

SECURITIES AND EXCHANGE COMMISSION

FORM 8-K

Current report filing

Filing Date: **2024-03-05** | Period of Report: **2024-03-05**
SEC Accession No. [0001493152-24-008787](#)

([HTML Version](#) on [secdatabase.com](#))

FILER

DIGITAL ALLY, INC.

CIK: **1342958** | IRS No.: **200064269** | State of Incorporation: **NV** | Fiscal Year End: **1231**
Type: **8-K** | Act: **34** | File No.: **001-33899** | Film No.: **24718388**
SIC: **3663** Radio & tv broadcasting & communications equipment

Mailing Address
14001 MARSHALL DRIVE
LENEXA KS 66215

Business Address
14001 MARSHALL DRIVE
LENEXA KS 66215
913-232-5349

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **March 5, 2024**

DIGITAL ALLY, INC.

(Exact name of registrant as specified in its charter)

Nevada

(State or other jurisdiction
of incorporation)

001-33899

(Commission
File Number)

20-0064269

(IRS Employer
Identification No.)

14001 Marshall Drive, Lenexa, KS 66215

(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: **(913) 814-7774**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Trading Symbol(s)	Name of exchange on which registered
Common stock, \$0.001 par value	DGLY	The Nasdaq Capital Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

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

Item 1.01 Entry into a Material Definitive Agreement.

Senior Secured Promissory Note

On March 1, 2024, Digital Ally, Inc. (the “Company”) entered into a Note Purchase Agreement (the “Agreement”), by and between the Company, Kustom Entertainment, Inc., a Nevada corporation and wholly-owned subsidiary of the Company (“Kustom Entertainment”) and, together with the Company, the “Borrowers”), and Mosh Man, LLC, a New Jersey limited liability company (the “Purchaser”), pursuant to which the Borrowers issued to the Purchaser a Senior Secured Promissory Note (the “Note”) with a principal amount of \$1,425,000. In connection with the Agreement, the Borrowers entered into a Security Agreement (the “Security Agreement”) by and between the Borrowers, as grantor, and the Purchaser, as grantee. The gross proceeds to the Company are \$1,000,000, before paying customary fees and expenses.

Pursuant to the Note, the Borrowers shall repay the Note, in full, on the earlier of (i) November 1, 2024, and (ii) the consummation of the merger between Kustom Entertainment and CL Merger Sub, Inc. (“CL Merger Sub”) pursuant to the Merger Agreement among the Company, Kustom Entertainment, Clover Leaf Capital Corp., Yntegra Capital Investments LLC and CL Merger Sub, dated as of June 1, 2023 (the “Maturity Date”). The Borrowers shall pay in arrears in cash an amount equal to 50% of revenues from all ticket sales generated by Kustom Entertainment, up nine thousand tickets sold, and thereafter equal to 10% of all revenues from all ticket sales until the earlier of the date on which the Note is repaid in full or the Maturity Date. The Note bears interest at a rate of 1.58% per month. The Borrowers have the right, but not the obligation, under the Note to prepay the Note, upon written notice to the Purchaser, by payment in full of the entire outstanding principal balance plus interest. Upon a change of control of either Borrower or a sale or all or substantially all of either Borrower’s assets, the Purchaser may require the Borrowers to repay the Note, upon written notice to the Borrowers, by payment in full of the entire outstanding principal balance plus interest. In addition, upon the receipt of proceeds from any financing or extraordinary receipts, the Borrowers are required to repay the Note as follows: (A) if the aggregate proceeds of all such financings and extraordinary receipts are less than \$3,000,000, the Borrowers shall prepay an amount equaling to 50% of the outstanding principal of the Note, and (B) if the aggregate proceeds of all such financings and extraordinary receipts are equal to or greater than \$3,000,000, the Borrowers shall prepay the Note in full.

Pursuant to the Security Agreement, the Borrowers’ obligations under the Note and Agreement are secured by substantially all of the assets of the Borrowers, other than any real property.

Country Stampede Acquisition

On March 1, 2024, Kustom 440 Inc., a Nevada corporation and wholly-owned subsidiary of Kustom Entertainment (“Kustom 440”), entered into an Asset Purchase Agreement (the “Acquisition Agreement”) with JC Entertainment, LLC, a Kansas limited liability company (“JC Entertainment”). Pursuant to the Acquisition Agreement, Kustom 440 acquired certain assets associated with a music entertainment event (“Country Stampede”), including all intellectual property arising out of and relating to Country Stampede (“Country Stampede Intellectual Property”) and certain contracts in which JC Entertainment is a party to host and operate the 2024 Country Stampede (the “Assumed Contracts”, and together with the Country Stampede Intellectual Property, the “Purchased Assets”).

