRTV.
- (c) Other Property: The Ocala Property, the Dixon Property, Fex Straw Manufacturing and StreuFex, and the Bowie Training Center.

5. The Debtors believe that this is the most effective way to market both sets of assets and that it is necessary, and in the best interests of all stakeholders, to establish an orderly sales process for both sets of assets at this stage of the Debtors' chapter 11 cases. In doing so, the Debtors will have developed a global approach to these cases and fully vetted the current market value for the Assets and the MID Assets.<sup>2</sup>

---

<sup>2</sup> Consistent with the Debtors' perspective, Section 9.1 of the DIP Facility provides that, to avoid triggering an event of default, the Debtors will endeavor to obtain an order from the Court that approves bid procedures for the sale of substantially all of the Debtors' assets before the earlier to occur, three (3) weeks after the statutory committee of creditors is formed or April 3, 2009.

Otherwise, the Debtors and their parties in interest, and ultimately the Court, may be asked to make decisions prematurely or with incomplete or insufficient information.

6. Miller Buckfire & Co., LLC (“Miller Buckfire”), the Debtors’ financial advisor, is more than able to complete the task. Already, Miller Buckfire has contacted numerous parties to discuss the availability of the Assets and, for that matter, the MID Assets. The procedures outlined herein, developed by the Debtors and their professionals, are designed to generate interest and activity. More importantly, the procedures are intended and expected to elicit bids from qualified buyers within the prescribed timeframe – all of which would be extremely informative to the Debtors.

7. Simply stated, there is nothing lost in moving forward as outlined herein. The proposed procedures permit all parties to see what opportunities, if any, exist and whether they should be accepted. Accordingly, the Debtors submit that this Motion and the relief requested herein should be granted.

#### **Jurisdiction**

8. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

#### **Background**

9. On March 5, 2009 (the “Petition Date”), each of the Debtors commenced with this Court a voluntary case pursuant to chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Further, in accordance with an Order of this

Court, the Debtors' cases are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). No trustee, examiner, or statutory creditors' committee has been appointed in these chapter 11 cases.

A. MEC's Businesses

10. MEC is the leading owner and operator of horse racetracks in North America. It is also a leading supplier, via simulcasting, of live racing content to the inter-track, off-track betting and account-wagering markets. Magna Entertainment is the direct or indirect parent company of each of the other Debtors.

11. MEC operates or manages seven thoroughbred racetracks (Santa Anita Park, Gulfstream Park, Pimlico Race Course, Laurel Park, Golden Gate Fields, Thistledown, and Portland Meadows), one harness racetrack (The Meadows), and two racetracks which run both thoroughbred and quarter horse meets (Lone Star Park and Remington Park). MEC complements its live-racing operations with operations that offer simulcast wagering, casino gaming at certain of the racetracks, off-track betting facilities in certain states, and a national account-wagering business, XpressBet.

12. Under a series of March 2007 agreements, and as set forth in more detail below, MEC also owns a 50% interest in a joint venture called TrackNet Media Group, LLC ("TrackNet Media"). TrackNet Media distributes MEC's horse racing content through various media outlets to other racetracks, off-track betting facilities, casinos and advance-deposit wagering companies, and purchases horse racing content from third parties to be made available through various outlets. A separate joint venture called HorseRacing TV, or HRTV, provides horse racing programming to more than 16 million cable and satellite-TV subscribers.

13. As of February 4, 2009, MEC employed approximately 2,748 full-time employees and 2,145 part-time employees in North America, approximately 1,862 of whom were represented by unions. For the year ended December 31, 2008, MEC's unaudited consolidated financial statements showed revenues from continuing operations of approximately \$593 million, of which approximately \$413 million was attributable to pari-mutuel wagering. As of December 31, 2008, MEC's unaudited consolidated financial statements reflected assets totaling approximately \$1.054 billion and liabilities totaling approximately \$947.3 million.

B. Prepetition Asset Sales Program

14. On September 11, 2007, after a strategic review of assets and operations, Magna Entertainment's Board of Directors approved and adopted a plan (the "MEC Debt Elimination Plan") to restructure MEC's balance sheet by selling certain assets to pay down debt and by entering into strategic partnerships or joint ventures to allow MEC to substantially eliminate its debt by December 31, 2008. The MEC Debt Elimination Plan was MEC's initial attempt to generate proceeds from the sales of assets and contemplated the sale of certain of MEC's racetracks, as well as undeveloped land owned by MEC.

15. The MEC Debt Elimination Plan, however, proceeded more slowly than originally expected due to weakness in the real estate and credit markets, which negatively impacted Magna Entertainment's ability to sell the assets as originally planned. MEC was only able to generate approximately \$38 million in aggregate net proceeds from the sale of assets pursuant to the MEC Debt Elimination Plan.

16. Given approaching debt maturities and ongoing operational

funding requirements, on November 5, 2008, the Debtors announced the engagement of Miller Buckfire as their financial advisor and investment banker to, among other things, review and evaluate additional asset sales, and to assist in identifying, managing and executing their asset marketing and sales program and possible joint venture transactions.

17. On November 26, 2008, Magna Entertainment announced that it had entered into a transaction agreement (the “Transaction Agreement”) with MID and entities affiliated with Magna Entertainment’s Chairman and Chief Executive Officer, Frank Stronach, to implement a proposed reorganization of MID that included the spin-off of Magna Entertainment and its subsidiaries to MID’s existing shareholders and additional asset sales. The Transaction Agreement contemplated, among other things, a multi-step series of proposed transactions, including more asset sales, designed to recapitalize and reposition MEC to enable it to pursue its strategy of horse racing, gaming and entertainment on a standalone basis.

18. On February 18, 2009, after efforts to finance the transactions contemplated by the Transaction Agreement failed, the Transaction Agreement was terminated by MID. After MID terminated the Transaction Agreement, MEC realized that, without access to further extensions of impending debt maturities, and with a steadily declining liquidity position and no additional sources of liquidity, an out-of-court asset sales process and restructuring would not be feasible. The Debtors determined that the only method to protect the interests of all stakeholders and preserve the value of their assets, was to seek protection under the Bankruptcy Code.

19. To pursue an orderly in-court restructuring, however, the Debtors realized that they needed additional liquidity to fund their chapter 11 cases for a

reasonable period to generate a comprehensive marketing process, while fulfilling their operational obligations. Thus, prior to the Petition Date, the Debtors and Miller Buckfire surveyed various sources of postpetition debtor-in-possession financing, including financing from several third parties and MID Islandi sf. (“Islandi”), the Debtors’ largest prepetition secured lender. Ultimately, the Debtors determined, based on the current state of the credit markets, combined with Miller Buckfire’s discussions with other potential lending sources, that the financing provided under the DIP Facility was the only financing available.

20. The Debtors negotiated the terms of the DIP Facility with Islandi with a maturity date six (6) months from the Petition Date, a sufficient period of time to, in the opinion of Miller Buckfire, effectively market their assets. Simultaneously with the DIP Facility, the Debtors engaged in arms’-length negotiations with MID that culminated in the MID Purchase Agreement with MID as the “stalking horse.” The DIP Facility, and the provisions therein, are designed to assist and promote the sales process contemplated in the MID Sale Motion and herein. Accordingly, consistent with the Debtors’ commitment to conduct an expeditious, but comprehensive, marketing and sales process, the DIP Facility contains certain milestones, such as Court approval of bid procedures for the sale of substantially all of the Debtors’ assets by April 3, 2009, to advance the sale process. As noted above, the Debtors believe the timeframe established by the DIP Facility, as well as the Bidding Procedures (as defined herein), will allow the Debtors to generate the greatest value for the Assets.



## **I. The Assets**

21. The Assets include (a) Santa Anita Park, Pimlico Race Course, Laurel Park, Thistledown, Remington Park, Portland Meadows, and Magna Racino (collectively, the “Racetracks”), (b) MEC’s joint venture interests in The Shops at Santa Anita, TrackNet Media, and HRTV (the “Joint Venture Interests”), and (c) the Ocala Property, the Dixon Property, Fex Straw Manufacturing, and StreuFex (the “Other Assets”).

### **(a) The Racetracks:**

#### **(i) Santa Anita Park**

22. The Debtors own and operate Santa Anita Park, one of the racing industry’s jewels, located in Arcadia, California. Santa Anita Park is situated on approximately 305 acres of land approximately 14 miles northeast of Los Angeles, California, and is owned by The Santa Anita Companies, Inc. (“The Santa Anita Companies”). Los Angeles Turf Club Incorporated (California) (“L.A. Turf Club”), a wholly-owned subsidiary of The Santa Anita Companies, holds the racing license and operates the racetrack at Santa Anita Park.

23. Santa Anita Park hosts the Santa Anita Meet, which generally commences on December 26th and runs until the end of April each year and, during such meet, the Santa Anita Handicap, an American thoroughbred horse race, is held annually in early March, and the Santa Anita Derby, is held in early April. Santa Anita Park also was the site of the Breeders’ Cup World Thoroughbred Championships in 2003 and 2008, as it will be again in 2009. The average daily attendance at Santa Anita Park in 2008 was approximately 8,900 customers per live racing day, which represents one of the highest

average daily attendance figures for all North American racetracks. Santa Anita Park also operates an inter-track wagering facility, where customers can wager on races that are imported to Santa Anita Park from other racetracks, throughout the year.

24. In addition, the Debtors lease Santa Anita Park to The Oak Tree Racing Association, which is an unaffiliated not-for-profit California association that holds a license to host The Oak Tree Meet for five to six weeks each Fall. Pursuant to this lease, which terminates the later of November 30, 2016 or the close of the 2016 Oak Tree Meet, The Santa Anita Companies hosts and operates The Oak Tree Meet. In connection therewith, The Santa Anita Companies receives a percentage of the on-track handle wagered on races run during The Oak Tree Meet, and a percentage of The Oak Tree Racing Association net commissions from fees earned on racing content, exported from, or imported to, Santa Anita Park.

25. Santa Anita Park had one of the highest total handles of all North American racetracks in 2008, totaling approximately \$1.1 billion. This amount includes wagers made at: (i) Santa Anita Park on its races (including The Oak Tree Meet), (ii) other wagering venues and through various account wagering operations on Santa Anita Park's races (excluding wagers placed in Northern California and via account wagering systems licensed to operate in California), and (iii) Santa Anita Park on imported races through Santa Anita Park's inter-track facilities.

26. Santa Anita Park's facilities include a large art deco-style grandstand structure with seating for approximately 19,000 customers, as well as standing room for additional customers, a one-mile oval dirt track and a 7/8-mile turf course, stalls for approximately 2,000 horses, and parking facilities sufficient to

accommodate approximately 17,000 cars. During the summer of 2007, Santa Anita Park installed a synthetic track surface in response to a mandate from the California Horse Racing Board. Due to track drainage problems, however, Santa Anita lost eight (8) racing days in 2008. In response to these problems, in July 2008, Santa Anita commenced a complete overhaul of its main track, which included removal of the entire asphalt base, and reconstituting the track with a mixture of a synthetic material of binder and fiber to ensure that the surface drained properly.

27. Furthermore, in January 2004, the Debtors completed certain renovation and improvement projects that included the opening of Sirona's, a 25,000 square foot sports bar and restaurant located across from the walking ring. Sirona's operates year-round from an open-air terrace overlooking a seven acre garden paddock.

**(ii) Pimlico Race Course**

28. Pimlico Race Course is situated on approximately 116 acres of land in Baltimore, Maryland, approximately 30 miles from Laurel Park, and is owned by Pimlico Racing Association, Inc. ("Pimlico Racing"). The Preakness Stakes, the middle jewel of thoroughbred racing's Triple Crown, has run annually and without interruption at Pimlico Race Course on the third Saturday of each May since 1909. This year's race, on May 16, 2009, will mark the 134th anniversary of the classic horse racing event.

29. In 2008, Pimlico Race Course's season lasted approximately 31 racing days that fell between early April and mid-June. During this meet, Pimlico hosted 10 graded stakes races, including The Preakness Stakes. Average daily attendance in 2008 was approximately 2,800 customers per live racing day.

30. Pimlico Race Course's handle was approximately \$212.9 million in 2008, which includes wagers made at (i) Pimlico Race Course on its races, (ii) other wagering venues and through various account wagering operations on Pimlico Race Course's races, and (iii) Pimlico Race Course on imported races through Pimlico Race Course's inter-track facilities. Wagers on Pimlico Race Course's races totaled approximately \$135.9 million in 2008. Of this amount, approximately \$125 million in wagers were placed at other wagering venues to which its signal was exported via simulcast and through various account wagering operations.

31. Pimlico Race Course's facilities include a grandstand with seating for approximately 13,000 customers, a one-mile dirt track with 1 3/16-mile and 3/4-mile chutes, a 7/8-mile turf course, stalls for approximately 700 horses and parking facilities sufficient to accommodate approximately 3,500 cars. During The Preakness Stakes, temporary seating facilities and the use of Pimlico Race Course's infield enable Pimlico Race Course to attract over 100,000 patrons.

**(iii) Laurel Park**

32. Laurel Park is located on approximately 236 acres of land in Laurel, Maryland, between Washington, D.C. and Baltimore, and is owned by Laurel Racing Assoc. LP ("Laurel Racing"). Laurel Park's racing season in 2008 was 134 days, and complements Pimlico Race Course's racing season by holding race meets from January to April, in August, and from September to December. Average daily attendance at Laurel Park in 2008 was approximately 2,500 customers per live racing day.

33. Laurel Park's handle was approximately \$341.9 million in 2008, which includes wagers made at (i) Laurel Park on its races, (ii) at other wagering venues

on Laurel Park's races through various account wagering operations, and (iii) Laurel Park on imported races. Wagers on Laurel Park's races totaled approximately \$228 million in 2008. Of this amount, approximately \$212.4 million in wagers were placed at other wagering venues to which Laurel Park exported its signal via simulcast and through various account wagering operations.

34. Laurel Park's facilities include a grandstand with seating for approximately 5,200 customers, a 1 1/8-mile dirt track with a seven and one half-furlong chute which opened in January 2005, and a 7/8-mile turf course which opened in September 2005. Laurel Park has stalls for approximately 1,000 horses and parking facilities sufficient to accommodate approximately 8,000 cars.

**(iv) Thistledown**

35. Thistledown sits on approximately 128 acres in North Randall, Ohio, and is owned by Thistledown, Inc. Thistledown's racing season consists of approximately 121 racing days that fall between April and October. Thistledown hosts the Summit, Thistledown, Randall and Cranwood meets. Annually, Thistledown hosts the Ohio Derby, which is the premier graded stakes race in Ohio. Throughout the year, Thistledown operates as an inter-track wagering facility where customers can wager on races that are imported to Thistledown from other racetracks.

36. In 2008, Thistledown's handle was approximately \$150 million, which amount includes wagers made at (i) Thistledown on its races, (ii) other wagering venues and through various account wagering operations on Thistledown's races, and (iii) Thistledown on races imported through Thistledown's inter-track facilities. Wagers on Thistledown's races (including all venues at which wagers were placed) totaled

approximately \$82 million in 2008. Thistledown also exports its simulcast signal to as many as 700 off-track and inter-track wagering facilities in the United States.

37. Thistledown's facilities include a grandstand with seating for approximately 8,000 customers, a 600 seat tiered dining room, a 200 seat private party suite, a luxury suite for corporate and group events, a one-mile oval track, stalls for approximately 1,200 horses and parking for approximately 6,000 cars.

**(v) Remington Park**

38. Remington Park is situated on approximately 370 acres adjacent to Interstates 35 and 44 in Oklahoma City, Oklahoma, and is owned by Remington Park Inc. In 2008, Remington Park's racing schedule consisted of two meets totaling 117 days of live racing days, which included a 50 day quarter horse meet from mid-March through early June and a 67 day thoroughbred meet from mid-August through the mid-December 2008. The real property underlying Remington Park is leased from the Oklahoma Zoological Trust, pursuant to a lease which extends through 2013, with options to renew until 2063 in ten-year increments.

39. Remington Park's horseracing handle was approximately \$116 million in 2008, including wagers made at (i) Remington Park on its races, (ii) at other wagering venues and through various account wagering operations on Remington Park's races, and (iii) Remington Park on races imported to its inter-track and associated off-track betting facilities. Wagers on Remington Park's races (including all venues at which wagers were placed) totaled approximately \$61.1 million in 2008. Of this amount, approximately \$52.7 million in wagers were placed at other wagering venues which

Remington Park exported races via simulcast and through various account wagering operations.

40. In addition, Remington Park exports its simulcast signal to approximately 600 off-track and inter-track wagering facilities in the United States. Throughout the year, Remington Park operates as an inter-track wagering facility where customers can wager on races that are imported to Remington Park from other racetracks across the country.

41. Remington Park also offers 700 electronic gaming machines. During 2008, the machines generated an average daily net win per unit of \$267. Under the terms of Oklahoma state legislation, the distribution of revenues from the Remington Park's electronic gaming operations varies based on the annual gross revenues from gaming less all monetary payouts ("Adjusted Gross Revenues"). The legislation allocates between ten percent (10%) and thirty percent (30%) of the Adjusted Gross Revenues to the State, primarily for the funding of education, between twenty percent (20%) and thirty percent (30%) for the benefit of the horsemen, and the remaining fifty percent (50%) to sixty percent (60%) to Remington Park. Remington Park is eligible to introduce an additional 50 machines in January 2010. In addition, Remington Park is permitted to furnish 100% of its gaming floor with Class III gaming machines.

42. Remington Park's facilities include a grandstand with seating for approximately 20,000 customers, 21 suites for corporate and group events, a one-mile dirt track, a 7/8-mile turf course, stalls for approximately 1,400 horses, lighting to permit night racing and parking facilities sufficient to accommodate approximately 8,000 cars.

**(vi) Portland Meadows**

43. Portland Meadows is a thoroughbred racetrack located on approximately 110 acres in the Delta Park area of Portland, Oregon, and is operated by Magna Entertainment's wholly-owned non-debtor subsidiary, MEC Oregon Racing, Inc. ("MEC Oregon"), pursuant to a long-term operating lease with a consortium of individuals and entities. MEC Oregon owns an approximate twenty-two percent (22%) interest in the real property upon which the Portland Meadows facility is located and the remainder of the property is owned by third parties. Under the terms of the operating lease, MEC Oregon has the exclusive right to use and operate the racetrack for horse racing and special purposes, including the operation of a golf course. The operating lease does not have a termination date, however it may be terminated if MEC Oregon fails to maintain its racing license or comply with the terms of the operating lease.

44. Portland Meadows offers approximately 60 live racing days between October and April. Portland Meadows' facilities include a grandstand with seating for approximately 10,000 customers, a one-mile sand track, stalls for approximately 850 horses and parking facilities to accommodate approximately 2,500 cars.

**(vii) Magna Racino**

45. Magna Racino is situated on approximately 650 acres in Ebreichsdorf, just outside Vienna, Austria and is owned by Magna Entertainment's wholly owned non-debtor subsidiary, MEC Racing Holding GmbH. During 2008, over 16,000 guests visited Magna Racino on 14 race days between April and November.



46. Magna Racino features both thoroughbred and standardbred racing on three different tracks, a 5/8-mile sand track, a one-mile sand track and a one-mile turf course. Magna Racino's sportsbook facility, which allows patrons to place bets on sporting events, is operated by Admiral Sportwetten AG and entitles Magna Racino to a percentage of all the wagers placed with Admiral at Magna Racino. Magna Racino also has 150 video lottery terminals are operated by the Austrian Lottery, a division of Casinos Austria AG. Pursuant to that agreement, Magna Racino receives a percentage of the gross profit and recovers certain costs from the video lottery terminal operations. In 2008, Magna Racino received approximately € 922,000.00 from overall revenue, including rental and recovered costs, generated by the video lottery terminals.

47. Magna Racino's horseracing handle was approximately € 500,000.00 in 2008, which included wagers made at (i) Magna Racino on its races, (ii) other wagering venues and through account wagering operations on Magna Racino races, and (iii) wagers made at Magna Racino on imported races. Magna Racino exports its simulcast signal to various off-track and inter-track wagering facilities in Germany and Austria. Throughout the year, Magna Racino operates as an inter-track wagering facility on show days where customers can wager on races that are imported to Magna Racino from other racetracks around the world.

**(b) The Joint Venture Interests**

**(i) The Shops at Santa Anita**

48. In September 2006, Santa Anita Commercial Enterprise, Inc. ("SA Commercial"), a wholly owned non-debtor subsidiary of Magna Entertainment, entered into a Limited Liability Company Agreement with Santa Anita Commercial Holdings

Co., LLC, an affiliate of Caruso Affiliated, to develop approximately 51 acres of undeveloped land surrounding Santa Anita Park (the "The Shops at Santa Anita"). SA Commercial owns a fifty percent (50%) interest in The Shops at Santa Anita.

49. This project contemplates a mixed-use development with approximately 800,000 square feet of retail space, entertainment and restaurants as well as approximately 4,000 parking spaces. Construction at The Shops at Santa Anita has been delayed due to zoning related issues.

**(ii) HRTV**

50. In 2003, Magna Entertainment launched Horse Racing TV, a television network dedicated to horse racing. In 2007, MEC HRTV Holdco, LLC, a wholly owned non-debtor subsidiary of Magna Entertainment, entered into a joint venture agreement with a subsidiary of Churchill Downs, CD HRTV HC, and contributed Magna Entertainment's interests in Horse Racing TV to the joint venture, to form HRTV, LLC ("HRTV").

51. HRTV has a combined single signal from over 70 racetracks across the United States and the world, as well as commentary and related content. HRTV has a national distribution agreement with Dish Network (Echostar Communications Corp.), pursuant to which HRTV is made available in all 50 states. HRTV also has agreements with certain national and regional cable operators, pursuant to which the network is made available via cable distribution in 18 states. Currently, HRTV has over 16 million satellite and cable subscribers.

**(iii) TrackNet Media**

52. TrackNet Media LLC ("TrackNet Media") is a joint venture between MEC Content Holdco, LLC, a wholly-owned non-debtor subsidiary of Magna Entertainment, and a subsidiary of Churchill Downs, CDI ContentCo HC, LLC. As mentioned above, the Racetracks export their simulcast signal to certain off-track and inter-track wagering facilities. TrackNet Media transmits the horse racing content of the Racetracks, as well as MEC's other racetracks and racetracks of Churchill Downs, to third parties for wagering at other racetracks, off-track betting facilities, casinos, and advance deposit wagering companies. TrackNet Media also purchases racing content from third party racetracks for wagering purposes at MEC's racetracks, Churchill Downs, off-track betting facilities, and advance deposit wagering companies. At the time the TrackNet Media joint venture was formed, Magna Entertainment and Churchill Downs entered into a reciprocal content swap agreement under which these parties exchange horse racing content.

**(c) The Other Assets**

**(i) StreuFEX and FEX Straw**

53. In 2002, Magna Entertainment acquired FEX OKO Faserverarbeitungs-GMBH ("FEX OKO"), an Austrian company that manufactures and sells StreuFEX, an environment-friendly horse bedding product. FEX OKO is an indirect wholly owned non-debtor subsidiary of Magna Entertainment. FEX OKO has a StreuFEX manufacturing plant in Austria.

54. In 2003, Magna Entertainment built a StreuFEX manufacturing plant on approximately 80 acres of land in Lumberton, North Carolina. StreuFEX was

introduced to the North American market in 2004 and is currently used at Gulfstream Park and the Palm Meadows Training Center.

55. In 2007, FEX Straw Manufacturing Inc. (“FEX”), a wholly-owned non-debtor subsidiary of Magna Entertainment, entered into a license agreement with Premier Equine Products Pty Ltd. (“Premier Equine”) granting Premier Equine the exclusive license to manufacture and sell StreuFEX in Australia, New Zealand, Hong Kong, Macau, Japan, and Singapore for twenty years. FEX received a one-time up-front license fee and continues to receive royalty fees for the duration of the agreement based on the number of tons of StreuFEX manufactured by Premier Equine. If Premier Equine enters into a sublicense agreement, FEX is entitled to a sublicense fee as well as similar royalty fees. In 2008, revenues from the sale of StreuxFEX were \$1.2 million.

**(ii) Bowie Training Center**

56. The Bowie Training Center is located in Prince George’s County, Maryland on 162 acres situated approximately eight (8) miles from Laurel Park and thirty (30) miles from Pimlico Race Course. Originally opened in 1914 as a racetrack, the property has been used since 1985 as a year-round training center to support thoroughbred racing at Pimlico Race Course and Laurel Park. In 2008, the Bowie Training Center’s aggregate revenues were approximately \$2.126 million.

57. The facility includes approximately 1,000 stalls, a one-mile oval dirt main track, and a quarter mile dirt-covered track. In addition, the Bowie Training Center includes seventeen (17) barns and dormitories capable of accommodating up to 224 grooms.

**(iii) Ocala Property**

58. In 2002, MEC Holdings (USA) and Sunshine Meadows Racing, Inc. purchased certain real property located in Ocala, Florida (the “Ocala Property”). The Ocala Property consists of approximately 490 acres and is located in Marion County, Florida, one of the major thoroughbred centers of the world. MEC Holdings (USA) and Sunshine Meadows Racing, Inc. purchased the Ocala Property with the intent to develop the property into either a racetrack or a horse training facility. MEC Holdings (USA) and Sunshine Meadows Racing, Inc. did not, however, pursue the development of the Ocala Property. Currently, the Ocala Property consists of undeveloped land.

**(iv) Dixon Property**

59. Similarly, in 2001, MEC Dixon, Inc. (“MEC Dixon”) purchased certain property in Dixon, California (the “Dixon Property”). The Dixon Property consists of approximately 260 acres located in northern California and MEC Dixon purchased the Dixon Property with the intent to develop the property into a racetrack to be known as “Dixon Downs.” In November 2006, the City of Dixon granted entitlements for the development of Dixon Downs and, until April 2007, MEC Dixon was planning for such development of the Dixon Property. However, a voter referendum in April 2007 voted down the project and the municipality rescinded the entitlements. MEC Dixon did not pursue further development and currently the Dixon Property consists of undeveloped land that is being used for agricultural use.

**Relief Requested**

60. By this Motion, the Debtors seek entry of (a) an order (the “Bidding Procedures Order”), the form of which is annexed hereto as Exhibit “A,” (i)

approving the bidding procedures (as set forth in the Bidding Procedures Order, the “Bidding Procedures”) for the sale of the Assets (the “Sale”); (ii) approving the form of purchase agreement to be used in connection with the Sale, substantially in the form annexed hereto as Exhibit “B” (the “Form Agreement”), (iii) scheduling August 7, 2009 as the date and time for the hearing to approve the sale (the “Sale Hearing”) to the winning bidder, (iv) approving a process to pay cure obligations, if any, pursuant to section 365 of the Bankruptcy Code for those executory contracts and unexpired leases that the Debtors may seek to assume and assign pursuant to the Sale (the “Cure Procedures”), and (iv) approving the notice of the auction (the “Auction”) at which the Debtors will solicit competing bids for a sale of the Assets and the Sale Hearing (the “Sale Notice,” substantially in the form annexed hereto as Exhibit “C”), and (b) upon completion of the Auction, an order approving the Sale (the “Sale Order”), free and clear of all liens, claims, and encumbrances, pursuant to sections 105(a), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, and 6006 and Rule 6004-1 of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware (the “Local Rules”).

61. The Debtors reserve the right to adjourn the Auction or the Sale Hearing, or to withdraw one or more of the Assets, in their business judgment and sole and absolute discretion, from the Sale. Moreover, the Debtors reserve the right to modify the relief requested herein prior to or at the applicable hearings, including modifying the proposed Form Agreement and the Bidding Procedures.

## Bidding Procedures

62. As noted above, in order to maximize the value of the Assets, the Debtors seek to implement a comprehensive marketing and competitive bidding process, and the Sale pursuant to the Form Agreement, subject to higher or better offers. The proposed Bidding Procedures are as follows:

- (a) Expressions of Interest. Any party that wishes to make a preliminary bid for the Assets (an “Expression of Interest”), in whole or in part, and conduct due diligence with respect to the Assets, must:
1. Execute a confidentiality agreement, in form and substance satisfactory to the Debtors. Upon execution of the confidentiality agreement, any party that wishes to conduct due diligence with respect to the Assets may be granted access to all material information that has been or will be provided to other bidders.
  2. Provide the Debtors with sufficient information to demonstrate, to the sole and absolute satisfaction of the Debtors, that such bidder has the financial wherewithal and ability to consummate the transactions contemplated in the Form Agreement (attached to the Motion as Exhibit C) or, if the Expression of Interest pertains to less than all of the Assets, such transaction.
  3. Inform the Debtors for which of the Assets the party seeks to submit a bid and the range of value the party assigns to one or more of such Assets.

(b) Submission of Bids.

1. Bids. A party may submit a bid (“Bid”) for the Assets, in whole or in part.
2. Bid Deadline. Bids must be (1) in writing, (2) signed by an individual authorized to bind the bidder, and (3) received no later than **July 8, 2009 at 5:00 p.m. (prevailing Eastern Time) (the “Bid Deadline”)**, by (i) Miller Buckfire & Co., LLC, 153 East 53rd Street, New York, New York, 10022, Attention: Michael Wildish (Email: [michael.wildish@millerbuckfire.com](mailto:michael.wildish@millerbuckfire.com); and Facsimile: 212-895-1850), Financial Advisors for MEC; (ii) Magna Entertainment

Corp., 227 Magna Drive, Aurora, Ontario, Canada, Attention: Blake Tohana, (Email: [Blake.Tohana@magnaent.com](mailto:Blake.Tohana@magnaent.com); and Facsimile: 905-726-2585); and William Ford (Email: [Bill.Ford@magnaent.com](mailto:Bill.Ford@magnaent.com); and Facsimile: 905-726-2585); (iii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York, 10153, Attention: Brian S. Rosen, Esq. (Email: [brian.rosen@weil.com](mailto:brian.rosen@weil.com); and Facsimile: 212-310-8007); co-counsel for the Debtors; and (iv) Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 Attention: Mark D. Collins, Esq. (Email: [Collins@rlf.com](mailto:Collins@rlf.com); and Facsimile: 302-651-7701); co-counsel for the Debtors.

3. Form of Agreement. A Bid must (1) be presented under a signed, irrevocable and binding contract substantially the same as the Form Agreement, marked to show any modifications made, including the name of the bidder and other conforming changes that must be made to reflect the bidder and its Bid, (2) not be subject to obtaining financing, or future consent or approval, including, without limitation, consent of the bidder's board of directors (or similar governing body), regulatory approval out, due diligence, or the receipt of any consents, in each case, not otherwise required by the Form Agreement, (3) fully disclose the identity of each entity that will be bidding for one or more of the or otherwise participating in connection with such Bid, and the complete terms of any such participation, (4) state such bidder's offer is irrevocable and binding until the closing of the sale of the Assets (or any individual Asset) if such bidder is the prevailing purchaser or the Back-Up Bidder (as defined below), and (5) does not request any transaction or break-up fee, expense reimbursement, or similar type of payment.
4. Deposits. A Bid must be accompanied by a deposit of ten-percent (10%) of the purchase price of the Bid (the "Deposit"), which shall, prior to the Bid Deadline, be delivered with the Bid either by a certified or bank check or by wire transfer of immediately available funds as a minimum good faith deposit and shall be used to fund a portion of the purchase price in the event that the bidder is the Winning Bidder (as defined below).
5. Financial Information. A Bid must be accompanied by sufficient and adequate information to demonstrate, to the sole and absolute satisfaction of the Debtors, that such bidder has the financial wherewithal and ability to consummate the



transactions contemplated in the Form Agreement or, if a Bid is for less than all of the Assets, the sale transaction contemplated by the Bid in a timely manner, including evidence of adequate financing, a parent guaranty, or irrevocable letter of credit, if deemed appropriate, each in a form agreed upon by the Debtors. Such evidence shall include the most current audited and latest unaudited financial statements of the bidder or, if the bidder is an entity formed for the purpose of participating in the Auction, financials of the equity holder(s) of the bidder and the written commitment of the equity holder(s) of the bidder to be financially responsible for the bidder's obligations in connection with the sale. If the bidder is unable to provide such information, the Debtors may, in their sole and absolute discretion, (a) accept other information sufficient to demonstrate to that the bidder has the financial wherewithal to consummate the sale, or (b) waive this requirement in its entirety.

6. In the event that the Debtors, together with their financial and legal advisors, determine that a Bid satisfies each of the requirement components, such Bid shall be determined to be a "Qualified Bid."

(c) Determination of Qualified Bid Status. The Debtors will provide notice to all parties who submitted Bids whether or not their bids constitute "Qualified Bids" by July 20, 2009 at 1:00 p.m. (prevailing Eastern Time).

1. If one or more Qualified Bids to purchase the Assets, in whole or in part, are received, the Debtors will notify bidders who submitted Qualified Bids for the Asset(s) the manner in which the Auction will be conducted (the "Auction Rules") by July 20, 2009 at 1:00 p.m.
2. **If a Qualified Bid to purchase the Assets, in whole or in part, is received, the Debtors, in their business judgment and sole and absolute discretion, may determine whether such Qualified Bid justifies entering into a "stalking horse" agreement for a particular Asset, and pursue such sale either in connection with the Auction or pursuant to another sale process.**

(d) Auction.

1. Auction Date and Time. In the event that the Debtors receive one or more Qualified Bids, the Debtors will hold an Auction on July 30, 2009 commencing at 9:00 a.m. at the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, or at such other time, date and place as determined and announced by the Debtors, for consideration of the Qualified Bids, each as may be increased at such Auction.
2. Rejection of Bids. The Debtors, in their business judgment and sole and absolute discretion, may reject any Qualified Bid not in conformity with the requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Bidding Procedures Order or that is contrary to the best interests of the Debtors or the Debtors' estates or creditors; provided, however, that, notwithstanding anything to the contrary herein, the Debtors shall have the right to entertain non-conforming offers for the Assets, in whole or in part, in their business judgment and sole and absolute discretion.
3. Withdrawal of the Assets. The Debtors may, in their business judgment and sole and absolute discretion, withdraw the Assets, in whole or in part, from the Auction at any time, including, without limitation, if the Bids do not reach a threshold amount warranting continuation of the Auction with respect to a particular Asset.
4. Adjournment of Auction. The Auction may be adjourned as the Debtors deem appropriate. Reasonable notice of such adjournment and the time and place for the resumption of the Auction shall be given to all entities that submitted a Qualified Bid that has not been rejected by the Debtors.
5. Sale Order. The final sale or sales of the Assets, in whole or in part, in accordance with these procedures shall be subject to the Court's entry of the Sale Order.

6. Other Terms. The Auction Rules and the Bidding Procedures may be modified by the Debtors, in their sole discretion, as may be determined to be in the best interests of the Debtors' estates or creditors. Any such modification shall be announced prior to the start of the Auction. The Auction, the Bidding Procedures and all Bids are subject to such other terms and conditions as are announced by the Debtors during the course of the Auction.
- (e) The Winning Bidder. Immediately at the conclusion of the Auction, the Debtors shall determine which Qualified Bid constitutes the highest and best offer (the "Winning Bidder") and the Winning Bidder(s) shall execute and deliver to the Debtors (a) its modified Form Agreement (the "Winning Purchase Agreement") and (b) an additional deposit, as the case may be, such that the Winning Bidder's Deposit equals ten percent (10%) of the purchase price reflected in the Winning Purchase Agreement.
- (f) Irrevocability of Certain Bids. The Bid of the Winning Bidder shall remain open, irrevocable and binding. The bid of the next highest bidder (the "Back-Up Bidder") at the highest price bid by such bidder at the Auction, shall remain open and irrevocable until the earlier to occur of (i) the closing, or closings, as the case may be, of the sale, or sales, of all the Assets, (ii) ninety (90) days following the entry of the Sale Order, or (iii) the release of such Bid by the Debtors.
- (g) Failure to Close. In the event the Winning Bidder (as determined by the Debtors and approved by the Court) fails to consummate the proposed transaction by the closing date contemplated in the Winning Purchase Agreement, (i) such Winning Bidder shall be deemed to have forfeited its Deposit and the Debtors shall retain the Deposit and reserve the right to pursue all available remedies, whether legal or equitable, available to them, and (ii) shall be authorized to consummate the proposed transaction with the Back-Up Bidder.
- (h) Expenses. Subject to the terms of the Winning Purchase Agreement or any other executed agreement between and binding upon the Debtors, any bidders, presenting bid shall bear their own costs and expenses in connection with the sale, whether or not such sale is ultimately approved.

## The Sale Process

### A. The Bidding Procedures and the Auction

63. Pursuant to Bankruptcy Rule 6004(f)(1), sales of property outside the ordinary course of business may be undertaken by private sale or by public auction. The Debtors believe a sale of the Assets pursuant to a public auction governed by the proposed Bidding Procedures will maximize the sale proceeds received by the estate, which is the paramount goal in any proposed sale of property of the estate. *In re Dura Automotive Sys., Inc.*, Case No. 06-11202 (KJC), 2007 Bankr. LEXIS 2764, \*253 (Bankr. D. Del. Aug. 15, 2007) (“The paramount goal in any proposed sale of property of the estate is to maximize the proceeds received by the estate.”) (internal citations omitted).

64. The Bidding Procedures allow the Debtors to conduct the Auction in a controlled, fair, and open fashion that will encourage participation by financially capable bidders, thereby increasing the likelihood that the Debtors will receive the best possible consideration for the Assets. Bidding procedures should be approved when they provide a benefit to the estate by maximizing the value of the and enhance competitive bidding. *Id.* (citing *Calpine Corp. v. O’Brien Env’tl Energy, Inc.*, 181 F.3d 527, 535-37 (3d Cir. 1999)) (detailing situations where bidding incentives are appropriate in bankruptcy because they provide a benefit to the estate). The Debtors believe that the Bidding Procedures satisfy this standard and are consistent with other procedures previously approved in this district and by other bankruptcy courts.