As consideration for acquiring the Purchased Assets, Kustom 440 paid JC Entertainment the aggregate purchase price amount of Five Hundred Forty Two Thousands Nine Hundred Fifty Nine and 15/100 Dollars (\$542,959.15), with the sum of Four Hundred Thousand Dollars (\$400,000.00) to be paid at the time of closing (“Closing”), and the remainder to be paid on or before thirty days from the time of Closing. Kustom 440 shall receive a credit for all non-refunded festival ticket sales for the 2024 Country Stampede to be calculated immediately prior to Closing, and JC Entertainment shall be entitled to keep all ticket sale proceeds made and/or received prior to Closing. Kustom 440 shall be obligated, to the extent a refund is sought after Closing, to provide such refund, if appropriate, to the customer requesting a refund, and shall indemnify and hold harmless JC Entertainment from any and all claims, liabilities, costs, suits, or the like relating to such refund request.

The foregoing summaries provide only a brief description of the Promissory Note, Note Purchase Agreement, Security Agreement, and the Acquisition Agreement. The summaries do not purport to be complete and are qualified in their entireties by the full text of such documents, copies of which are attached as Exhibits 10.1, 10.2, 10.3, and 10.4 respectively, and incorporated herein by reference.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information included in Item 1.01 of this Form 8-K is hereby incorporated by reference into this Item 2.03.

Item 8.01 Other Information.

On March 5, 2024, the Company issued a press release announcing the execution of the Acquisition Agreement and the Country Stampede acquisition. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

See the Exhibit Index below, which is incorporated by reference herein.

Exhibit

No.	Description
10.1	Form of Promissory Note.
10.2	Form of Note Purchase Agreement.
10.3	Form of Security Agreement.
10.4	Form of Asset Purchase Agreement
99.1	Press Release entitled "Kustom Entertainment Acquires Prestigious Country Stampede Music Festival" dated March 5, 2024.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: March 5, 2024

Digital Ally, Inc.

By: /s/ STANTON E. ROSS

Name: Stanton E. Ross

Title: Chairman and Chief Executive Officer

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY APPLICABLE STATE SECURITIES LAWS AND MAY NOT BE SOLD OR TRANSFERRED WITHOUT COMPLIANCE WITH THE REGISTRATION OR QUALIFICATION PROVISIONS OF APPLICABLE FEDERAL AND STATE SECURITIES LAWS OR APPLICABLE EXEMPTIONS THEREFROM.

SENIOR SECURED PROMISSORY NOTE

\$1,425,000

March 1, 2024

FOR VALUE RECEIVED, the undersigned, Digital Ally, Inc., a Nevada corporation (“**DA**”), and its subsidiary, Kustom Entertainment, Inc., a Nevada corporation (“**KEI**” and together with DA, the “**Borrower**”), hereby promise to pay to the order of Mosh Man LLC, a New Jersey limited liability company (the “**Purchaser**”), or its registered assigns (the “**Holder**”), the principal sum of \$1,425,000, plus all accrued and unpaid interest due thereon, on the Maturity Date (as defined in the Purchase Agreement (as defined below)), except as otherwise set forth herein, and with interest thereon from time to time as provided herein.

1. Purchase Agreement. This Secured Note (this “**Note**”) is issued by the Borrower, on the date hereof, pursuant to that certain Note Purchase Agreement (as amended, restated, supplemented or otherwise modified from time to time, the “**Purchase Agreement**”), dated as of the date hereof, by and among the Borrower, the Purchaser and the other persons from time to time party thereto, and is subject to the terms thereof. The Holder is entitled to the benefits of this Note and the Purchase Agreement, as the Purchase Agreement relates to this Note, and may enforce the agreements of the Borrower contained herein and therein and exercise the remedies provided for hereby and thereby or otherwise available in respect hereto and thereto. Capitalized terms used herein and not defined herein have the meanings ascribed to such terms in the Purchase Agreement.

2. Interest. The Borrower promises to pay interest on the sum of the principal amount of this Note as set forth in the Purchase Agreement.

3. Reserved.

4. Repayment; Prepayment. The Borrower shall repay and may prepay the outstanding principal amount of this Note as set forth in the Purchase Agreement.

5. Amendment. Amendments and modifications of this Note may be made only in the manner provided in the Purchase Agreement.

6. Suits for Enforcement.

(a) Subject to the terms and conditions of the Purchase Agreement, upon the occurrence and during the continuation of any one or more Events of Default, the Holder of this Note may proceed to protect and enforce its rights hereunder by suit in equity, action at law or by other appropriate proceeding, whether seeking specific performance of any covenant or agreement contained in the Purchase Agreement or this Note or in aid of the exercise of any power granted in the Purchase Agreement or this Note, or may proceed to enforce the payment of this Note, or to enforce any other legal or equitable right of the Holder of this Note.

(b) The Borrower shall pay all costs of enforcement of this Note to the extent and in the manner set forth in the Purchase Agreement.

7. Remedies Cumulative. No remedy conferred upon the Holder herein or in the Purchase Agreement is intended to be exclusive of any other remedy and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder, under the Purchase Agreement or now or hereafter existing at law or in equity or by statute or otherwise.

8. Transfer.

(a) This Note may be transferred or assigned, in whole or in part, by the Holder at any time subject to the limitations set forth in the Purchase Agreement and herein. The term “**Holder**” as used herein shall also include any transferee of this Note whose name has been recorded by the Borrower in the Note Register (as defined below). Each transferee of this Note acknowledges that this Note has not been registered under the Securities Act, and may be transferred only pursuant to an effective registration under the Securities Act or pursuant to an applicable exemption from the registration requirements of the Securities Act.

(b) The Borrower shall maintain a register (the “**Note Register**”) in its principal office for the purpose of registering this Note and any transfer or partial transfer thereof, which register shall reflect and identify, at all times, the ownership of record of any interest in this Note. Upon the issuance of this Note, the Borrower shall record the name and address of the Purchaser in the Note Register as the first Holder. Upon the surrender for registration of transfer or exchange of this Note as permitted under the Purchase Agreement at the principal office of the Borrower, the Borrower shall, at its expense, execute and deliver one or more new Notes of like tenor and of a like aggregate principal amount, registered in the name of the Holder or a transferee or transferees. Every Note surrendered for registration of transfer or exchange shall be duly endorsed, or be accompanied by written instrument of transfer duly executed by the Holder of such Note or the Holder’s attorney duly authorized in writing.

9. Replacement of Note. On receipt by the Borrower of an affidavit of an authorized representative of the Holder stating the circumstances of the loss, theft, destruction or mutilation of this Note (and in the case of any such mutilation, on surrender and cancellation of such Note), the Borrower will promptly execute and deliver, in lieu thereof, a new Note of like tenor; provided, however, the Holder must provide a reasonable indemnity agreement in connection with any such replacement.

10. Covenants Bind Successors and Assigns. All the covenants, stipulations, promises and agreements in this Note contained by or on behalf of the Borrower shall bind its successors and assigns, whether so expressed or not.

11. Notices. All notices, demands and other communications provided for or permitted hereunder shall be made in writing and shall be by registered or certified first-class mail, return receipt requested, telecopier (with receipt confirmed), courier service or personal delivery at the addresses specified in Section 13.2 of the Purchase Agreement.

12. GOVERNING LAW. THIS NOTE SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEVADA, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

13. Severability. If any one or more of the provisions contained herein, or the application thereof in any circumstance, is held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions hereof shall not be in any way impaired, unless the provisions held invalid, illegal or unenforceable shall substantially impair the benefits of the remaining provisions hereof.

14. Headings. The headings in this Note are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

[signature page follows]

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed as of the date first written above.

Digital Ally, Inc.

By: _____
Name:
Title:

Kustom Entertainment, Inc.

By: _____
Name:
Title:

NOTE PURCHASE AGREEMENT

NOTE PURCHASE AGREEMENT, dated as of March 1, 2024, by and among Digital Ally, Inc., a Nevada corporation (“**DA**”), and its subsidiary, Kustom Entertainment, Inc., a Nevada corporation (“**KEP**” and together with DA, the “**Borrower**”), and **Mosh Man LLC**, a New Jersey limited liability company (the “**Purchaser**”).

STATEMENT OF PURPOSE:

WHEREAS, the Borrower wishes to sell to the Purchaser, and the Purchaser wishes to purchase on the terms and conditions set forth herein, that certain senior secured promissory note issued by the Borrower to the Purchaser in an aggregate original principal amount of \$1,425,000 substantially in the form of Exhibit A hereto;

WHEREAS, the Borrower is willing to secure all of the Obligations by granting to the Purchaser a Lien upon substantially all of its assets subject to any limitations set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