65. The Debtors submit that the Bidding Procedures and the Auction will ensure that the Debtors’ estates receive the highest or best value available by allowing the market to test the consideration that should be received for the Assets. The

Bidding Procedures are structured so that potential purchasers may bid on the Assets in whole or in part, thus creating flexibility in the bidding process, as well as attracting the greatest number of competing bids. The Debtors hereby request the Court's approval of the process and procedures set forth in the Bidding Procedures for the submission and consideration of competing bids from other interested parties for the Assets.

B. The Sale Hearing

66. The Debtors request that the Court schedule a hearing on August 7, 2009, at 9:00 a.m. (prevailing Eastern Time), or as soon thereafter as counsel may be heard, to consider entry of the Sale Order authorizing the sale or sales of the Assets with the Winning Bidder(s) in accordance with the Bidding Procedures. This date is the same date upon which the Debtors will request a hearing to consider the sale of the MID Assets. In addition, because the sale of the MID Assets may require issuance of certain of the Debtors' common stock pursuant to a chapter 11 plan of reorganization, in the next few weeks, the Debtors will endeavor to pursue a chapter 11 plan process that would permit them to request that the Court hold a confirmation hearing on the same date.

67. The Debtors further request that any responses or objections to the relief to be considered at the Sale Hearing, including, but not limited to, the Debtors' request to approve the sale of the Assets, be (a) in writing, (b) comply with the Bankruptcy Rules and the Local Rules, and (c) be filed with the clerk of the Bankruptcy Court for the District of Delaware, Third Floor, 824 North Market Street, Wilmington Delaware 19801; and served upon (i) Magna Entertainment Corp., 337 Magna Drive, Aurora, Ontario L46 7K1 (Attn: William G. Ford, General Counsel); (ii) Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington,

Delaware 19801 (Attn: Mark D. Collins, Esq.), co-counsel for the Debtors; (iii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Brian S. Rosen, Esq.), co-counsel for the Debtors; (iv) the Office of the United States Trustee, 844 King Street, Room 2313, Wilmington, Delaware 19801 (Attn.: Mark Kenney, Esq.); (v) Sidley Austin LLP, 787 Seventh Avenue, New York, New York 10019 (Attn: Lee Attanasio, Esq.), counsel the Debtors' postpetition lenders, and (vi) attorneys for any statutory committee, if and when appointed, so as to be received no later than 4:00 p.m. (prevailing Eastern Time) on or before (5) days prior to the Sale Hearing (the "Objection Deadline").

C. The Sale Notice.

68. Bankruptcy Rule 6004 provides that notice of a proposed sale of property outside the ordinary course pursuant to section 363(b) of the Bankruptcy Code must satisfy the requirements of Bankruptcy Rule 2002. Pursuant to Bankruptcy Rule 2002, the Debtors are required to notify their creditors of the sale of the Assets, including a disclosure of the time and place of an auction, the terms and conditions of a sale, and the deadline for filing any objections. In accordance with such rules, the Debtors propose to serve copies of the Bidding Procedures Order and the Sale Notice no later than ten (10) days after entry of the Bidding Procedures Order, by first class mail, postage prepaid, or other method reasonably calculated to provide notice of the sale and the Auction, upon (i) United States Trustee, (ii) the attorneys for the Debtors' postpetition lenders, (iii) all entities known by the Debtors to have asserted any lien, claim, interest, or encumbrance in or on the Assets, (iv) the attorneys for any statutory committee(s), if and when appointed in these cases, (v) the attorneys for the Debtors' prepetition secured lenders,

(vi) all parties that have requested or that are required to receive special notice pursuant to Bankruptcy Rule 2002, and (vii) all persons who have expressed an interest in acquiring one or more of the Assets within the last six months. All parties identified by the Debtors as potential bidders will be contacted directly by the Debtors via telephone, facsimile, or courier.

69. The Sale Notice will include (i) the date, time and location of the Auction, (ii) the Bid Deadline, (iii) the date, time and location of the Sale Hearing and (iv) the Objection Deadline. Pursuant to Bankruptcy Rule 2002, the Debtors also seek authority to publish the Sale Notice in *The Wall Street Journal* (International Edition) on or about April 15, 2009.

70. The Debtors submit that such notice shall constitute good and sufficient notice of the Auction and the sale of the Assets, and that no other or further notice need be given. Accordingly, the Debtors request that the Court approve the form and manner of the Sale Notice.

**Proposed Procedures for Assumption,  
Assignment and Cure of Contracts and Leases**

71. The Debtors believe that in connection with the sale of the Assets, the Debtors will also assume and assign certain contracts and leases. Therefore, in connection with such assumption and assignment, it is necessary to establish (i) a process to pay cure obligations, if any, pursuant to section 365 of the Bankruptcy Code for those contracts and leases that the Debtors seek to assume and assign to the Winning Bidder(s), and (ii) a process for counterparties of such contracts and leases to object (the "Cure Procedures"). The Debtors propose the following Cure Procedures:

(a) Notice of Cure Procedures:

1. Following the Auction or the expiration of the Bid Deadline (if no Auction is held), but no later than August 3, 2009, the Debtors will file a schedule listing the cure amounts, if any, for each contract and lease they intend to assume and assign to the Winning Bidder (the "Cure Schedule") and will serve the Cure Schedule on the parties to those contracts and leases.

(b) Notice of Adequate Assurance Package:

1. The Debtors will request the Winning Bidder(s) to identify the contracts and leases to be assigned and submit to the Debtors evidence of their ability to provide adequate assurance of future performance on these contracts and leases (the "Adequate Assurance Package").
2. Upon written request to the Debtors' counsel by a party to a contract or lease proposed to be assigned to Winning Bidder(s), the Debtors will provide to such party any Adequate Assurance Package proposed by the Winning Bidder(s).

(c) Objections to Cure Amounts or Adequate Assurance:

1. Any objections to the assumption and assignment of any contract or lease identified on the Cure Schedule, including, without limitation, to the cure amount or the adequacy of the assurance of future performance set forth in the Adequate Assurance Package, must be in writing, filed with the Court and served on the Debtors no later than two (2) business dates after the Cure Schedule has been filed.

(d) Resolution of Objections:

1. The Debtors intend to cooperate with the counterparties to contracts and leases to attempt to reconcile any difference in a particular cure amount. If no objections are timely filed, then the cure amounts set forth in the Cure Schedule shall be binding upon the non-debtor party to the lease or contract for all purposes in this case and will constitute an assumed final determination of total cure amounts required to be paid by the Debtors in connection with the assumption of such contract or lease and assignment to the



Winning Bidder. In addition, each non-debtor party to a contract and lease on the Cure Schedule that fails to timely object to the proposed assumption and assignment of a contract or leases shall be forever barred from objecting to the assumption by the Debtor and assignment to the Winning Bidder of such contract or lease.

2. If a timely objection is filed and such objection cannot otherwise be resolved by the parties, the Court may schedule a hearing, and, if the Debtors and the Winning Bidder elect to close prior to such hearing, the cure amount as set forth on the Cure Schedule shall be deposited into escrow. If the Debtors and the Winning Bidders elect to close, the pendency of a dispute relating to cure amounts will not prevent or delay the closing on any sale of the , including the assumption and assignment of contracts and leases not subject to an objection.

#### **Sale Pursuant to Section 363(b) of the Bankruptcy Code**

72. Section 363(b)(1) of the Bankruptcy Code provides, in relevant part, that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Although section 363 of the Bankruptcy Code does not specify a standard for determining when it is appropriate for a court to authorize the use, sale or lease of property of the estate, bankruptcy courts routinely authorize sales of a debtor’s if such sale is based upon the sound business judgment of the debtor. *In re Dura Automotive*, 2007 Bankr. LEXIS 2764 at \* 258, (citing *Myers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996)); *Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983); *In re Abbotts Dairies of Penn., Inc.*, 788 F.2d 143 (3d Cir. 1986) (implicitly adopting the “sound business judgment” test of *Lionel Corp.* and requiring good faith); *In re Delaware and Hudson Ry. Co.*, 124 B.R. 169 (D. Del. 1991) (concluding that the Third Circuit adopted the “sound business judgment” test in the

*Abbotts Dairies* decision); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999) (same).

73. In the circumstances of valid business justifications, applicable principles of law attach to a debtor's decision a strong presumption "that in making a business decision[,] the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company." *Official Comm. of Sub. Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 656 (S.D.N.Y. 1990) (holding that the Delaware business judgment rule has "vitality by analogy" in chapter 11, especially where the debtor is a Delaware corporation) (quotations omitted). In this District, once a court is satisfied that there is a sound business justification for the proposed sale, the court must then determine whether (i) the debtor in possession has provided the interested parties with adequate and reasonable notice, (ii) the sale price is fair and reasonable, and (iii) the purchaser is proceeding in good faith. *In re Delaware and Hudson Ry. Co.*, 124 B.R. at 166; *accord. In re Decora Indus., Inc.*, Case No. 00-4459, 2002 WL 32332749, at \*3 (Bankr. D. Del. May 20, 2002).

74. The Debtors submit that the decision to sell the Assets in the manner set forth herein is based upon their sound business judgment and should be approved. Prior to the Petition Date and in connection with the Debtors' prepetition asset sales program, the Debtors worked diligently with their financial advisors to explore alternatives to a sale. However, saddled with over \$510 million in secured indebtedness, a history of recurring net losses, and a lack of liquidity, the Debtors determined that the

sale of the Assets was their only alternative. The Debtors believe that the sale of the Assets is in the best interests of their creditors and all parties in interest.

75. In addition, the Debtors believe their marketing efforts, arms'-length negotiations with potential purchasers, and the proposed Bidding Procedures will achieve the best results for their estates and maximize value for all constituents. The Debtors negotiated the maturity date of the DIP Agreement, and the size of the commitment available thereunder, to ensure that the sale of the Assets would be conducted in an orderly, organized and fair manner, with a sufficient amount of time to contact potential bidders and market the Assets. Furthermore, the Bidding Procedures contemplate an open auction process with minimum barriers to entry, and are designed to ensure that the ultimate purchase price of the Assets is fair and reasonable. Thus, the Debtors submit that the sale of the Assets is within their business judgment.

**Sale Free and Clear of Liens Pursuant  
to Section 363(f) of the Bankruptcy Code**

76. Pursuant to Section 363(f) of the Bankruptcy Code, a debtor may sell property free and clear of liens, claims and encumbrances if one of the following conditions is satisfied:

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f). Because section 363(f) of the Bankruptcy Code is written in the disjunctive, satisfaction of any one of its five requirements will suffice to permit the sale of the Assets “free and clear” of liens and interests.” *In re Dura Automotive*, 2007 Bankr. LEXIS 2764 at \* 264.

77. As set forth in detail in the Declaration of William G. Ford in Support of the Debtors’ Chapter 11 Petitions and First Day Relief, dated March 5, 2009, Islandi is a prepetition secured lender to the Debtors pursuant to that certain (a) Loan Agreement, dated July 22, 2005, between Remington Park, Inc., as borrower, and Islandi, as lender, (b) Third Amended and Restated Gulfstream Loan Agreement, dated December 22, 2006, between Gulfstream Park Racing Association, Inc., as borrower, and Islandi, as lender, (c) Bridge Loan Agreement, dated September 12, 2007, between Magna Entertainment, as borrower, and Islandi, as lender, and (d) 2008 Loan Agreement, dated December 1, 2008, between Magna Entertainment, as borrower, and Islandi, as lender (collectively, the “MID Indebtedness”). The MID Indebtedness is secured by first, second or third liens on substantially all of the Debtors’ assets, including certain of the Assets.

78. In addition, the Debtors are party to that certain (a) Amended and Restated Credit Agreement (the “BMO Agreement”), dated July 22, 2005, between Magna Entertainment, as borrower, Bank of Montreal, acting through its Chicago lending office, as lender, and BMO Nesbitt Burns, Inc., a division of Bank of Montreal, as agent, (b) Term Loan Credit Agreement by and between The Santa Anita Companies, Inc. and Wells Fargo Bank, N.A. (“Wells Fargo”), dated October 8, 2004 (the “Wells Fargo”).

Agreement”) and (c) three outstanding loan agreements (the “PNC Loan Agreements”)<sup>3</sup> with PNC Bank National Association (“PNC”). Pursuant to the BMO Agreement, the Wells Fargo Agreement, and the PNC Agreements, Bank of Montreal, Wells Fargo and PNC also have a security interests in certain of the Assets.

79. The Debtors believe that, at the Sale Hearing, they will be able to meet the requirements in section 363(f) of the Bankruptcy Code with respect to any liens, claims and encumbrances. Accordingly, a sale of the Assets free and clear of liens, claims, and encumbrances satisfies the statutory prerequisites of section 363(f) of the Bankruptcy Code.

**The Winning Bidder Should be Afforded All  
Protections Under Section 363(m) as a Good Faith Purchaser**

80. Section 363(m) of the Bankruptcy Code protects the sale of a debtor’s property to a good faith purchaser. Section 363(m) provides,

The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. § 363(m). Although the Bankruptcy Code does not define “good faith,” the Court of Appeals for the Third Circuit (the “Third Circuit”) has noted that the phrase

---

<sup>3</sup> The outstanding PNC Loan Agreements are: (i) a Second Amended and Restated Loan and Security Agreement (the “Pimlico Term Loan”), dated November 27, 2002, with Pimlico Racing Association, Inc. (“PRA”) and The Maryland Jockey Club of Baltimore City, Inc. (“MJC”) as debtors; (ii) a Revolving Credit Loan Agreement (the “Pimlico Converted Term Loan”), dated July 7, 1999, as amended and as converted to a term loan agreement under two subsequent confirmation agreements, with PRA; and (iii) a Second Amended and Restated Loan and Security Agreement (the “Laurel Term Loan”), dated November 27, 2002, with LRA and Laurel.

“encompasses one who purchases in ‘good faith’ and ‘for value.’” *In re Abbotts Dairies of Pa., Inc.*, 788 F.2d 143, 147 (3d Cir. 1986). In addition, section 363(m) “fosters the ‘policy of not only affording finality to the judgment of the bankruptcy court, but particularly to give finality to those orders and judgments upon which third parties rely.’” *Pitt. Food & Beverage, Inc. v. Ranallo*, 112 F.3d 645, 647-48 (3d Cir. 1997).

81. The selection of the Winning Bidder(s) will be the product of arms'-length good-faith negotiations that resulted from an open and comprehensive marketing and auction process. Accordingly, the Debtors intend to request at the Sale Hearing a finding that the Winning Bidder(s) is a good-faith purchaser entitled to the protections of section 363(m) of the Bankruptcy Code.

#### **Waiver of Bankruptcy Rule 6004(h)**

82. To successfully implement the foregoing, the Debtors seek a waiver of the ten-day stay under Bankruptcy Rule 6004(h).

#### **Notice**

83. No trustee, examiner or statutory creditors' committee has been appointed in these chapter 11 cases. Notice of this Motion has been provided to: (i) the United States Trustee for the District of Delaware; (ii) each of the Debtors' fifty (50) largest unsecured creditors; (iii) the SEC; (iv) the IRS; (v) The Bank of Montreal; (vi) MID Islandi SF.; (vii) MI Developments Inc.; (viii) PNC Bank, N.A.; (ix) SunTrust Bank; (x) Wells Fargo Bank, N.A.; (xi) The Bank of New York; (xii) the Oklahoma Horse Racing Commission; (xiii) the Florida Department of Business and Professional Regulation Division of Pari-Mutuel Wagering; (xiv) the Maryland Racing Commission; (xv) the California Horse Racing Board; (xvi) the Ohio State Racing Commission; (xvii)

the Maryland Slots Commission; (xviii) the Texas Racing Commission; (xix) the Virginia Racing Commission; (xx) the Pennsylvania State Harness Racing Commission; (xxi) the Pennsylvania Gaming Control Board; (xxii) the Nevada Gaming Commission; (xxiii) the New Jersey Casino Control Commission; (xxiv) the Oregon Racing Commission; and (xxv) any other party directly affected by this Motion. The Debtors submit that such notice is sufficient under the circumstances.

**No Previous Request**

84. No previous request for the relief sought herein has been made to this or any other Court.

WHEREFORE the Debtors respectfully request (i) entry of the proposed Bidding Procedures Order, (ii) entry of the Sale Order approving the sale of the Assets to the Winning Bidder(s), and (iii) such other and further relief as the Court may deem just and appropriate.

Dated: March 17, 2009  
Wilmington, Delaware



Mark D. Collins, Esq. (No. 2981)  
L. Katherine Good, Esq. (No. 5101)  
Maris J. Finnegan (*DE Admission Pending*)  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
920 North King Street  
Wilmington, DE 19801  
Telephone: (302) 651-7700  
Facsimile: (302) 651-7701

-and-

Marcia L. Goldstein, Esq.  
Brian S. Rosen, Esq.  
WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, NY 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007

*Proposed Attorneys for the Debtors and  
Debtors in Possession*



**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

**In re:** : **Chapter 11**  
: :  
**MAGNA ENTERTAINMENT** : **Case No. 09-10720 (MFW)**  
**CORP., et al.,<sup>1</sup>** : :  
: **Jointly Administered**  
**Debtors.** : **Bid Procedures Objection Deadline:**  
: **3/27/09 at 4:00 p.m.**  
: :  
: **Bid Procedures Hearing Date:**  
: **4/3/09 at 9:30 a.m.**  
: :  
: **Sale Objection Deadline:**  
: **TBD**  
: :  
: **Sale Hearing:**  
: **TBD**

**NOTICE OF MOTION AND HEARING**

PLEASE TAKE NOTICE that on March 17, 2009, the above-captioned debtors and debtors in possession (the “Debtors”) filed the **Motion of Debtors for an Order, Pursuant to Sections 105, 363 and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004 and 6006, (I)(A) Scheduling an Auction at Which the Debtors will Solicit Higher and Better Offers in Connection with the Sale of Certain Assets, (B) Approving the Bidding Procedures for Such Assets, (C) Approving the Form and Scope of Notice of the Bidding Procedures and Auction, and (D) Granting Related Relief; (II) Approving the Sale of the Assets Free and Clear of all Liens, Claims, and Encumbrances; and (III) Granting Related Relief as Requested Herein**

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, if applicable, are: (i) Magna Entertainment Corp., 8374; (ii) The Santa Anita Companies, Inc., 6180; (iii) Los Angeles Turf Club, Incorporated, 6200; (iv) Pacific Racing Association, 5367; (v) MEC Land Holdings (California) Inc., 7410; (vi) Gulfstream Park Racing Association Inc., 6292; (vii) GPRA Thoroughbred Training Center, Inc., 2326; (viii) MEC Dixon, Inc., 7005; (ix) MEC Holdings (USA) Inc., 8494; (x) Sunshine Meadows Racing, Inc., 4288; (xi) Thistledown, Inc., 5742; (xii) MEC Maryland Investments, Inc., 4637; (xiii) 30000 Maryland Investments LLC, 1704, (xiv) Remington Park, Inc., 2024; (xv) GPRA Commercial Enterprises Inc., 6156; (xvi) Pimlico Racing Association, Inc., 4527; (xvii) The Maryland Jockey Club of Baltimore City, Inc., 3840; (xviii) Laurel Racing Association Limited Partnership, 0504; (xix) Laurel Racing Assoc., Inc., 0505; (xx) Prince George’s Racing, Inc., 6493; (xxi) Southern Maryland Racing, Inc., 9850; (xxii) Southern Maryland Agricultural Association, 9661; (xxiii) Maryland Jockey Club, Inc., 3124; and (xxiv) AmTote International, Inc., 1143.

(the "Motion") with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801 (the "Bankruptcy Court").

PLEASE TAKE FURTHER NOTICE that any responses or objections to the relief requested in the Motion relating to the proposed Bidding Procedures Order (as defined in the Motion) must be in writing, filed with the Clerk of the Bankruptcy Court, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801, and served upon and received by the undersigned counsel on or before **4:00 p.m. on March 27, 2009**.

PLEASE TAKE FURTHER NOTICE that if any objections or responses are received a hearing with respect to the Motion relating to the relief included in the Bidding Procedures Order will be held on **April 3, 2009 at 9:30 a.m.** before the Honorable Mary F. Walrath, United States Bankruptcy Judge for the District of Delaware at the Bankruptcy Court, 824 Market Street, 5<sup>th</sup> Floor, Courtroom 4, Wilmington, Delaware 19801.

IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: March 17, 2009  
Wilmington, Delaware



---

Mark D. Collins, Esq. (No. 2981)  
L. Katherine Good, Esq. (No. 5101)  
Maris J. Finnegan (*DE Admission Pending*)  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
920 North King Street  
Wilmington, DE 19801  
Telephone: (302) 651-7700  
Facsimile: (302) 651-7701

-and-

Marcia L. Goldstein, Esq.  
Brian S. Rosen, Esq.  
WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, NY 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007

*Proposed Attorneys for the Debtors and  
Debtors in Possession*

**EXHIBIT A**

**BIDDING PROCEDURES ORDER**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

-----X  
*In re* : **Chapter 11**  
:   
MAGNA ENTERTAINMENT CORP., : **Case No. 09-10720 (MFW)**  
*et al.,* :   
: **Jointly Administered**  
Debtors. :   
:   
-----X

**ORDER (A) AUTHORIZING AND SCHEDULING AN AUCTION  
AT WHICH THE DEBTORS WILL SOLICIT HIGHER  
AND BETTER OFFERS IN CONNECTION WITH THE SALE OF  
CERTAIN ASSETS, (B) APPROVING THE BIDDING PROCEDURES FOR  
SUCH ASSETS, (C) APPROVING THE FORM AND SCOPE OF NOTICES OF  
THE BIDDING PROCEDURES AND (D) GRANTING OTHER RELATED RELIEF**

Upon the motion, dated March 17, 2009 (the “Motion”),<sup>1</sup> of Magna Entertainment Corp. (“Magna Entertainment”) and its affiliated debtors, as debtors in possession (collectively, “Debtors”),<sup>2</sup> for an order (a) authorizing and scheduling an auction at which the Debtors will solicit higher and better offers in connection with the

<sup>1</sup> All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

<sup>2</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, if applicable, are: (i) Magna Entertainment Corp., 8374; (ii) The Santa Anita Companies, Inc., 6180; (iii) Los Angeles Turf Club, Incorporated, 6200; (iv) Pacific Racing Association, 5367; (v) MEC Land Holdings (California) Inc., 7410; (vi) Gulfstream Park Racing Association Inc., 6292; (vii) GPRA Thoroughbred Training Center, Inc., 2326; (viii) MEC Dixon, Inc., 7005; (ix) MEC Holdings (USA) Inc., 8494; (x) Sunshine Meadows Racing, Inc., 4288; (xi) Thistledown, Inc., 5742; (xii) MEC Maryland Investments, Inc., 4637; (xiii) 30000 Maryland Investments LLC, 1704, (xiv) Remington Park, Inc., 2024; (xv) GPRA Commercial Enterprises Inc., 6156; (xvi) Pimlico Racing Association, Inc., 4527; (xvii) The Maryland Jockey Club of Baltimore City, Inc., 3840; (xviii) Laurel Racing Association Limited Partnership, 0504; (xix) Laurel Racing Assoc., Inc., 0505; (xx) Prince George’s Racing, Inc., 6493; (xxi) Southern Maryland Racing, Inc., 9850; (xxii) Southern Maryland Agricultural Association, 9661; (xxiii) Maryland Jockey Club, Inc., 3124; and (xxiv) AmTote International, Inc., 1143.

sale of the Assets, (b) approving the Bidding Procedures for such Assets, and (c) approving the form and scope of the Sale Notice; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the parties listed therein, and it appearing that no other or further notice need be provided; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates and creditors; the Debtors have determined that seeking approval of the sale of the Assets subject to the Bidding Procedures set forth herein, will produce the highest and best offer for the Assets, in whole or in part, and, accordingly, the Bidding Procedures, as set forth below, are reasonable and appropriate and the use of the Auction represents the best method for maximizing the return from the sale of the Assets; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED.
2. The form and scope of the Sale Notice is reasonable and appropriate.
3. All objections to the Motion or the relief requested therein with regard to the Bidding Procedures and the Sale Notice that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are overruled on the

merits. Pursuant to Bankruptcy Rule 6004(f)(1), the Debtors are authorized to conduct an Auction in respect of the Assets pursuant to the terms and conditions set forth herein.

4. The following Bidding Procedures are approved and shall apply with respect to the proposed sale of the Assets:

(a) Expressions of Interest. Any party that wishes to make a preliminary bid for the Assets (an "Expression of Interest"), in whole or in part, and conduct due diligence with respect to the Assets, must:

1. Execute a confidentiality agreement, in form and substance satisfactory to the Debtors. Upon execution of the confidentiality agreement, any party that wishes to conduct due diligence with respect to the Assets may be granted access to all material information that has been or will be provided to other bidders.
2. Provide the Debtors with sufficient information to demonstrate, to the sole and absolute satisfaction of the Debtors, that such bidder has the financial wherewithal and ability to consummate the transactions contemplated in the Form Agreement or, if the Expression of Interest pertains to less than all of the Assets, such transaction.
3. Inform the Debtors for which of the Assets the party seeks to submit a bid and the range of value the party assigns to one or more of such Assets.

(b) Submission of Bids.

1. Bids. A party may submit a bid ("Bid") for the Assets, in whole or in part.
2. Bid Deadline. Bids must be (1) in writing, (2) signed by an individual authorized to bind the bidder, and (3) received no later than **July 8, 2009 at 5:00 p.m. (prevailing Eastern Time) (the "Bid Deadline")**, by (i) Miller Buckfire & Co., LLC, 153 East 53rd Street, New York, New York, 10022, Attention: Michael Wildish (Email: [michael.wildish@millerbuckfire.com](mailto:michael.wildish@millerbuckfire.com); and Facsimile: 212-895-1850), Financial Advisors for MEC; (ii) Magna Entertainment Corp., 227 Magna Drive, Aurora, Ontario, Canada, Attention: Blake Tohana, (Email: [Blake.Tohana@magnaent.com](mailto:Blake.Tohana@magnaent.com); and

Facsimile: 905-726-2585); and William Ford (Email: [Bill.Ford@magnaent.com](mailto:Bill.Ford@magnaent.com)); and Facsimile: 905-726-2585); (iii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York, 10153, Attention: Brian S. Rosen, Esq. (Email: [brian.rosen@weil.com](mailto:brian.rosen@weil.com)); and Facsimile: 212-310-8007); co-counsel for the Debtors; and (iv) Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 Attention: Mark D. Collins, Esq. (Email: [Collins@rlf.com](mailto:Collins@rlf.com)); and Facsimile: 302-651-7701); co-counsel for the Debtors.

3. Form of Agreement. A Bid must (1) be presented under a signed, irrevocable and binding contract substantially the same as the Form Agreement, marked to show any modifications made, including the name of the bidder and other conforming changes that must be made to reflect the bidder and its Bid, (2) not be subject to obtaining financing, or future consent or approval, including, without limitation, consent of the bidder's board of directors (or similar governing body), regulatory approval out, due diligence, or the receipt of any consents, in each case, not otherwise required by the Form Agreement, (3) fully disclose the identity of each entity that will be bidding for one or more of the or otherwise participating in connection with such Bid, and the complete terms of any such participation, (4) state such bidder's offer is irrevocable and binding until the closing of the sale of the Assets (or any individual Asset) if such bidder is the prevailing purchaser or the Back-Up Bidder (as defined below), and (5) does not request any transaction or break-up fee, expense reimbursement, or similar type of payment.
4. Deposits. A Bid must be accompanied by a deposit of ten-percent (10%) of the purchase price of the Bid (the "Deposit"), which shall, prior to the Bid Deadline, be delivered with the Bid either by a certified or bank check or by wire transfer of immediately available funds as a minimum good faith deposit and shall be used to fund a portion of the purchase price in the event that the bidder is the Winning Bidder (as defined below).
5. Financial Information. A Bid must be accompanied by sufficient and adequate information to demonstrate, to the sole and absolute satisfaction of the Debtors, that such bidder has the financial wherewithal and ability to consummate the transactions contemplated in the Form Agreement or, if a Bid is for less than all of the Assets, the sale transaction



contemplated by the Bid in a timely manner, including evidence of adequate financing, a parent guaranty, or irrevocable letter of credit, if deemed appropriate, each in a form agreed upon by the Debtors. Such evidence shall include the most current audited and latest unaudited financial statements of the bidder or, if the bidder is an entity formed for the purpose of participating in the Auction, financials of the equity holder(s) of the bidder and the written commitment of the equity holder(s) of the bidder to be financially responsible for the bidder's obligations in connection with the sale. If the bidder is unable to provide such information, the Debtors may, in their sole and absolute discretion, (a) accept other information sufficient to demonstrate to that the bidder has the financial wherewithal to consummate the sale, or (b) waive this requirement in its entirety.

6. In the event that the Debtors, together with their financial and legal advisors, determine that a Bid satisfies each of the requirement components, such Bid shall be determined to be a "Qualified Bid."

(c) Determination of Qualified Bid Status. The Debtors will provide notice to all parties who submitted Bids whether or not their bids constitute "Qualified Bids" by July 20, 2009 at 1:00 p.m. (prevailing Eastern Time).

1. If one or more Qualified Bids to purchase the Assets, in whole or in part, are received, the Debtors will notify bidders who submitted Qualified Bids for the Asset(s) the manner in which the Auction will be conducted (the "Auction Rules") by July 20, 2009 at 1:00 p.m.
2. **If a Qualified Bid to purchase the Assets, in whole or in part, is received, the Debtors, in their business judgment and sole and absolute discretion, may determine whether such Qualified Bid justifies entering into a "stalking horse" agreement for a particular Asset, and pursue such sale either in connection with the Auction or pursuant to another sale process.**

(d) Auction.

1. Auction Date and Time. In the event that the Debtors receive one or more Qualified Bids, the Debtors will hold an Auction on July 30, 2009 commencing at 9:00 a.m. at the offices of

Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153, or at such other time, date and place as determined and announced by the Debtors, for consideration of the Qualified Bids, each as may be increased at such Auction.

2. Rejection of Bids. The Debtors, in their business judgment and sole and absolute discretion, may reject any Qualified Bid not in conformity with the requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Bidding Procedures Order or that is contrary to the best interests of the Debtors or the Debtors' estates or creditors; provided, however, that, notwithstanding anything to the contrary herein, the Debtors shall have the right to entertain non-conforming offers for the Assets, in whole or in part, in their business judgment and sole and absolute discretion.
  3. Withdrawal of the Assets. The Debtors may, in their business judgment and sole and absolute discretion, withdraw the Assets, in whole or in part, from the Auction at any time, including, without limitation, if the Bids do not reach a threshold amount warranting continuation of the Auction with respect to a particular Asset.
  4. Adjournment of Auction. The Auction may be adjourned as the Debtors deem appropriate. Reasonable notice of such adjournment and the time and place for the resumption of the Auction shall be given to all entities that submitted a Qualified Bid that has not been rejected by the Debtors.
  5. Sale Order. The final sale or sales of the Assets, in whole or in part, in accordance with these procedures shall be subject to the Court's entry of the Sale Order.
  6. Other Terms. The Auction Rules and the Bidding Procedures may be modified by the Debtors, in their sole discretion, as may be determined to be in the best interests of the Debtors' estates or creditors. Any such modification shall be announced prior to the start of the Auction. The Auction, the Bidding Procedures and all Bids are subject to such other terms and conditions as are announced by the Debtors during the course of the Auction.
- (e) The Winning Bidder. Immediately at the conclusion of the Auction, the Debtors shall determine which Qualified Bid constitutes the highest and best offer (the "Winning Bidder") and the Winning

Bidder(s) shall execute and deliver to the Debtors (a) its modified Form Agreement (the “Winning Purchase Agreement”) and (b) an additional deposit, as the case may be, such that the Winning Bidder’s Deposit equals ten percent (10%) of the purchase price reflected in the Winning Purchase Agreement.

- (f) Irrevocability of Certain Bids. The Bid of the Winning Bidder shall remain open, irrevocable and binding. The bid of the next highest bidder (the “Back-Up Bidder”) at the highest price bid by such bidder at the Auction, shall remain open and irrevocable until the earlier to occur of (i) the closing, or closings, as the case may be, of the sale, or sales, of all the Assets, (ii) ninety (90) days following the entry of the Sale Order, or (iii) the release of such Bid by the Debtors.
- (g) Failure to Close. In the event the Winning Bidder (as determined by the Debtors and approved by the Court) fails to consummate the proposed transaction by the closing date contemplated in the Winning Purchase Agreement, (i) such Winning Bidder shall be deemed to have forfeited its Deposit and the Debtors shall retain the Deposit and reserve the right to pursue all available remedies, whether legal or equitable, available to them, and (ii) shall be authorized to consummate the proposed transaction with the Back-Up Bidder.
- (a) Expenses. Subject to the terms of the Winning Purchase Agreement or any other executed agreement between and binding upon the Debtors, any bidders, presenting bid shall bear their own costs and expenses in connection with the sale, whether or not such sale is ultimately approved.

5. The following Cure Procedures are approved and shall apply with respect to any proposed assumption and assignment of executory contracts and/or unexpired leases:

- (e) Notice of Cure Procedures:
  - 1. Following the Auction or the expiration of the Bid Deadline (if no Auction is held), but no later than August 3, 2009, the Debtors will file a schedule listing the cure amounts, if any, for each contract and lease they intend to assume and assign to the Winning Bidder (the “Cure Schedule”) and will serve the Cure Schedule on the parties to those contracts and leases.

(f) Notice of Adequate Assurance Package:

1. The Debtors will request the Winning Bidder(s) to identify the contracts and leases to be assigned and submit to the Debtors evidence of their ability to provide adequate assurance of future performance on these contracts and leases (the "Adequate Assurance Package").
2. Upon written request to the Debtors' counsel by a party to a contract or lease proposed to be assigned to Winning Bidder(s), the Debtors will provide to such party any Adequate Assurance Package proposed by the Winning Bidder(s).

(g) Objections to Cure Amounts or Adequate Assurance:

1. Any objections to the assumption and assignment of any contract or lease identified on the Cure Schedule, including, without limitation, to the cure amount or the adequacy of the assurance of future performance set forth in the Adequate Assurance Package, must be in writing, filed with the Court and served on the Debtors no later than two (2) business dates after the Cure Schedule has been filed.

(h) Resolution of Objections:

1. The Debtors intend to cooperate with the counterparties to contracts and leases to attempt to reconcile any difference in a particular cure amount. If no objections are timely filed, then the cure amounts set forth in the Cure Schedule shall be binding upon the non-debtor party to the lease or contract for all purposes in this case and will constitute an assumed final determination of total cure amounts required to be paid by the Debtors in connection with the assumption of such contract or lease and assignment to the Winning Bidder. In addition, each non-debtor party to a contract and lease on the Cure Schedule that fails to timely object to the proposed assumption and assignment of a contract or leases shall be forever barred from objecting to the assumption by the Debtor and assignment to the Winning Bidder of such contract or lease.
2. If a timely objection is filed and such objection cannot

otherwise be resolved by the parties, the Court may schedule a hearing, and, if the Debtors and the Winning Bidder elect to close prior to such hearing, the cure amount as set forth on the Cure Schedule shall be deposited into escrow. If the Debtors and the Winning Bidders elect to close, the pendency of a dispute relating to cure amounts will not prevent or delay the closing on any sale of the , including the assumption and assignment of contracts and leases not subject to an objection.

6. The Form Agreement, annexed hereto as Exhibit "A," is hereby approved.

7. Any conflict between the terms and provisions of this Order and the Form Agreement, shall be resolved in favor of this Order.

8. The Debtors are hereby authorized and directed to serve this Order and the Sale Notice, in substantially the form attached hereto as Exhibit "B," upon, among other persons, (i) United States Trustee, (ii) the attorneys for the Debtors' postpetition lenders, (iii) all entities known by the Debtors to have asserted any lien, claim, interest, or encumbrance in or on the Assets , (iv) the attorneys for any statutory committee(s), if and when appointed in these cases, (v) the attorneys for the Debtors' prepetition secured lenders, (vi) all parties that have requested or that are required to receive special notice pursuant to Bankruptcy Rule 2002, and (vii) all persons who have expressed an interest in acquiring the Assets, in whole or in part, within the last six months within the last six months, no later than ten (10) days after entry of this Order, and all such service shall constitute good and sufficient notice of the sale of the Assets , this Order, the Auction, the Sale Hearing and all proceedings to be held thereon.

9. The Sale Hearing shall be held on August \_\_\_\_, 2009 at \_\_: \_\_ (prevailing Eastern Time) or as soon thereafter as counsel may be heard.

10. Responses or objections, if any, to the relief requested in the Motion with regard to the request for the sale of the Assets , must be (a) in writing, (b) comply with the Bankruptcy Rules and the Local Rule, and (c) be filed with the clerk of the Bankruptcy Court for the District of Delaware, Third Floor, 824 North Market Street, Wilmington Delaware 19801; and be served upon and served upon (i) Magna Entertainment Corp., 337 Magna Drive, Aurora, Ontario L46 7K1 (Attn: William G. Ford, General Counsel); (ii) Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq.), co-counsel for the Debtors; (iii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Brian S. Rosen, Esq.), co-counsel for the Debtors; (iv) the Office of the United States Trustee, 844 King Street, Room 2313, Wilmington, Delaware 19801 (Attn.: Mark Kenney, Esq.); (v) Sidley Austin LLP, 787 Seventh Avenue, New York, New York 10019 (Attn: Lee Attanasio, Esq.), counsel for the Debtors' postpetition lenders, and (vi) attorneys for any statutory committee, if and when appointed, so as to be received no later than five (5) days prior to the Sale Hearing (the "Objection Deadline").