**ARTICLE 1
DEFINITIONS**

1.1 Definitions. As used in this Agreement, the following terms have the meanings indicated:

“**Affiliate**” means, with respect to any specified Person, any other Person who, directly or indirectly, controls, is controlled by, or is under common control with such Person, including without limitation (a) with respect to any such Person that is an entity, any general partner, managing member, officer or director of such Person or any venture capital fund now or hereafter existing that is controlled by one or more general partners or managing members of, or shares the same management company with, such Person and (b) with respect to any such Person that is an individual including, without limitation, such individual’s spouse, lineal ancestors, lineal blood or adopted descendants, and any trust or other estate planning vehicle for any of their benefit or any entity in which only such persons own equity interests. A Person shall be deemed to control another Person if the controlling Person owns ten percent (10%) or more of any class of voting securities (or other ownership interests) of the controlled Person or possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of the controlled Person, whether through ownership of Capital Stock, by contract or otherwise. None of the Purchaser nor any of its Affiliates shall be, or be deemed to be, an Affiliate of any Loan Party.

“**Agreement**” means this Note Purchase Agreement, including the exhibits and schedules attached hereto, as the same may be amended, supplemented or modified in accordance with the terms hereof.

“**Applicable Insolvency Laws**” means the United States Bankruptcy Code and all other liquidation, bankruptcy, assignment for the benefit of creditors, conservatorship, moratorium, receivership, insolvency, rearrangement, reorganization or similar debtor relief laws of the United States or other applicable jurisdictions in effect from time to time.

“**Asset Disposition**” means any sale, lease, license, transfer, assignment or other consensual disposition by any Loan Party or any Subsidiary of any asset but excluding (i) dispositions of Cash and Cash Equivalents and (ii) sales, transfers and other dispositions of assets or accounts receivable in connection with the compromise, settlement or collection thereof in the ordinary course of the Loan Parties’ business.

“**Board**” means the board of directors of DA.

“**Borrower**” has the meaning given to that term in the preamble hereof and shall extend to all permitted successors and assigns of such Persons.

“**Business Day**” means any day other than a Saturday, Sunday or other day on which commercial banks in the State of New York are authorized or required by law or executive order to close.

“**Capital Expenditure**” means any expenditure for any purchase or other acquisition of any asset which would be classified as a fixed or capital asset on a balance sheet prepared in accordance with GAAP (including, without limitation, the capitalized portion of any software development costs), excluding (a) the cost of assets acquired pursuant to Capitalized Leases, (b) expenditures of insurance proceeds (or other similar recoveries) to rebuild or replace any asset after a casualty loss or cash awards of compensation arising from the taking of eminent domain or condemnation (c) leasehold improvement expenditures for which the Person is reimbursed promptly by the lessor.

“**Capital Stock**” means (a) any capital stock, partnership, membership, joint venture or other ownership or equity interest, participation or securities (whether voting or non-voting, whether preferred, common or otherwise), and (b) any option, warrant, security or other right (including Debt securities or other evidence of Debt) directly or indirectly convertible into or exercisable or exchangeable for, or otherwise to acquire directly or indirectly, any capital stock, partnership, membership, joint venture or other ownership or equity interest, participation or security described in clause (a) above.

“**Capitalized Lease**” of a Person means any lease of Property by such Person as lessee which would be capitalized on a balance sheet of such Person prepared in accordance with GAAP; provided, however, that all obligations of any Person that are or would have been treated as operating leases for purposes of GAAP prior to the issuance by the Financial Accounting Standards Board on February 25, 2016 of an Accounting Standards Update (the “ASU”) shall continue to be accounted for as operating leases for purposes of this definition and all other financial definitions, calculations and covenants for purposes of this Agreement (other than for purposes of the delivery of financial statements prepared in accordance with GAAP) whether or not such operating lease obligations were in effect on such date), notwithstanding the fact that such obligations are required in accordance with the ASU (on a prospective or retroactive basis or otherwise) to be treated as capitalized lease obligations in accordance with GAAP.

“**Cash**” means the currency of the United States of America.

“**Cash Equivalents**” means (a) short-term obligations of, or fully guaranteed by, the United States of America or any agency or instrumentality thereof, (b) commercial paper rated A-1 or better by Standard & Poor’s or P-1 or better by Moody’s, (c) demand deposit accounts maintained in the ordinary course of business, and (d) certificates of deposit issued by and time deposits with commercial banks (whether domestic or foreign) having capital and surplus in excess of \$100,000,000; provided in each case that the same provides for payment of both principal and interest (and not principal alone or interest alone) and is not subject to any contingency regarding the payment of principal or interest.

“**CERCLA**” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

“**Change of Control**” means, the consummation of a merger, consolidation, reorganization, sale of Capital Stock by DA or any holder of DA’s Capital Stock, sale or other disposition of all or substantially all of the assets of the DA that results in (A) any change in the selection or composition of a majority of the Board as in effect on the Closing Date or (B) any person or “group” (within the meaning of Rules 13d-3 and 13d-5 of the Exchange Act) shall directly or indirectly own or control in excess of fifty percent (50%) of the economic or voting interests of DA that does not, as of the Closing Date, directly or indirectly, own or control in excess of 50% of the voting interests of DA.

“**Closing**” has the meaning assigned to that term in Section 2.3.

“**Closing Date**” has the meaning assigned to that term in Section 2.3.

“**Code**” means the Internal Revenue Code of 1986, as amended, or any successor statute thereto.

“**Collateral**” has the meaning set forth in the Security Agreement.

“**Collateral Documents**” means the Security Agreement, any other collateral assignments, each other deposit account control agreement, each landlord waiver, bailee agreement or other similar collateral access agreement and each other agreement or writing pursuant to which the Borrower or any Subsidiary thereof purports to pledge or grant a security interest in any property or assets

securing the Obligations, or any such Person purports to guarantee the payment and/or performance of the Obligations, in each case, as amended, restated, supplemented or otherwise modified from time to time.

“**Commission**” means the U.S. Securities and Exchange Commission or any similar agency then having jurisdiction to enforce the Securities Act.

“**Confidential Information**” means all information disclosed by a Loan Party that (a) relates to such Loan Party’s business, properties, liabilities (other than the Obligations), technology, Intellectual Property assets, trade secrets, inventions, know-how, software programs, software source documents, financial or business plans, financial projections and affairs, employment arrangements, financial statements, internal management tools and systems, products and product development plans, marketing plans, customers, clients and contracts, and (b) to the extent such information is provided after the Closing Date (other than information provided as required by the terms of this Agreement, which shall be deemed to be Confidential Information), is designated by such Loan Party as confidential by means of appropriate markings. Confidential Information will not include any information or data (i) that has become publicly known through no wrongful act of the recipient of such information, (ii) has been received by the recipient from a third party not known by the recipient to be under any obligation of confidentiality to a Loan Party without breach by the recipient of this Agreement or any other agreement with any Loan Party, or (iii) has been approved for release by written authorization of such Loan Party.

“**Contractual Obligations**” means as to any Person, any provision of any security issued by such Person or of any agreement, undertaking, contract, indenture, mortgage, deed of trust or other instrument or arrangement (whether in writing or otherwise), other than a Note Document, to which such Person is a party or by which it or any of such Person’s property is bound.

“**Debt**” of any Person means, without duplication, (a) all indebtedness of such Person for borrowed money; (b) all obligations issued, undertaken or assumed by such Person as the deferred purchase price of property or services (other than trade payables entered into in the ordinary course of business on ordinary terms); (c) all obligations of such Person evidenced by notes, bonds, debentures or similar instruments; (d) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property); (e) [reserved]; (f) all indebtedness of such Person referred to in clauses (a) through (e) above secured by (or for which the holder of such Debt has an existing right, contingent or otherwise, to be secured by) any Lien upon or in property (including accounts and contracts rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such Debt (it being understood that if such Person has not assumed or otherwise become personally liable for any such Debt, the amount of the Debt of such Person in connection therewith shall be limited to the lesser of the face amount of such Debt or the fair market value of all property of such Person securing such Debt); and (g) all guaranties of such Person of any Debt of another Person.

“**Default**” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“**Disclosure Schedules**” has the meaning assigned to that term in Article 6.

“**Environmental Laws**” means any and all federal, state, local and foreign statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, plans, injunctions, Licenses, concessions, grants, franchises, agreements and other governmental restrictions relating to (a) the protection of the environment, (b) the effect of the environment on human health, (c) emissions, discharges or releases of pollutants, contaminants, hazardous substances or wastes into surface water, ground water, air or land, or (d) the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, hazardous substances or wastes or the clean-up or other remediation thereof, including, without limitation, the Clean Air Act, 42 U.S.C. § 7401 et seq., the Clean Water Act, 33 U.S.C. § 1251 et seq., the Solid Waste Disposal Act (as amended by the Resource Conservation and Recovery Act), 42 U.S.C. § 6901 et seq., and CERCLA.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended and the rules and regulations promulgated thereunder.

“**ERISA Affiliate**” means a corporation that is or was a member of a controlled group of corporations with the Borrower within the meaning of Section 4001(a) or (b) of ERISA or Section 414(b) of the Code, a trade or business (including a sole proprietorship, partnership, trust, estate or corporation) that is under common control with any Loan Party within the meaning of Section 414(m) of the Code, or a trade or business which together with any Loan Party is treated as a single employer under Section 414(o) of the Code.