11. Bankruptcy Rule 6004(h) is hereby waived and this Order shall be effective immediately upon its entry.

12. This Court shall retain jurisdiction over any matters related to or arising from the implementation of this Order.

Dated: April \_\_\_\_\_, 2009  
Wilmington, Delaware

---

UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT A**  
**PURCHASE AGREEMENT**

---

**PURCHASE AGREEMENT**

---

**BY AND AMONG**

**MAGNA ENTERTAINMENT CORP.<sup>1</sup>  
[MARYLAND RACING INC.<sup>2</sup>  
MEC CONTENT HOLDCO LLC<sup>3</sup>  
MEC DIXON, INC.<sup>4</sup>  
MEC HRTV HOLDCO LLC<sup>5</sup>  
MEC PROJEKTENTWICKLUNGS AG<sup>6</sup>  
MJC RACING (2007) LLC<sup>7</sup>  
SANTA ANITA COMMERCIAL ENTERPRISES, INC.<sup>8</sup>  
SUNSHINE MEADOWS RACING, INC.<sup>9</sup> ]  
AS SELLERS<sup>10</sup>**

**- and -**

**[PURCHASER]**

**Dated as of [            ], 2009**

---

<sup>1</sup> Owner of stock of MEC Oregon Racing, Inc. which owns Portland Meadows; MEC Racing Holding GmbH, which owns Magna Racino; Remington Park, Inc. which owns Remington Park; The Santa Anita Companies, Inc. which owns Santa Anita Park; Thistledown, Inc. which owns Thistledown; and Fex Straw Manufacturing Inc.

<sup>2</sup> Owner of Pimlico Racing Association, Inc. which owns Pimlico; and Laurel Racing Assoc. Inc. which indirectly owns Laurel Park.

<sup>3</sup> Owner of TrackNet Media Interest.

<sup>4</sup> Owner of Dixon Property.

<sup>5</sup> Owner of HRTV Interest.

<sup>6</sup> Owner of capital stock of FEX OKO-Faserverarbeitungs GmbH (StreuFex).

<sup>7</sup> See note 2.

<sup>8</sup> Owner of Caruso JV Interest.

<sup>9</sup> Owner of Ocala Property.

<sup>10</sup> Appropriate references to be included or deleted in individual bid.



**TABLE OF CONTENTS**

ARTICLE I      DEFINITIONS .....1

    Section 1.1.      Recitals .....1

    Section 1.2.      Definitions .....2

    Section 1.3.      Other Terms .....10

    Section 1.4.      Headings .....10

    Section 1.5.      Interpretation .....10

    Section 1.6.      Time .....11

    Section 1.7.      Joint Ventures .....11

ARTICLE II      AGREEMENT OF PURCHASE AND SALE .....11

    Section 2.1.      Purchase and Sale .....11

    Section 2.2.      Condition of Conveyance .....12

    Section 2.3.      Payment of Purchase Price .....12

    Section 2.4.      Purchase Price Adjustment .....12

    Section 2.5.      Assumption of Liabilities .....13

ARTICLE III      COURT APPROVAL .....13

    Section 3.1.      Condition Precedent .....13

ARTICLE IV      REPRESENTATIONS AND WARRANTIES .....14

    Section 4.1.      Representations and Warranties of the Sellers .....14

    Section 4.2.      Representations and Warranties of the Purchaser .....21

    Section 4.3.      Survival .....21

    Section 4.4.      Non-Waiver .....21

ARTICLE V      COVENANTS .....22

    Section 5.1.      Covenants of the Sellers .....22

    Section 5.2.      Covenants of the Purchaser .....24

    Section 5.3.      Joint Obligations .....24

    Section 5.4.      Approvals of the Purchaser .....24

    Section 5.5.      Notice of Default .....25

    Section 5.6.      Approvals .....25

    Section 5.7.      Risk of Condemnation and Eminent Domain .....25

    Section 5.8.      Damage Before Closing .....25

ARTICLE VI      TITLE .....26

Section 6.1.	Search of Title .....	26
ARTICLE VII	CONDITIONS TO CLOSING .....	26
Section 7.1.	Conditions for the Purchaser .....	26
Section 7.2.	Conditions for the Sellers .....	27
ARTICLE VIII	CLOSING.....	28
Section 8.1.	Closing Arrangements .....	28
Section 8.2.	Sellers' Deliveries .....	30
Section 8.3.	Purchaser's Deliveries .....	30
Section 8.4.	Separate Tax Parcel .....	30
Section 8.5.	Tax Matters.....	32
ARTICLE IX	TERMINATION OF AGREEMENT.....	32
Section 9.1.	Termination of Agreement By Either Party .....	32
Section 9.2.	Effect of Termination .....	32
ARTICLE X	MISCELLANEOUS.....	32
Section 10.1.	As-Is/Where-Is Transaction.....	32
Section 10.2.	No Recording.....	33
Section 10.3.	Obligations as Covenants .....	33
Section 10.4.	Tender.....	33
Section 10.5.	Relationship of the Parties.....	33
Section 10.6.	Amendment of Agreement .....	33
Section 10.7.	Notices.....	33
Section 10.8.	Specific Performance.....	34
Section 10.9.	Fees and Expenses .....	34
Section 10.10.	Governing Law; Jurisdiction; Service of Process .....	34
Section 10.11.	Further Assurances .....	35
Section 10.12.	Entire Agreement.....	35
Section 10.13.	Waiver .....	35
Section 10.14.	Survival.....	35
Section 10.15.	Assignment.....	35
Section 10.16.	Successors and Assigns .....	35
Section 10.17.	Counterparts .....	35

## PURCHASE AGREEMENT

**PURCHASE AGREEMENT** (the “**Agreement**”), dated as of [        ], 2009, by and among MAGNA ENTERTAINMENT CORP. (“**MEC**”), a Delaware corporation, [MJC RACING (2007) LLC, a Delaware limited liability company], [MARYLAND RACING, INC., a Delaware corporation], [MEC CONTENT HOLDCO LLC, a Delaware limited liability company (“**MEC Content**”)], [MEC DIXON INC., a Delaware corporation], [MEC HRTV HOLDCO LLC, a Delaware corporation], [MEC PROJEKTENTWICKLUNGS AG, an Austrian corporation], [SANTA ANITA COMMERCIAL ENTERPRISES, INC., a Delaware corporation], [and] [SUNSHINE MEADOWS RACING, INC., a Delaware corporation],<sup>11</sup>, as Sellers (collectively, the “**Sellers**”), and [PURCHASER], a [        ] corporation (“**Purchaser**”).

### RECITALS:

A. The Sellers currently, among other things, (1) conduct thoroughbred racing and *pari mutuel* and simulcast wagering at, among other facilities, [[Santa Anita Park (“**Santa Anita**”)], [Pimlico Race Course (“**Pimlico**”)], [Laurel Park (“**Laurel Park**”)], [Thistledown (“**Thistledown**”)], [Remington Park (“**Remington Park**”)], [Portland Meadows (“**Portland Meadows**”)]] [and] [Magna Racino (“**Magna Racino**”), and collectively with [Santa Anita], [Pimlico], [Laurel Park], [Thistledown], [Remington Park] and [Portland Meadows], the “**Racetracks**”) <sup>12</sup>, (2) own undeveloped real property, (3) own interests in the [Caruso JV], [TrackNet Media] [and] [HRTV ] (collectively, the “**Joint Ventures**”) <sup>13</sup>, and (4) own and operate certain facilities, including the Bowie Training Center, media and technology assets relating to the thoroughbred racing and gaming industry at the Racetracks and elsewhere.

B. MEC, the direct or indirect parent of each of the other Sellers, and certain of MEC’s subsidiaries and affiliates, on March 5, 2009 commenced cases (the “**Chapter 11 Cases**”) under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) by filing voluntary petitions for relief with the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”).

C. Sellers desire to sell assets and equity interests on the terms and conditions contained in this Agreement, including obtaining confirmation of a chapter 11 plan and an order of the Bankruptcy Court pursuant to section 363 of the Bankruptcy Code authorizing the Transaction.

D. NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the parties hereto covenant and agree as follows:

---

<sup>11</sup> Appropriate references to be included or deleted in individual bid.

<sup>12</sup> Appropriate references to Racetracks to be included or deleted in individual bid.

<sup>13</sup> Appropriate references to Joint Ventures to be included or deleted in individual bid.

**ARTICLE I**  
**DEFINITIONS**

**Section 1.1. Recitals.** The recitals set forth above are incorporated by reference and are expressly made part of this Agreement.

**Section 1.2. Definitions.** The following definitions shall apply to and constitute part of this Agreement and all Exhibits and Schedules attached hereto:

**“Adjustment”** shall mean the Purchase Price adjustment required pursuant to Section 2.4.

**“Affiliate”** shall mean a person or entity that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the person or entity specified. For purposes of this definition, “control” shall mean (a) a fifty percent (50%) or more common equity ownership or (b) the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

**“Applicable Laws”** shall mean all domestic or foreign statutes, laws, by-laws, regulations, rules, ordinances and orders of governmental or other public authorities having jurisdiction.

**“Assignment and Assumption of Contracts”** shall mean an assignment by each Seller and assumption by the Purchaser of such Seller’s right, title and interest in and to the Existing Contracts, such agreement substantially in the form attached hereto as Exhibit A.

[**“Assignment and Assumption of Leases”** shall mean an assignment by each Seller and assumption by the Purchaser of such Seller’s right, title and interest in and to the Existing Leases, such agreement substantially in the form attached hereto as Exhibit B.]<sup>14</sup>

**“Assumed Liabilities”** shall mean those liabilities of the Sellers as set forth on Exhibit C.

**“Bill of Sale”** shall mean a bill of sale for the Chattels.

**“Business Day”** shall mean any day other than a Saturday, Sunday or other day on which commercial banks in New York City, New York, or Toronto, Ontario are authorized or obligated to close under Applicable Laws.

[**“Caruso JV”** shall mean the joint venture formed by SAC and Santa Anita Commercial Holdings Co., LLC to develop approximately fifty-one (51) acres of land surrounding Santa Anita Park.]<sup>15</sup>

---

<sup>14</sup> Include if purchasing one or more Lands.

<sup>15</sup> Include if purchasing Caruso JV Interest.

["**Caruso JV Interest**" shall mean the fifty percent (50%) interest in the Caruso JV owned by SAC.]<sup>16</sup>

[ "**Chattels**" means the equipment, inventory, supplies and other chattels, in each case, if any, located on or about the Lands, which are owned by the Sellers and used exclusively in the maintenance, repair and operation of the Lands.]<sup>14</sup>

"**Claims**" shall mean claims, suits, proceedings, liabilities, obligations, losses, damages, penalties, judgments, costs, expenses, fines, disbursements, reasonable legal fees and disbursements, including in respect of investigation, interest, demands and actions of any nature or any kind whatsoever.

"**Closing**" shall mean the consummation of the Transaction in accordance with the terms set forth in Article VIII.

"**Closing Date**" shall mean the first (1st) Business Day following satisfaction or waiver of all the conditions set forth in Article VII, or such other date as the Sellers and the Purchaser shall mutually agree upon in writing.

"**Closing Documents**" shall mean any agreements, instruments and other deliveries to be delivered at the Closing pursuant to Sections 8.2 and 8.3.

"**Confirmation Order**" shall mean the order of the Bankruptcy Court confirming the Plan in accordance with section 1129 of the Bankruptcy Code.

"**Contracts**" shall mean any contracts and agreements entered into by any Seller[, Purchased Company or Joint Venture]<sup>17</sup>, [or by which any of them is bound with respect to the Lands, including all contracts and agreements in respect of the severance, development, construction, management, leasing, maintenance or operation of the Lands.]<sup>14</sup>

"**Control**" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and "**Controlling**" and "**Controlled**" shall have meanings correlative thereto.

["**Deed**" shall mean a deed in customary form for conveying title to real property in the respective jurisdictions in which the Lands being acquired directly are located.]<sup>14</sup>

["**Dixon Property**" shall mean certain real property located in Dixon, California, consisting of approximately two hundred sixty (260) acres, and more specifically described on Exhibit F-1 hereto.]<sup>18</sup>

---

<sup>16</sup> Include if purchasing Caruso JV Interest.

<sup>17</sup> Bracketed language only applicable if purchasing a Purchased Company or Joint Venture, as the case may be.

<sup>18</sup> Include if purchasing Dixon Property.

“**Due Diligence**” shall mean such investigations, inspections, reviews, tests and audits relating to the Purchased Assets (including title to the Purchased Assets and compliance with Applicable Laws) as the Purchaser deems reasonably necessary or desirable in its sole and absolute discretion.

[“**Employee Plan**” shall mean each Benefit Plan other than a Multiemployer Plan, a Multi-Employer Health Plan or a Governmental Plan.]<sup>17</sup>

“**Encumbrances**” shall mean all mortgages, pledges, charges, liens, debentures, trust deeds, claims, assignments by way of security or otherwise, security interests, conditional sales contracts or other title retention agreements or similar interests or instruments charging, or creating a security interest in the Purchased Assets or any part thereof or interest therein, and any agreements, leases, licenses, occupancy agreements, options, easements, rights of way, restrictions, executions or other encumbrances (including notices or other registrations in respect of any of the foregoing) affecting title to the Purchased Assets or any part thereof or interest therein.

“**Environmental Laws**” shall mean all applicable federal, state, municipal and local laws, statutes, regulations and other legal requirements relating to the protection of the environment or natural resources.

[“**Environmental Permits**” shall mean all material licenses, permits, approvals, consents, certificates, registrations and other authorizations issued pursuant to Environmental Laws in respect of the Lands.]<sup>14</sup>

[“**Environmental Reports**” shall mean accurate and complete copies of any material reports, studies, analyses, evaluations, assessments or monitoring data that have been performed with regard to the Lands and which are in the possession or control of the Sellers.]<sup>14</sup>

[“**ERISA**” shall mean the Employee Retirement Income Security Act of 1974, as amended.]<sup>17</sup>

“**Existing Contracts**” shall mean all Contracts, as amended, renewed or otherwise varied to the date of this Agreement, all of which are listed on Exhibit D.

[“**Existing Leases**” shall mean all Leases, as amended, renewed or otherwise varied to the date of this Agreement, all of which are listed on Exhibit E.]<sup>14</sup>

[“**Fex Straw Stock**” shall mean the common stock of Fex Straw Manufacturing, Inc., a Delaware corporation, issued and outstanding as of the date hereof.]<sup>19</sup>

[“**Fex Straw Austria Stock**” shall mean the outstanding capital stock of FEX OKO-Faserverarbeitungs GmbH, an Austrian company, issued and outstanding as of the date hereof.]<sup>20</sup>

---

<sup>19</sup> Include if purchasing Fex Straw.

<sup>20</sup> Include if purchasing Fex Straw.

“**GAAP**” shall mean United States generally accepted accounting principles in effect from time to time.

“**Governmental Authority**” shall mean any domestic, foreign or local government, quasi-governmental authority, regulatory authority, government department, agency, commission, board, arbitral or other tribunal or court having jurisdiction or power of any nature over the Purchased Assets.

[“**Governmental Plan**” shall mean a “governmental plan” as defined in Section 3(32) of ERISA.]<sup>17</sup>

“**Hazardous Substances**” shall mean any material, substance or waste defined or characterized as hazardous, toxic, a pollutant or a contaminant under Environmental Laws.

“**Hearing**” shall mean the hearing to be held by the Bankruptcy Court to consider the Sale Motion and the approval of the Transaction.

[“**HRTV**” shall mean HRTV, LLC, a Delaware limited liability company, an operator of a television network dedicated to providing programming and content relating to horse racing and the horse racing industry.]<sup>21</sup>

[“**HRTV Interest**” shall mean the fifty percent (50%) interest in HRTV owned by MEC HRTV.]<sup>22</sup>

“**HSR**” shall mean the Hart-Scott Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

“**Intellectual Property Rights**” means all trade or brand names, business names, trade-marks (including logos), trade-mark registrations and applications, service marks, service mark registrations and applications, copyrights, copyright registrations and applications, issued patents and pending applications and other patent rights, industrial design registrations, pending applications and other industrial design rights, trade secrets, proprietary information and know-how, equipment and parts lists and descriptions, instruction manuals, inventions, inventors’ notes, research data, blue prints, drawings and designs, formulae, processes, technology and other intellectual property, together with all rights under licenses, registered user agreements, technology transfer agreements and other agreements or instruments relating to any of the foregoing.

“**IRC**” shall mean the Internal Revenue Code of 1986, as amended.

“**IRS**” shall mean the Internal Revenue Service of the United States.

[“**Land Development Code**” means any law, enactment, statute, code, ordinance, rule, regulation, judgment, decree, writ, injunction, franchise, permit, certificate, license,

---

<sup>21</sup> Include if purchasing HRTV Interest.

<sup>22</sup> See previous footnote.

authorization, agreement, or other direction or requirement of any Governmental Authority now existing or hereafter enacted, adopted, promulgated, entered, or issued affecting the Lands.]<sup>14</sup>

["**Lands**" shall mean the fee simple interest in [the Ocala Property] [and] [the Dixon Property], together with any and all improvements located on or in the Lands and any and all easements, tenements, rights-of-way and other rights and interests appurtenant thereto and any and all improvements located therein.]<sup>14</sup>

["**Leases**" shall mean any agreements to lease, leases, renewals of leases and other rights (including licenses) granted by or on behalf of the Sellers or their respective predecessors in title as owner of the Lands which entitle any Person to possess or occupy any space on or within the Lands, together with all security, guarantees and indemnities relating thereto.]<sup>14</sup>

"**Licenses**" shall mean any and all *pari mutuel* or other horse racing or gaming related licenses.

"**Losses**" shall mean in respect of any matter, all losses, damages, liabilities, diminution in value, deficiencies, costs and expenses (including all reasonable legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement) arising directly or indirectly.

["**Magna Racino Austria Stock**" shall mean the outstanding capital stock of MEC Racing Holding GmbH, an Austrian company, issued and outstanding as of the date hereof.]<sup>23</sup>

["**MEC Oregon Racing Stock**" shall mean the common stock of MEC Oregon Racing, Inc., a Delaware corporation, issued and outstanding as of the date hereof.]<sup>24</sup>

["**Multiemployer Plan**" shall mean a "multiemployer plan" as defined in Section 3(37) of ERISA.]<sup>17</sup>

["**Multi-Employer Health Plan**" shall mean a "multiple employer welfare benefit arrangement" as defined in Section 3(40)(A) of ERISA.]<sup>17</sup>

"**Notice**" shall mean any notice, request, consent, acceptance, waiver or other communication required or permitted to be given pursuant to this Agreement.

["**Ocala Property**" shall mean certain real property located in Ocala, Florida, consisting of approximately four hundred ninety (490) acres, and more specifically described on Exhibit F-2 hereto.]<sup>25</sup>

"**Ordinary Course of Business**" shall mean the operation and conduct of the affairs of an enterprise in the ordinary course of its business, consistent with past practice and the businesses in which the respective Sellers operate.

---

<sup>23</sup> Include if purchasing Magna Racino.

<sup>24</sup> Include if purchasing Portland Meadows.

<sup>25</sup> Include if purchasing Ocala Property.



["**Permits**" shall mean, to the extent assignable, all the right, title, benefit and interest of any Seller in any and all licenses (other than *pari mutuel* or other horse racing or gaming-related licenses), franchises, governmental and other approvals, development rights and permits relating to the Lands.]<sup>14</sup>

["**Permitted Encumbrances**" shall mean: (i) the Existing Leases; (ii) liens for current taxes or other similar governmental impositions which are not yet delinquent; (iii) discrepancies, conflicts in boundary lines, shortage in area, encroachments and any other state of facts shown on any survey provided to the Purchaser and those matters set forth on Schedule A on any title report provided to the Purchaser; (iv) rights of Tenants under Existing Leases; (v) laws, regulations, resolutions or ordinances, including building, zoning and environmental protection, as to the use, occupancy, subdivision, development, conversion or redevelopment of the Lands imposed by any Governmental Authority; (vi) any and all mortgages and liens upon and security interests in any of the Lands; (vii) any unrecorded and recorded encumbrances, liens, agreements and other instruments affecting the Lands which have been accepted by the Purchaser by notice in writing to the Sellers on or before the Closing Date; and (viii) all other matters which would not materially adversely affect the use of the Lands as currently conducted.]<sup>14</sup>

"**Person**" shall mean an individual, partnership, limited liability company, corporation, trust, unincorporated organization, government, or any department or agency thereof, and the successors and assigns thereof or the heirs, executors, administrators or other legal representatives of an individual.

"**Plan Effective Date**" shall mean the date upon which all the conditions to effectiveness of the Plan shall have been satisfied or waived and the Transaction shall have been substantially consummated.

"**Purchase Price**" shall mean [ ] (\$[ ] subject to the adjustment provided for in Section 2.4.

"**Purchased Assets**" shall mean, collectively, the assets, the stock of the Purchased Companies and the Joint Venture Interests to be purchased by the Purchaser and set forth in detail in Section 2.1.

"**Purchased Companies**" shall mean [The Santa Anita Companies, Inc.], [Pimlico Racing Association, Inc.], [Laurel Racing Assoc., Inc.], [Thistledown, Inc.], [Remington Park, Inc.], [MEC Oregon Racing, Inc.], [MEC Racing Holding GmbH], [Fex Straw Manufacturing Inc.], [FEX OKO-Faserverarbeitungs GmbH].<sup>26</sup>

"**Purchaser's Solicitors**" shall mean [ ], or such other firms of solicitors or lawyers acting for the Purchaser and notice of which is provided to the Sellers in accordance with the provisions of Section 10.7.

---

<sup>26</sup> Appropriate references to be included or deleted in individual bid.

["**Reorganized Laurel Racing Interests**"] shall mean the partnership interests of Laurel Racing Assoc. LP, a Maryland limited partnership, to be issued on the Plan Effective Date.]<sup>27</sup>

["**Reorganized Pimlico Stock**"] shall mean the common stock of Pimlico Racing Association, Inc., a Maryland corporation, to be issued on the Plan Effective Date.]<sup>28</sup>

["**Reorganized Remington Stock**"] shall mean the common stock of Remington Park, Inc., an Oklahoma corporation, to be issued on the Plan Effective Date.]<sup>29</sup>

["**Reorganized Santa Anita Stock**"] shall mean the common stock of The Santa Anita Companies, Inc., a Delaware corporation to be issued on the Plan Effective Date.]<sup>30</sup>

["**Reorganized Thistledown Stock**"] shall mean the common stock of Thistledown, Inc., an Ohio corporation to be issued on the Plan Effective Date.]<sup>31</sup>

"**Representations**" shall mean the representations, warranties and certifications made or to be made pursuant to this Agreement and all agreements, documents and instruments entered into in connection herewith.

["**Requisitions Notice**"] shall mean the notice which may be sent by the Purchaser, no later than ten (10) Business Days prior to the commencement of the Hearing in accordance with the provisions of Section 6.1.]<sup>14</sup>

["**SAC**"] shall mean Santa Anita Commercial Enterprise, Inc.]<sup>32</sup>

"**Sale Motion**" shall mean the motion to be filed by MEC and the Sellers with the Bankruptcy Court seeking an order, pursuant to section 363 of the Bankruptcy Code, authorizing the sale of the Purchased Assets to the Purchaser, free and clear of all Encumbrances, other than Permitted Encumbrances.

"**Sale Order**" shall mean the order of the Bankruptcy Court authorizing, among other things, the sale of the Purchased Assets to the Purchaser pursuant to this Agreement and the consummation of the Transaction.

"**Statement of Closing Adjustments**" shall mean the Statement of Closing Adjustments to be made as of the Closing Date and delivered by the Sellers on or prior to the second (2nd) Business Day prior to the Closing, together with detailed calculations used by the Sellers with respect thereto.

---

<sup>27</sup> Include if purchasing Laurel Park.

<sup>28</sup> Include if purchasing Pimlico.

<sup>29</sup> Include if purchasing Remington Park.

<sup>30</sup> Include if purchasing Santa Anita.

<sup>31</sup> Include if purchasing Thistledown.

<sup>32</sup> Include if purchasing Caruso JV Interest.

“**Subsidiary**” shall mean, with respect to any Person, any corporation, partnership, association or other business entity (a) of which securities or other ownership interests representing more than fifty percent (50%) of the equity or more than fifty percent (50%) of the ordinary voting power to elect a majority of the board of directors or the equivalent thereof of such corporation, company, association or other business entity or more than fifty percent (50%) of the general partnership interests are, at the time any determination is being made, directly or indirectly, owned, Controlled or held by such Person and one or more subsidiaries of such Person, or (b) that is, at the time any determination is being made, otherwise Controlled, by such Person or by one or more other subsidiaries of such Person.

“**Tax**” or “**Taxes**” shall mean any federal, state, local or foreign net income, gross income, gross receipts, windfall profit, severance, property, production, sales, use, license, excise, franchise, employment, payroll, withholding, alternative or add on minimum, ad valorem, value added, transfer, stamp, or environmental tax, escheat payments or any other tax, custom, duty, governmental fee or other like assessment or charge (together with any and all interest, penalties and additions to tax imposed with respect thereto) imposed on or with respect to any of the Sellers, the Purchased Companies or the Joint Ventures by any taxing authority.

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

[“**Tenants**” shall mean all Persons having a right to possess or occupy the Lands or any part thereof now or hereafter pursuant to an Existing Lease.]<sup>14</sup>

“**Termination Date**” shall mean the date on which this Agreement is terminated in accordance with the provisions of Article IX.

[“**TrackNet Media**” shall mean TrackNet Media Group, LLC, a distributor of the Racetracks’ horse racing content through media outlets to other racetracks, off track betting facilities, casinos and advance deposit wagering companies, and purchaser of horse racing content from third parties for redistribution.]<sup>33</sup>

[“**TrackNet Media Interest**” shall mean the fifty percent (50%) interest of TrackNet Media owned by MEC Content.]<sup>34</sup>

“**Transfer Taxes**” means any transfer, documentary, sales, use, stamp, registration and other such taxes, any conveyance fees, any recording charges and any other similar fees and charges (including penalties and interest in respect thereof).

“**Transaction**” shall mean the transactions contemplated herein, including the purchase and sale of the Purchased Assets provided for in this Agreement.

---

<sup>33</sup> Include if purchasing TrackNet Media.

<sup>34</sup> See previous footnote.

“**Working Capital**” shall mean Current Assets minus Current Liabilities. The terms “**Current Assets**” and “**Current Liabilities**” mean the sum of the current assets and current liabilities, respectively, of the Purchased Companies, calculated in accordance with United States generally accepted accounting principles (“**GAAP**”).

[“**Voluntary Liens**” shall mean liens and other Encumbrances (other than Permitted Encumbrances) which each of the respective Sellers has knowingly and intentionally placed (or suffered or allowed to be placed) on the Lands, including (x) notices of *lis pendens* or mechanics’ liens resulting from such Seller’s failure to pay any obligation of the Sellers, and (y) all mortgages, deeds of trust, assignments of leases, financing statements and other instruments securing debt, including any existing mortgages.]<sup>14</sup>

**Section 1.3. Other Terms.** Other terms may be defined elsewhere in this Agreement and, unless otherwise indicated, shall have such meaning throughout this Agreement. As used in this Agreement, any reference to any federal, state, local, or foreign law, including any applicable law, will be deemed also to refer to such law as amended and all rules and regulations promulgated thereunder, unless the context requires otherwise. The words “*include*”, “*includes*”, and “*including*” will be deemed to be followed by “*without limitation*”. Pronouns in masculine, feminine, or neuter genders will be construed to include any other gender, and words in the singular form will be construed to include the plural and vice versa, unless the context otherwise requires. The words “*this Agreement*”, “*herein*”, “*hereof*”, “*hereby*”, “*hereunder*”, and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. References in this agreement to Articles, Sections, Schedules or Exhibits are to Articles or Sections of, Schedules or Exhibits to, this Agreement, except to the extent otherwise specified herein.

**Section 1.4. Headings.** The headings of the sections, paragraphs and subsections of this Agreement are inserted for convenience only and are not part of this Agreement and do not in any way limit or modify the terms or provisions of this Agreement and shall not affect the interpretation hereof.

**Section 1.5. Interpretation.** The Parties have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties hereto and no presumption or burden of proof will arise favoring or disfavoring any party hereto because of the authorship of any provision of this Agreement.

**Section 1.6. Time.** Time shall be of the essence of this Agreement. Except as expressly set out in this Agreement, the computation of any period of time referred to in this Agreement shall exclude the first day and include the last day of such period. If the time limited for the performance or completion of any matter under this Agreement expires or falls on a day that is not a Business Day, the time so limited shall extend to the next following Business Day. Whenever action must be taken (including the giving of notice, the delivery of documents or the funding of money) under this Agreement, prior to the expiration of, by no later than or on a particular date, unless otherwise expressly provided in this Agreement, such action must be completed by 5:00 p.m. on such date. The time limited for performing or completing any matter under this Agreement may be extended or abridged by an agreement in writing by the parties or by their respective solicitors. All references herein to time are references to Toronto time.

**Section 1.7. Joint Ventures.** Notwithstanding any other provisions hereof, the representations and warranties given hereunder with respect to any Joint Venture are given by the Sellers only to the knowledge of the Sellers and without inquiry of the management or employees of such Joint Venture, except for the representations and warranties given respecting the Sellers' direct or indirect ownership and other rights and obligations in respect of such Joint Venture. Covenants given by the Sellers shall not extend to such Joint Venture; provided however, that, if an issue relating to such Joint Venture arises, which issue would be the subject matter of any of the covenants contained in this Agreement but for the fact that the covenants do not extend to such Joint Venture, subject to any pre-existing agreement, the Sellers shall use commercially reasonable efforts to comply with such covenant and shall vote its voting interests in such Joint Venture in respect of such issue consistent with complying with the relevant covenant as though such covenant did extend to such Joint Venture. The Sellers shall also exercise any other proper influence in such Joint Venture in a manner consistent with complying with the relevant covenant as though such covenant did extend to such Joint Venture, subject to any Applicable Laws, applicable fiduciary duties or contractual obligations (other than under this Agreement).]<sup>17</sup>

## **ARTICLE II**

### **AGREEMENT OF PURCHASE AND SALE**

**Section 2.1. Purchase and Sale.** Each Seller hereby agrees to sell, transfer, assign, set over and convey to the Purchaser, and the Purchaser hereby agrees to purchase, acquire and assume from each of the Sellers, upon the terms and subject to the conditions of this Agreement, all right, title and interest of such Seller of any nature whatsoever, in the following Purchased Assets:

- (a) [[Caruso JV]. The Caruso JV Interest;
- (b) [Dixon]. The Dixon Property;
- (c) [Fex Straw]. The Fex Straw Stock and the Fex Straw Austria Stock;
- (d) [HRTV]. The HRTV Interest;
- (e) [Magna Racino]. The Magna Racino Austria Stock;
- (f) [Portland Meadows]. The MEC Oregon Racing Stock;
- (g) [Ocala]. The Ocala Property;
- (h) [Laurel Park]. The Reorganized Laurel Racing Interests;
- (i) [Pimlico]. The Reorganized Pimlico Stock;
- (j) [Remington]. The Reorganized Remington Stock;
- (k) [Santa Anita]. The Reorganized Santa Anita Stock;
- (l) [Thistledown]. The Reorganized Thistledown Stock; [and]

(m) [TrackNet Media]. The TrackNet Media Interest.]<sup>35</sup>

**Section 2.2. Condition of Conveyance.** The Purchased Assets shall be sold, conveyed, assigned, transferred and delivered by the Sellers to the Purchaser by appropriate instruments of transfer, bills of sale, endorsements, assignments [and Deeds]<sup>14</sup>, all in form and substance reasonably satisfactory to the Purchaser and the Seller, and free and clear of any and all Encumbrances of any and every kind, nature and description, other than Permitted Encumbrances; provided, however, that, to the extent that any of the Purchased Assets consist of leasehold interests in property owned by others, Purchaser hereby acknowledges and agrees that each such Purchased Asset shall be sold, conveyed, assigned, transferred and delivered hereunder subject to all the rights and interests of the owner of the leased property and to any security interest, lien or encumbrance which has been granted by such owner.

**Section 2.3. Payment of Purchase Price.** At the Closing, the Purchase Price shall be satisfied by payment of the Purchase Price by the Purchaser to the Sellers, by certified or bank cashier's check or by wire transfer of immediately available funds, all as adjusted pursuant to the terms and provisions of Section 2.4.

**Section 2.4. Purchase Price Adjustment.**

(a) The Purchase Price to be paid at the Closing shall be adjusted and increased or decreased, on a dollar-for-dollar basis, in an amount equal to the sum of the Working Capital of each of the Racetracks as of the Closing Date. In connection therewith, the Sellers shall prepare and deliver to the Purchaser at least two (2) Business Days prior to Closing the Statement of Closing Adjustments. The Sellers shall give to the Purchaser access to the Sellers' working papers and supporting materials in order to confirm the Statement of Closing Adjustments.

(b) Within 30 days after the Closing Date, the Purchaser shall prepare and deliver to MEC a statement (the "**Purchaser Statement**") setting forth the Working Capital as of the close of business on the Closing Date (the "**Closing Date Working Capital**").

(c) During the 10-day period following MEC's receipt of the Purchaser Statement, MEC and its independent auditors shall be permitted to review the working papers of the Purchaser relating to the Purchaser Statement. The Purchaser Statement shall become final and binding upon the parties on the 30th day following delivery thereof, unless MEC gives written notice of its disagreement with the Purchaser Statement (a "**Notice of Disagreement**") to the Purchaser before such date. Any Notice of Disagreement shall (i) specify in reasonable detail the nature of any disagreement so asserted and (ii) only include disagreements based on mathematical errors or based on the Closing Date Working Capital not being calculated in accordance with this Section 2.4. If a Notice of Disagreement is received by the Purchaser in a timely manner, then the Purchaser Statement (as revised in accordance with this sentence) shall become final and binding upon the Purchaser and MEC on the earlier of (A) the date the Purchaser and MEC resolve in writing any differences they have with respect to the matters specified in the Notice of Disagreement or (B) the date any disputed matters are finally resolved

---

<sup>35</sup> Appropriate references to be inserted or deleted in individual bid.

in writing by the Accounting Firm. During the 30-day period following the delivery of a Notice of Disagreement, the Purchaser and MEC shall seek in good faith to resolve in writing any differences that they may have with respect to the matters specified in the Notice of Disagreement. During such period the Purchaser and its auditors shall have access to the working papers of MEC prepared in connection with the Notice of Disagreement. At the end of such 30-day period, MEC and the Purchaser shall submit to an independent accounting firm (the "**Accounting Firm**") for arbitration any and all matters that remain in dispute and which were properly included in the Notice of Disagreement. The Accounting Firm shall be a nationally recognized independent public accounting firm as shall be agreed upon by the parties hereto in writing. The Purchaser and MEC shall jointly request that the Accounting Firm render a decision resolving the matters submitted to the Accounting Firm within 30 days after such submission. Judgment may be entered upon the determination of the Accounting Firm in any court having jurisdiction over the party against which such determination is to be enforced. The cost of any arbitration (including the fees and expenses of the Accounting Firm and reasonable attorney fees and expenses of the parties) pursuant to this Section 2.4 shall be borne by the Purchaser and MEC in inverse proportion as they may prevail on matters resolved by the Accounting Firm, which proportionate allocations shall also be determined by the Accounting Firm at the time the determination of the Accounting Firm is rendered on the merits of the matters submitted.

(d) Immediately upon the Purchaser Statement becoming final and binding, the Purchase Price shall either (a) be increased by the amount by which the Closing Date Working Capital exceeds the Estimated Working Capital or (b) be decreased by the amount by which Closing Date Working Capital is less than the Estimated Working Capital. If the Closing Date Working Capital exceeds the Estimated Working Capital (the "**Shortfall**"), the Purchaser shall promptly remit such Shortfall by wire transfer of immediately available funds to the account so designated by the Seller. If the Closing Date Working Capital is less than the Estimated Working Capital (the "**Overpayment**"), the Seller shall promptly remit such Overpayment by wire transfer of immediately available funds to the account so designated by the Purchaser.

**Section 2.5. Assumption of Liabilities.** Notwithstanding any provision contained in this Agreement to the contrary, on the Closing Date, Purchaser shall assume certain obligations and liabilities of the Sellers, to the extent but only to the extent as set forth on Exhibit C hereto, as and when such Assumed Liabilities shall become due and payable pursuant to the terms of the documents pursuant to which such Assumed Liabilities were created, including, to the extent set forth on Exhibit C, the payment of all amounts necessary to cure any monetary defaults in respect of such Assumed Liabilities. Without in any way limiting the foregoing, on the Closing Date, in accordance with the terms and conditions of the Sale Order, the Sellers shall be relieved of any liability with respect to such Assumed Liabilities.

### ARTICLE III COURT APPROVAL

**Section 3.1. Conditions Precedent.** In addition to the conditions set forth in Article VII, it shall be a condition precedent to the obligations of each of the parties to this Agreement that (i) the Bankruptcy Court shall have entered the Sale Order, after notice and a hearing as defined in section 102(1) of the Bankruptcy Code, approving the terms and conditions of this

Agreement and authorizing the Sellers to perform all acts necessary to consummate the Transaction and (ii) the Bankruptcy Court shall have entered the Confirmation Order.

#### ARTICLE IV REPRESENTATIONS AND WARRANTIES

**Section 4.1. Representations and Warranties of the Sellers.** Except as disclosed on the attached Disclosure Schedule, each of the Sellers, jointly but not severally, hereby represents and warrants to and in favor of the Purchaser, as follows:

(a) The Sellers are duly formed and subsisting under the respective laws of their states of formation, are properly qualified to do business in such states, and have the corporate power, authority, right and capacity to own the Purchased Assets, including the Lands, and to enter into, execute and deliver this Agreement and, subject to the entry of the Sale Order and the Confirmation Order, to carry out the Transaction in the manner contemplated by this Agreement.

(b) The Transaction has been duly and validly authorized by all requisite corporate or other proceedings of each of the Sellers[, the Purchased Companies and the Joint Ventures,]<sup>17</sup> and subject to the entry of the Sale Order and the Confirmation Order, upon execution and delivery by the Sellers and the Purchaser, this Agreement and all other documents and agreements to be delivered by the Sellers pursuant to this Agreement shall constitute legal, valid and binding obligations of the Sellers.

(c) [Each of the Purchased Companies is duly formed and subsisting under the respective laws of the state of its formation, is properly qualified to do business in such state, and has the corporate power or other authority, right and capacity to own, operate and/or lease the properties and assets now owned, operated and/or leased by it, and to carry on its business in all respects as currently conducted by it.]<sup>17</sup>

(d) Neither the execution of this Agreement nor its performance by the Sellers will result in a breach of any material term or material provision, or constitute a default under, or conflict with or cause the acceleration of any material obligation of the Sellers[, the Purchased Companies or the Joint Ventures]<sup>17</sup> under the constituent documents or by-laws of the Sellers, [the Purchased Companies or the Joint Ventures]<sup>17</sup>, or any indenture, mortgage, deed of trust or any other material agreement to which any of them is a party, or by which any of them is bound, and, other than the Sale Order and the Confirmation Order and any applicable approvals of any Governmental Authority, no consent, approval or other documentation is necessary to enable the Sellers to complete the Transaction pursuant to this Agreement in compliance with all existing obligations, Permits or Licenses of the Sellers[, the Purchased Companies and the Joint Ventures,]<sup>17</sup> and in compliance with all Applicable Laws, Permitted Encumbrances and any other obligations or agreements which affect the Purchased Assets[, the Purchased Companies and the Joint Ventures.]<sup>17</sup>

(e) To the knowledge of any of the Sellers, neither the execution of this Agreement nor its performance by any of the Sellers will result in a breach of any term or provision or constitute a default under, or conflict with or cause the acceleration of any obligation of any of the Sellers under, any indenture, mortgage, deed of trust or any other



material agreement to which MEC or any Subsidiary of MEC is a party, or by which MEC or any Subsidiary of MEC is bound and no consent, approval or other documentation, other than the Sale Order and the Confirmation Order and any applicable approvals of any Governmental Authority, is necessary to enable the Sellers to complete the Transaction pursuant to this Agreement in compliance with all existing obligations of MEC or any Subsidiary of MEC.

(f) To the knowledge of the Sellers, there is no material pending or threatened actions, suits, proceedings, claims, investigations, applications or complaints (whether or not purportedly on behalf of any of the Sellers) against or affecting any of the Sellers [or the Purchased Companies]<sup>17</sup>, which in any way relate to or involve or could adversely affect the Purchased Assets [or the Purchased Companies]<sup>17</sup>, [or the occupancy or use of the Lands by the Sellers]<sup>14</sup>, in law or in equity, which could affect the validity of this Agreement, the title to the Purchased Assets, the value of the Purchased Assets or the conveyance of any of the Purchased Assets to the Purchaser.

(g) Other than the Purchaser, no Person has any written or oral agreement or option, for the purchase or acquisition of all or any of the Purchased Assets; other than the Sale Order and the Confirmation Order, the Sellers have obtained all consents necessary to the sale of the Purchased Assets to the Purchaser.

(h) [The relevant Seller has good and marketable fee simple title to, and the exclusive right to possess, use and occupy the Lands subject to any applicable Existing Leases and Permitted Encumbrances.]<sup>14</sup> The Sellers have the full right, power and authority to sell the Purchased Assets to the Purchaser as contemplated by this Agreement.

(i) [Exhibit G hereto sets forth the capitalization of each of the Purchased Companies and the Joint Ventures. All of the outstanding shares of capital stock of the Purchased Companies are validly issued, fully paid and non-assessable (or with respect to the [Reorganized Santa Anita Stock], [Reorganized Pimlico Stock], [Reorganized Laurel Interests], [Reorganized Thistledown Stock] [and] [Reorganized Remington Stock]]<sup>36</sup> will be validly issued, fully paid and non-assessable) and are not subject to, nor were they issued in violation of, any preemptive rights, and, except as set forth in Exhibit G hereto, such shares or interests are or will be, as the case may be, owned by the Sellers, free and clear of any Encumbrance (other than Permitted Encumbrances) with respect thereto. Except as described above, as of the date hereof, there are not, and at the Closing there will not be, any capital stock or other equity interests in the Purchased Companies issued or outstanding or any subscriptions, options, warrants, calls, rights, convertible securities or other agreements or commitments of any character obligating any Purchased Company to issue, transfer or sell any of its capital stock or other equity interests, or any agreements, arrangements, or understandings granting any Person any rights in any Purchased Company similar to capital stock or other equity interests.]<sup>17</sup>

(j) [To the knowledge of the Sellers, no consent by any Governmental Authority, including any horse racing board or other regulatory or licensing body, is required in connection with the Purchaser's acquisition of the Purchased Assets and where applicable, the cessation of the Sellers' operations on the Lands, nor will the Purchaser be required to become

---

<sup>36</sup> Appropriate references to be inserted or deleted in individual bid.

licensed by, or otherwise submit to the regulatory regime of, any horse racing board or other regulatory or licensing body by virtue of the Purchaser's acquisition of the Purchased Assets (so long as the Purchaser [or the applicable Purchased Company]<sup>17</sup> does not operate a race track or other gaming venue on the Lands)]<sup>14</sup>.

(k) [Each Purchased Company holds all material licenses, permits, approvals, consents, certificates, registrations and similar authorizations (whether governmental, regulatory or otherwise) (a "Company License") necessary to carry on the business as currently conducted by it or to own or lease any of the property or assets utilized by it as such property or assets are currently owned, leased or utilized. Each Company License and material Permit is valid, subsisting and in good standing and the applicable Purchased Company is not in default or breach of such Company License or material Permit and, to the knowledge of the Sellers, no proceeding is pending or threatened to revoke or limit any Company License or material Permit.]<sup>17</sup>

(l) [(i) the Existing Leases disclosed to the Purchaser pursuant to Exhibit E hereto are the only Leases relating to or affecting the Lands as of the date hereof, the applicable Seller has not otherwise leased, subleased or otherwise granted to any Person the right to use or occupy the Lands or any portion thereof, and at Closing there shall not be any Leases affecting the Lands other than the Existing Leases, and such Existing Leases constitute, in each case, the entire agreement between the Sellers and the Tenants with respect to the lease or occupancy of space on or within the Lands and (ii) the Sellers is not in material default under any of the Existing Leases and, at the Time of Closing, there shall not exist a material default or an event which, with the passage of time or the giving of notice or both, would constitute a material default on the part of the Sellers under any of the Existing Leases.]<sup>14</sup>

(m) (i) the Existing Contracts disclosed to the Purchaser pursuant to Exhibit D hereto are the only Contracts [relating to or affecting the Lands]<sup>14</sup> or otherwise material to the applicable Seller [or Purchased Company]<sup>17</sup>, and at Closing there shall not be any Contracts affecting the Lands or otherwise material to the applicable Seller [or Purchased Company]<sup>17</sup>, other than the Existing Contracts; (ii) none of the Sellers [or Purchased Companies]<sup>17</sup> is a party to, and neither the Sellers [nor the Purchased Companies]<sup>17</sup> nor any of the Purchased Assets is or on Closing will be bound or affected by, any Contracts (whether oral or written) except the Existing Contracts; (iii) except for any default resulting from the insolvency of such Seller [or Purchased Company]<sup>17</sup>, none of the Sellers [or Purchased Companies]<sup>17</sup> has either given or received notice of any default, and neither the Sellers [nor the Purchased Companies]<sup>17</sup> is in material default under any of the Existing Contracts and, at the Time of Closing, there shall not exist any default or event which, with the passage of time or the giving of notice or both, would constitute a material default in the performance and/or observance of the obligations on the part of the Sellers [or the relevant Purchased Company]<sup>17</sup> under any of the Existing Contracts (including the Permitted Encumbrances); and (iv) each of the Existing Contracts (including the Permitted Encumbrances) is in full force and effect as to the Sellers [or the relevant Purchased Company]<sup>17</sup>, unamended by oral or written agreement except as disclosed to the Purchaser pursuant to Exhibit D hereto, and each Seller [or the relevant Purchased Company]<sup>17</sup> is entitled to the full benefit and advantage of each of the Existing Contracts to which it is a party in accordance with the terms thereof.

(n) The documents and information delivered or made available to the Purchaser pursuant to Section 5.1 constitute all of the material documentation with respect to the Purchased Assets within the Sellers' possession or control and at Closing, there shall not exist:

(i) any information or documentation relating to the Purchased Assets which was not disclosed or made available by the Sellers, as applicable, to the Purchaser as required by Section 5.1; or

(ii) any incompleteness of the information or documentation provided to the Purchaser pursuant to Section 5.1 with respect to the subject matter of such information or documentation; or

(iii) any inaccuracy in any of the information or documentation provided to the Purchaser pursuant to Section 5.1,

the effect of which lack of disclosure, incompleteness or inaccuracy is that the Purchaser was not aware of facts or circumstances which result, or could be reasonably expected to result, in a material adverse change in the value of the Purchased Assets.

(o) [There is direct access to, and egress from, the Lands from adjacent public roadways or streets abutting the Lands and, to the knowledge of the Sellers, there is no fact or condition which may result in interference with or termination of such access.]<sup>14</sup>

(p) [All Permits of Governmental Authorities having jurisdiction necessary in connection with the current use and operation of the Lands have been obtained and are in good standing in all material respects.]<sup>14</sup>

(q) [The Sellers and the relevant Purchased Companies have operated the Lands, and, until Closing, will operate the Lands, in the ordinary course in accordance with industry standard practices as would a prudent owner of comparable properties and has carried out all routine day to day repairs and maintenance in respect thereof.]<sup>14</sup>

(r) None of the Sellers is a "foreign corporation", "foreign partnership", "foreign trust", "foreign estate", "foreign person", "affiliate" of a "foreign person" or a "United States intermediary" of a "foreign person" within the meaning of the IRC, the Foreign Investments in Real Property Tax Act of 1980, the International Foreign Investment Survey Act of 1976, the Agricultural Foreign Investment Disclosure Act of 1978, or the regulations promulgated pursuant to such Acts or any amendments to such Acts.

(s) The Sellers and each Person owning an interest (directly or indirectly) in the Sellers is not: (i) identified on the "Specially Designated Nationals or Blocked Persons List" maintained by the Office of Foreign Purchased Assets Control, Department of Treasury (the "**OFAC**") and/or any other similar list maintained by the OFAC or the United States Department of Commerce, Bureau of Industry and Security of any other United States Governmental Authority pursuant to Applicable Laws; and (ii) a Person with whom a United States person is prohibited to engage in transactions pursuant to any trade embargo, economic sanction, or other prohibition of Applicable Laws, or Executive Order of the President of the United States or United Nations decree or resolution, provided, however, that this Subsection shall not apply to

any Person to the extent that such Person's interest in the Sellers is through a U.S. Publicly-Traded Entity and as used in this Agreement, "U.S. Publicly-Traded Entity" means a Person (other than an individual) whose securities are listed on a national securities exchange, or quoted on an automated quotation system, in the United States, or a wholly-owned Subsidiary of such a Person.

(t) Any fee due to any broker or agent retained by the Sellers in respect of this Agreement or the Transaction shall be paid by the Sellers.

(u) [To the knowledge of the Sellers, the Lands and use thereof have been, are in material compliance with, Environmental Laws, except as specifically disclosed in Environmental Reports delivered to the Purchaser.]<sup>14</sup>

(v) Except as disclosed in Environmental Reports made available to the Purchaser: (i) each of the Sellers [and the Purchased Companies]<sup>17</sup> are and have been in compliance with Environmental Laws, which compliance includes obtaining, maintaining, and complying with any Environmental Permits, except for such non-compliance that in each case or in the aggregate would not reasonably be expected to result in future material liability; (ii) neither the Sellers [nor the Purchased Companies]<sup>17</sup> are subject to any Claim or, to the knowledge of the Sellers, threatened Claim alleging either or both that the Sellers or the Purchased Assets may be in violation of any Environmental Law or Environmental Permit, or may have any liability under Environmental Law, except for such Claims that each case or in the aggregate would not reasonably be expected to result in future material liability; and (iii) to the knowledge of the Sellers, no facts, circumstances or conditions exist with respect to [the Lands or]<sup>14</sup> [the Purchased Companies]<sup>17</sup> that would in each case or in the aggregate reasonably be expected to result in material liability.

(w) [Neither the Sellers nor the relevant Purchased Company have received any written notice of any, and, to the knowledge of the Sellers, there is no threatened or pending eminent domain, condemnation or rezoning proceedings with respect to the Lands or any part of the Lands.]<sup>14</sup>

(x) [Each Purchased Company has good, valid and marketable title to, or the right to use, all of its Intellectual Property Rights. To the knowledge of Sellers, all current and former employees of any of the Purchased Companies have assigned to the Purchased Company at which they work or worked, as the case may be, all Intellectual Property Rights that such employees have created while in the scope of their employment with such Purchased Company, including copyrights in works made for hire and patents, except where failure to assign such Intellectual Property Rights would not reasonably be expected to materially impair the ability of such Purchased Company to continue to obtain free of charge the benefits of such Intellectual Property Rights. Exhibit H lists each registered Intellectual Property Right owned by each of the Purchased Companies and each material contract, license and agreement with respect to Intellectual Property Rights pursuant to which any of the Purchased Companies have granted any Person the right to reproduce, distribute, market or exploit Intellectual Property Rights. There is no action, pending, or to the Sellers' knowledge, threatened that challenges the validity of ownership or use of any Intellectual Property Rights of the Purchased Companies. To Sellers' knowledge, no third party's operations or products infringe on the Intellectual Property Rights in any material respect. To Sellers' knowledge, the Purchased Companies' operations and products

do not infringe in any material respect on the intellectual property rights of any other Person. Neither the Sellers nor any of the Purchased Companies have received during the preceding two (2) years any written claim of infringement with respect to any Intellectual Property Rights used by the Purchased Companies.]<sup>17</sup>

(y) [Exhibit I hereto sets forth a complete list of all material insurance policies with respect to which any of the Purchased Companies are a party, a named insured or otherwise the beneficiary of coverage.]<sup>17</sup>

(z) [Exhibit J sets forth a complete and correct list of all material: (i) “employee benefit plans,” as defined in Section 3(3) of ERISA, (ii) employment, consulting, retention, or change in control, and (iii) other employee benefit arrangements or payroll practices, including, without limitation, bonus plans, incentive, equity or equity-based compensation, or deferred compensation arrangements, termination or severance plans or arrangements, stock purchase, sick leave, vacation pay, salary continuation for disability, hospitalization, medical insurance, and life insurance plans and programs, excluding, in each case, collective bargaining agreements and any plans, programs or arrangements mandated by Applicable Laws, sponsored, maintained by, contributed to by or required to be contributed to by MEC, any of the Purchased Companies or any Subsidiaries of the Purchased Companies for the benefit of current or former employees of the Purchased Companies or any of their respective Subsidiaries (the “**Benefit Plans**”).]<sup>17</sup>

(aa) [True and complete copies of the following documents, with respect to each of the Employee Plans have been made available to Purchaser by the Purchased Companies or MEC, to the extent applicable: (i) any plans, all amendments thereto and related trust documents, and amendments thereto; (ii) the most recent Forms 5500 and all schedules thereto and the most recent actuarial report, (iii) the most recent IRS determination letter and (iv) the most recent summary plan descriptions.]<sup>17</sup>

(bb) [Except as set forth on Exhibit J, all Employee Plans covering current or former employees of the Purchased Companies located in the United States (“**U.S. Employee Plans**”) have been maintained in compliance, in all material respects, with their terms and with all applicable provisions of ERISA, the IRC and other Applicable Laws.]<sup>17</sup>

(cc) [Except as set forth on Exhibit J, the Employee Plans intended to qualify under Section 401 of the IRC are so qualified and the trusts maintained pursuant thereto are exempt from federal income taxation under Section 501 of the IRC, and, to the knowledge of the Seller, nothing has occurred with respect to the operation of the Employee Plans which could cause the loss of such qualification or exemption or the imposition of any material liability, penalty or tax under ERISA or the IRC.]<sup>17</sup>

(dd) [None of the Purchased Companies or any of its or their affiliates and any trade or business (whether or not incorporated) which is or has, within the last six years, been under common control, or which is or has, within the last six years, been treated as a single employer, with any of them under Section 414(b), (c), (m) or (o) of the IRC (“**ERISA Affiliate**”) has incurred any material liability under Title IV of ERISA, Section 302 of ERISA or Section 412 of the IRC that has not been satisfied in full. Except as set forth on Exhibit J, if any U.S. Employee Plan, which for purposes of this Section 4.1(ee) shall include any “employee pension

plan” as defined in Section 3(2) of ERISA, subject to Title IV of ERISA, Section 302 of ERISA or Section 412 of the IRC maintained by any ERISA Affiliate, were to terminate, there would be no material amount of unfunded liabilities (as defined in Section 4001(a)(17) of ERISA) with respect to such U.S. Employee Plan.]<sup>17</sup>

(ee) [As of the date hereof, there are no actions, claims or lawsuits (other than routine claims for benefits in the ordinary course) pending or, to the knowledge of the Sellers, threatened, with respect to any U.S. Employee Plan.]<sup>17</sup>

(ff) [None of the Purchased Companies nor any ERISA Affiliate have, within the past six years, withdrawn or partially withdrawn from any Multiemployer Plan with respect to which there is any outstanding material liability. None of the Purchased Companies nor any ERISA Affiliate have, within the past 12 months, received notice from any Multiemployer Plan that it is in reorganization or is insolvent, that increased contributions may be required to avoid a reduction in plan benefits or the imposition of any excise Tax, or that such plan intends to terminate or has terminated.]<sup>17</sup>

(gg) [Except as set forth on Exhibit J, neither the execution of this Agreement, nor the consummation of the Transaction will (i) entitle any employees of the Purchased Companies or any of their respective Subsidiaries to severance pay or any increase in severance pay upon any termination of employment after the date hereof under any U.S. Employee Plan, or (ii) accelerate the time of payment or vesting or result in any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, increase the amount payable or result in any other material obligation pursuant to, any of the U.S. Employee Plans.]<sup>17</sup>

(hh) [Each Employee Plan covering current or former employees of the Purchased Companies or any of their respective Subsidiaries located outside of the United States has been maintained in compliance, in all material respects, with its terms and the applicable Laws of the relevant jurisdiction.]<sup>17</sup>

(ii) [The Purchased Companies are not a party to any labor or collective bargaining agreement.]<sup>17</sup>

(jj) [There are no (i) strikes, work stoppages, work slowdowns or lockouts pending, or to the knowledge of the Sellers, threatened against or involving any of the Purchased Companies or (ii) material unfair labor practice charges, grievances or complaints pending or, to the knowledge of the Sellers, threatened by or on behalf of any employee or group of employees of the Purchased Companies.]<sup>17</sup>

(kk) [Each of the applicable Purchased Companies holds a license to conduct live horse racing with pari mutuel wagering at the respective Racetracks.]<sup>17</sup>

(ll) [All material Tax Returns required to be filed by or with respect to [the Purchased Companies, the Purchased Assets or, to the knowledge of the Sellers, the Joint Ventures have been timely filed (taking into account valid extensions of the time for filing) and all such Tax Returns are true, complete and accurate in all material respects. The Sellers, the Purchased Companies and, to the knowledge of the Sellers, the Joint Ventures have timely paid, or caused to be paid, all material Taxes shown as due on such Tax Returns. There are no

examinations or other administrative or court proceedings relating to material Taxes in progress or pending, and there is no existing, pending or threatened in writing claim, proposal or assessment against any Purchased Company or, to the knowledge of the Sellers, the Forest City JV for material Taxes.]<sup>17</sup>

**Section 4.2. Representations and Warranties of the Purchaser.** The Purchaser represents and warrants to and in favor of the Sellers, as follows:

(a) The Purchaser is a corporation duly existing under the laws of the [ ] and has the corporate power, authority, right and capacity to enter into this Agreement and to carry out the Transaction in the manner contemplated by this Agreement.

(b) The Transaction has been duly and validly authorized by all requisite corporate proceedings; upon execution and delivery by the Sellers and the Purchaser, this Agreement and all other documents and agreements to be delivered by the Purchaser pursuant to this Agreement shall constitute legal, valid and binding obligations of the Purchaser; and

(c) The Purchaser has not engaged or become liable to any broker in respect of this Agreement or the Transaction.

**Section 4.3. Survival.** The representations contained in this Agreement or in any Closing Documents shall not survive the Closing. Notwithstanding anything contained in this Agreement to the contrary, all of the representations, shall be subject to the following conditions and limitation: in the event that, prior to the Closing, the Purchaser gains current actual knowledge of a fact or circumstance which, by its nature and plainly on its face, indicates that a representations is, was, or will become untrue or inaccurate, then the Purchaser shall not have the right to bring any lawsuit or other legal action against the Sellers, nor pursue any other remedies against the Sellers, as a result of the breach of the representations caused thereby, but the Purchaser's sole right shall be to terminate this Agreement and not to proceed with the Transaction, in which event there shall be no liability on the part of the Sellers for breaches of representations of which the Purchaser had current actual knowledge prior to the Closing. For greater certainty and notwithstanding the foregoing, the parties hereto acknowledge and agree that the mere delivery by the Sellers to the Purchaser, and possession by the Purchaser, of the documents and instruments contemplated in Section 2.2 shall not be sufficient to constitute actual knowledge on the part of the Purchaser that a representations is, was or has become untrue or inaccurate.

**Section 4.4. Non-Waiver.** The Sellers agree that the Purchaser's right to do searches, reviews, examinations, investigations, inspections, assessments, audits and analyses, and the exercise of such right, shall not affect, reduce or mitigate any of the Representations or covenants of the Sellers contained in this Agreement or any of the damages and costs owing by the Sellers to the Purchaser as a result of any breach of such Representations or covenants.

## ARTICLE V COVENANTS

**Section 5.1. Covenants of the Sellers.** From and after the date hereof, the Sellers covenant and agree as follows:

(a) The Sellers shall deliver to the Purchaser the following in respect of the Purchased Assets:

(1) [copies of all Existing Leases and a copy of each notice of default, if any, received or sent by or on behalf of the Sellers in respect of any Existing Lease if the default referred to in such notice remains outstanding;]<sup>14</sup>

(2) copies of all Existing Contracts and each notice of default, if any, received or sent by or on behalf of the Sellers in respect of any Existing Contract if the default referred to in such notice remains outstanding;

(3) [the most current survey of the Lands, if any, in the Sellers' possession, together with the most recent title reports, deeds and title insurance policies, if any, in respect of the Lands;]<sup>14</sup>

(4) [a list of all outstanding litigation, arbitration, mediation or other proceedings affecting or relating to the Lands to which and of the Sellers is a party or in respect of which it has been formally notified and of all threatened litigation, arbitration, mediation or other proceedings affecting or relating to the Lands of which the Sellers has received written notice, together with any material correspondence relating thereto;]<sup>14</sup>

(5) a list of any third party consents, waivers or assumptions which are necessary to permit the conveyance of the Purchased Assets to the Purchaser;

(6) copies of any Environmental Report;

(7) [if requested by the Purchaser, authorizations enabling the Purchaser's Solicitors to obtain information from Governmental Authorities concerning the Lands (at the Purchaser's sole cost and expense);]<sup>14</sup>

(8) such other written information, correspondence and documentation relating to the Purchased Assets that is in the possession or control of the Sellers and which the Purchaser has requested, acting reasonably.

(b) As used in this Section 5.1, the term "control of the Sellers" shall mean, in addition to the Sellers, materials in the possession or control of MEC, current legal counsel to the Sellers or MEC, or any consultants, advisors or other third party professionals currently commissioned, retained or instructed by the Sellers or MEC.

(c) Any lists, documentation or other information provided by the Sellers pursuant to this Section 5.1 shall be amended or supplemented, as necessary from time to time, until 5:00 p.m. on the Business Day immediately preceding the Closing. In addition, if any of the Sellers becomes aware of a failure to provide any document or other information that it is required to provide in accordance with this Section 5.1 at any time prior to the Closing, it shall forthwith advise the Purchaser in writing of such failure and deliver such information to the Purchaser.

(d) The Purchaser acknowledges and agrees that it has not, for purposes of entering into this Agreement or consummating the Transaction, relied on any representations or



warranties or other statement or omission of Sellers or any of its directors, officers, employees, agents, stockholders, affiliates, consultants, counsel, accountants, or other representatives, other than the representations and warranties contained in this Agreement (including the Exhibits and Schedules hereto).

(e) [Between the date hereof and the Closing Date, the Seller shall, and shall cause the Purchased Companies to, operate their business in the Ordinary Course of Business and shall not, except as required or expressly permitted pursuant to the terms hereof or as the Purchaser shall consent in writing or as may be approved by order of the Bankruptcy Court, enter into any material transaction, other than in the Ordinary Course of Business.]<sup>17</sup>

(f) Except as set forth in the Confirmation Order, the Sellers shall diligently make all payments to be made and otherwise observe and perform or cause to be observed or performed all covenants and obligations to be observed or performed by the Sellers under the Existing Contracts [and the Existing Leases]<sup>14</sup>.

(g) [Until Closing, the Sellers shall not take any action, nor permit any action to be taken, which could reasonably be expected to materially adversely affect the current zoning of the Lands or the present or future use of the Lands.]<sup>14</sup>

(h) To the extent required by applicable law, the Sellers shall make the filing or filings as may be required by HSR.

(i) [The Sellers shall negotiate in good faith to enter into agreements with the Purchaser prior to the Closing Date, that provides that the Purchaser will provide content from races at [Santa Anita Park], [Pimlico], [Laurel Park], [Portland Meadows] [and] [Thistledown] to HRTV, TrackNet Media and/or such other entity as directed by the Sellers on terms similar to those currently in effect (the “**HRTV/TrackNet Agreements**”).]<sup>37</sup>

(j) [The Sellers shall negotiate in good faith to enter into an agreement with the Purchaser prior to the Closing Date, that provides that (i) [Santa Anita Park], [Remington Park], [Laurel Park], [Pimlico] [and] [Portland Meadows] will carry the signal for simulcast purposes from races at [INSERT NAMES OF RACETRACKS PURCHASED] and (ii) [INSERT NAMES OF RACETRACKS PURCHASED] will carry the signal for simulcast purposes from races at [Santa Anita Park], [Remington Park], [Laurel Park], [Pimlico] [and] [Portland Meadows] on terms similar to those currently in effect (the “**Reciprocal Simulcast Agreement**”).]<sup>38</sup>.

**Section 5.2. Covenants of the Purchaser.** (a) The obligation of the Purchaser to complete the Transaction pursuant to this Agreement is subject to the condition that the Purchaser is satisfied with the Due Diligence in its sole and absolute discretion on or before the date hereof, which satisfaction is hereby evidenced by the execution and delivery of this Agreement by the Purchaser.

---

<sup>37</sup> To be included if Purchaser purchases one or more Racetracks and DOES NOT purchase either or both of HRTV and TrackNet Media.

<sup>38</sup> To be included if Purchaser purchases one or more, BUT NOT ALL Racetracks.

(b) [The Purchaser shall negotiate in good faith to enter into the HRTV/TrackNet Agreements with the Seller prior to the Closing Date.]<sup>39</sup>

(c) [The Purchaser shall negotiate in good faith to enter into the Reciprocal Simulcast Agreements with the Seller prior to the Closing Date.]<sup>40</sup>

(d) To the extent required by applicable law, the Purchaser shall make the filing or filings as may be required by HSR.

**Section 5.3. Joint Obligations.** The parties shall proceed diligently and in good faith to attempt to settle, on or before the Closing Date or such earlier date as may be expressly set forth herein, the contents of all Closing Documents to be executed and delivered by the Sellers and the Purchaser; provided, however, that, in the case of any Closing Documents to be executed and delivered in the forms attached hereto as Exhibits, such forms shall not be subject to further negotiations and the Sellers and the Purchaser shall provide all details and/or information necessary to complete such documents, subject to the other's approval of the accuracy of such details and information, such approval not to be unreasonably withheld.

**Section 5.4. Approvals of the Purchaser.** While this Agreement is in effect, the Sellers agree not to amend, cancel or accept a surrender or forfeiture of [any Existing Leases or]<sup>14</sup> Existing Contracts other than (i) [Existing Leases or]<sup>14</sup> Existing Contracts which are scheduled to expire prior to Closing and do not have a renewal right on the part of the Seller [and (ii) Existing Leases that are in default without the prior written approval of the Purchaser, which approval may not be unreasonably withheld]<sup>14</sup>, and shall not enter into any Lease or Contract without the prior written approval of the Purchaser, which approval may not be unreasonably withheld; provided, however, that the Sellers may enter into any such Contract in order to make emergency repairs or to comply with Applicable Law without prior notice to, or approval of, the Purchaser; and, provided, further, that the Sellers provide the Purchaser with written notice thereof, together with a copy of any such Contract, promptly thereafter; and, provided, further, that the Sellers shall provide the Purchaser with a complete copy of any document which creates, amends, cancels, surrenders or forfeits any [Existing Lease or]<sup>14</sup> Existing Contract within five (5) Business Days after it is entered into by the parties thereto.

**Section 5.5. Notice of Default.** The Sellers shall, within five (5) Business Days of receipt thereof, provide to the Purchaser: (i) a copy of any notices of any material default that any of the Sellers receives in respect of the [Existing Leases and/or]<sup>14</sup> Existing Contracts and any notices of default under [the Existing Leases]<sup>14</sup> or any Existing Contract that it sends to another Person, in either case after the date of this Agreement and (ii) state or federal environmental orders that would reasonably be expected to result in a material liability issued by any Governmental Authorities having jurisdiction relating to [the Purchased Companies]<sup>17</sup> [or the Lands]<sup>14</sup>.

---

<sup>39</sup> See footnote 36.

<sup>40</sup> See footnote 37.

**Section 5.6. Approvals.** Whenever in this Agreement it is stated that the approval or consent of a party is required, it is understood that, except where otherwise specifically so stated, such approval or consent shall be in writing, and shall not be unreasonably withheld or delayed.

**Section 5.7. Risk of Condemnation and Eminent Domain.** The Sellers shall promptly notify the Purchaser in writing in the event that it receives a notice of condemnation and/or exercise of eminent domain in respect of all or any material part of the Purchased Assets or the assets thereof[, including the Lands,]<sup>14</sup> as applicable, and such notice shall include a copy of the notice of condemnation and/or exercise of eminent domain and copies of all correspondence relating thereto in the possession of the Sellers. [If notice of a material condemnation and/or exercise of a material eminent domain is with respect to more than 25% of one (1) Land prior to Closing, the Purchaser may elect by notice in writing given to the Sellers within ten (10) Business Days (the "**Notice Date**") after receipt from the Sellers of notice of the proposed condemnation and/or exercise eminent domain either:

(a) to complete the Transaction, in which case the Purchaser shall continue to be bound by this Agreement except that any compensation awarded for expropriation and all right and claim of the Sellers to any such proceeds and compensation not paid by the Closing Date shall be assigned to the Purchaser; or

(b) to terminate this Agreement, in which event this Agreement shall automatically terminate, be null and void and of no further force and effect whatsoever and the Purchaser and Sellers shall be released from all obligations under this Agreement (except those which are expressly stated to survive any termination of this Agreement).

If the notice of the proposed condemnation and/or exercise of eminent domain is received by the Sellers at such time that there would be insufficient time for the Purchaser to make its election hereunder, the Closing Date shall be postponed to a date which is five (5) Business Days after the earlier of the date such election is made or the period for making such election has expired, or if such date is not a Business Day, then the next Business Day thereafter. The failure of the Purchaser to notify the Sellers of its election by the Notice Date shall be deemed by the Sellers to be an election by the Purchaser to complete the Transaction pursuant to this Section 5.7.]<sup>14</sup>

**Section 5.8. Damage Before Closing.** The interest of the Sellers in and to the Purchased Assets shall be at the risk of the Sellers until Closing. The Sellers shall insure the Purchased Assets and the assets thereof until the Closing as they currently insure the Purchased Assets and the assets thereof. If loss or damage to the Purchased Assets occurs, then the Sellers shall promptly deliver a written notice to the Purchaser specifying the nature and extent of the loss or damage and estimating the cost of repair (the "**Notice of Loss**"), then neither party shall have any right to terminate this Agreement by virtue thereof, the Sellers shall pay any insurance deductibles in respect of such loss or damage (and shall pay to the Purchaser an amount equal to the amount, if any, by which the cost of repairs or restoration of such loss or damage exceeds the amount of property insurance proceeds payable to the Purchaser as hereinafter contemplated), the Purchaser shall be entitled to all proceeds of property insurance in respect of such loss or damage (except that portion, if any, required to reimburse the Sellers for repair or restoration work it has done prior to Closing and insurance for loss of income prior to Closing, all of which shall be paid to the Sellers), and the parties shall complete the Transaction.

**ARTICLE VI**  
TITLE

**Section 6.1. Search of Title.** The Purchaser shall be allowed until 5:00 p.m. on the Business Day fifteen (15) Business Days prior to the commencement of the Hearing, at its own expense, to examine title to the Lands and the other matters referred to in the next paragraph and to submit to the Sellers its objections to the title to the Lands and such matters. In the event that the Purchaser has any valid objections based on title to the Lands, the Purchaser shall deliver a Requisition Notice listing any and all such objections in reasonable detail on or before 5:00 p.m. on the Business Day ten (10) Business Days prior to the commencement of the Hearing. If any such objections are, by their nature, curable by the payment of money, then the Sellers shall cure such defects; provided, however, that the Sellers shall not be required to expend more than \$[ ] in the aggregate in connection with such cures. For all other defects, the Purchaser shall, by notice to the Sellers delivered no later than five (5) Business Days prior to the commencement of the Hearing, have the right to waive such objections and close (without offsetting the Purchase Price) or to terminate this Agreement, in which event this Agreement shall terminate, be null and void and of no further force and effect whatsoever, and the Purchaser and Sellers shall be released from all obligations under this Agreement (except those which are expressly stated to survive any termination of this Agreement). The failure of Purchaser to notify Sellers of its election by five (5) Business Days prior to the commencement of the Hearing shall be deemed by the Sellers to be an election by the Purchaser to close the Transaction (without offsetting the Purchase Price). Notwithstanding the foregoing or anything to the contrary contained in this Agreement, the Sellers shall, on or prior to the Closing Date pay, discharge or remove of record all Voluntary Liens or cause to be paid, discharged or removed of record all Voluntary Liens (or delivered documents to effect the foregoing, in escrow, pursuant to Section 8.2) at the Sellers' sole cost and expense all of the following items (other than open real estate taxes, water and sewer charges that are subject to adjustment in accordance with Section 2.6 hereof and other than Permitted Encumbrances).

Except for any valid objection so made pursuant to a Requisition Notice, and except for any objection going to the root of title, the Purchaser shall be conclusively deemed to have irrevocably accepted the Sellers' title to the Lands and satisfied itself with respect to the other matters referred to in this Section 6.1.]<sup>14</sup>

**ARTICLE VII**  
CONDITIONS TO CLOSING

**Section 7.1. Conditions for the Purchaser.** Notwithstanding any other provision of this Agreement to the contrary, the obligation of the Purchaser to complete the Transaction shall be subject to the satisfaction of the following conditions, as determined by the Purchaser in its sole and absolute discretion:

(a) All the terms, covenants and conditions of this Agreement to be complied with or performed or satisfied by the Sellers shall have been complied with or performed or satisfied in all material respects, including all deliveries required to be made pursuant to Article VIII hereof; provided, however, that, in the case of any term, covenant and/or condition qualified by materiality pursuant to the terms of this Agreement, such term, covenant and/or condition shall have been complied with or performed in all respects.

(b) The representations and warranties of the Sellers set forth in Section 4.1 hereof shall be true and correct in all material respects as of the date of this Agreement and as of the Closing; provided, however, that, in the case of any representation and/or warranty qualified by materiality pursuant to the provisions of Section 4.1 hereof, such representation and/or warranty shall be true and correct in all respects as of the date of this Agreement and as of the Closing.

(c) No action or proceeding, at law or in equity, shall have been commenced by any Person to enjoin, restrict or prohibit the Closing which has not, by the Closing Date, been dismissed, quashed or permanently stayed without any further right of appeal or right to seek leave to appeal.

(d) The Plan Effective Date shall have occurred as of the Closing Date.

(e) All applicable time periods under HSR, as such time periods may be modified by the Bankruptcy Code, shall have expired and no action, suit or proceeding relating HSR shall have been instituted and remain pending before a court or other governmental body by any governmental agency or public authority to restrain, prohibit or otherwise challenge the Transaction, nor shall any governmental agency have notified any party hereto that consummation of such transactions would or might violate such law.

The conditions set forth in this Section 7.1 are for the sole benefit of the Purchaser, and may be waived in whole or in part by the Purchaser by notice to the Sellers in writing without prejudice to the Purchaser's rights under this Agreement or at law, if any, in the event of the non-fulfillment of any other condition or conditions.

**Section 7.2. Conditions for the Sellers.** The obligation of the Sellers to complete the Transaction shall be subject to the satisfaction of the following conditions:

(a) All the terms, covenants and conditions of this Agreement to be complied with or performed or satisfied by the Purchaser shall have been complied with or performed or satisfied in all material respects, including all deliveries required to be made pursuant to Article VIII hereof; provided, however, that, in the case of any term, covenant and/or condition qualified by materiality pursuant to the terms of this Agreement, such term, covenant and/or condition shall have been complied with or performed in all respects;

(b) The representations and warranties of the Purchaser set out in Section 4.3 hereof shall be true and correct in all material respects as of the date of this Agreement and as of the Closing; provided, however, that, in the case of any representation and/or warranty qualified by materiality pursuant to the provisions of Section 4.3, such representation and/or warranty shall be true and correct in all respects as of the date of this Agreement and as of the Closing.

(c) No action or proceeding, at law or in equity, shall have been commenced by any Person to enjoin, restrict or prohibit the Closing, which has not, by the Closing Date, been dismissed, quashed or permanently stayed without any further right of appeal or right to such leave to appeal.

(d) The Plan Effective Date shall have occurred as of the Closing Date.