“Event of Default” has the meaning assigned to that term in Section 11.1.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Extraordinary Receipt” means any Cash received by or paid to or for the account of any Loan Party not in the ordinary course of business (and not consisting of proceeds described in any of Section 3.2(d)(i), or (ii)).

“Fiscal Quarter” means in respect of a date as of which the applicable financial covenant is being calculated or financial report is being furnished, any fiscal quarter of a Fiscal Year (currently the three month periods ending on or about each March 31, June 30, September 30 and December 31 annually).

“Fiscal Year” means the fiscal year for financial accounting and reporting purposes of the Borrower (currently the fiscal year ending December 31).

“GAAP” means generally accepted accounting principles in effect within the United States from time to time, consistently applied.

“Government” means the United States government or any agency, department or instrumentality thereof.

“Governmental Authority” means the government of any nation, state, city, locality or other political subdivision of any thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, regulation or compliance, including, without limitation, any federal, state or local public utility commission, and any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

“Hazardous Materials” means (a) any “hazardous substance” as defined in CERCLA, (b) any “hazardous waste” as defined in RCRA, (c) asbestos, (d) polychlorinated biphenyls, (e) petroleum, its derivatives, by products and other hydrocarbons, (f) toxic mold and (g) any other pollutant, toxic, radioactive, caustic or otherwise hazardous substance regulated under Environmental Laws.

“Hazardous Materials Contamination” means contamination (whether now existing or hereafter occurring) of the improvements, buildings, facilities, personalty, soil, groundwater, air or other elements on or of the relevant property by Hazardous Materials, or any derivatives thereof, or on or of any other property as a result of Hazardous Materials, or any derivatives thereof, generated on, emanating from or disposed of in connection with the relevant property.

“Holder” means each holder of a Note hereunder.

“Indemnified Party” has the meaning given to that term in Section 12.1.

“Insolvency Proceeding” means, with respect to any Person, (a) any case, action or proceeding with respect to such Person before any court or other governmental authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors (including any proceeding under the United States Bankruptcy Code) or (b) any general assignment for the benefit of creditors, composition, marshalling of assets for creditors, or other, similar arrangement in respect of such Person’s creditors generally or any substantial portion of such creditors.

“Intellectual Property” has the meaning ascribed to such term in the Security Agreement.

“Interest Rate” has the meaning given to that term in Section 3.1(a).

“Liabilities” has the meaning given to that term in Section 12.1.

“Licenses” means all licenses, permits, authorizations, determinations, and registrations issued by any Governmental Authority to any Loan Party or any Subsidiary in connection with the conduct of its business.

“**Lien**” means any security interest, mortgage, deed of trust, pledge, hypothecation, assignment, license, charge or deposit arrangement, encumbrance, lien (statutory or other) or preferential arrangement of any kind or nature whatsoever in respect of any property (including those created by, arising under or evidenced by any conditional sale or other title retention agreement, the interest of a lessor under a capital lease, or any financing lease having substantially the same economic effect as any of the foregoing, but not including the interest of a lessor under an operating lease and including any exclusive or non-exclusive license of Intellectual Property).

“**Loan Parties**” means the Borrower and all of the Borrower’s direct or indirect Subsidiaries which have joined this Agreement pursuant to and have otherwise complied with the provisions of Section 9.7.

“**Major Casualty Proceeds**” means (i) the aggregate insurance proceeds received in Cash in connection with one or more related events under any property insurance policy or business interruption insurance policy or (ii) any award or other compensation received in Cash with respect to any eminent domain, condemnation of property or similar proceedings (or any transfer or disposition of property in lieu of condemnation), in each case, less (a) any out-of-pocket fees, costs and expenses reasonably incurred by the Borrower or any Subsidiary in connection therewith, (b) the amount of any Debt secured by a Permitted Lien on the related asset and discharged from the proceeds of such event, (c) any Taxes paid or reasonably estimated by the applicable Loan Party or Subsidiary to be payable by such Person as a consequence of such event (provided, that if the actual amount of Taxes actually paid is less than the estimated amount, the difference shall immediately constitute Major Casualty Proceeds) and (d) the amount of any reserve established in accordance with GAAP (provided that such reserved amounts shall be Major Casualty Proceeds to the extent and at the time of any reversal (without the satisfaction of any applicable liabilities in a corresponding amount) of any such reserve).