(e) [The parties shall have entered into the HRTV/TrackNet Agreements and the Reciprocal Simulcast Agreement, in each case in form and substance satisfactory to the Seller.]<sup>41</sup>

(f) All applicable time periods under HSR, as such time periods may be modified by the Bankruptcy Code, shall have expired and no action, suit or proceeding relating HSR shall have been instituted and remain pending before a court or other governmental body by any governmental agency or public authority to restrain, prohibit or otherwise challenge the Transaction, nor shall any governmental agency have notified any party hereto that consummation of such transactions would or might violate such law.

The conditions set forth in this Section 7.2 are for the sole benefit of the Sellers, and may be waived in whole or in part by the Sellers by notice to the Purchaser in writing without prejudice to the Sellers' rights under this Agreement or at law, if any, in the event of non-fulfillment of any other condition or conditions.

## ARTICLE VIII CLOSING

**Section 8.1. Closing Arrangements.** Upon all conditions precedent to the Purchaser's and the Sellers' obligation to close the transactions as set forth in this Agreement having been satisfied and fulfilled, or waived, as the case may be, the Closing shall take place on the Closing Date, at 10:00 a.m., local time, at the offices of Osler, Hoskin & Harcourt LLP, 100 King Street West, 1 First Canadian Place, Suite 6100, Toronto, Ontario or at such other time or place as may be mutually agreed to by the parties.

**Section 8.2. Sellers' Deliveries.** On or before the Closing Date, the Sellers shall deliver or cause to be delivered the following items and documents to the Purchaser, with each such document to be effective as of the Closing:

(a) a certificate executed on behalf of each of the Sellers representing and certifying that the conditions set forth in Section 7.1 have been fulfilled;

(b) evidence that the Sellers have obtained the approval of the Board of Directors of MEC in respect of the Transaction;

(c) the Statement of Adjustments;

(d) [any applicable Deed in favor of the Purchaser, duly executed by the Sellers;]<sup>14</sup>

(e) [certificates representing all of the issued and outstanding shares of the [Reorganized Santa Anita Stock], [Reorganized Pimlico Stock], [Reorganized Laurel Interests], [Reorganized Thistledown Stock] [and] [Reorganized Remington Stock]]<sup>42</sup> and the [Fex Straw

---

<sup>41</sup> As applicable.

<sup>42</sup> Appropriate references to be inserted or deleted in individual bid.

Stock], [the Fex Straw Austria Stock], [the Magna Racino Austria Stock] and [the MEC Oregon Racing Stock]<sup>43</sup>, along with appropriate instruments of transfer duly endorsed in blank, respectively]<sup>17</sup>;

(f) [an assignment of the [Caruso JV Interest], [HRTV Interest] [and] [TrackNet Media Interest]]<sup>17, 44</sup>;

(g) a Bill of Sale;

(h) [an assignment of the Permits (to the extent assignable) in favor of the Purchaser, duly executed by the Sellers, which shall be sufficient to remise, release and quit-claim to the Purchaser all right, title, interest, claim and demand which the Sellers have in and to all of the Permits attributable to the Lands, and to irrevocably transfer such Permits to the Purchaser to be used by the Purchaser in its sole and absolute discretion, together with any other additional documents or instruments required to effect, record or consummate such transfer of Permits;]<sup>14</sup>

(i) the Assignment and Assumption of Contracts, duly executed by the Sellers;

(j) [the Assignment and Assumption of Leases, duly executed by the applicable Sellers;]<sup>14</sup>

(k) a certificate of non-foreign status of each Seller pursuant to Section 1445 of the IRC and Section 1.1445-2(b) of the Treasury Regulations promulgated thereunder;

(l) such notices as the Purchaser may reasonably require be given to [the Tenants under the Existing Leases and other]<sup>14</sup> parties to the assigned Existing Contracts of their assignment to the Purchaser[, together with directions relating to the payment of rent under such Existing Leases, and]<sup>14</sup> payment of other amounts under the assigned Existing Contracts, all executed by the Sellers in such form as the Purchaser may reasonably require;

(m) a direction of the Sellers as to the payment of the Purchase Price, including wire transfer instructions, and the name of the payee (if other than the Sellers);

(n) a certificate of good standing of each of the Sellers [and the Purchased Companies]<sup>17</sup>;

(o) a certified copy of the Confirmation Order;

(p) all other conveyances and other documents which are required and which the Purchaser has reasonably requested on or before the Closing Date to give effect to this Transaction, including the proper transfer, assignment and conveyance of the Purchased Assets

---

<sup>43</sup> Appropriate references to be inserted or deleted in individual bid.

<sup>44</sup> Appropriate references to be inserted or deleted in individual bid.

by the Sellers to the Purchaser, free and clear of all Encumbrances except the Permitted Encumbrances.

**Section 8.3. Purchaser's Deliveries.** On or before the Closing Date, the Purchaser shall deliver or cause to be delivered the following items and documents to the Sellers, with each such document to be effective as of the Time of Closing:

- (a) a certificate executed on behalf of the Purchaser representing and certifying that the conditions set forth in Section 7.2 have been fulfilled;
- (b) the Assignment and Assumption of Contracts, duly executed by the Purchaser;
- (c) [the Assignment and Assumption of Leases, duly executed by the Purchaser;]<sup>14</sup>
- (d) the Purchase Price; and
- (e) all other documents which the Sellers have reasonably requested to give effect to this Transaction.

**Section 8.4. Separate Tax Parcel.** In the event that, as of Closing, the Lands do not constitute a separate tax parcel, the Transaction shall be completed and the parties shall pro rate the realty Taxes with the Purchaser providing a check payable to the taxing authority for its pro rata share of realty Taxes in respect of the Lands.<sup>14</sup>

**Section 8.5. Tax Matters.**<sup>45</sup> (a) (i) [MEC shall include the income of the Purchased Companies on MEC's consolidated federal income Tax Returns for all periods through the end of the Closing Date and pay any federal income Taxes attributable to such income. The Purchased Companies shall furnish Tax information to MEC for inclusion in MEC's federal consolidated income Tax Return for the period that includes the Closing Date in accordance with the Purchased Companies' past custom and practice at the Purchaser's cost.

(ii) With respect to any Tax Returns not described in Section 8.5(a)(i) and which Tax Returns are for the period (or a portion thereof) ending on or before the Closing Date (the "**Separate Tax Returns**"), the Purchased Companies shall prepare and file the Separate Tax Returns and the Sellers shall pay to the Purchased Companies Tax shown due on such Separate Tax Returns, provided, however, that such Tax Returns shall be prepared in accordance with the past custom and practice and shall not be filed without MEC's or the Sellers' review and

---

<sup>45</sup> The Sellers may decide to make an election under Section 338(h)(10) of the IRC and any corresponding or similar elections under state, local or foreign law (the "Section 338(h)(10) Election") with respect to any of the Purchased Companies, and Purchaser shall agree to join with the Sellers in making such elections and to cooperate with the Sellers otherwise. If Purchaser decides to make the Section 338(h)(10) Election, Sellers shall agree to join with the Purchaser in making the elections and to cooperate with Purchaser otherwise, provided, however, that (i) an adjustment to the Purchase Price shall be made to account for any benefit that Purchaser realizes from making the elections and (ii) Purchaser shall be liable for and shall indemnify and hold the Sellers and the Sellers' Affiliates harmless from and against any and all costs (including, without limitation, any taxes) resulting from making the Section 338(h)(10) Election.



approval (which approval shall not be unreasonably withheld). In the event that the parties hereto do not agree as to any of the Separate Tax Returns, MEC, the Sellers and the Purchaser shall refer the disagreement to the Accounting Firm. The Accounting Firm shall resolve any disagreement within 30 days and MEC, the Sellers and the Purchaser agree the decision of the Accounting Firm shall be conclusive and binding on both the Sellers and the Purchaser. The fees of the Accounting Firm shall be borne by MEC, the Sellers and the Purchaser in inverse proportion as they may prevail on the disagreement resolved by the Accounting Firm, which proportionate allocations shall also be determined by the Accounting Firm at the time the determination of the Accounting Firm is rendered.

(b) The parties acknowledge that, for federal income Tax purposes, the taxable year of the Purchased Companies will end as of the close of the Closing Date. With respect to all other Taxes, the Sellers and the Purchaser will, unless prohibited by applicable law, take such actions as may be required to close the taxable period of the Purchased Companies as of the close of the Closing Date.

(c) The Sellers shall cause the provisions of any Tax sharing agreement between (i) any Seller, on one hand, and (ii) any Purchased Company, on the other, to be terminated on or before the Closing Date. After the Closing Date, no party shall have any rights or obligations under any such Tax sharing agreement.]<sup>17</sup>

(d) On the Closing Date, and solely to the extent not exempt in accordance with section 1146 of the Bankruptcy Code, the Purchaser shall have the responsibility of payment of all state and local Transfer Taxes, if any, including those payable in connection with the recording of the Deeds, occasioned by the conveyance of [the Lands]<sup>14</sup> and the Purchased Assets from the Sellers to the Purchaser, as well as any notary fees incurred in connection therein; provided, however, that the parties shall reasonably cooperate in availing themselves of any available exemptions from any collection of (or otherwise reduce) any such Transfer Taxes, including a request that the Sellers' sale of the Purchased Assets be exempted from Transfer Taxes pursuant to Section 1146 of the Bankruptcy Code. [The Purchaser shall be responsible for costs and expenses associated with the recordings of the Deeds.]<sup>14</sup>

(e) Any refunds (and any interest received thereon) of any Tax received by any of the Purchased Companies for any period (or portion thereof) ending on or before the Closing Date shall belong to the Sellers, provided that the Tax at issue either was paid by the Purchased Company on or before the Closing Date or was paid by the Sellers (or any Affiliate thereof) after the Closing Date.

(f) MEC and the Sellers shall have control over any audit, suit, action or proceeding (each a "**Tax Contest**") relating to a Tax issue of any of the Purchased Companies with respect to any period (or a portion thereof) ending prior to or on the Closing Date and for which MEC or the Sellers are primarily liable under this Agreement. MEC and the Sellers shall keep Purchaser apprised of all developments relating to the Tax Contest, provide Purchaser with copies of all correspondence from any taxing authority relating to any such Tax Contest, and conduct the defense of such Tax Contest diligently and in good faith.]<sup>17</sup>

**ARTICLE IX**  
**TERMINATION OF AGREEMENT**

**Section 9.1. Termination of Agreement By Either Party.** This Agreement may be terminated by the Sellers or by the Purchaser, in their or its sole option and discretion, in the event that (a) the Purchaser or any Seller, as the case may be, breaches the covenants set forth in Article V hereof or (b) the Sale Order and Confirmation Order are not entered by the Bankruptcy Court on or prior to [                    ], 2009; provided, however, that, in the event that the Sale Motion is denied by the Bankruptcy Court, unless otherwise agreed to by the Purchaser and the Sellers, the Agreement shall terminate automatically without any further notice or action by any person.

**Section 9.2. Effect of Termination.** Except as otherwise provided herein, in the event of termination of this Agreement, this Agreement (other than the terms and provisions set forth in Section 2.3 and Section 3.3 hereof, which shall survive such termination) shall become null and void and be deemed of no force and effect, with no liability on the part of any party hereto (or of any of its directors, officers, employees, consultants, contractors, agents, legal and financial advisors or other representatives), and no party hereto shall have any obligations to any other party hereto arising out of this Agreement. Upon termination, this Agreement shall not be an admission by any party hereto, and no party hereto shall seek to admit it into evidence against any other party hereto.

**ARTICLE X**  
**MISCELLANEOUS**

**Section 10.1. As-Is/Where-Is Transaction.** The Purchaser acknowledges and agrees that, except as expressly provided in this Agreement or in any Closing Documents provided by the Sellers to the Purchaser at Closing, and without derogating from any indemnities provided by the Sellers herein or in any Closing Documents, the Sellers make no representation, warranty or covenant, express, implied or statutory, of any kind whatsoever with respect to the Purchased Assets, including, without limitation, representation, warranty or covenant as to title, survey conditions, use of the Purchased Assets for the Purchaser's intended use, the condition of the Purchased Assets, past or present use, development, investment potential, tax ramifications or consequences, compliance with any Applicable Laws, present or future zoning, the presence or absence of Hazardous Substances, the availability of utilities, habitability, merchantability, fitness or suitability for any purpose, or any other matter with respect to the Purchased Assets, all of which are (without derogating from any indemnities provided by the Sellers herein or in any Closing Documents), except as otherwise expressly provided in this Agreement or in any Closing Documents provided by the Sellers to the Purchaser at Closing, hereby expressly disclaimed by the Sellers. The provisions of this Section 9.1 shall survive Closing and the delivery of the Deed or any expiration or termination of this Agreement without limitation as to time.

**Section 10.2. [No Recording]** The Sellers acknowledge and agree that they shall not record, or cause to be recorded, this Agreement, or any part thereof, or any instrument, agreement or other document evidencing this Agreement, against title to the Lands (or any part thereof) unless so instructed by the Purchaser, provided the Purchaser shall pay all costs and expenses in connection therewith.]<sup>14</sup>

**Section 10.3. Obligations as Covenants.** Each agreement and obligation of each party hereto in this Agreement, even though not expressed as a covenant, shall be considered for all purposes to be a covenant.

**Section 10.4. Tender.** Any tender of documents or money may be made upon the party being tendered or upon its solicitors and money may be tendered by certified check or bank draft drawn on or from one of the five largest Schedule I Canadian chartered banks or a first class bank of the United States of America, or by wire transfer. All checks to be tendered shall be drawn upon one of the five largest Schedule I Canadian chartered banks, measured by reference to authorized capital.

**Section 10.5. Relationship of the Parties.** Nothing in this Agreement shall be construed so as to make the Purchaser a partner of the Sellers [and nothing in this Agreement shall be construed so as to make the Purchaser an owner of the Lands for any purpose until the Closing Date.]<sup>14</sup>

**Section 10.6. Amendment of Agreement.** This Agreement may not be supplemented, modified or amended except by a written agreement executed by each Party to be affected by such supplement, modification or amendment.

**Section 10.7. Notices.** Any Notice shall be in writing and shall be deemed to have been duly given or made when personally delivered or when mailed by registered or certified mail, postage prepaid, return receipt requested, addressed as follows, or to such other addresses as may be furnished hereafter by notice, in writing, to the other Party on at least three (3) Business Days' prior notice, to the following Parties:

- (a) If to the Purchaser, to:

with a copy given in like manner to:

- (b) If to the Sellers, to:

Magna Entertainment Corp.  
337 Magna Drive  
Aurora, Ontario, Canada L4G 7K1  
Attention: Senior Legal Counsel  
Telecopy: (905) 726-2585

with a copy given in like manner to:

Osler, Hoskin & Harcourt LLP  
100 King Street West  
1 First Canadian Place  
Suite 6100  
Toronto, Ontario M5X 1B8

Attention: Jean M. Fraser  
Telecopy: (416) 862-6666

-and-

Weil, Gotshal & Manges LLP  
767 Fifth Avenue  
New York, New York 10153  
Attention: Brian S. Rosen, Esq.  
Telecopy: (212) 310-8007

Any Notice which is delivered or is sent by telecopy shall be deemed to have been validly and effectively given and received on the date it is delivered or sent, unless it is delivered or sent after 5:00 p.m. on any given day or on a day which is not a Business Day, in which case it shall be deemed to have been validly and effectively given and received on the Business Day next following the day it was delivered or sent, provided that, in the case of a Notice sent by telecopy it shall not be deemed to have been sent unless there has been confirmation of transmission.

**Section 10.8. Specific Performance.** It is understood and agreed by the Parties that money damages would not be a sufficient remedy for any breach of this Agreement by any Party and each non-breaching Party should be entitled to specific performance and injunctive or other equitable relief as a remedy of such a breach.

**Section 10.9. Fees and Expenses.** If any party hereto brings an action against any other party hereto based upon a breach by the other party hereto of its obligations under this Agreement, the prevailing party shall be entitled to all reasonable expenses incurred, including reasonable attorneys' fees and expenses. Subject to Section 3.3, the parties agree that all costs and expenses of the parties relating to the Transaction shall be paid by the party incurring such expenses.

**Section 10.10. Governing Law; Jurisdiction; Service of Process.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York, without giving effect to any principles of conflicts of law. By its execution and delivery of this Agreement, each of the parties hereto irrevocably and unconditionally agrees for itself that any legal action, suit or proceeding between any of the Sellers, on the one hand, and the Purchaser, on the other hand, with respect to any matter under or arising out of or in connection with this Agreement or for recognition or enforcement of any judgment rendered in any such action, suit or proceeding, shall be brought in the Bankruptcy Court for that purpose only, and, by execution and delivery of this Agreement, each hereby irrevocably accepts and submits itself to the jurisdiction of such court, generally and unconditionally, with respect to any such action, suit or proceeding. In the event any such action, suit or proceeding is commenced, the parties hereby agree and consent that service of process may be made, and personal jurisdiction over any party hereto in any such action, suit or proceeding may be obtained, by service of a copy of the summons, complaint and other pleadings required to commence such action, suit or proceeding upon the party at the address of such party set forth in Section 10.7 hereof, unless another address has been designated by such party in a notice given to the other parties in accordance with the provisions of Section 10.7 hereof.

**Section 10.11. Further Assurances.** Each of the Parties hereto shall, at its own cost, from time to time hereafter and upon any reasonable request of the other, execute and deliver, make or cause to be made all such further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.

**Section 10.12. Entire Agreement.** This Agreement constitutes the full and entire agreement between the parties hereto pertaining to the Transaction and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, with respect thereto made by any Party, and there are no other warranties or representations and no other agreements between the parties hereto in connection with the Transaction except as specifically set forth in this Agreement.

**Section 10.13. Waiver.** No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise expressed or provided. All waivers hereunder must be in writing to be effective.

**Section 10.14. Survival.** To the extent provided herein, this Agreement and the representations, warranties and covenants set forth herein shall survive the Closing of the Transaction and shall remain in full force and effect thereafter.

**Section 10.15. Assignment.** Neither the Sellers nor the Purchaser shall assign their respective rights and/or obligations hereunder (or agree to do so) without the prior written consent of the other Party, which consent may be withheld by such Party in its sole and absolute discretion.

**Section 10.16. Successors and Assigns.** All of the covenants and agreements set forth in this Agreement are intended to bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns and be enforceable by the parties hereto and their respective successors and their permitted assigns pursuant to the terms and conditions of this Agreement.

**Section 10.17. Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original hereof, and all of which shall constitute a single agreement effective as of the date hereof. Any delivery of an executed copy of this Agreement by way of telecopy shall constitute delivery hereof, provided that any party delivering by way of telecopy shall, as soon as reasonably practicable, deliver an originally executed counterpart of this Agreement to the other parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the day and year first above written.

[PURCHASER]

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

MAGNA ENTERTAINMENT CORP.

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

[SELLER]

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**

**FORM OF ASSIGNMENT AND ASSUMPTION OF CONTRACTS**

ASSIGNMENT AND ASSUMPTION OF CONTRACTS, dated as of \_\_\_\_,  
2009.

B E T W E E N:

**[NAME OF SELLERS],**  
(the “Sellers”),

OF THE FIRST PART,

- and -

**[NAME OF PURCHASER],**  
(the “Purchaser”),

OF THE SECOND PART.

WHEREAS pursuant to that certain Purchase Agreement, dated as of [        ],  
2009, between the Sellers, as sellers, and the Purchaser, as purchaser (the “**Purchase Agreement**”), the Sellers agreed to sell and the Purchaser agreed to purchase, among other things, the property legally described in Schedule A hereto (the “**Property**”);

AND WHEREAS pursuant to the Purchase Agreement, the Sellers has agreed that the Assigned Contracts (as defined below) shall be assigned to the Purchaser;

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE I**  
**DEFINITIONS**

Section 1.1. **Definitions**: Capitalized terms used and not defined herein shall have the respective meanings ascribed to them in the Purchase Agreement. The terms defined herein shall have, for all purposes of this Agreement, the following meanings, unless the context expressly or by necessary implication otherwise requires:

(a) “**Agreement**” means this Assignment and Assumption of Contracts;

(b) “**Assigned Contracts**” means those contracts and agreements entered into by the Sellers or by which the Sellers is bound in respect of the severance, development, construction, management, leasing, maintenance or operation of the Lands, which Assigned Contracts are listed on the attached Schedule B, together with all security, guarantees and indemnities relating thereto ; and

(c) “**Assigned Interest**” means all of the Seller’s right, title and interest in and to the Assigned Contracts and all rights, benefits and advantages whatsoever to be derived therefrom from and after the date hereof.

## **ARTICLE II** **ASSIGNMENT**

**Section 2.1 Assignment by the Sellers:** The Sellers hereby absolutely grants, transfers, assigns and sets over, as of the date of this Agreement, the Assigned Interest unto the Purchaser. The parties agree that if the assignment of any Assigned Contract is prohibited at law or requires the consent of any other party or parties and such consent has not or cannot be obtained, the Sellers shall hold the Assigned Interest in such Assigned Contract in trust for the benefit of the Purchaser and shall take all actions with respect thereto as the Purchaser may direct for the Purchaser’s account and benefit.

**Section 2.2 Acceptance by the Purchaser:** The Purchaser hereby accepts the assignment of the Assigned Interest as of the date of this Agreement.

## **ARTICLE III** **ASSUMPTION AND INDEMNITY**

**Section 3.1 Agreement by the Purchaser:** The Purchaser hereby agrees to be bound by, assume, comply with and be responsible for all of the obligations, covenants and liabilities of the Sellers accruing and arising from and after the date of this Agreement under or in respect of the Assigned Contracts. Without limiting the generality of the foregoing, the Purchaser covenants and agrees with the Sellers:

(a) to pay all amounts payable by the Sellers under and in respect of the Assigned Contracts relating to the period from and including the date of this Agreement; and

(b) to indemnify and save harmless the Sellers and its partners, shareholders, officers, directors, employees and agents, from and against any and all liabilities, damages, costs, expenses, causes of action, suits, claims, demands and judgments arising from or in connection with a breach by the Purchaser, its shareholders, directors, officers, employees, agents or those for whom it is responsible at law, from and after the date of this Agreement, of any of the covenants and obligations of the Sellers under or in respect of the Assigned Contracts.

**Section 3.2 Agreement by the Sellers:** The Sellers hereby agrees to be bound by and be responsible for all of the obligations, covenants and liabilities of the Sellers accruing and arising prior to the date of this Agreement under or in respect of the Assigned Contracts. Without limiting the generality of the foregoing, the Sellers covenants and agrees with the Purchaser:

(a) to pay all amounts payable, or deemed to be payable, by the Sellers under and in respect of the Assigned Contracts relating to the period prior to the date of this Agreement; and



(b) to indemnify and save harmless the Purchaser and its shareholders, directors, officers, employees and agents, from and against any and all liabilities, damages, costs, expenses, causes of action, suits, claims, demands and judgments arising from or in connection with the Assigned Contracts, including, without limitation, any breach by the Sellers, its shareholders, directors, officers, employees, agents or those for whom it is in law responsible, prior to the date of this Agreement, of any of the covenants and obligations of the Sellers under or in respect of the Assigned Contracts and any failure by the Sellers to pay any monies due, owing or accruing by the Sellers under or in connection with the Assigned Contracts for the period prior to the date hereof.

**ARTICLE IV**  
**MISCELLANEOUS**

**Section 4.1 Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of ■ and the applicable laws of the United States of America.

**Section 4.2 Further Assurances:** Each of the parties shall execute and deliver all such further documents and do such other things as the other party may reasonably request to give full effect to this Agreement.

**Section 4.3 Successors and Assigns:** All of the covenants and agreements in this Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

IN WITNESS WHEREOF the parties have executed this Agreement.

[NAME OF SELLERS]

By: \_\_\_\_\_  
Name:  
Title:

[NAME OF PURCHASER]

By: \_\_\_\_\_  
Name:  
Title:

**Schedule A to Exhibit A**

**Legal Description of the Lands**

**EXHIBIT B**

**FORM OF ASSIGNMENT AND ASSUMPTION OF LEASES**

**ASSIGNMENT AND ASSUMPTION OF LEASES**, dated as of \_\_\_, 2009.

**B E T W E E N:**

**[NAME OF SELLERS]**  
(the “**Sellers**”),

OF THE FIRST PART,

- and -

**[NAME OF PURCHASER]**  
(the “**Purchaser**”),

OF THE SECOND PART.

WHEREAS pursuant to that certain Purchase Agreement (Purchased Assets), dated as of March 5, 2009, between the Sellers, as sellers, and the Purchaser, as purchaser (the “**Purchase Agreement**”), the Sellers agreed to sell and the Purchaser agreed to purchase, among other things, the property legally described in Schedule A hereto (the “**Property**”);

AND WHEREAS pursuant to the Purchase Agreement, the Sellers has agreed that the Assigned Leases (as defined below) shall be assigned to the Purchaser;

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE I**  
**DEFINITIONS**

**Section 1.1 Definitions:** Capitalized terms used and not defined herein shall have the respective meanings ascribed to them in the Purchase Agreement. The terms defined herein shall have, for all purposes of this Agreement, the following meanings, unless the context expressly or by necessary implication otherwise requires:

(a) “**Agreement**” means this Assignment and Assumption of Leases, including the schedules attached hereto;

(b) “**Assigned Interest**” means all of the Seller’s right, title and interest in and to the Assigned Leases and all rights, benefits and advantages whatsoever to be derived therefrom from and after the date hereof; and

(c) “Assigned Leases” means all agreements to lease, leases, renewals of leases, subtenancy agreements and other rights (including licences) granted by or on behalf of the Sellers or its predecessors in title as owner of the Property which entitle any Person to possess or occupy any space within the Property, which Assigned Leases are listed on the attached Schedule B, together with all security, guarantees and indemnities relating thereto.

## **ARTICLE II** **ASSIGNMENT**

**Section 2.1 Assignment by the Sellers:** The Sellers hereby absolutely grants, transfers, assigns and sets over, as of the date of this Agreement and to the extent such Assigned Leases are assignable at law, the Assigned Interest unto the Purchaser. The parties agree that if the assignment of any Assigned Lease is prohibited at law or requires the consent of any other party or parties and such consent has not or cannot be obtained, the Sellers shall hold the Assigned Interest in such Assigned Lease in trust for the benefit of the Purchaser and shall take all actions with respect thereto as the Purchaser may direct for the Purchaser’s account and benefit.

**Section 2.2 Acceptance by the Purchaser:** The Purchaser hereby accepts the assignment of the Assigned Interest as of the date of this Agreement.

## **ARTICLE III** **ASSUMPTION AND INDEMNITY**

**Section 3.1 Agreement by the Purchaser:** The Purchaser hereby agrees to be bound by, assume, comply with and be responsible for all of the obligations, covenants and liabilities of the Sellers accruing and arising from and after the date of this Agreement under or in respect of the Assigned Leases. Without limiting the generality of the foregoing, the Purchaser covenants and agrees with the Sellers:

(a) to pay all amounts payable by the Sellers under and in respect of the Assigned Leases relating to the period from and including the date of this Agreement; and

(b) to indemnify and save harmless the Sellers, its partners, shareholders, officers, directors, employees and agents, from and against any and all liabilities, damages, costs, expenses, causes of action, suits, claims, demands and judgments arising from or in connection with a breach by the Purchaser, its shareholders, directors, officers, employees, agents or those for whom it is responsible at law, from and after the date of this Agreement, of any of the covenants and obligations of the Sellers under or in respect of the Assigned Leases.

**Section 3.2 Agreement by the Sellers:** The Sellers hereby agrees to be bound by and be responsible for all of the obligations, covenants and liabilities of the Sellers accruing and arising prior to the date of this Agreement under or in respect of the Assigned Leases. Without limiting the generality of the foregoing, the Sellers covenants and agrees with the Purchaser:

(a) to pay all amounts payable by the Sellers under and in respect of the Assigned Leases relating to the period prior to the date of this Agreement; and

(b) to indemnify and save harmless the Purchaser and its shareholders, directors, officers, employees and agents, from and against any and all liabilities, damages, costs, expenses, causes of action, suits, claims, demands and judgments arising from or in connection with a breach by the Sellers, its partners, employees or agents, prior to the date of this Agreement, of any of the covenants and obligations of the Sellers under or in respect of the Assigned Leases.

**ARTICLE IV**  
**MISCELLANEOUS**

**Section 4.1 Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of ■ and the applicable laws of the United States of America.

**Section 4.2 Further Assurances:** Each of the parties shall execute and deliver all such further documents and do such other things as the other party may reasonably request to give full effect to this Agreement.

**Section 4.3 Successors and Assigns:** All of the covenants and agreements in this Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

**[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF the parties have executed this Agreement.

[NAME OF SELLERS]

By: \_\_\_\_\_  
Name:  
Title:

[NAME OF PURCHASER]

By: \_\_\_\_\_  
Name:  
Title:

**Schedule A to Exhibit B**

**Legal Description of the Lands**

**Schedule B to Exhibit B**

**Leases**



**EXHIBIT C**  
**ASSUMED LIABILITIES**

**EXHIBIT D**

**LIST OF EXISTING CONTRACTS**

**EXHIBIT E**

**LIST OF EXISTING LEASES**

**EXHIBIT F**  
**DESCRIPTION OF LANDS**

**EXHIBIT G**  
**CAPITALIZATION**

**EXHIBIT H**  
**INTELLECTUAL PROPERTY**

**EXHIBIT I**  
**INSURANCE**

**EXHIBIT J**  
**BENEFITS**



**EXHIBIT B**

**SALE NOTICE**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

-----X  
: **Chapter 11**  
: **Case No. 09-10720 (MFW)**  
: **Jointly Administered**  
: **Debtors.**  
:   
:   
-----X

**NOTICE OF AUCTION AND SALE HEARING**

**PLEASE TAKE NOTICE OF THE FOLLOWING:**

1. On March 5, 2009, Magna Entertainment Corp. ("Magna Entertainment") and its affiliated debtors, as debtors in possession (together, the "Debtors" and, collectively with Magna Entertainment's non-debtor subsidiaries, "MEC"),<sup>1</sup> commenced voluntary cases pursuant to chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

2. On March 17, 2009, the Debtors filed a motion (the "Motion") for entry of orders, among other things: (a) an order (the "Bidding Procedures Order") (i) approving the bidding procedures (as set forth in the Bidding Procedures Order, the "Bidding Procedures") for the sale (the "Sale") of the Assets (as defined herein); (ii) approving the form of purchase agreement to be used in connection with the Sale (the "Form Agreement"), substantially in the form annexed to the Motion as Exhibit "C", (iii) scheduling \_\_\_\_\_, 2009 as the date and time for the hearing to approve the sale (the "Sale Hearing") to the winning bidder, (iv) approving a process to pay cure obligations, if

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, if applicable, are: (i) Magna Entertainment Corp., 8374; (ii) The Santa Anita Companies, Inc., 6180; (iii) Los Angeles Turf Club, Incorporated, 6200; (iv) Pacific Racing Association, 5367; (v) MEC Land Holdings (California) Inc., 7410; (vi) Gulfstream Park Racing Association Inc., 6292; (vii) GPRA Thoroughbred Training Center, Inc., 2326; (viii) MEC Dixon, Inc., 7005; (ix) MEC Holdings (USA) Inc., 8494; (x) Sunshine Meadows Racing, Inc., 4288; (xi) Thistledown, Inc., 5742; (xii) MEC Maryland Investments, Inc., 4637; (xiii) 30000 Maryland Investments LLC, 1704, (xiv) Remington Park, Inc., 2024; (xv) GPRA Commercial Enterprises Inc., 6156; (xvi) Pimlico Racing Association, Inc., 4527; (xvii) The Maryland Jockey Club of Baltimore City, Inc., 3840; (xviii) Laurel Racing Association Limited Partnership, 0504; (xix) Laurel Racing Assoc., Inc., 0505; (xx) Prince George's Racing, Inc., 6493; (xxi) Southern Maryland Racing, Inc., 9850; (xxii) Southern Maryland Agricultural Association, 9661; (xxiii) Maryland Jockey Club, Inc., 3124; and (xxiv) AmTote International, Inc., 1143. [Will Be Deleted For Publication]

any, pursuant to section 365 of the Bankruptcy Code for those contracts that the Debtors may seek to assume and assign to the winning bidder (the “Cure Procedures”), and (iv) approving the notice of the auction (the “Auction”) at which the Debtors will solicit competing bids for a sale of the and the Sale Hearing, and (b) upon completion of the Auction, an order approving the Sale (the “Sale Order”).

3. Pursuant to the Motion, the Debtors seek to sell the following (collectively, the “Assets,” and individually, as defined in the Motion):

- (a) Racetracks: Santa Anita Park, Pimlico Race Course, Laurel Park, Thistledown, Remington Park, Portland Meadows, and Magna Racino.
- (b) Joint Venture Interests: MEC’s joint venture interest in Santa Anita Associates LLC, TrackNet Media Group LLC, and HRTV LLC.
- (c) Other Property: Fex Straw Manufacturing, Inc., FEX OKO Faserverarbeitungs-GMBH, the Bowie Training Center, and certain property located in Ocala, Florida and Dixon, California.

The Debtors reserve the right to withdraw any of the Assets from the Sale.

3. On April \_\_\_, 2009, the United States Bankruptcy Court for the District of Delaware entered the Bidding Procedures Order. Pursuant to the Bidding Procedures Order, if the Debtors receive any Qualified Bids (as defined in the Bidding Procedures), for the Assets or any Qualified Bids for one or more of the Assets, the Auction for the Assets shall take place on July 30, 2009 at 9:00 a.m. (prevailing Eastern Time) at the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, 25<sup>th</sup> Floor, New York, New York 10153. Only parties that have submitted a Qualified Bid, as set forth in the Bidding Procedures Order, by no later than July 8, 2009 at 5:00 p.m. (prevailing Eastern Time) (the “Bid Deadline”) may participate at the Auction. Any party that wishes to take part in this process and submit a bid for the Assets must submit their competing bid prior to the Bid Deadline and in accordance with the Bidding Procedures. **If a Qualified Bid to purchase the Assets, in whole or in part, is received, the Debtors, in their business judgment and sole and absolute discretion, may determine whether such Qualified Bid justifies entering into a “stalking horse” agreement for a particular Asset, and pursue such sale either in connection with the Auction or pursuant to another sale process.**

4. The Sale Hearing to consider approval of the Sale of the Assets to the Winning Bidder(s), free and clear of all liens, claims, and encumbrances, will be held before the Honorable Mary F. Walrath, United States Bankruptcy Judge, 824 North Market Street, Wilmington, Delaware 19801 on \_\_\_\_\_, 2009 at \_\_\_\_\_ (prevailing

Eastern Time), or at such other time thereafter as counsel may be heard. The Sale Hearing may be adjourned from time to time without further notice to creditors or parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing.

5. Objections, if any, to the Sale, or the relief requested in the Motion must: (a) be in writing; (b) comply with the Bankruptcy Rules and Local Rules; and (c) be filed with the clerk of the Bankruptcy Court for the District of Delaware, Third Floor, 824 North Market Street, Wilmington, Delaware 19801, on or before \_\_\_ p.m. (prevailing Eastern Time) on \_\_\_, 2009; and be served upon (i) Magna Entertainment Corp., 337 Magna Drive, Aurora, Ontario L46 7K1 (Attn: William G. Ford, General Counsel); (ii) Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq.), co-counsel for the Debtors; (iii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Brian S. Rosen, Esq.), co-counsel for the Debtors; (iv) the Office of the United States Trustee, 844 King Street, Room 2313, Wilmington, Delaware 19801 (Attn: Mark Kenney, Esq.); (v) Sidley Austin LLP, 787 Seventh Avenue, New York, New York 10019 (Attn: Lee Attanasio, Esq.), counsel for the Debtors' postpetition lenders, and (vi) attorneys for any statutory committee, if and when appointed, so as to be received no later than \_\_\_ p.m. (prevailing Eastern Time) on \_\_\_\_\_, 2009 (the "Objection Deadline"). UNLESS AN OBJECTION IS TIMELY SERVED AND FILED IN ACCORDANCE WITH THIS NOTICE, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER HEARING AND NOTICE.

6. This Notice and the Sale Hearing is subject to the fuller terms and conditions of the Motion and the Bidding Procedures Order, which shall control in the event of any conflict and the Debtors encourage parties-in-interest to review such documents in their entirety. Parties interested in receiving more information regarding the sale of the Assets and/or copies of any related document, including the Form Agreement, the Motion or the Bidding Procedures Order, may make a written request to: (i) Miller Buckfire & Co., LLC, 153 East 53<sup>rd</sup> Street, 22<sup>nd</sup> Floor, New York, New York 10022 (Attn: Michael Wildish), financial advisors and investment bankers of the Debtors, (ii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Brian S. Rosen, Esq.), co-counsel for the Debtors, and/or (iii) Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq.), co-counsel for the Debtors. In addition, copies of the

Motion, the Bidding Procedures Order and this Notice can be found on (i) the Court's website, [www.deb.uscourts.gov](http://www.deb.uscourts.gov); and (ii) <http://www.kcellc.net/magna>, and are on file with the Clerk of the Bankruptcy Court, Third Floor, 824 Market Street, Wilmington, Delaware 19801.

Dated: April \_\_, 2009  
Wilmington, Delaware

---

Mark D. Collins, Esq. (No. 2981)  
L. Katherine Good, Esq. (No. 5101)  
Maris J. Finnegan (*DE Admission Pending*)  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
920 North King Street  
Wilmington, DE 19801  
Telephone: (302) 651-7700  
Facsimile: (302) 651-7701

-and-

Marcia L. Goldstein, Esq.  
Brian S. Rosen, Esq.  
WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, NY 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007

*Proposed Attorneys for the Debtors and  
Debtors in Possession*

**EXHIBIT B**

**SALE NOTICE**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

-----X  
:  
*In re* : **Chapter 11**  
:  
MAGNA ENTERTAINMENT CORP., : **Case No. 09-10720 (MFW)**  
*et al.*, :  
:  
: **Jointly Administered**  
**Debtors.** :  
:  
-----X

**NOTICE OF AUCTION AND SALE HEARING**

**PLEASE TAKE NOTICE OF THE FOLLOWING:**

1. On March 5, 2009, Magna Entertainment Corp. ("Magna Entertainment") and its affiliated debtors, as debtors in possession (together, the "Debtors") and, collectively with Magna Entertainment's non-debtor subsidiaries, "MEC"),<sup>1</sup> commenced voluntary cases pursuant to chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").
  
2. On March 17, 2009, the Debtors filed a motion (the "Motion") for entry of orders, among other things: (a) an order (the "Bidding Procedures Order") (i) approving the bidding procedures (as set forth in the Bidding Procedures Order, the "Bidding Procedures") for the sale (the "Sale") of the Assets (as defined herein); (ii) approving the form of purchase agreement to be used in connection with the Sale (the "Form Agreement"), substantially in the form annexed to the Motion as Exhibit "C", (iii) scheduling \_\_\_\_\_, 2009 as the date and time for the hearing to approve the sale (the "Sale Hearing") to the winning bidder, (iv) approving a process to pay cure obligations, if

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, if applicable, are: (i) Magna Entertainment Corp., 8374; (ii) The Santa Anita Companies, Inc., 6180; (iii) Los Angeles Turf Club, Incorporated, 6200; (iv) Pacific Racing Association, 5367; (v) MEC Land Holdings (California) Inc., 7410; (vi) Gulfstream Park Racing Association Inc., 6292; (vii) GPRA Thoroughbred Training Center, Inc., 2326; (viii) MEC Dixon, Inc., 7005; (ix) MEC Holdings (USA) Inc., 8494; (x) Sunshine Meadows Racing, Inc., 4288; (xi) Thistledown, Inc., 5742; (xii) MEC Maryland Investments, Inc., 4637; (xiii) 30000 Maryland Investments LLC, 1704, (xiv) Remington Park, Inc., 2024; (xv) GPRA Commercial Enterprises Inc., 6156; (xvi) Pimlico Racing Association, Inc., 4527; (xvii) The Maryland Jockey Club of Baltimore City, Inc., 3840; (xviii) Laurel Racing Association Limited Partnership, 0504; (xix) Laurel Racing Assoc., Inc., 0505; (xx) Prince George's Racing, Inc., 6493; (xxi) Southern Maryland Racing, Inc., 9850; (xxii) Southern Maryland Agricultural Association, 9661; (xxiii) Maryland Jockey Club, Inc., 3124; and (xxiv) AmTote International, Inc., 1143. [Will Be Deleted For Publication]

any, pursuant to section 365 of the Bankruptcy Code for those contracts that the Debtors may seek to assume and assign to the winning bidder (the “Cure Procedures”), and (iv) approving the notice of the auction (the “Auction”) at which the Debtors will solicit competing bids for a sale of the and the Sale Hearing, and (b) upon completion of the Auction, an order approving the Sale (the “Sale Order”).

3. Pursuant to the Motion, the Debtors seek to sell the following (collectively, the “Assets,” and individually, as defined in the Motion):

- (a) Racetracks: Santa Anita Park, Pimlico Race Course, Laurel Park, Thistledown, Remington Park, Portland Meadows, and Magna Racino.
- (b) Joint Venture Interests: MEC’s joint venture interest in Santa Anita Associates LLC, TrackNet Media Group LLC, and HRTV LLC.
- (c) Other Property: Fex Straw Manufacturing, Inc., FEX OKO Faserverarbeitungs-GMBH, the Bowie Training Center, and certain property located in Ocala, Florida and Dixon, California.

The Debtors reserve the right to withdraw any of the Assets from the Sale.

3. On April \_\_\_\_, 2009, the United States Bankruptcy Court for the District of Delaware entered the Bidding Procedures Order. Pursuant to the Bidding Procedures Order, if the Debtors receive any Qualified Bids (as defined in the Bidding Procedures), for the Assets or any Qualified Bids for one or more of the Assets, the Auction for the Assets shall take place on July 30, 2009 at 9:00 a.m. (prevailing Eastern Time) at the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, 25<sup>th</sup> Floor, New York, New York 10153. Only parties that have submitted a Qualified Bid, as set forth in the Bidding Procedures Order, by no later than July 8, 2009 at 5:00 p.m. (prevailing Eastern Time) (the “Bid Deadline”) may participate at the Auction. Any party that wishes to take part in this process and submit a bid for the Assets must submit their competing bid prior to the Bid Deadline and in accordance with the Bidding Procedures. **If a Qualified Bid to purchase the Assets, in whole or in part, is received, the Debtors, in their business judgment and sole and absolute discretion, may determine whether such Qualified Bid justifies entering into a “stalking horse” agreement for a particular Asset, and pursue such sale either in connection with the Auction or pursuant to another sale process.**

4. The Sale Hearing to consider approval of the Sale of the Assets to the Winning Bidder(s), free and clear of all liens, claims, and encumbrances, will be held before the Honorable Mary F. Walrath, United States Bankruptcy Judge, 824 North Market Street, Wilmington, Delaware 19801 on \_\_\_\_\_, 2009 at \_\_\_\_\_ (prevailing



Eastern Time), or at such other time thereafter as counsel may be heard. The Sale Hearing may be adjourned from time to time without further notice to creditors or parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing.

5. Objections, if any, to the Sale, or the relief requested in the Motion must: (a) be in writing; (b) comply with the Bankruptcy Rules and Local Rules; and (c) be filed with the clerk of the Bankruptcy Court for the District of Delaware, Third Floor, 824 North Market Street, Wilmington, Delaware 19801, on or before \_\_\_ p.m. (prevailing Eastern Time) on \_\_\_, 2009; and be served upon (i) Magna Entertainment Corp., 337 Magna Drive, Aurora, Ontario L46 7K1 (Attn: William G. Ford, General Counsel); (ii) Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq.), co-counsel for the Debtors; (iii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Brian S. Rosen, Esq.), co-counsel for the Debtors; (iv) the Office of the United States Trustee, 844 King Street, Room 2313, Wilmington, Delaware 19801 (Attn.: Mark Kenney, Esq.); (v) Sidley Austin LLP, 787 Seventh Avenue, New York, New York 10019 (Attn: Lee Attanasio, Esq.), counsel for the Debtors' postpetition lenders, and (vi) attorneys for any statutory committee, if and when appointed, so as to be received no later than \_\_\_ p.m. (prevailing Eastern Time) on \_\_\_\_\_, 2009 (the "Objection Deadline"). UNLESS AN OBJECTION IS TIMELY SERVED AND FILED IN ACCORDANCE WITH THIS NOTICE, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT AND THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER HEARING AND NOTICE.

6. This Notice and the Sale Hearing is subject to the fuller terms and conditions of the Motion and the Bidding Procedures Order, which shall control in the event of any conflict and the Debtors encourage parties-in-interest to review such documents in their entirety. Parties interested in receiving more information regarding the sale of the Assets and/or copies of any related document, including the Form Agreement, the Motion or the Bidding Procedures Order, may make a written request to: (i) Miller Buckfire & Co., LLC, 153 East 53<sup>rd</sup> Street, 22<sup>nd</sup> Floor, New York, New York 10022 (Attn: Michael Wildish), financial advisors and investment bankers of the Debtors, (ii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Brian S. Rosen, Esq.), co-counsel for the Debtors, and/or (iii) Richards, Layton & Finger, P.A., One Rodney Square, 920 North King Street, Wilmington, Delaware 19801 (Attn: Mark D. Collins, Esq.), co-counsel for the Debtors. In addition, copies of the

Motion, the Bidding Procedures Order and this Notice can be found on (i) the Court's website, [www.deb.uscourts.gov](http://www.deb.uscourts.gov); and (ii) <http://www.kccllc.net/magna>, and are on file with the Clerk of the Bankruptcy Court, Third Floor, 824 Market Street, Wilmington, Delaware 19801.

Dated: April \_\_, 2009  
Wilmington, Delaware

---

Mark D. Collins, Esq. (No. 2981)  
L. Katherine Good, Esq. (No. 5101)  
Maris J. Finnegan (*DE Admission Pending*)  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
920 North King Street  
Wilmington, DE 19801  
Telephone: (302) 651-7700  
Facsimile: (302) 651-7701

-and-

Marcia L. Goldstein, Esq.  
Brian S. Rosen, Esq.  
WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, NY 10153  
Telephone: (212) 310-8000  
Facsimile: (212) 310-8007

*Proposed Attorneys for the Debtors and  
Debtors in Possession*

**EXHIBIT C**  
**PURCHASE AGREEMENT**

---

**PURCHASE AGREEMENT**

---

**BY AND AMONG**

**MAGNA ENTERTAINMENT CORP.<sup>1</sup>  
[MARYLAND RACING INC.<sup>2</sup>  
MEC CONTENT HOLDCO LLC<sup>3</sup>  
MEC DIXON, INC.<sup>4</sup>  
MEC HRTV HOLDCO LLC<sup>5</sup>  
MEC PROJEKTENTWICKLUNGS AG<sup>6</sup>  
MJC RACING (2007) LLC<sup>7</sup>  
SANTA ANITA COMMERCIAL ENTERPRISES, INC.<sup>8</sup>  
SUNSHINE MEADOWS RACING, INC.<sup>9</sup> ]  
AS SELLERS<sup>10</sup>**

**- and -**

**[PURCHASER]**

**Dated as of [            ], 2009**

---

<sup>1</sup> Owner of stock of MEC Oregon Racing, Inc. which owns Portland Meadows; MEC Racing Holding GmbH, which owns Magna Racino; Remington Park, Inc. which owns Remington Park; The Santa Anita Companies, Inc. which owns Santa Anita Park; Thistledown, Inc. which owns Thistledown; and Fex Straw Manufacturing Inc.

<sup>2</sup> Owner of Pimlico Racing Association, Inc. which owns Pimlico; and Laurel Racing Assoc. Inc. which indirectly owns Laurel Park.

<sup>3</sup> Owner of TrackNet Media Interest.

<sup>4</sup> Owner of Dixon Property.

<sup>5</sup> Owner of HRTV Interest.

<sup>6</sup> Owner of capital stock of FEX OKO-Faserverarbeitungs GmbH (StreuFex).

<sup>7</sup> See note 2.

<sup>8</sup> Owner of Caruso JV Interest.

<sup>9</sup> Owner of Ocala Property.

<sup>10</sup> Appropriate references to be included or deleted in individual bid.

## TABLE OF CONTENTS

ARTICLE I	DEFINITIONS .....	1
	Section 1.1. Recitals .....	1
	Section 1.2. Definitions .....	2
	Section 1.3. Other Terms .....	10
	Section 1.4. Headings .....	10
	Section 1.5. Interpretation .....	10
	Section 1.6. Time .....	11
	Section 1.7. Joint Ventures .....	11
ARTICLE II	AGREEMENT OF PURCHASE AND SALE .....	11
	Section 2.1. Purchase and Sale .....	11
	Section 2.2. Condition of Conveyance .....	12
	Section 2.3. Payment of Purchase Price .....	12
	Section 2.4. Purchase Price Adjustment .....	12
	Section 2.5. Assumption of Liabilities .....	13
ARTICLE III	COURT APPROVAL .....	13
	Section 3.1. Condition Precedent .....	13
ARTICLE IV	REPRESENTATIONS AND WARRANTIES .....	14
	Section 4.1. Representations and Warranties of the Sellers .....	14
	Section 4.2. Representations and Warranties of the Purchaser .....	21
	Section 4.3. Survival .....	21
	Section 4.4. Non-Waiver .....	21
ARTICLE V	COVENANTS .....	22
	Section 5.1. Covenants of the Sellers .....	22
	Section 5.2. Covenants of the Purchaser .....	24
	Section 5.3. Joint Obligations .....	24
	Section 5.4. Approvals of the Purchaser .....	24
	Section 5.5. Notice of Default .....	25
	Section 5.6. Approvals .....	25
	Section 5.7. Risk of Condemnation and Eminent Domain .....	25
	Section 5.8. Damage Before Closing .....	25
ARTICLE VI	TITLE .....	26

Section 6.1.	Search of Title .....	26
ARTICLE VII	CONDITIONS TO CLOSING .....	26
Section 7.1.	Conditions for the Purchaser .....	26
Section 7.2.	Conditions for the Sellers .....	27
ARTICLE VIII	CLOSING .....	28
Section 8.1.	Closing Arrangements .....	28
Section 8.2.	Sellers' Deliveries .....	30
Section 8.3.	Purchaser's Deliveries .....	30
Section 8.4.	Separate Tax Parcel .....	30
Section 8.5.	Tax Matters.....	32
ARTICLE IX	TERMINATION OF AGREEMENT.....	32
Section 9.1.	Termination of Agreement By Either Party .....	32
Section 9.2.	Effect of Termination .....	32
ARTICLE X	MISCELLANEOUS.....	32
Section 10.1.	As-Is/Where-Is Transaction.....	32
Section 10.2.	No Recording.....	33
Section 10.3.	Obligations as Covenants .....	33
Section 10.4.	Tender.....	33
Section 10.5.	Relationship of the Parties.....	33
Section 10.6.	Amendment of Agreement .....	33
Section 10.7.	Notices.....	33
Section 10.8.	Specific Performance.....	34
Section 10.9.	Fees and Expenses.....	34
Section 10.10.	Governing Law; Jurisdiction; Service of Process .....	34
Section 10.11.	Further Assurances .....	35
Section 10.12.	Entire Agreement.....	35
Section 10.13.	Waiver .....	35
Section 10.14.	Survival.....	35
Section 10.15.	Assignment .....	35
Section 10.16.	Successors and Assigns .....	35
Section 10.17.	Counterparts .....	35

## PURCHASE AGREEMENT

**PURCHASE AGREEMENT** (the “**Agreement**”), dated as of [ ], 2009, by and among MAGNA ENTERTAINMENT CORP. (“**MEC**”), a Delaware corporation, [MJC RACING (2007) LLC, a Delaware limited liability company], [MARYLAND RACING, INC., a Delaware corporation], [MEC CONTENT HOLDCO LLC, a Delaware limited liability company (“**MEC Content**”)], [MEC DIXON INC., a Delaware corporation], [MEC HRTV HOLDCO LLC, a Delaware corporation], [MEC PROJEKTENTWICKLUNGS AG, an Austrian corporation], [SANTA ANITA COMMERCIAL ENTERPRISES, INC., a Delaware corporation], [and] [SUNSHINE MEADOWS RACING, INC., a Delaware corporation],<sup>11</sup>, as Sellers (collectively, the “**Sellers**”), and [PURCHASER], a [ ] corporation (“**Purchaser**”).

### RECITALS:

A. The Sellers currently, among other things, (1) conduct thoroughbred racing and *pari mutuel* and simulcast wagering at, among other facilities, [[Santa Anita Park (“**Santa Anita**”)], [Pimlico Race Course (“**Pimlico**”)], [Laurel Park (“**Laurel Park**”)], [Thistledown (“**Thistledown**”)], [Remington Park (“**Remington Park**”)], [Portland Meadows (“**Portland Meadows**”)]] [and] [Magna Racino (“**Magna Racino**”), and collectively with [Santa Anita], [Pimlico], [Laurel Park], [Thistledown], [Remington Park] and [Portland Meadows], the “**Racetracks**”]<sup>12</sup>, (2) own undeveloped real property, (3) own interests in the [Caruso JV], [TrackNet Media] [and] [HRTV ] (collectively, the “**Joint Ventures**”)<sup>13</sup>, and (4) own and operate certain facilities, including the Bowie Training Center, media and technology assets relating to the thoroughbred racing and gaming industry at the Racetracks and elsewhere.

B. MEC, the direct or indirect parent of each of the other Sellers, and certain of MEC’s subsidiaries and affiliates, on March 5, 2009 commenced cases (the “**Chapter 11 Cases**”) under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) by filing voluntary petitions for relief with the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”).

C. Sellers desire to sell assets and equity interests on the terms and conditions contained in this Agreement, including obtaining confirmation of a chapter 11 plan and an order of the Bankruptcy Court pursuant to section 363 of the Bankruptcy Code authorizing the Transaction.

D. NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the parties hereto covenant and agree as follows:

---

<sup>11</sup> Appropriate references to be included or deleted in individual bid.

<sup>12</sup> Appropriate references to Racetracks to be included or deleted in individual bid.

<sup>13</sup> Appropriate references to Joint Ventures to be included or deleted in individual bid.

**ARTICLE I**  
**DEFINITIONS**

**Section 1.1. Recitals.** The recitals set forth above are incorporated by reference and are expressly made part of this Agreement.

**Section 1.2. Definitions.** The following definitions shall apply to and constitute part of this Agreement and all Exhibits and Schedules attached hereto:

“**Adjustment**” shall mean the Purchase Price adjustment required pursuant to Section 2.4.

“**Affiliate**” shall mean a person or entity that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the person or entity specified. For purposes of this definition, “control” shall mean (a) a fifty percent (50%) or more common equity ownership or (b) the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“**Applicable Laws**” shall mean all domestic or foreign statutes, laws, by-laws, regulations, rules, ordinances and orders of governmental or other public authorities having jurisdiction.

“**Assignment and Assumption of Contracts**” shall mean an assignment by each Seller and assumption by the Purchaser of such Seller’s right, title and interest in and to the Existing Contracts, such agreement substantially in the form attached hereto as Exhibit A.

[“**Assignment and Assumption of Leases**” shall mean an assignment by each Seller and assumption by the Purchaser of such Seller’s right, title and interest in and to the Existing Leases, such agreement substantially in the form attached hereto as Exhibit B.]<sup>14</sup>

“**Assumed Liabilities**” shall mean those liabilities of the Sellers as set forth on Exhibit C.

“**Bill of Sale**” shall mean a bill of sale for the Chattels.

“**Business Day**” shall mean any day other than a Saturday, Sunday or other day on which commercial banks in New York City, New York, or Toronto, Ontario are authorized or obligated to close under Applicable Laws.

[“**Caruso JV**” shall mean the joint venture formed by SAC and Santa Anita Commercial Holdings Co., LLC to develop approximately fifty-one (51) acres of land surrounding Santa Anita Park.]<sup>15</sup>

---

<sup>14</sup> Include if purchasing one or more Lands.

<sup>15</sup> Include if purchasing Caruso JV Interest.



["**Caruso JV Interest**" shall mean the fifty percent (50%) interest in the Caruso JV owned by SAC.]<sup>16</sup>

[ "**Chattels**" means the equipment, inventory, supplies and other chattels, in each case, if any, located on or about the Lands, which are owned by the Sellers and used exclusively in the maintenance, repair and operation of the Lands.]<sup>14</sup>

"**Claims**" shall mean claims, suits, proceedings, liabilities, obligations, losses, damages, penalties, judgments, costs, expenses, fines, disbursements, reasonable legal fees and disbursements, including in respect of investigation, interest, demands and actions of any nature or any kind whatsoever.

"**Closing**" shall mean the consummation of the Transaction in accordance with the terms set forth in Article VIII.

"**Closing Date**" shall mean the first (1st) Business Day following satisfaction or waiver of all the conditions set forth in Article VII, or such other date as the Sellers and the Purchaser shall mutually agree upon in writing.

"**Closing Documents**" shall mean any agreements, instruments and other deliveries to be delivered at the Closing pursuant to Sections 8.2 and 8.3.

"**Confirmation Order**" shall mean the order of the Bankruptcy Court confirming the Plan in accordance with section 1129 of the Bankruptcy Code.

"**Contracts**" shall mean any contracts and agreements entered into by any Seller[, Purchased Company or Joint Venture]<sup>17</sup>, [or by which any of them is bound with respect to the Lands, including all contracts and agreements in respect of the severance, development, construction, management, leasing, maintenance or operation of the Lands.]<sup>14</sup>

"**Control**" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and "**Controlling**" and "**Controlled**" shall have meanings correlative thereto.

["**Deed**" shall mean a deed in customary form for conveying title to real property in the respective jurisdictions in which the Lands being acquired directly are located.]<sup>14</sup>

["**Dixon Property**" shall mean certain real property located in Dixon, California, consisting of approximately two hundred sixty (260) acres, and more specifically described on Exhibit F-1 hereto.]<sup>18</sup>

---

<sup>16</sup> Include if purchasing Caruso JV Interest.

<sup>17</sup> Bracketed language only applicable if purchasing a Purchased Company or Joint Venture, as the case may be.

<sup>18</sup> Include if purchasing Dixon Property.

**“Due Diligence”** shall mean such investigations, inspections, reviews, tests and audits relating to the Purchased Assets (including title to the Purchased Assets and compliance with Applicable Laws) as the Purchaser deems reasonably necessary or desirable in its sole and absolute discretion.

**“Employee Plan”** shall mean each Benefit Plan other than a Multiemployer Plan, a Multi-Employer Health Plan or a Governmental Plan.]<sup>17</sup>

**“Encumbrances”** shall mean all mortgages, pledges, charges, liens, debentures, trust deeds, claims, assignments by way of security or otherwise, security interests, conditional sales contracts or other title retention agreements or similar interests or instruments charging, or creating a security interest in the Purchased Assets or any part thereof or interest therein, and any agreements, leases, licenses, occupancy agreements, options, easements, rights of way, restrictions, executions or other encumbrances (including notices or other registrations in respect of any of the foregoing) affecting title to the Purchased Assets or any part thereof or interest therein.

**“Environmental Laws”** shall mean all applicable federal, state, municipal and local laws, statutes, regulations and other legal requirements relating to the protection of the environment or natural resources.

**“Environmental Permits”** shall mean all material licenses, permits, approvals, consents, certificates, registrations and other authorizations issued pursuant to Environmental Laws in respect of the Lands.]<sup>14</sup>

**“Environmental Reports”** shall mean accurate and complete copies of any material reports, studies, analyses, evaluations, assessments or monitoring data that have been performed with regard to the Lands and which are in the possession or control of the Sellers.]<sup>14</sup>

**“ERISA”** shall mean the Employee Retirement Income Security Act of 1974, as amended.]<sup>17</sup>

**“Existing Contracts”** shall mean all Contracts, as amended, renewed or otherwise varied to the date of this Agreement, all of which are listed on Exhibit D.

**“Existing Leases”** shall mean all Leases, as amended, renewed or otherwise varied to the date of this Agreement, all of which are listed on Exhibit E.]<sup>14</sup>

**“Fex Straw Stock”** shall mean the common stock of Fex Straw Manufacturing, Inc., a Delaware corporation, issued and outstanding as of the date hereof.]<sup>19</sup>

**“Fex Straw Austria Stock”** shall mean the outstanding capital stock of FEX OKO-Faserverarbeitungs GmbH, an Austrian company, issued and outstanding as of the date hereof.]<sup>20</sup>

---

<sup>19</sup> Include if purchasing Fex Straw.

<sup>20</sup> Include if purchasing Fex Straw.

“GAAP” shall mean United States generally accepted accounting principles in effect from time to time.

“Governmental Authority” shall mean any domestic, foreign or local government, quasi-governmental authority, regulatory authority, government department, agency, commission, board, arbitral or other tribunal or court having jurisdiction or power of any nature over the Purchased Assets.

[“Governmental Plan” shall mean a “governmental plan” as defined in Section 3(32) of ERISA.]<sup>17</sup>

“Hazardous Substances” shall mean any material, substance or waste defined or characterized as hazardous, toxic, a pollutant or a contaminant under Environmental Laws.

“Hearing” shall mean the hearing to be held by the Bankruptcy Court to consider the Sale Motion and the approval of the Transaction.

[“HRTV” shall mean HRTV, LLC, a Delaware limited liability company, an operator of a television network dedicated to providing programming and content relating to horse racing and the horse racing industry.]<sup>21</sup>

[“HRTV Interest” shall mean the fifty percent (50%) interest in HRTV owned by MEC HRTV.]<sup>22</sup>

“HSR” shall mean the Hart-Scott Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

“Intellectual Property Rights” means all trade or brand names, business names, trade-marks (including logos), trade-mark registrations and applications, service marks, service mark registrations and applications, copyrights, copyright registrations and applications, issued patents and pending applications and other patent rights, industrial design registrations, pending applications and other industrial design rights, trade secrets, proprietary information and know-how, equipment and parts lists and descriptions, instruction manuals, inventions, inventors’ notes, research data, blue prints, drawings and designs, formulae, processes, technology and other intellectual property, together with all rights under licenses, registered user agreements, technology transfer agreements and other agreements or instruments relating to any of the foregoing.

“IRC” shall mean the Internal Revenue Code of 1986, as amended.

“IRS” shall mean the Internal Revenue Service of the United States.

[“Land Development Code” means any law, enactment, statute, code, ordinance, rule, regulation, judgment, decree, writ, injunction, franchise, permit, certificate, license,

---

<sup>21</sup> Include if purchasing HRTV Interest.

<sup>22</sup> See previous footnote.

authorization, agreement, or other direction or requirement of any Governmental Authority now existing or hereafter enacted, adopted, promulgated, entered, or issued affecting the Lands.]<sup>14</sup>

["**Lands**" shall mean the fee simple interest in [the Ocala Property] [and] [the Dixon Property], together with any and all improvements located on or in the Lands and any and all easements, tenements, rights-of-way and other rights and interests appurtenant thereto and any and all improvements located therein.]<sup>14</sup>

["**Leases**" shall mean any agreements to lease, leases, renewals of leases and other rights (including licenses) granted by or on behalf of the Sellers or their respective predecessors in title as owner of the Lands which entitle any Person to possess or occupy any space on or within the Lands, together with all security, guarantees and indemnities relating thereto.]<sup>14</sup>

"**Licenses**" shall mean any and all *pari mutuel* or other horse racing or gaming related licenses.

"**Losses**" shall mean in respect of any matter, all losses, damages, liabilities, diminution in value, deficiencies, costs and expenses (including all reasonable legal and other professional fees and disbursements, interest, penalties and amounts paid in settlement) arising directly or indirectly.

["**Magna Racino Austria Stock**" shall mean the outstanding capital stock of MEC Racing Holding GmbH, an Austrian company, issued and outstanding as of the date hereof.]<sup>23</sup>

["**MEC Oregon Racing Stock**" shall mean the common stock of MEC Oregon Racing, Inc., a Delaware corporation, issued and outstanding as of the date hereof.]<sup>24</sup>

["**Multiemployer Plan**" shall mean a "multiemployer plan" as defined in Section 3(37) of ERISA.]<sup>17</sup>

["**Multi-Employer Health Plan**" shall mean a "multiple employer welfare benefit arrangement" as defined in Section 3(40)(A) of ERISA.]<sup>17</sup>

"**Notice**" shall mean any notice, request, consent, acceptance, waiver or other communication required or permitted to be given pursuant to this Agreement.

["**Ocala Property**" shall mean certain real property located in Ocala, Florida, consisting of approximately four hundred ninety (490) acres, and more specifically described on Exhibit F-2 hereto.]<sup>25</sup>

"**Ordinary Course of Business**" shall mean the operation and conduct of the affairs of an enterprise in the ordinary course of its business, consistent with past practice and the businesses in which the respective Sellers operate.

---

<sup>23</sup> Include if purchasing Magna Racino.

<sup>24</sup> Include if purchasing Portland Meadows.

<sup>25</sup> Include if purchasing Ocala Property.

[“**Permits**” shall mean, to the extent assignable, all the right, title, benefit and interest of any Seller in any and all licenses (other than *pari mutuel* or other horse racing or gaming-related licenses), franchises, governmental and other approvals, development rights and permits relating to the Lands.]<sup>14</sup>

[“**Permitted Encumbrances**” shall mean: (i) the Existing Leases; (ii) liens for current taxes or other similar governmental impositions which are not yet delinquent; (iii) discrepancies, conflicts in boundary lines, shortage in area, encroachments and any other state of facts shown on any survey provided to the Purchaser and those matters set forth on Schedule A on any title report provided to the Purchaser; (iv) rights of Tenants under Existing Leases; (v) laws, regulations, resolutions or ordinances, including building, zoning and environmental protection, as to the use, occupancy, subdivision, development, conversion or redevelopment of the Lands imposed by any Governmental Authority; (vi) any and all mortgages and liens upon and security interests in any of the Lands; (vii) any unrecorded and recorded encumbrances, liens, agreements and other instruments affecting the Lands which have been accepted by the Purchaser by notice in writing to the Sellers on or before the Closing Date; and (viii) all other matters which would not materially adversely affect the use of the Lands as currently conducted.]<sup>14</sup>

“**Person**” shall mean an individual, partnership, limited liability company, corporation, trust, unincorporated organization, government, or any department or agency thereof, and the successors and assigns thereof or the heirs, executors, administrators or other legal representatives of an individual.

“**Plan Effective Date**” shall mean the date upon which all the conditions to effectiveness of the Plan shall have been satisfied or waived and the Transaction shall have been substantially consummated.

“**Purchase Price**” shall mean [ ] (\$[ ]) subject to the adjustment provided for in Section 2.4.

“**Purchased Assets**” shall mean, collectively, the assets, the stock of the Purchased Companies and the Joint Venture Interests to be purchased by the Purchaser and set forth in detail in Section 2.1.

“**Purchased Companies**” shall mean [The Santa Anita Companies, Inc.], [Pimlico Racing Association, Inc.], [Laurel Racing Assoc., Inc.], [Thistledown, Inc.], [Remington Park, Inc.], [MEC Oregon Racing, Inc.], [MEC Racing Holding GmbH], [Fex Straw Manufacturing Inc.], [FEX OKO-Faserverarbeitungs GmbH].<sup>26</sup>

“**Purchaser’s Solicitors**” shall mean [ ], or such other firms of solicitors or lawyers acting for the Purchaser and notice of which is provided to the Sellers in accordance with the provisions of Section 10.7.

---

<sup>26</sup> Appropriate references to be included or deleted in individual bid.

["**Reorganized Laurel Racing Interests**"] shall mean the partnership interests of Laurel Racing Assoc. LP, a Maryland limited partnership, to be issued on the Plan Effective Date.]<sup>27</sup>

["**Reorganized Pimlico Stock**"] shall mean the common stock of Pimlico Racing Association, Inc., a Maryland corporation, to be issued on the Plan Effective Date.]<sup>28</sup>

["**Reorganized Remington Stock**"] shall mean the common stock of Remington Park, Inc., an Oklahoma corporation, to be issued on the Plan Effective Date.]<sup>29</sup>

["**Reorganized Santa Anita Stock**"] shall mean the common stock of The Santa Anita Companies, Inc., a Delaware corporation to be issued on the Plan Effective Date.]<sup>30</sup>

["**Reorganized Thistledown Stock**"] shall mean the common stock of Thistledown, Inc., an Ohio corporation to be issued on the Plan Effective Date.]<sup>31</sup>

"**Representations**" shall mean the representations, warranties and certifications made or to be made pursuant to this Agreement and all agreements, documents and instruments entered into in connection herewith.

["**Requisitions Notice**"] shall mean the notice which may be sent by the Purchaser, no later than ten (10) Business Days prior to the commencement of the Hearing in accordance with the provisions of Section 6.1.]<sup>14</sup>

["**SAC**"] shall mean Santa Anita Commercial Enterprise, Inc.]<sup>32</sup>

"**Sale Motion**" shall mean the motion to be filed by MEC and the Sellers with the Bankruptcy Court seeking an order, pursuant to section 363 of the Bankruptcy Code, authorizing the sale of the Purchased Assets to the Purchaser, free and clear of all Encumbrances, other than Permitted Encumbrances.

"**Sale Order**" shall mean the order of the Bankruptcy Court authorizing, among other things, the sale of the Purchased Assets to the Purchaser pursuant to this Agreement and the consummation of the Transaction.

"**Statement of Closing Adjustments**" shall mean the Statement of Closing Adjustments to be made as of the Closing Date and delivered by the Sellers on or prior to the second (2nd) Business Day prior to the Closing, together with detailed calculations used by the Sellers with respect thereto.

---

<sup>27</sup> Include if purchasing Laurel Park.

<sup>28</sup> Include if purchasing Pimlico.

<sup>29</sup> Include if purchasing Remington Park.

<sup>30</sup> Include if purchasing Santa Anita.

<sup>31</sup> Include if purchasing Thistledown.

<sup>32</sup> Include if purchasing Caruso JV Interest.

**“Subsidiary”** shall mean, with respect to any Person, any corporation, partnership, association or other business entity (a) of which securities or other ownership interests representing more than fifty percent (50%) of the equity or more than fifty percent (50%) of the ordinary voting power to elect a majority of the board of directors or the equivalent thereof of such corporation, company, association or other business entity or more than fifty percent (50%) of the general partnership interests are, at the time any determination is being made, directly or indirectly, owned, Controlled or held by such Person and one or more subsidiaries of such Person, or (b) that is, at the time any determination is being made, otherwise Controlled, by such Person or by one or more other subsidiaries of such Person.

**“Tax”** or **“Taxes”** shall mean any federal, state, local or foreign net income, gross income, gross receipts, windfall profit, severance, property, production, sales, use, license, excise, franchise, employment, payroll, withholding, alternative or add on minimum, ad valorem, value added, transfer, stamp, or environmental tax, escheat payments or any other tax, custom, duty, governmental fee or other like assessment or charge (together with any and all interest, penalties and additions to tax imposed with respect thereto) imposed on or with respect to any of the Sellers, the Purchased Companies or the Joint Ventures by any taxing authority.

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

**“Tenants”** shall mean all Persons having a right to possess or occupy the Lands or any part thereof now or hereafter pursuant to an Existing Lease.]<sup>14</sup>

**“Termination Date”** shall mean the date on which this Agreement is terminated in accordance with the provisions of Article IX.

**“TrackNet Media”** shall mean TrackNet Media Group, LLC, a distributor of the Racetracks’ horse racing content through media outlets to other racetracks, off track betting facilities, casinos and advance deposit wagering companies, and purchaser of horse racing content from third parties for redistribution.]<sup>33</sup>

**“TrackNet Media Interest”** shall mean the fifty percent (50%) interest of TrackNet Media owned by MEC Content.]<sup>34</sup>

**“Transfer Taxes”** means any transfer, documentary, sales, use, stamp, registration and other such taxes, any conveyance fees, any recording charges and any other similar fees and charges (including penalties and interest in respect thereof).

**“Transaction”** shall mean the transactions contemplated herein, including the purchase and sale of the Purchased Assets provided for in this Agreement.

---

<sup>33</sup> Include if purchasing TrackNet Media.

<sup>34</sup> See previous footnote.

**“Working Capital”** shall mean Current Assets minus Current Liabilities. The terms **“Current Assets”** and **“Current Liabilities”** mean the sum of the current assets and current liabilities, respectively, of the Purchased Companies, calculated in accordance with United States generally accepted accounting principles (**“GAAP”**).

[**“Voluntary Liens”** shall mean liens and other Encumbrances (other than Permitted Encumbrances) which each of the respective Sellers has knowingly and intentionally placed (or suffered or allowed to be placed) on the Lands, including (x) notices of *lis pendens* or mechanics’ liens resulting from such Seller’s failure to pay any obligation of the Sellers, and (y) all mortgages, deeds of trust, assignments of leases, financing statements and other instruments securing debt, including any existing mortgages.]<sup>14</sup>

**Section 1.3. Other Terms.** Other terms may be defined elsewhere in this Agreement and, unless otherwise indicated, shall have such meaning throughout this Agreement. As used in this Agreement, any reference to any federal, state, local, or foreign law, including any applicable law, will be deemed also to refer to such law as amended and all rules and regulations promulgated thereunder, unless the context requires otherwise. The words **“include”**, **“includes”**, and **“including”** will be deemed to be followed by **“without limitation”**. Pronouns in masculine, feminine, or neuter genders will be construed to include any other gender, and words in the singular form will be construed to include the plural and vice versa, unless the context otherwise requires. The words **“this Agreement”**, **“herein”**, **“hereof”**, **“hereby”**, **“hereunder”**, and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. References in this agreement to Articles, Sections, Schedules or Exhibits are to Articles or Sections of, Schedules or Exhibits to, this Agreement, except to the extent otherwise specified herein.

**Section 1.4. Headings.** The headings of the sections, paragraphs and subsections of this Agreement are inserted for convenience only and are not part of this Agreement and do not in any way limit or modify the terms or provisions of this Agreement and shall not affect the interpretation hereof.

**Section 1.5. Interpretation.** The Parties have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties hereto and no presumption or burden of proof will arise favoring or disfavoring any party hereto because of the authorship of any provision of this Agreement.

**Section 1.6. Time.** Time shall be of the essence of this Agreement. Except as expressly set out in this Agreement, the computation of any period of time referred to in this Agreement shall exclude the first day and include the last day of such period. If the time limited for the performance or completion of any matter under this Agreement expires or falls on a day that is not a Business Day, the time so limited shall extend to the next following Business Day. Whenever action must be taken (including the giving of notice, the delivery of documents or the funding of money) under this Agreement, prior to the expiration of, by no later than or on a particular date, unless otherwise expressly provided in this Agreement, such action must be completed by 5:00 p.m. on such date. The time limited for performing or completing any matter under this Agreement may be extended or abridged by an agreement in writing by the parties or by their respective solicitors. All references herein to time are references to Toronto time.