“**Material Adverse Effect**” means an effect that results in or causes (a) a material adverse change in, or a material adverse effect upon, the assets, liabilities, business, properties, operations, or condition (financial or otherwise) of the Borrower and its Subsidiaries, (b) a material adverse effect upon the legality, validity, binding effect or enforceability against the Borrower or any of its Subsidiaries of any Note Document or (c) material adverse effect upon the validity of any Intellectual Property of the Borrower or its Subsidiaries or any of the Borrower’s or its Subsidiaries’ rights or interests in respect thereof or thereto, including but not limited to as a result of an adverse order, determination or decision by a Governmental Authority.

“**Maturity Date**” has the meaning given to that term in Section 3.2(a).

“**Merger**” means that certain merger and despac transaction as set out in the Merger Agreement, dated as of June 1, 2023, by and between DA, KEI, Clover Leaf Capital Corp., a Delaware corporation, CL Merger Sub, Inc., a Nevada corporation, and Yntegra Capital Investments LLC, a Delaware limited liability company.

“**Moody’s**” means Moody’s Investors Service, Inc.

“**Net Cash Proceeds**” means, with respect to any transaction or event, an amount equal to the Cash proceeds received by any Loan Party (or any Subsidiary) from or in respect of such transaction or event (including Cash proceeds of any non-Cash proceeds of such transaction), less (i) any out-of-pocket expenses paid to a Person that are reasonably incurred by such Loan Party or Subsidiary in connection therewith, (ii) amount of any reserve established (provided that such reserved amounts shall be Net Cash Proceeds to the extent and at the time of any reversal (without the satisfaction of any applicable liabilities in a corresponding amount) of any such reserve) and (iii) Taxes paid or payable or reasonably estimated to be paid or payable as a result thereof in that year or the next succeeding year.

“**Note**” has the meaning given to that term in Section 2.1(a).

“**Note Documents**” means this Agreement, the Note, the Collateral Documents, and each other agreement, document or certificate delivered pursuant to this Agreement or the Note, in each case, as amended, restated, supplemented or otherwise modified from time to time.

“**Obligations**” means all obligations of every nature of the Borrower or any other Loan Party, as applicable, from time to time owed to the Purchaser under the Note Documents, whether for principal, interest, fees, expenses, indemnification or otherwise; provided, however, for the avoidance of doubt, no obligations owing by any Loan Party to the Holder or any Affiliate of the Holder, or their respective successors or assigns, in respect of or pursuant to any equity investment made by the Holder or any Affiliate of the

Holder, or their respective successors and assigns, in the Borrower or any other Loan Party shall be included in the Obligations; provided, however, that no obligations owing by any Loan Party to the Holder or any Affiliate of the Holder, or their respective successors or assigns, in respect of or pursuant to any equity investment made by the Holder or any Affiliate of the Holder, or their respective successors and assigns, in any Loan Party shall be included in the Obligations, other than any obligations to issue Capital Stock evidencing such equity investment.

“**OFAC**” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.

“**Organizational Documents**” means the limited liability company agreement or bylaws (as applicable), certificate or articles of formation or certificate or articles of incorporation (as applicable), shareholders’ agreement, membership agreement or any other agreements among equity holders that are known to the Borrower, and other similar organizational and governing documents of the Borrower and its Subsidiaries.

“**Participant**” has the meaning given to that term in Section 13.3.

“**Participant Register**” has the meaning given to that term in Section 13.3.

“**Payment Date**” means the first Business Day of each calendar month in which the Note is outstanding, commencing with the calendar month beginning on March 1, 2024.

“**Permitted Debt**” has the meaning assigned to that term in Section 9.1.

“**Permitted Liens**” means those Liens permitted pursuant to Section 9.2.

“**Person**” means any individual, firm, corporation, limited liability company, partnership, trust, incorporated or unincorporated association, joint venture, joint stock company, Governmental Authority or other entity of any kind, and shall include any successor (by merger or otherwise) of such entity.

“**Property**” of a Person means any and all property, whether real, personal, tangible, intangible, or mixed, of such Person, or other assets owned, leased or operated by such Person.

“**Purchase Price**” has the meaning given to that term in Section 2.1.

“**Purchaser**” has the meaning given to that term in the preamble hereof.

“**Requirements of Law**” means as to any Person, provisions of the Organizational Documents of such Person, or any law, treaty, code, rule, regulation, right, privilege, qualification, License or franchise or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to such Person or any of such Person’s property or to which such Person or any of such Person’s property is subject or pertaining to any or all of the transactions contemplated or referred to herein.

“**Sanctioned Entity**” means (a) an agency of the government of, (b) an organization directly or indirectly controlled by, or (c) a Person resident in a country that is subject to a sanctions program identified on the list maintained by OFAC and available at <http://www.treas.gov/offices/enforcement/ofac/programs>, or as otherwise published from time to time as such program may be applicable to such agency, organization or person.