**Section 1.7. Joint Ventures.** Notwithstanding any other provisions hereof, the representations and warranties given hereunder with respect to any Joint Venture are given by the Sellers only to the knowledge of the Sellers and without inquiry of the management or employees of such Joint Venture, except for the representations and warranties given respecting the Sellers' direct or indirect ownership and other rights and obligations in respect of such Joint Venture. Covenants given by the Sellers shall not extend to such Joint Venture; provided however, that, if an issue relating to such Joint Venture arises, which issue would be the subject matter of any of the covenants contained in this Agreement but for the fact that the covenants do not extend to such Joint Venture, subject to any pre-existing agreement, the Sellers shall use commercially reasonable efforts to comply with such covenant and shall vote its voting interests in such Joint Venture in respect of such issue consistent with complying with the relevant covenant as though such covenant did extend to such Joint Venture. The Sellers shall also exercise any other proper influence in such Joint Venture in a manner consistent with complying with the relevant covenant as though such covenant did extend to such Joint Venture, subject to any Applicable Laws, applicable fiduciary duties or contractual obligations (other than under this Agreement).]<sup>17</sup>

## ARTICLE II AGREEMENT OF PURCHASE AND SALE

**Section 2.1. Purchase and Sale.** Each Seller hereby agrees to sell, transfer, assign, set over and convey to the Purchaser, and the Purchaser hereby agrees to purchase, acquire and assume from each of the Sellers, upon the terms and subject to the conditions of this Agreement, all right, title and interest of such Seller of any nature whatsoever, in the following Purchased Assets:

- (a) [[Caruso JV]. The Caruso JV Interest;
- (b) [Dixon]. The Dixon Property;
- (c) [Fex Straw]. The Fex Straw Stock and the Fex Straw Austria Stock;
- (d) [HRTV]. The HRTV Interest;
- (e) [Magna Racino]. The Magna Racino Austria Stock;
- (f) [Portland Meadows]. The MEC Oregon Racing Stock;
- (g) [Ocala]. The Ocala Property;
- (h) [Laurel Park]. The Reorganized Laurel Racing Interests;
- (i) [Pimlico]. The Reorganized Pimlico Stock;
- (j) [Remington]. The Reorganized Remington Stock;
- (k) [Santa Anita]. The Reorganized Santa Anita Stock;
- (l) [Thistledown]. The Reorganized Thistledown Stock; [and]

(m) [TrackNet Media]. The TrackNet Media Interest.]<sup>35</sup>

**Section 2.2. Condition of Conveyance.** The Purchased Assets shall be sold, conveyed, assigned, transferred and delivered by the Sellers to the Purchaser by appropriate instruments of transfer, bills of sale, endorsements, assignments [and Deeds]<sup>14</sup>, all in form and substance reasonably satisfactory to the Purchaser and the Seller, and free and clear of any and all Encumbrances of any and every kind, nature and description, other than Permitted Encumbrances; provided, however, that, to the extent that any of the Purchased Assets consist of leasehold interests in property owned by others, Purchaser hereby acknowledges and agrees that each such Purchased Asset shall be sold, conveyed, assigned, transferred and delivered hereunder subject to all the rights and interests of the owner of the leased property and to any security interest, lien or encumbrance which has been granted by such owner.

**Section 2.3. Payment of Purchase Price.** At the Closing, the Purchase Price shall be satisfied by payment of the Purchase Price by the Purchaser to the Sellers, by certified or bank cashier's check or by wire transfer of immediately available funds, all as adjusted pursuant to the terms and provisions of Section 2.4.

**Section 2.4. Purchase Price Adjustment.**

(a) The Purchase Price to be paid at the Closing shall be adjusted and increased or decreased, on a dollar-for-dollar basis, in an amount equal to the sum of the Working Capital of each of the Racetracks as of the Closing Date. In connection therewith, the Sellers shall prepare and deliver to the Purchaser at least two (2) Business Days prior to Closing the Statement of Closing Adjustments. The Sellers shall give to the Purchaser access to the Sellers' working papers and supporting materials in order to confirm the Statement of Closing Adjustments.

(b) Within 30 days after the Closing Date, the Purchaser shall prepare and deliver to MEC a statement (the "**Purchaser Statement**") setting forth the Working Capital as of the close of business on the Closing Date (the "**Closing Date Working Capital**").

(c) During the 10-day period following MEC's receipt of the Purchaser Statement, MEC and its independent auditors shall be permitted to review the working papers of the Purchaser relating to the Purchaser Statement. The Purchaser Statement shall become final and binding upon the parties on the 30th day following delivery thereof, unless MEC gives written notice of its disagreement with the Purchaser Statement (a "**Notice of Disagreement**") to the Purchaser before such date. Any Notice of Disagreement shall (i) specify in reasonable detail the nature of any disagreement so asserted and (ii) only include disagreements based on mathematical errors or based on the Closing Date Working Capital not being calculated in accordance with this Section 2.4. If a Notice of Disagreement is received by the Purchaser in a timely manner, then the Purchaser Statement (as revised in accordance with this sentence) shall become final and binding upon the Purchaser and MEC on the earlier of (A) the date the Purchaser and MEC resolve in writing any differences they have with respect to the matters specified in the Notice of Disagreement or (B) the date any disputed matters are finally resolved

---

<sup>35</sup> Appropriate references to be inserted or deleted in individual bid.

in writing by the Accounting Firm. During the 30-day period following the delivery of a Notice of Disagreement, the Purchaser and MEC shall seek in good faith to resolve in writing any differences that they may have with respect to the matters specified in the Notice of Disagreement. During such period the Purchaser and its auditors shall have access to the working papers of MEC prepared in connection with the Notice of Disagreement. At the end of such 30-day period, MEC and the Purchaser shall submit to an independent accounting firm (the "**Accounting Firm**") for arbitration any and all matters that remain in dispute and which were properly included in the Notice of Disagreement. The Accounting Firm shall be a nationally recognized independent public accounting firm as shall be agreed upon by the parties hereto in writing. The Purchaser and MEC shall jointly request that the Accounting Firm render a decision resolving the matters submitted to the Accounting Firm within 30 days after such submission. Judgment may be entered upon the determination of the Accounting Firm in any court having jurisdiction over the party against which such determination is to be enforced. The cost of any arbitration (including the fees and expenses of the Accounting Firm and reasonable attorney fees and expenses of the parties) pursuant to this Section 2.4 shall be borne by the Purchaser and MEC in inverse proportion as they may prevail on matters resolved by the Accounting Firm, which proportionate allocations shall also be determined by the Accounting Firm at the time the determination of the Accounting Firm is rendered on the merits of the matters submitted.

(d) Immediately upon the Purchaser Statement becoming final and binding, the Purchase Price shall either (a) be increased by the amount by which the Closing Date Working Capital exceeds the Estimated Working Capital or (b) be decreased by the amount by which Closing Date Working Capital is less than the Estimated Working Capital. If the Closing Date Working Capital exceeds the Estimated Working Capital (the "**Shortfall**"), the Purchaser shall promptly remit such Shortfall by wire transfer of immediately available funds to the account so designated by the Seller. If the Closing Date Working Capital is less than the Estimated Working Capital (the "**Overpayment**"), the Seller shall promptly remit such Overpayment by wire transfer of immediately available funds to the account so designated by the Purchaser.

**Section 2.5. Assumption of Liabilities.** Notwithstanding any provision contained in this Agreement to the contrary, on the Closing Date, Purchaser shall assume certain obligations and liabilities of the Sellers, to the extent but only to the extent as set forth on Exhibit C hereto, as and when such Assumed Liabilities shall become due and payable pursuant to the terms of the documents pursuant to which such Assumed Liabilities were created, including, to the extent set forth on Exhibit C, the payment of all amounts necessary to cure any monetary defaults in respect of such Assumed Liabilities. Without in any way limiting the foregoing, on the Closing Date, in accordance with the terms and conditions of the Sale Order, the Sellers shall be relieved of any liability with respect to such Assumed Liabilities.

### ARTICLE III COURT APPROVAL

**Section 3.1. Conditions Precedent.** In addition to the conditions set forth in Article VII, it shall be a condition precedent to the obligations of each of the parties to this Agreement that (i) the Bankruptcy Court shall have entered the Sale Order, after notice and a hearing as defined in section 102(1) of the Bankruptcy Code, approving the terms and conditions of this

Agreement and authorizing the Sellers to perform all acts necessary to consummate the Transaction and (ii) the Bankruptcy Court shall have entered the Confirmation Order.

#### ARTICLE IV REPRESENTATIONS AND WARRANTIES

**Section 4.1. Representations and Warranties of the Sellers.** Except as disclosed on the attached Disclosure Schedule, each of the Sellers, jointly but not severally, hereby represents and warrants to and in favor of the Purchaser, as follows:

(a) The Sellers are duly formed and subsisting under the respective laws of their states of formation, are properly qualified to do business in such states, and have the corporate power, authority, right and capacity to own the Purchased Assets, including the Lands, and to enter into, execute and deliver this Agreement and, subject to the entry of the Sale Order and the Confirmation Order, to carry out the Transaction in the manner contemplated by this Agreement.

(b) The Transaction has been duly and validly authorized by all requisite corporate or other proceedings of each of the Sellers[, the Purchased Companies and the Joint Ventures,]<sup>17</sup> and subject to the entry of the Sale Order and the Confirmation Order, upon execution and delivery by the Sellers and the Purchaser, this Agreement and all other documents and agreements to be delivered by the Sellers pursuant to this Agreement shall constitute legal, valid and binding obligations of the Sellers.

(c) [Each of the Purchased Companies is duly formed and subsisting under the respective laws of the state of its formation, is properly qualified to do business in such state, and has the corporate power or other authority, right and capacity to own, operate and/or lease the properties and assets now owned, operated and/or leased by it, and to carry on its business in all respects as currently conducted by it.]<sup>17</sup>

(d) Neither the execution of this Agreement nor its performance by the Sellers will result in a breach of any material term or material provision, or constitute a default under, or conflict with or cause the acceleration of any material obligation of the Sellers[, the Purchased Companies or the Joint Ventures]<sup>17</sup> under the constituent documents or by-laws of the Sellers, [the Purchased Companies or the Joint Ventures]<sup>17</sup>, or any indenture, mortgage, deed of trust or any other material agreement to which any of them is a party, or by which any of them is bound, and, other than the Sale Order and the Confirmation Order and any applicable approvals of any Governmental Authority, no consent, approval or other documentation is necessary to enable the Sellers to complete the Transaction pursuant to this Agreement in compliance with all existing obligations, Permits or Licenses of the Sellers[, the Purchased Companies and the Joint Ventures,]<sup>17</sup> and in compliance with all Applicable Laws, Permitted Encumbrances and any other obligations or agreements which affect the Purchased Assets[, the Purchased Companies and the Joint Ventures.]<sup>17</sup>

(e) To the knowledge of any of the Sellers, neither the execution of this Agreement nor its performance by any of the Sellers will result in a breach of any term or provision or constitute a default under, or conflict with or cause the acceleration of any obligation of any of the Sellers under, any indenture, mortgage, deed of trust or any other

material agreement to which MEC or any Subsidiary of MEC is a party, or by which MEC or any Subsidiary of MEC is bound and no consent, approval or other documentation, other than the Sale Order and the Confirmation Order and any applicable approvals of any Governmental Authority, is necessary to enable the Sellers to complete the Transaction pursuant to this Agreement in compliance with all existing obligations of MEC or any Subsidiary of MEC.

(f) To the knowledge of the Sellers, there is no material pending or threatened actions, suits, proceedings, claims, investigations, applications or complaints (whether or not purportedly on behalf of any of the Sellers) against or affecting any of the Sellers [or the Purchased Companies]<sup>17</sup>, which in any way relate to or involve or could adversely affect the Purchased Assets [or the Purchased Companies]<sup>17</sup>, [or the occupancy or use of the Lands by the Sellers]<sup>14</sup>, in law or in equity, which could affect the validity of this Agreement, the title to the Purchased Assets, the value of the Purchased Assets or the conveyance of any of the Purchased Assets to the Purchaser.

(g) Other than the Purchaser, no Person has any written or oral agreement or option, for the purchase or acquisition of all or any of the Purchased Assets; other than the Sale Order and the Confirmation Order, the Sellers have obtained all consents necessary to the sale of the Purchased Assets to the Purchaser.

(h) [The relevant Seller has good and marketable fee simple title to, and the exclusive right to possess, use and occupy the Lands subject to any applicable Existing Leases and Permitted Encumbrances.]<sup>14</sup> The Sellers have the full right, power and authority to sell the Purchased Assets to the Purchaser as contemplated by this Agreement.

(i) [Exhibit G hereto sets forth the capitalization of each of the Purchased Companies and the Joint Ventures. All of the outstanding shares of capital stock of the Purchased Companies are validly issued, fully paid and non-assessable (or with respect to the [Reorganized Santa Anita Stock], [Reorganized Pimlico Stock], [Reorganized Laurel Interests], [Reorganized Thistledown Stock] [and] [Reorganized Remington Stock]]<sup>36</sup> will be validly issued, fully paid and non-assessable) and are not subject to, nor were they issued in violation of, any preemptive rights, and, except as set forth in Exhibit G hereto, such shares or interests are or will be, as the case may be, owned by the Sellers, free and clear of any Encumbrance (other than Permitted Encumbrances) with respect thereto. Except as described above, as of the date hereof, there are not, and at the Closing there will not be, any capital stock or other equity interests in the Purchased Companies issued or outstanding or any subscriptions, options, warrants, calls, rights, convertible securities or other agreements or commitments of any character obligating any Purchased Company to issue, transfer or sell any of its capital stock or other equity interests, or any agreements, arrangements, or understandings granting any Person any rights in any Purchased Company similar to capital stock or other equity interests.]<sup>17</sup>

(j) [To the knowledge of the Sellers, no consent by any Governmental Authority, including any horse racing board or other regulatory or licensing body, is required in connection with the Purchaser's acquisition of the Purchased Assets and where applicable, the cessation of the Sellers' operations on the Lands, nor will the Purchaser be required to become

---

<sup>36</sup> Appropriate references to be inserted or deleted in individual bid.

licensed by, or otherwise submit to the regulatory regime of, any horse racing board or other regulatory or licensing body by virtue of the Purchaser's acquisition of the Purchased Assets (so long as the Purchaser [or the applicable Purchased Company]<sup>17</sup> does not operate a race track or other gaming venue on the Lands)]<sup>14</sup>.

(k) [Each Purchased Company holds all material licenses, permits, approvals, consents, certificates, registrations and similar authorizations (whether governmental, regulatory or otherwise) (a "Company License") necessary to carry on the business as currently conducted by it or to own or lease any of the property or assets utilized by it as such property or assets are currently owned, leased or utilized. Each Company License and material Permit is valid, subsisting and in good standing and the applicable Purchased Company is not in default or breach of such Company License or material Permit and, to the knowledge of the Sellers, no proceeding is pending or threatened to revoke or limit any Company License or material Permit.]<sup>17</sup>

(l) [(i) the Existing Leases disclosed to the Purchaser pursuant to Exhibit E hereto are the only Leases relating to or affecting the Lands as of the date hereof, the applicable Seller has not otherwise leased, subleased or otherwise granted to any Person the right to use or occupy the Lands or any portion thereof, and at Closing there shall not be any Leases affecting the Lands other than the Existing Leases, and such Existing Leases constitute, in each case, the entire agreement between the Sellers and the Tenants with respect to the lease or occupancy of space on or within the Lands and (ii) the Sellers is not in material default under any of the Existing Leases and, at the Time of Closing, there shall not exist a material default or an event which, with the passage of time or the giving of notice or both, would constitute a material default on the part of the Sellers under any of the Existing Leases.]<sup>14</sup>

(m) (i) the Existing Contracts disclosed to the Purchaser pursuant to Exhibit D hereto are the only Contracts [relating to or affecting the Lands]<sup>14</sup> or otherwise material to the applicable Seller [or Purchased Company]<sup>17</sup>, and at Closing there shall not be any Contracts affecting the Lands or otherwise material to the applicable Seller [or Purchased Company]<sup>17</sup>, other than the Existing Contracts; (ii) none of the Sellers [or Purchased Companies]<sup>17</sup> is a party to, and neither the Sellers [nor the Purchased Companies]<sup>17</sup> nor any of the Purchased Assets is or on Closing will be bound or affected by, any Contracts (whether oral or written) except the Existing Contracts; (iii) except for any default resulting from the insolvency of such Seller [or Purchased Company]<sup>17</sup>, none of the Sellers [or Purchased Companies]<sup>17</sup> has either given or received notice of any default, and neither the Sellers [nor the Purchased Companies]<sup>17</sup> is in material default under any of the Existing Contracts and, at the Time of Closing, there shall not exist any default or event which, with the passage of time or the giving of notice or both, would constitute a material default in the performance and/or observance of the obligations on the part of the Sellers [or the relevant Purchased Company]<sup>17</sup> under any of the Existing Contracts (including the Permitted Encumbrances); and (iv) each of the Existing Contracts (including the Permitted Encumbrances) is in full force and effect as to the Sellers [or the relevant Purchased Company]<sup>17</sup>, unamended by oral or written agreement except as disclosed to the Purchaser pursuant to Exhibit D hereto, and each Seller [or the relevant Purchased Company]<sup>17</sup> is entitled to the full benefit and advantage of each of the Existing Contracts to which it is a party in accordance with the terms thereof.

(n) The documents and information delivered or made available to the Purchaser pursuant to Section 5.1 constitute all of the material documentation with respect to the Purchased Assets within the Sellers' possession or control and at Closing, there shall not exist:

(i) any information or documentation relating to the Purchased Assets which was not disclosed or made available by the Sellers, as applicable, to the Purchaser as required by Section 5.1; or

(ii) any incompleteness of the information or documentation provided to the Purchaser pursuant to Section 5.1 with respect to the subject matter of such information or documentation; or

(iii) any inaccuracy in any of the information or documentation provided to the Purchaser pursuant to Section 5.1,

the effect of which lack of disclosure, incompleteness or inaccuracy is that the Purchaser was not aware of facts or circumstances which result, or could be reasonably expected to result, in a material adverse change in the value of the Purchased Assets.

(o) [There is direct access to, and egress from, the Lands from adjacent public roadways or streets abutting the Lands and, to the knowledge of the Sellers, there is no fact or condition which may result in interference with or termination of such access.]<sup>14</sup>

(p) [All Permits of Governmental Authorities having jurisdiction necessary in connection with the current use and operation of the Lands have been obtained and are in good standing in all material respects.]<sup>14</sup>

(q) [The Sellers and the relevant Purchased Companies have operated the Lands, and, until Closing, will operate the Lands, in the ordinary course in accordance with industry standard practices as would a prudent owner of comparable properties and has carried out all routine day to day repairs and maintenance in respect thereof.]<sup>14</sup>

(r) None of the Sellers is a "foreign corporation", "foreign partnership", "foreign trust", "foreign estate", "foreign person", "affiliate" of a "foreign person" or a "United States intermediary" of a "foreign person" within the meaning of the IRC, the Foreign Investments in Real Property Tax Act of 1980, the International Foreign Investment Survey Act of 1976, the Agricultural Foreign Investment Disclosure Act of 1978, or the regulations promulgated pursuant to such Acts or any amendments to such Acts.

(s) The Sellers and each Person owning an interest (directly or indirectly) in the Sellers is not: (i) identified on the "Specially Designated Nationals or Blocked Persons List" maintained by the Office of Foreign Purchased Assets Control, Department of Treasury (the "**OFAC**") and/or any other similar list maintained by the OFAC or the United States Department of Commerce, Bureau of Industry and Security of any other United States Governmental Authority pursuant to Applicable Laws; and (ii) a Person with whom a United States person is prohibited to engage in transactions pursuant to any trade embargo, economic sanction, or other prohibition of Applicable Laws, or Executive Order of the President of the United States or United Nations decree or resolution, provided, however, that this Subsection shall not apply to

any Person to the extent that such Person's interest in the Sellers is through a U.S. Publicly-Traded Entity and as used in this Agreement, "U.S. Publicly-Traded Entity" means a Person (other than an individual) whose securities are listed on a national securities exchange, or quoted on an automated quotation system, in the United States, or a wholly-owned Subsidiary of such a Person.

(t) Any fee due to any broker or agent retained by the Sellers in respect of this Agreement or the Transaction shall be paid by the Sellers.

(u) [To the knowledge of the Sellers, the Lands and use thereof have been, are in material compliance with, Environmental Laws, except as specifically disclosed in Environmental Reports delivered to the Purchaser.]<sup>14</sup>

(v) Except as disclosed in Environmental Reports made available to the Purchaser: (i) each of the Sellers [and the Purchased Companies]<sup>17</sup> are and have been in compliance with Environmental Laws, which compliance includes obtaining, maintaining, and complying with any Environmental Permits, except for such non-compliance that in each case or in the aggregate would not reasonably be expected to result in future material liability; (ii) neither the Sellers [nor the Purchased Companies]<sup>17</sup> are subject to any Claim or, to the knowledge of the Sellers, threatened Claim alleging either or both that the Sellers or the Purchased Assets may be in violation of any Environmental Law or Environmental Permit, or may have any liability under Environmental Law, except for such Claims that each case or in the aggregate would not reasonably be expected to result in future material liability; and (iii) to the knowledge of the Sellers, no facts, circumstances or conditions exist with respect to [the Lands or]<sup>14</sup> [the Purchased Companies]<sup>17</sup> that would in each case or in the aggregate reasonably be expected to result in material liability.

(w) [Neither the Sellers nor the relevant Purchased Company have received any written notice of any, and, to the knowledge of the Sellers, there is no threatened or pending eminent domain, condemnation or rezoning proceedings with respect to the Lands or any part of the Lands.]<sup>14</sup>

(x) [Each Purchased Company has good, valid and marketable title to, or the right to use, all of its Intellectual Property Rights. To the knowledge of Sellers, all current and former employees of any of the Purchased Companies have assigned to the Purchased Company at which they work or worked, as the case may be, all Intellectual Property Rights that such employees have created while in the scope of their employment with such Purchased Company, including copyrights in works made for hire and patents, except where failure to assign such Intellectual Property Rights would not reasonably be expected to materially impair the ability of such Purchased Company to continue to obtain free of charge the benefits of such Intellectual Property Rights. Exhibit H lists each registered Intellectual Property Right owned by each of the Purchased Companies and each material contract, license and agreement with respect to Intellectual Property Rights pursuant to which any of the Purchased Companies have granted any Person the right to reproduce, distribute, market or exploit Intellectual Property Rights. There is no action, pending, or to the Sellers' knowledge, threatened that challenges the validity of ownership or use of any Intellectual Property Rights of the Purchased Companies. To Sellers' knowledge, no third party's operations or products infringe on the Intellectual Property Rights in any material respect. To Sellers' knowledge, the Purchased Companies' operations and products



do not infringe in any material respect on the intellectual property rights of any other Person. Neither the Sellers nor any of the Purchased Companies have received during the preceding two (2) years any written claim of infringement with respect to any Intellectual Property Rights used by the Purchased Companies.]<sup>17</sup>

(y) [Exhibit I hereto sets forth a complete list of all material insurance policies with respect to which any of the Purchased Companies are a party, a named insured or otherwise the beneficiary of coverage.]<sup>17</sup>

(z) [Exhibit J sets forth a complete and correct list of all material: (i) “employee benefit plans,” as defined in Section 3(3) of ERISA, (ii) employment, consulting, retention, or change in control, and (iii) other employee benefit arrangements or payroll practices, including, without limitation, bonus plans, incentive, equity or equity-based compensation, or deferred compensation arrangements, termination or severance plans or arrangements, stock purchase, sick leave, vacation pay, salary continuation for disability, hospitalization, medical insurance, and life insurance plans and programs, excluding, in each case, collective bargaining agreements and any plans, programs or arrangements mandated by Applicable Laws, sponsored, maintained by, contributed to by or required to be contributed to by MEC, any of the Purchased Companies or any Subsidiaries of the Purchased Companies for the benefit of current or former employees of the Purchased Companies or any of their respective Subsidiaries (the “**Benefit Plans**”).]<sup>17</sup>

(aa) [True and complete copies of the following documents, with respect to each of the Employee Plans have been made available to Purchaser by the Purchased Companies or MEC, to the extent applicable: (i) any plans, all amendments thereto and related trust documents, and amendments thereto; (ii) the most recent Forms 5500 and all schedules thereto and the most recent actuarial report, (iii) the most recent IRS determination letter and (iv) the most recent summary plan descriptions.]<sup>17</sup>

(bb) [Except as set forth on Exhibit J, all Employee Plans covering current or former employees of the Purchased Companies located in the United States (“**U.S. Employee Plans**”) have been maintained in compliance, in all material respects, with their terms and with all applicable provisions of ERISA, the IRC and other Applicable Laws.]<sup>17</sup>

(cc) [Except as set forth on Exhibit J, the Employee Plans intended to qualify under Section 401 of the IRC are so qualified and the trusts maintained pursuant thereto are exempt from federal income taxation under Section 501 of the IRC, and, to the knowledge of the Seller, nothing has occurred with respect to the operation of the Employee Plans which could cause the loss of such qualification or exemption or the imposition of any material liability, penalty or tax under ERISA or the IRC.]<sup>17</sup>

(dd) [None of the Purchased Companies or any of its or their affiliates and any trade or business (whether or not incorporated) which is or has, within the last six years, been under common control, or which is or has, within the last six years, been treated as a single employer, with any of them under Section 414(b), (c), (m) or (o) of the IRC (“**ERISA Affiliate**”) has incurred any material liability under Title IV of ERISA, Section 302 of ERISA or Section 412 of the IRC that has not been satisfied in full. Except as set forth on Exhibit J, if any U.S. Employee Plan, which for purposes of this Section 4.1(ee) shall include any “employee pension

plan” as defined in Section 3(2) of ERISA, subject to Title IV of ERISA, Section 302 of ERISA or Section 412 of the IRC maintained by any ERISA Affiliate, were to terminate, there would be no material amount of unfunded liabilities (as defined in Section 4001(a)(17) of ERISA) with respect to such U.S. Employee Plan.]<sup>17</sup>

(ee) [As of the date hereof, there are no actions, claims or lawsuits (other than routine claims for benefits in the ordinary course) pending or, to the knowledge of the Sellers, threatened, with respect to any U.S. Employee Plan.]<sup>17</sup>

(ff) [None of the Purchased Companies nor any ERISA Affiliate have, within the past six years, withdrawn or partially withdrawn from any Multiemployer Plan with respect to which there is any outstanding material liability. None of the Purchased Companies nor any ERISA Affiliate have, within the past 12 months, received notice from any Multiemployer Plan that it is in reorganization or is insolvent, that increased contributions may be required to avoid a reduction in plan benefits or the imposition of any excise Tax, or that such plan intends to terminate or has terminated.]<sup>17</sup>

(gg) [Except as set forth on Exhibit J, neither the execution of this Agreement, nor the consummation of the Transaction will (i) entitle any employees of the Purchased Companies or any of their respective Subsidiaries to severance pay or any increase in severance pay upon any termination of employment after the date hereof under any U.S. Employee Plan, or (ii) accelerate the time of payment or vesting or result in any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, increase the amount payable or result in any other material obligation pursuant to, any of the U.S. Employee Plans.]<sup>17</sup>

(hh) [Each Employee Plan covering current or former employees of the Purchased Companies or any of their respective Subsidiaries located outside of the United States has been maintained in compliance, in all material respects, with its terms and the applicable Laws of the relevant jurisdiction.]<sup>17</sup>

(ii) [The Purchased Companies are not a party to any labor or collective bargaining agreement.]<sup>17</sup>

(jj) [There are no (i) strikes, work stoppages, work slowdowns or lockouts pending, or to the knowledge of the Sellers, threatened against or involving any of the Purchased Companies or (ii) material unfair labor practice charges, grievances or complaints pending or, to the knowledge of the Sellers, threatened by or on behalf of any employee or group of employees of the Purchased Companies.]<sup>17</sup>

(kk) [Each of the applicable Purchased Companies holds a license to conduct live horse racing with pari mutuel wagering at the respective Racetracks.]<sup>17</sup>

(ll) [All material Tax Returns required to be filed by or with respect to [the Purchased Companies, the Purchased Assets or, to the knowledge of the Sellers, the Joint Ventures have been timely filed (taking into account valid extensions of the time for filing) and all such Tax Returns are true, complete and accurate in all material respects. The Sellers, the Purchased Companies and, to the knowledge of the Sellers, the Joint Ventures have timely paid, or caused to be paid, all material Taxes shown as due on such Tax Returns. There are no

examinations or other administrative or court proceedings relating to material Taxes in progress or pending, and there is no existing, pending or threatened in writing claim, proposal or assessment against any Purchased Company or, to the knowledge of the Sellers, the Forest City JV for material Taxes.]<sup>17</sup>

**Section 4.2. Representations and Warranties of the Purchaser.** The Purchaser represents and warrants to and in favor of the Sellers, as follows:

(a) The Purchaser is a corporation duly existing under the laws of the [ ] and has the corporate power, authority, right and capacity to enter into this Agreement and to carry out the Transaction in the manner contemplated by this Agreement.

(b) The Transaction has been duly and validly authorized by all requisite corporate proceedings; upon execution and delivery by the Sellers and the Purchaser, this Agreement and all other documents and agreements to be delivered by the Purchaser pursuant to this Agreement shall constitute legal, valid and binding obligations of the Purchaser; and

(c) The Purchaser has not engaged or become liable to any broker in respect of this Agreement or the Transaction.

**Section 4.3. Survival.** The representations contained in this Agreement or in any Closing Documents shall not survive the Closing. Notwithstanding anything contained in this Agreement to the contrary, all of the representations, shall be subject to the following conditions and limitation: in the event that, prior to the Closing, the Purchaser gains current actual knowledge of a fact or circumstance which, by its nature and plainly on its face, indicates that a representations is, was, or will become untrue or inaccurate, then the Purchaser shall not have the right to bring any lawsuit or other legal action against the Sellers, nor pursue any other remedies against the Sellers, as a result of the breach of the representations caused thereby, but the Purchaser's sole right shall be to terminate this Agreement and not to proceed with the Transaction, in which event there shall be no liability on the part of the Sellers for breaches of representations of which the Purchaser had current actual knowledge prior to the Closing. For greater certainty and notwithstanding the foregoing, the parties hereto acknowledge and agree that the mere delivery by the Sellers to the Purchaser, and possession by the Purchaser, of the documents and instruments contemplated in Section 2.2 shall not be sufficient to constitute actual knowledge on the part of the Purchaser that a representations is, was or has become untrue or inaccurate.

**Section 4.4. Non-Waiver.** The Sellers agree that the Purchaser's right to do searches, reviews, examinations, investigations, inspections, assessments, audits and analyses, and the exercise of such right, shall not affect, reduce or mitigate any of the Representations or covenants of the Sellers contained in this Agreement or any of the damages and costs owing by the Sellers to the Purchaser as a result of any breach of such Representations or covenants.

## ARTICLE V COVENANTS

**Section 5.1. Covenants of the Sellers.** From and after the date hereof, the Sellers covenant and agree as follows:

(a) The Sellers shall deliver to the Purchaser the following in respect of the Purchased Assets:

(1) [copies of all Existing Leases and a copy of each notice of default, if any, received or sent by or on behalf of the Sellers in respect of any Existing Lease if the default referred to in such notice remains outstanding;]<sup>14</sup>

(2) copies of all Existing Contracts and each notice of default, if any, received or sent by or on behalf of the Sellers in respect of any Existing Contract if the default referred to in such notice remains outstanding;

(3) [the most current survey of the Lands, if any, in the Sellers' possession, together with the most recent title reports, deeds and title insurance policies, if any, in respect of the Lands;]<sup>14</sup>

(4) [a list of all outstanding litigation, arbitration, mediation or other proceedings affecting or relating to the Lands to which and of the Sellers is a party or in respect of which it has been formally notified and of all threatened litigation, arbitration, mediation or other proceedings affecting or relating to the Lands of which the Sellers has received written notice, together with any material correspondence relating thereto;]<sup>14</sup>

(5) a list of any third party consents, waivers or assumptions which are necessary to permit the conveyance of the Purchased Assets to the Purchaser;

(6) copies of any Environmental Report;

(7) [if requested by the Purchaser, authorizations enabling the Purchaser's Solicitors to obtain information from Governmental Authorities concerning the Lands (at the Purchaser's sole cost and expense);]<sup>14</sup>

(8) such other written information, correspondence and documentation relating to the Purchased Assets that is in the possession or control of the Sellers and which the Purchaser has requested, acting reasonably.

(b) As used in this Section 5.1, the term "control of the Sellers" shall mean, in addition to the Sellers, materials in the possession or control of MEC, current legal counsel to the Sellers or MEC, or any consultants, advisors or other third party professionals currently commissioned, retained or instructed by the Sellers or MEC.

(c) Any lists, documentation or other information provided by the Sellers pursuant to this Section 5.1 shall be amended or supplemented, as necessary from time to time, until 5:00 p.m. on the Business Day immediately preceding the Closing. In addition, if any of the Sellers becomes aware of a failure to provide any document or other information that it is required to provide in accordance with this Section 5.1 at any time prior to the Closing, it shall forthwith advise the Purchaser in writing of such failure and deliver such information to the Purchaser.

(d) The Purchaser acknowledges and agrees that it has not, for purposes of entering into this Agreement or consummating the Transaction, relied on any representations or

warranties or other statement or omission of Sellers or any of its directors, officers, employees, agents, stockholders, affiliates, consultants, counsel, accountants, or other representatives, other than the representations and warranties contained in this Agreement (including the Exhibits and Schedules hereto).

(e) [Between the date hereof and the Closing Date, the Seller shall, and shall cause the Purchased Companies to, operate their business in the Ordinary Course of Business and shall not, except as required or expressly permitted pursuant to the terms hereof or as the Purchaser shall consent in writing or as may be approved by order of the Bankruptcy Court, enter into any material transaction, other than in the Ordinary Course of Business.]<sup>17</sup>

(f) Except as set forth in the Confirmation Order, the Sellers shall diligently make all payments to be made and otherwise observe and perform or cause to be observed or performed all covenants and obligations to be observed or performed by the Sellers under the Existing Contracts [and the Existing Leases]<sup>14</sup>.

(g) [Until Closing, the Sellers shall not take any action, nor permit any action to be taken, which could reasonably be expected to materially adversely affect the current zoning of the Lands or the present or future use of the Lands.]<sup>14</sup>

(h) To the extent required by applicable law, the Sellers shall make the filing or filings as may be required by HSR.

(i) [The Sellers shall negotiate in good faith to enter into agreements with the Purchaser prior to the Closing Date, that provides that the Purchaser will provide content from races at [Santa Anita Park], [Pimlico], [Laurel Park], [Portland Meadows] [and] [Thistledown] to HRTV, TrackNet Media and/or such other entity as directed by the Sellers on terms similar to those currently in effect (the “HRTV/TrackNet Agreements”).]<sup>37</sup>

(j) [The Sellers shall negotiate in good faith to enter into an agreement with the Purchaser prior to the Closing Date, that provides that (i) [Santa Anita Park], [Remington Park], [Laurel Park], [Pimlico] [and] [Portland Meadows] will carry the signal for simulcast purposes from races at [INSERT NAMES OF RACETRACKS PURCHASED] and (ii) [INSERT NAMES OF RACETRACKS PURCHASED] will carry the signal for simulcast purposes from races at [Santa Anita Park], [Remington Park], [Laurel Park], [Pimlico] [and] [Portland Meadows] on terms similar to those currently in effect (the “Reciprocal Simulcast Agreement”)]<sup>38</sup>.

**Section 5.2. Covenants of the Purchaser.** (a) The obligation of the Purchaser to complete the Transaction pursuant to this Agreement is subject to the condition that the Purchaser is satisfied with the Due Diligence in its sole and absolute discretion on or before the date hereof, which satisfaction is hereby evidenced by the execution and delivery of this Agreement by the Purchaser.

---

<sup>37</sup> To be included if Purchaser purchases one or more Racetracks and DOES NOT purchase either or both of HRTV and TrackNet Media.

<sup>38</sup> To be included if Purchaser purchases one or more, BUT NOT ALL Racetracks.

(b) [The Purchaser shall negotiate in good faith to enter into the HRTV/TrackNet Agreements with the Seller prior to the Closing Date.]<sup>39</sup>

(c) [The Purchaser shall negotiate in good faith to enter into the Reciprocal Simulcast Agreements with the Seller prior to the Closing Date.]<sup>40</sup>

(d) To the extent required by applicable law, the Purchaser shall make the filing or filings as may be required by HSR.

**Section 5.3. Joint Obligations.** The parties shall proceed diligently and in good faith to attempt to settle, on or before the Closing Date or such earlier date as may be expressly set forth herein, the contents of all Closing Documents to be executed and delivered by the Sellers and the Purchaser; provided, however, that, in the case of any Closing Documents to be executed and delivered in the forms attached hereto as Exhibits, such forms shall not be subject to further negotiations and the Sellers and the Purchaser shall provide all details and/or information necessary to complete such documents, subject to the other's approval of the accuracy of such details and information, such approval not to be unreasonably withheld.

**Section 5.4. Approvals of the Purchaser.** While this Agreement is in effect, the Sellers agree not to amend, cancel or accept a surrender or forfeiture of [any Existing Leases or]<sup>14</sup> Existing Contracts other than (i) [Existing Leases or]<sup>14</sup> Existing Contracts which are scheduled to expire prior to Closing and do not have a renewal right on the part of the Seller [and (ii) Existing Leases that are in default without the prior written approval of the Purchaser, which approval may not be unreasonably withheld]<sup>14</sup>, and shall not enter into any Lease or Contract without the prior written approval of the Purchaser, which approval may not be unreasonably withheld; provided, however, that the Sellers may enter into any such Contract in order to make emergency repairs or to comply with Applicable Law without prior notice to, or approval of, the Purchaser; and, provided, further, that the Sellers provide the Purchaser with written notice thereof, together with a copy of any such Contract, promptly thereafter; and, provided, further, that the Sellers shall provide the Purchaser with a complete copy of any document which creates, amends, cancels, surrenders or forfeits any [Existing Lease or]<sup>14</sup> Existing Contract within five (5) Business Days after it is entered into by the parties thereto.

**Section 5.5. Notice of Default.** The Sellers shall, within five (5) Business Days of receipt thereof, provide to the Purchaser: (i) a copy of any notices of any material default that any of the Sellers receives in respect of the [Existing Leases and/or]<sup>14</sup> Existing Contracts and any notices of default under [the Existing Leases]<sup>14</sup> or any Existing Contract that it sends to another Person, in either case after the date of this Agreement and (ii) state or federal environmental orders that would reasonably be expected to result in a material liability issued by any Governmental Authorities having jurisdiction relating to [the Purchased Companies]<sup>17</sup> [or the Lands]<sup>14</sup>.

---

<sup>39</sup> See footnote 36.

<sup>40</sup> See footnote 37.

**Section 5.6. Approvals.** Whenever in this Agreement it is stated that the approval or consent of a party is required, it is understood that, except where otherwise specifically so stated, such approval or consent shall be in writing, and shall not be unreasonably withheld or delayed.

**Section 5.7. Risk of Condemnation and Eminent Domain.** The Sellers shall promptly notify the Purchaser in writing in the event that it receives a notice of condemnation and/or exercise of eminent domain in respect of all or any material part of the Purchased Assets or the assets thereof[, including the Lands,]<sup>14</sup> as applicable, and such notice shall include a copy of the notice of condemnation and/or exercise of eminent domain and copies of all correspondence relating thereto in the possession of the Sellers. [If notice of a material condemnation and/or exercise of a material eminent domain is with respect to more than 25% of one (1) Land prior to Closing, the Purchaser may elect by notice in writing given to the Sellers within ten (10) Business Days (the "**Notice Date**") after receipt from the Sellers of notice of the proposed condemnation and/or exercise eminent domain either:

(a) to complete the Transaction, in which case the Purchaser shall continue to be bound by this Agreement except that any compensation awarded for expropriation and all right and claim of the Sellers to any such proceeds and compensation not paid by the Closing Date shall be assigned to the Purchaser; or

(b) to terminate this Agreement, in which event this Agreement shall automatically terminate, be null and void and of no further force and effect whatsoever and the Purchaser and Sellers shall be released from all obligations under this Agreement (except those which are expressly stated to survive any termination of this Agreement).

If the notice of the proposed condemnation and/or exercise of eminent domain is received by the Sellers at such time that there would be insufficient time for the Purchaser to make its election hereunder, the Closing Date shall be postponed to a date which is five (5) Business Days after the earlier of the date such election is made or the period for making such election has expired, or if such date is not a Business Day, then the next Business Day thereafter. The failure of the Purchaser to notify the Sellers of its election by the Notice Date shall be deemed by the Sellers to be an election by the Purchaser to complete the Transaction pursuant to this Section 5.7.]<sup>14</sup>

**Section 5.8. Damage Before Closing.** The interest of the Sellers in and to the Purchased Assets shall be at the risk of the Sellers until Closing. The Sellers shall insure the Purchased Assets and the assets thereof until the Closing as they currently insure the Purchased Assets and the assets thereof. If loss or damage to the Purchased Assets occurs, then the Sellers shall promptly deliver a written notice to the Purchaser specifying the nature and extent of the loss or damage and estimating the cost of repair (the "**Notice of Loss**"), then neither party shall have any right to terminate this Agreement by virtue thereof, the Sellers shall pay any insurance deductibles in respect of such loss or damage (and shall pay to the Purchaser an amount equal to the amount, if any, by which the cost of repairs or restoration of such loss or damage exceeds the amount of property insurance proceeds payable to the Purchaser as hereinafter contemplated), the Purchaser shall be entitled to all proceeds of property insurance in respect of such loss or damage (except that portion, if any, required to reimburse the Sellers for repair or restoration work it has done prior to Closing and insurance for loss of income prior to Closing, all of which shall be paid to the Sellers), and the parties shall complete the Transaction.

**ARTICLE VI**  
**TITLE**

**Section 6.1. Search of Title.** The Purchaser shall be allowed until 5:00 p.m. on the Business Day fifteen (15) Business Days prior to the commencement of the Hearing, at its own expense, to examine title to the Lands and the other matters referred to in the next paragraph and to submit to the Sellers its objections to the title to the Lands and such matters. In the event that the Purchaser has any valid objections based on title to the Lands, the Purchaser shall deliver a Requisition Notice listing any and all such objections in reasonable detail on or before 5:00 p.m. on the Business Day ten (10) Business Days prior to the commencement of the Hearing. If any such objections are, by their nature, curable by the payment of money, then the Sellers shall cure such defects; provided, however, that the Sellers shall not be required to expend more than \$[ ] in the aggregate in connection with such cures. For all other defects, the Purchaser shall, by notice to the Sellers delivered no later than five (5) Business Days prior to the commencement of the Hearing, have the right to waive such objections and close (without offsetting the Purchase Price) or to terminate this Agreement, in which event this Agreement shall terminate, be null and void and of no further force and effect whatsoever, and the Purchaser and Sellers shall be released from all obligations under this Agreement (except those which are expressly stated to survive any termination of this Agreement). The failure of Purchaser to notify Sellers of its election by five (5) Business Days prior to the commencement of the Hearing shall be deemed by the Sellers to be an election by the Purchaser to close the Transaction (without offsetting the Purchase Price). Notwithstanding the foregoing or anything to the contrary contained in this Agreement, the Sellers shall, on or prior to the Closing Date pay, discharge or remove of record all Voluntary Liens or cause to be paid, discharged or removed of record all Voluntary Liens (or delivered documents to effect the foregoing, in escrow, pursuant to Section 8.2) at the Sellers' sole cost and expense all of the following items (other than open real estate taxes, water and sewer charges that are subject to adjustment in accordance with Section 2.6 hereof and other than Permitted Encumbrances).

Except for any valid objection so made pursuant to a Requisition Notice, and except for any objection going to the root of title, the Purchaser shall be conclusively deemed to have irrevocably accepted the Sellers' title to the Lands and satisfied itself with respect to the other matters referred to in this Section 6.1.]<sup>14</sup>

**ARTICLE VII**  
**CONDITIONS TO CLOSING**

**Section 7.1. Conditions for the Purchaser.** Notwithstanding any other provision of this Agreement to the contrary, the obligation of the Purchaser to complete the Transaction shall be subject to the satisfaction of the following conditions, as determined by the Purchaser in its sole and absolute discretion:

(a) All the terms, covenants and conditions of this Agreement to be complied with or performed or satisfied by the Sellers shall have been complied with or performed or satisfied in all material respects, including all deliveries required to be made pursuant to Article VIII hereof; provided, however, that, in the case of any term, covenant and/or condition qualified by materiality pursuant to the terms of this Agreement, such term, covenant and/or condition shall have been complied with or performed in all respects.



(b) The representations and warranties of the Sellers set forth in Section 4.1 hereof shall be true and correct in all material respects as of the date of this Agreement and as of the Closing; provided, however, that, in the case of any representation and/or warranty qualified by materiality pursuant to the provisions of Section 4.1 hereof, such representation and/or warranty shall be true and correct in all respects as of the date of this Agreement and as of the Closing.

(c) No action or proceeding, at law or in equity, shall have been commenced by any Person to enjoin, restrict or prohibit the Closing which has not, by the Closing Date, been dismissed, quashed or permanently stayed without any further right of appeal or right to seek leave to appeal.

(d) The Plan Effective Date shall have occurred as of the Closing Date.

(e) All applicable time periods under HSR, as such time periods may be modified by the Bankruptcy Code, shall have expired and no action, suit or proceeding relating HSR shall have been instituted and remain pending before a court or other governmental body by any governmental agency or public authority to restrain, prohibit or otherwise challenge the Transaction, nor shall any governmental agency have notified any party hereto that consummation of such transactions would or might violate such law.

The conditions set forth in this Section 7.1 are for the sole benefit of the Purchaser, and may be waived in whole or in part by the Purchaser by notice to the Sellers in writing without prejudice to the Purchaser's rights under this Agreement or at law, if any, in the event of the non-fulfillment of any other condition or conditions.

**Section 7.2. Conditions for the Sellers.** The obligation of the Sellers to complete the Transaction shall be subject to the satisfaction of the following conditions:

(a) All the terms, covenants and conditions of this Agreement to be complied with or performed or satisfied by the Purchaser shall have been complied with or performed or satisfied in all material respects, including all deliveries required to be made pursuant to Article VIII hereof; provided, however, that, in the case of any term, covenant and/or condition qualified by materiality pursuant to the terms of this Agreement, such term, covenant and/or condition shall have been complied with or performed in all respects;

(b) The representations and warranties of the Purchaser set out in Section 4.3 hereof shall be true and correct in all material respects as of the date of this Agreement and as of the Closing; provided, however, that, in the case of any representation and/or warranty qualified by materiality pursuant to the provisions of Section 4.3, such representation and/or warranty shall be true and correct in all respects as of the date of this Agreement and as of the Closing.

(c) No action or proceeding, at law or in equity, shall have been commenced by any Person to enjoin, restrict or prohibit the Closing, which has not, by the Closing Date, been dismissed, quashed or permanently stayed without any further right of appeal or right to such leave to appeal.

(d) The Plan Effective Date shall have occurred as of the Closing Date.

(e) [The parties shall have entered into the HRTV/TrackNet Agreements and the Reciprocal Simulcast Agreement, in each case in form and substance satisfactory to the Seller.]<sup>41</sup>

(f) All applicable time periods under HSR, as such time periods may be modified by the Bankruptcy Code, shall have expired and no action, suit or proceeding relating HSR shall have been instituted and remain pending before a court or other governmental body by any governmental agency or public authority to restrain, prohibit or otherwise challenge the Transaction, nor shall any governmental agency have notified any party hereto that consummation of such transactions would or might violate such law.

The conditions set forth in this Section 7.2 are for the sole benefit of the Sellers, and may be waived in whole or in part by the Sellers by notice to the Purchaser in writing without prejudice to the Sellers' rights under this Agreement or at law, if any, in the event of non-fulfillment of any other condition or conditions.

## ARTICLE VIII CLOSING

**Section 8.1. Closing Arrangements.** Upon all conditions precedent to the Purchaser's and the Sellers' obligation to close the transactions as set forth in this Agreement having been satisfied and fulfilled, or waived, as the case may be, the Closing shall take place on the Closing Date, at 10:00 a.m., local time, at the offices of Osler, Hoskin & Harcourt LLP, 100 King Street West, 1 First Canadian Place, Suite 6100, Toronto, Ontario or at such other time or place as may be mutually agreed to by the parties.

**Section 8.2. Sellers' Deliveries.** On or before the Closing Date, the Sellers shall deliver or cause to be delivered the following items and documents to the Purchaser, with each such document to be effective as of the Closing:

(a) a certificate executed on behalf of each of the Sellers representing and certifying that the conditions set forth in Section 7.1 have been fulfilled;

(b) evidence that the Sellers have obtained the approval of the Board of Directors of MEC in respect of the Transaction;

(c) the Statement of Adjustments;

(d) [any applicable Deed in favor of the Purchaser, duly executed by the Sellers;]<sup>14</sup>

(e) [certificates representing all of the issued and outstanding shares of the [Reorganized Santa Anita Stock], [Reorganized Pimlico Stock], [Reorganized Laurel Interests], [Reorganized Thistledown Stock] [and] [Reorganized Remington Stock]]<sup>42</sup> and the [Fex Straw

---

<sup>41</sup> As applicable.

<sup>42</sup> Appropriate references to be inserted or deleted in individual bid.

Stock], [the Fex Straw Austria Stock], [the Magna Racino Austria Stock] and [the MEC Oregon Racing Stock]<sup>43</sup>, along with appropriate instruments of transfer duly endorsed in blank, respectively]<sup>17</sup>;

(f) [an assignment of the [Caruso JV Interest], [HRTV Interest] [and] [TrackNet Media Interest]]<sup>17, 44</sup>;

(g) a Bill of Sale;

(h) [an assignment of the Permits (to the extent assignable) in favor of the Purchaser, duly executed by the Sellers, which shall be sufficient to remise, release and quit-claim to the Purchaser all right, title, interest, claim and demand which the Sellers have in and to all of the Permits attributable to the Lands, and to irrevocably transfer such Permits to the Purchaser to be used by the Purchaser in its sole and absolute discretion, together with any other additional documents or instruments required to effect, record or consummate such transfer of Permits;]<sup>14</sup>

(i) the Assignment and Assumption of Contracts, duly executed by the Sellers;

(j) [the Assignment and Assumption of Leases, duly executed by the applicable Sellers;]<sup>14</sup>

(k) a certificate of non-foreign status of each Seller pursuant to Section 1445 of the IRC and Section 1.1445-2(b) of the Treasury Regulations promulgated thereunder;

(l) such notices as the Purchaser may reasonably require be given to [the Tenants under the Existing Leases and other]<sup>14</sup> parties to the assigned Existing Contracts of their assignment to the Purchaser[, together with directions relating to the payment of rent under such Existing Leases, and]<sup>14</sup> payment of other amounts under the assigned Existing Contracts, all executed by the Sellers in such form as the Purchaser may reasonably require;

(m) a direction of the Sellers as to the payment of the Purchase Price, including wire transfer instructions, and the name of the payee (if other than the Sellers);

(n) a certificate of good standing of each of the Sellers [and the Purchased Companies]<sup>17</sup>;

(o) a certified copy of the Confirmation Order;

(p) all other conveyances and other documents which are required and which the Purchaser has reasonably requested on or before the Closing Date to give effect to this Transaction, including the proper transfer, assignment and conveyance of the Purchased Assets

---

<sup>43</sup> Appropriate references to be inserted or deleted in individual bid.

<sup>44</sup> Appropriate references to be inserted or deleted in individual bid.

by the Sellers to the Purchaser, free and clear of all Encumbrances except the Permitted Encumbrances.

**Section 8.3. Purchaser's Deliveries.** On or before the Closing Date, the Purchaser shall deliver or cause to be delivered the following items and documents to the Sellers, with each such document to be effective as of the Time of Closing:

- (a) a certificate executed on behalf of the Purchaser representing and certifying that the conditions set forth in Section 7.2 have been fulfilled;
- (b) the Assignment and Assumption of Contracts, duly executed by the Purchaser;
- (c) [the Assignment and Assumption of Leases, duly executed by the Purchaser;]<sup>14</sup>
- (d) the Purchase Price; and
- (e) all other documents which the Sellers have reasonably requested to give effect to this Transaction.

**Section 8.4. Separate Tax Parcel.** In the event that, as of Closing, the Lands do not constitute a separate tax parcel, the Transaction shall be completed and the parties shall pro rate the realty Taxes with the Purchaser providing a check payable to the taxing authority for its pro rata share of realty Taxes in respect of the Lands.]<sup>14</sup>

**Section 8.5. Tax Matters.**<sup>45</sup> (a) (i) [MEC shall include the income of the Purchased Companies on MEC's consolidated federal income Tax Returns for all periods through the end of the Closing Date and pay any federal income Taxes attributable to such income. The Purchased Companies shall furnish Tax information to MEC for inclusion in MEC's federal consolidated income Tax Return for the period that includes the Closing Date in accordance with the Purchased Companies' past custom and practice at the Purchaser's cost.

(ii) With respect to any Tax Returns not described in Section 8.5(a)(i) and which Tax Returns are for the period (or a portion thereof) ending on or before the Closing Date (the "**Separate Tax Returns**"), the Purchased Companies shall prepare and file the Separate Tax Returns and the Sellers shall pay to the Purchased Companies Tax shown due on such Separate Tax Returns, provided, however, that such Tax Returns shall be prepared in accordance with the past custom and practice and shall not be filed without MEC's or the Sellers' review and

---

<sup>45</sup> The Sellers may decide to make an election under Section 338(h)(10) of the IRC and any corresponding or similar elections under state, local or foreign law (the "Section 338(h)(10) Election") with respect to any of the Purchased Companies, and Purchaser shall agree to join with the Sellers in making such elections and to cooperate with the Sellers otherwise. If Purchaser decides to make the Section 338(h)(10) Election, Sellers shall agree to join with the Purchaser in making the elections and to cooperate with Purchaser otherwise, provided, however, that (i) an adjustment to the Purchase Price shall be made to account for any benefit that Purchaser realizes from making the elections and (ii) Purchaser shall be liable for and shall indemnify and hold the Sellers and the Sellers' Affiliates harmless from and against any and all costs (including, without limitation, any taxes) resulting from making the Section 338(h)(10) Election.

approval (which approval shall not be unreasonably withheld). In the event that the parties hereto do not agree as to any of the Separate Tax Returns, MEC, the Sellers and the Purchaser shall refer the disagreement to the Accounting Firm. The Accounting Firm shall resolve any disagreement within 30 days and MEC, the Sellers and the Purchaser agree the decision of the Accounting Firm shall be conclusive and binding on both the Sellers and the Purchaser. The fees of the Accounting Firm shall be borne by MEC, the Sellers and the Purchaser in inverse proportion as they may prevail on the disagreement resolved by the Accounting Firm, which proportionate allocations shall also be determined by the Accounting Firm at the time the determination of the Accounting Firm is rendered.

(b) The parties acknowledge that, for federal income Tax purposes, the taxable year of the Purchased Companies will end as of the close of the Closing Date. With respect to all other Taxes, the Sellers and the Purchaser will, unless prohibited by applicable law, take such actions as may be required to close the taxable period of the Purchased Companies as of the close of the Closing Date.

(c) The Sellers shall cause the provisions of any Tax sharing agreement between (i) any Seller, on one hand, and (ii) any Purchased Company, on the other, to be terminated on or before the Closing Date. After the Closing Date, no party shall have any rights or obligations under any such Tax sharing agreement.]<sup>17</sup>

(d) On the Closing Date, and solely to the extent not exempt in accordance with section 1146 of the Bankruptcy Code, the Purchaser shall have the responsibility of payment of all state and local Transfer Taxes, if any, including those payable in connection with the recording of the Deeds, occasioned by the conveyance of [the Lands]<sup>14</sup> and the Purchased Assets from the Sellers to the Purchaser, as well as any notary fees incurred in connection therein; provided, however, that the parties shall reasonably cooperate in availing themselves of any available exemptions from any collection of (or otherwise reduce) any such Transfer Taxes, including a request that the Sellers' sale of the Purchased Assets be exempted from Transfer Taxes pursuant to Section 1146 of the Bankruptcy Code. [The Purchaser shall be responsible for costs and expenses associated with the recordings of the Deeds.]<sup>14</sup>

(e) Any refunds (and any interest received thereon) of any Tax received by any of the Purchased Companies for any period (or portion thereof) ending on or before the Closing Date shall belong to the Sellers, provided that the Tax at issue either was paid by the Purchased Company on or before the Closing Date or was paid by the Sellers (or any Affiliate thereof) after the Closing Date.

(f) MEC and the Sellers shall have control over any audit, suit, action or proceeding (each a "**Tax Contest**") relating to a Tax issue of any of the Purchased Companies with respect to any period (or a portion thereof) ending prior to or on the Closing Date and for which MEC or the Sellers are primarily liable under this Agreement. MEC and the Sellers shall keep Purchaser apprised of all developments relating to the Tax Contest, provide Purchaser with copies of all correspondence from any taxing authority relating to any such Tax Contest, and conduct the defense of such Tax Contest diligently and in good faith.]<sup>17</sup>

**ARTICLE IX**  
**TERMINATION OF AGREEMENT**

**Section 9.1. Termination of Agreement By Either Party.** This Agreement may be terminated by the Sellers or by the Purchaser, in their or its sole option and discretion, in the event that (a) the Purchaser or any Seller, as the case may be, breaches the covenants set forth in Article V hereof or (b) the Sale Order and Confirmation Order are not entered by the Bankruptcy Court on or prior to [                    ], 2009; provided, however, that, in the event that the Sale Motion is denied by the Bankruptcy Court, unless otherwise agreed to by the Purchaser and the Sellers, the Agreement shall terminate automatically without any further notice or action by any person.

**Section 9.2. Effect of Termination.** Except as otherwise provided herein, in the event of termination of this Agreement, this Agreement (other than the terms and provisions set forth in Section 2.3 and Section 3.3 hereof, which shall survive such termination) shall become null and void and be deemed of no force and effect, with no liability on the part of any party hereto (or of any of its directors, officers, employees, consultants, contractors, agents, legal and financial advisors or other representatives), and no party hereto shall have any obligations to any other party hereto arising out of this Agreement. Upon termination, this Agreement shall not be an admission by any party hereto, and no party hereto shall seek to admit it into evidence against any other party hereto.

**ARTICLE X**  
**MISCELLANEOUS**

**Section 10.1. As-Is/Where-Is Transaction.** The Purchaser acknowledges and agrees that, except as expressly provided in this Agreement or in any Closing Documents provided by the Sellers to the Purchaser at Closing, and without derogating from any indemnities provided by the Sellers herein or in any Closing Documents, the Sellers make no representation, warranty or covenant, express, implied or statutory, of any kind whatsoever with respect to the Purchased Assets, including, without limitation, representation, warranty or covenant as to title, survey conditions, use of the Purchased Assets for the Purchaser's intended use, the condition of the Purchased Assets, past or present use, development, investment potential, tax ramifications or consequences, compliance with any Applicable Laws, present or future zoning, the presence or absence of Hazardous Substances, the availability of utilities, habitability, merchantability, fitness or suitability for any purpose, or any other matter with respect to the Purchased Assets, all of which are (without derogating from any indemnities provided by the Sellers herein or in any Closing Documents), except as otherwise expressly provided in this Agreement or in any Closing Documents provided by the Sellers to the Purchaser at Closing, hereby expressly disclaimed by the Sellers. The provisions of this Section 9.1 shall survive Closing and the delivery of the Deed or any expiration or termination of this Agreement without limitation as to time.

**Section 10.2. [No Recording]** The Sellers acknowledge and agree that they shall not record, or cause to be recorded, this Agreement, or any part thereof, or any instrument, agreement or other document evidencing this Agreement, against title to the Lands (or any part thereof) unless so instructed by the Purchaser, provided the Purchaser shall pay all costs and expenses in connection therewith.]<sup>14</sup>

**Section 10.3. Obligations as Covenants.** Each agreement and obligation of each party hereto in this Agreement, even though not expressed as a covenant, shall be considered for all purposes to be a covenant.

**Section 10.4. Tender.** Any tender of documents or money may be made upon the party being tendered or upon its solicitors and money may be tendered by certified check or bank draft drawn on or from one of the five largest Schedule I Canadian chartered banks or a first class bank of the United States of America, or by wire transfer. All checks to be tendered shall be drawn upon one of the five largest Schedule I Canadian chartered banks, measured by reference to authorized capital.

**Section 10.5. Relationship of the Parties.** Nothing in this Agreement shall be construed so as to make the Purchaser a partner of the Sellers [and nothing in this Agreement shall be construed so as to make the Purchaser an owner of the Lands for any purpose until the Closing Date.]<sup>14</sup>

**Section 10.6. Amendment of Agreement.** This Agreement may not be supplemented, modified or amended except by a written agreement executed by each Party to be affected by such supplement, modification or amendment.

**Section 10.7. Notices.** Any Notice shall be in writing and shall be deemed to have been duly given or made when personally delivered or when mailed by registered or certified mail, postage prepaid, return receipt requested, addressed as follows, or to such other addresses as may be furnished hereafter by notice, in writing, to the other Party on at least three (3) Business Days' prior notice, to the following Parties:

- (a) If to the Purchaser, to:

with a copy given in like manner to:

- (b) If to the Sellers, to:

Magna Entertainment Corp.  
337 Magna Drive  
Aurora, Ontario, Canada L4G 7K1  
Attention: Senior Legal Counsel  
Telecopy: (905) 726-2585

with a copy given in like manner to:

Osler, Hoskin & Harcourt LLP  
100 King Street West  
1 First Canadian Place  
Suite 6100  
Toronto, Ontario M5X 1B8

Attention: Jean M. Fraser  
Telecopy: (416) 862-6666

-and-

Weil, Gotshal & Manges LLP  
767 Fifth Avenue  
New York, New York 10153  
Attention: Brian S. Rosen, Esq.  
Telecopy: (212) 310-8007

Any Notice which is delivered or is sent by telecopy shall be deemed to have been validly and effectively given and received on the date it is delivered or sent, unless it is delivered or sent after 5:00 p.m. on any given day or on a day which is not a Business Day, in which case it shall be deemed to have been validly and effectively given and received on the Business Day next following the day it was delivered or sent, provided that, in the case of a Notice sent by telecopy it shall not be deemed to have been sent unless there has been confirmation of transmission.

**Section 10.8. Specific Performance.** It is understood and agreed by the Parties that money damages would not be a sufficient remedy for any breach of this Agreement by any Party and each non-breaching Party should be entitled to specific performance and injunctive or other equitable relief as a remedy of such a breach.

**Section 10.9. Fees and Expenses.** If any party hereto brings an action against any other party hereto based upon a breach by the other party hereto of its obligations under this Agreement, the prevailing party shall be entitled to all reasonable expenses incurred, including reasonable attorneys' fees and expenses. Subject to Section 3.3, the parties agree that all costs and expenses of the parties relating to the Transaction shall be paid by the party incurring such expenses.

**Section 10.10. Governing Law; Jurisdiction; Service of Process.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York, without giving effect to any principles of conflicts of law. By its execution and delivery of this Agreement, each of the parties hereto irrevocably and unconditionally agrees for itself that any legal action, suit or proceeding between any of the Sellers, on the one hand, and the Purchaser, on the other hand, with respect to any matter under or arising out of or in connection with this Agreement or for recognition or enforcement of any judgment rendered in any such action, suit or proceeding, shall be brought in the Bankruptcy Court for that purpose only, and, by execution and delivery of this Agreement, each hereby irrevocably accepts and submits itself to the jurisdiction of such court, generally and unconditionally, with respect to any such action, suit or proceeding. In the event any such action, suit or proceeding is commenced, the parties hereby agree and consent that service of process may be made, and personal jurisdiction over any party hereto in any such action, suit or proceeding may be obtained, by service of a copy of the summons, complaint and other pleadings required to commence such action, suit or proceeding upon the party at the address of such party set forth in Section 10.7 hereof, unless another address has been designated by such party in a notice given to the other parties in accordance with the provisions of Section 10.7 hereof.



**Section 10.11. Further Assurances.** Each of the Parties hereto shall, at its own cost, from time to time hereafter and upon any reasonable request of the other, execute and deliver, make or cause to be made all such further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.

**Section 10.12. Entire Agreement.** This Agreement constitutes the full and entire agreement between the parties hereto pertaining to the Transaction and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, with respect thereto made by any Party, and there are no other warranties or representations and no other agreements between the parties hereto in connection with the Transaction except as specifically set forth in this Agreement.

**Section 10.13. Waiver.** No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise expressed or provided. All waivers hereunder must be in writing to be effective.

**Section 10.14. Survival.** To the extent provided herein, this Agreement and the representations, warranties and covenants set forth herein shall survive the Closing of the Transaction and shall remain in full force and effect thereafter.

**Section 10.15. Assignment.** Neither the Sellers nor the Purchaser shall assign their respective rights and/or obligations hereunder (or agree to do so) without the prior written consent of the other Party, which consent may be withheld by such Party in its sole and absolute discretion.

**Section 10.16. Successors and Assigns.** All of the covenants and agreements set forth in this Agreement are intended to bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns and be enforceable by the parties hereto and their respective successors and their permitted assigns pursuant to the terms and conditions of this Agreement.

**Section 10.17. Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original hereof, and all of which shall constitute a single agreement effective as of the date hereof. Any delivery of an executed copy of this Agreement by way of telecopy shall constitute delivery hereof, provided that any party delivering by way of telecopy shall, as soon as reasonably practicable, deliver an originally executed counterpart of this Agreement to the other parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the day and year first above written.

[PURCHASER]

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

MAGNA ENTERTAINMENT CORP.

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

[SELLER]

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**

**FORM OF ASSIGNMENT AND ASSUMPTION OF CONTRACTS**

ASSIGNMENT AND ASSUMPTION OF CONTRACTS, dated as of \_\_\_\_,  
2009.

B E T W E E N:

**[NAME OF SELLERS],**  
(the “Sellers”),

OF THE FIRST PART,

- and -

**[NAME OF PURCHASER],**  
(the “Purchaser”),

OF THE SECOND PART.

WHEREAS pursuant to that certain Purchase Agreement, dated as of [        ],  
2009, between the Sellers, as sellers, and the Purchaser, as purchaser (the “**Purchase Agreement**”), the Sellers agreed to sell and the Purchaser agreed to purchase, among other things, the property legally described in Schedule A hereto (the “**Property**”);

AND WHEREAS pursuant to the Purchase Agreement, the Sellers has agreed that the Assigned Contracts (as defined below) shall be assigned to the Purchaser;

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE I**  
**DEFINITIONS**

Section 1.1. **Definitions**: Capitalized terms used and not defined herein shall have the respective meanings ascribed to them in the Purchase Agreement. The terms defined herein shall have, for all purposes of this Agreement, the following meanings, unless the context expressly or by necessary implication otherwise requires:

(a) “**Agreement**” means this Assignment and Assumption of Contracts;

(b) “**Assigned Contracts**” means those contracts and agreements entered into by the Sellers or by which the Sellers is bound in respect of the severance, development, construction, management, leasing, maintenance or operation of the Lands, which Assigned Contracts are listed on the attached Schedule B, together with all security, guarantees and indemnities relating thereto ; and

(c) “Assigned Interest” means all of the Seller’s right, title and interest in and to the Assigned Contracts and all rights, benefits and advantages whatsoever to be derived therefrom from and after the date hereof.

## **ARTICLE II** **ASSIGNMENT**

**Section 2.1 Assignment by the Sellers:** The Sellers hereby absolutely grants, transfers, assigns and sets over, as of the date of this Agreement, the Assigned Interest unto the Purchaser. The parties agree that if the assignment of any Assigned Contract is prohibited at law or requires the consent of any other party or parties and such consent has not or cannot be obtained, the Sellers shall hold the Assigned Interest in such Assigned Contract in trust for the benefit of the Purchaser and shall take all actions with respect thereto as the Purchaser may direct for the Purchaser’s account and benefit.

**Section 2.2 Acceptance by the Purchaser:** The Purchaser hereby accepts the assignment of the Assigned Interest as of the date of this Agreement.

## **ARTICLE III** **ASSUMPTION AND INDEMNITY**

**Section 3.1 Agreement by the Purchaser:** The Purchaser hereby agrees to be bound by, assume, comply with and be responsible for all of the obligations, covenants and liabilities of the Sellers accruing and arising from and after the date of this Agreement under or in respect of the Assigned Contracts. Without limiting the generality of the foregoing, the Purchaser covenants and agrees with the Sellers:

(a) to pay all amounts payable by the Sellers under and in respect of the Assigned Contracts relating to the period from and including the date of this Agreement; and

(b) to indemnify and save harmless the Sellers and its partners, shareholders, officers, directors, employees and agents, from and against any and all liabilities, damages, costs, expenses, causes of action, suits, claims, demands and judgments arising from or in connection with a breach by the Purchaser, its shareholders, directors, officers, employees, agents or those for whom it is responsible at law, from and after the date of this Agreement, of any of the covenants and obligations of the Sellers under or in respect of the Assigned Contracts.

**Section 3.2 Agreement by the Sellers:** The Sellers hereby agrees to be bound by and be responsible for all of the obligations, covenants and liabilities of the Sellers accruing and arising prior to the date of this Agreement under or in respect of the Assigned Contracts. Without limiting the generality of the foregoing, the Sellers covenants and agrees with the Purchaser:

(a) to pay all amounts payable, or deemed to be payable, by the Sellers under and in respect of the Assigned Contracts relating to the period prior to the date of this Agreement; and

(b) to indemnify and save harmless the Purchaser and its shareholders, directors, officers, employees and agents, from and against any and all liabilities, damages, costs, expenses, causes of action, suits, claims, demands and judgments arising from or in connection with the Assigned Contracts, including, without limitation, any breach by the Sellers, its shareholders, directors, officers, employees, agents or those for whom it is in law responsible, prior to the date of this Agreement, of any of the covenants and obligations of the Sellers under or in respect of the Assigned Contracts and any failure by the Sellers to pay any monies due, owing or accruing by the Sellers under or in connection with the Assigned Contracts for the period prior to the date hereof.

**ARTICLE IV**  
**MISCELLANEOUS**

**Section 4.1 Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of ■ and the applicable laws of the United States of America.

**Section 4.2 Further Assurances:** Each of the parties shall execute and deliver all such further documents and do such other things as the other party may reasonably request to give full effect to this Agreement.

**Section 4.3 Successors and Assigns:** All of the covenants and agreements in this Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

IN WITNESS WHEREOF the parties have executed this Agreement.

[NAME OF SELLERS]

By: \_\_\_\_\_  
Name:  
Title:

[NAME OF PURCHASER]

By: \_\_\_\_\_  
Name:  
Title:

**Schedule A to Exhibit A**

**Legal Description of the Lands**

**EXHIBIT B**

**FORM OF ASSIGNMENT AND ASSUMPTION OF LEASES**

**ASSIGNMENT AND ASSUMPTION OF LEASES**, dated as of \_\_\_\_, 2009.

B E T W E E N:

**[NAME OF SELLERS]**  
(the “**Sellers**”),

OF THE FIRST PART,

- and -

**[NAME OF PURCHASER]**  
(the “**Purchaser**”),

OF THE SECOND PART.

WHEREAS pursuant to that certain Purchase Agreement (Purchased Assets), dated as of March 5, 2009, between the Sellers, as sellers, and the Purchaser, as purchaser (the “**Purchase Agreement**”), the Sellers agreed to sell and the Purchaser agreed to purchase, among other things, the property legally described in Schedule A hereto (the “**Property**”);

AND WHEREAS pursuant to the Purchase Agreement, the Sellers has agreed that the Assigned Leases (as defined below) shall be assigned to the Purchaser;

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE I**  
**DEFINITIONS**

**Section 1.1 Definitions:** Capitalized terms used and not defined herein shall have the respective meanings ascribed to them in the Purchase Agreement. The terms defined herein shall have, for all purposes of this Agreement, the following meanings, unless the context expressly or by necessary implication otherwise requires:

(a) “**Agreement**” means this Assignment and Assumption of Leases, including the schedules attached hereto;

(b) “**Assigned Interest**” means all of the Seller’s right, title and interest in and to the Assigned Leases and all rights, benefits and advantages whatsoever to be derived therefrom from and after the date hereof; and

(c) “Assigned Leases” means all agreements to lease, leases, renewals of leases, subtenancy agreements and other rights (including licences) granted by or on behalf of the Sellers or its predecessors in title as owner of the Property which entitle any Person to possess or occupy any space within the Property, which Assigned Leases are listed on the attached Schedule B, together with all security, guarantees and indemnities relating thereto.

## **ARTICLE II** **ASSIGNMENT**

**Section 2.1 Assignment by the Sellers:** The Sellers hereby absolutely grants, transfers, assigns and sets over, as of the date of this Agreement and to the extent such Assigned Leases are assignable at law, the Assigned Interest unto the Purchaser. The parties agree that if the assignment of any Assigned Lease is prohibited at law or requires the consent of any other party or parties and such consent has not or cannot be obtained, the Sellers shall hold the Assigned Interest in such Assigned Lease in trust for the benefit of the Purchaser and shall take all actions with respect thereto as the Purchaser may direct for the Purchaser’s account and benefit.

**Section 2.2 Acceptance by the Purchaser:** The Purchaser hereby accepts the assignment of the Assigned Interest as of the date of this Agreement.

## **ARTICLE III** **ASSUMPTION AND INDEMNITY**

**Section 3.1 Agreement by the Purchaser:** The Purchaser hereby agrees to be bound by, assume, comply with and be responsible for all of the obligations, covenants and liabilities of the Sellers accruing and arising from and after the date of this Agreement under or in respect of the Assigned Leases. Without limiting the generality of the foregoing, the Purchaser covenants and agrees with the Sellers:

(a) to pay all amounts payable by the Sellers under and in respect of the Assigned Leases relating to the period from and including the date of this Agreement; and

(b) to indemnify and save harmless the Sellers, its partners, shareholders, officers, directors, employees and agents, from and against any and all liabilities, damages, costs, expenses, causes of action, suits, claims, demands and judgments arising from or in connection with a breach by the Purchaser, its shareholders, directors, officers, employees, agents or those for whom it is responsible at law, from and after the date of this Agreement, of any of the covenants and obligations of the Sellers under or in respect of the Assigned Leases.

**Section 3.2 Agreement by the Sellers:** The Sellers hereby agrees to be bound by and be responsible for all of the obligations, covenants and liabilities of the Sellers accruing and arising prior to the date of this Agreement under or in respect of the Assigned Leases. Without limiting the generality of the foregoing, the Sellers covenants and agrees with the Purchaser:

(a) to pay all amounts payable by the Sellers under and in respect of the Assigned Leases relating to the period prior to the date of this Agreement; and



(b) to indemnify and save harmless the Purchaser and its shareholders, directors, officers, employees and agents, from and against any and all liabilities, damages, costs, expenses, causes of action, suits, claims, demands and judgments arising from or in connection with a breach by the Sellers, its partners, employees or agents, prior to the date of this Agreement, of any of the covenants and obligations of the Sellers under or in respect of the Assigned Leases.

**ARTICLE IV**  
**MISCELLANEOUS**

**Section 4.1 Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of ■ and the applicable laws of the United States of America.

**Section 4.2 Further Assurances:** Each of the parties shall execute and deliver all such further documents and do such other things as the other party may reasonably request to give full effect to this Agreement.

**Section 4.3 Successors and Assigns:** All of the covenants and agreements in this Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

**[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF the parties have executed this Agreement.

[NAME OF SELLERS]

By: \_\_\_\_\_  
Name:  
Title:

[NAME OF PURCHASER]

By: \_\_\_\_\_  
Name:  
Title:

**Schedule A to Exhibit B**

**Legal Description of the Lands**

**Schedule B to Exhibit B**

**Leases**

**EXHIBIT C**  
**ASSUMED LIABILITIES**

**EXHIBIT D**

**LIST OF EXISTING CONTRACTS**

**EXHIBIT E**

**LIST OF EXISTING LEASES**

**EXHIBIT F**  
**DESCRIPTION OF LANDS**



**EXHIBIT G**  
**CAPITALIZATION**

**EXHIBIT H**  
**INTELLECTUAL PROPERTY**

**EXHIBIT I**  
**INSURANCE**

**EXHIBIT J**  
**BENEFITS**