“**Sanctioned Person**” means a Person named on the list of Specially Designated Nationals or Blocked Persons maintained by OFAC available at <http://www.treas.gov/offices/enforcement/ofac/sdn/index.html>, or as otherwise published from time to time.

“**SEC**” means the United States Securities and Exchange Commission.

“**Securities Act**” means the Securities Act of 1933, as amended, or any similar federal statute, and the rules and regulations thereunder as the same shall be in effect at the time.

“**Security Agreement**” means the Security Agreement, among the Loan Parties, the Purchaser, and the other parties thereto, as amended, restated, supplemented or otherwise modified from time to time.

“**Solvent**” means, with respect to any Person that (a) the assets and the property of such Person exceed the aggregate liabilities (including contingent and unliquidated liabilities) of such Person, (b) after giving effect to the transactions contemplated by this Agreement and the other Note Documents, such Person will not be left with unreasonably small capital, and (c) after giving effect to the transactions contemplated by this Agreement and the other Note Documents, such Person is able to both service and pay its liabilities as they mature. In computing the amount of contingent or unliquidated liabilities at any time, such liabilities will be computed as the amount that, in light of all the facts and circumstances existing at such time, represents the amount that is likely to become an actual or matured liability.

“**Standard and Poor’s**” means Standard and Poor’s Rating Services, a division of The McGraw-Hill Companies, Inc. and any successor thereto.

“**Subsidiary**” means, with respect to any Person, a corporation or other entity of which more than fifty percent (50%) of the voting power of the voting equity securities or equity interest is owned, directly or indirectly, by such Person.

“**Tax**” means (a) any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on-minimum, estimated, or other tax of any kind whatsoever, including any interest, penalty, or addition thereto and (b) liability for the payment of any amounts of the type described in clause (a) as a transferee or successor, by contract, from any express or implied obligation to indemnify or otherwise assume or succeed to the liability of any other Person, or otherwise.

“**Tax Return**” means any return, declaration, report, or information return or statement relating to Taxes required to be filed with a Governmental Authority responsible for the administration of Taxes, including any schedule or attachment thereto, and including any amendment thereof.

“**Transactions**” means, collectively, (a) the issuance of the Note and (b) the payment of all fees and expenses in connection therewith.

ARTICLE 2 TERM LOANS

2.1 Purchase, Sale and Issuance of the Note. Subject to the terms and conditions herein set forth, on the Closing Date, the Borrower will issue to the Purchaser, and the Purchaser will acquire from the Borrower a senior secured promissory note (the “**Note**”) in the principal amount of \$1,425,000 for \$1,000,000 (the “**Purchase Price**”).

2.2 Original Issue Discount.

(a) **Original Issue Discount.** The Borrower and Holder agree (i) that the Note is to be treated as indebtedness for U.S. federal income tax purposes, (ii) that the Note constitutes an “investment unit” for purposes of Section 1273(c)(2) of the Code, and (iii) not to file any Tax Return, report or declaration inconsistent with the foregoing, unless required by a “determination” within the meaning of Section 1313(a) of the Code.

2.3 Closing. The purchase and issuance of the Note shall take place at the closing (the “**Closing**”) on the date hereof (the “**Closing Date**”). At the Closing, the Borrower shall deliver the Note to the Purchaser and the Purchaser shall deliver the Purchase Price, less payment for Purchaser’s legal fees and any other expenses incurred by Purchaser to facilitate the Note purchase, which sum shall not exceed \$35,000.

ARTICLE 3 INTEREST AND PAYMENTS

3.1 Interest.

(a) **Interest Rate.** The Note shall bear interest at the rate of one and fifty-eight one-hundredths percent (1.58%) per month (the “**Interest Rate**”), which amount shall be guaranteed and deemed earned in full as of the date hereof. Subject to Requirements of Law,

such interest shall itself be capitalized and has been added to the principal amount of the Note, and shall thereafter be treated as principal of the Note.

(b) No Usurious Interest. In the event that any interest rate(s) provided for in this Section 3.1 or otherwise in this Agreement shall be determined to exceed any limitation on interest under Requirements of Law, such interest rate(s) shall be computed at the highest rate permitted by Requirements of Law. Any payment by the Borrower of any interest amount in excess of that permitted by law shall be considered a mistake, with the excess being applied to the principal amount of the affected Note without prepayment premium or penalty; if no such principal amount is outstanding, such excess shall be returned to the Borrower.

3.2 Redemption.

(a) Maturity Date. The Borrower shall redeem the Note at the earlier of (the “*Maturity Date*”) (i) on November 1, 2024, and (ii) within three (3) Business Days from the consummation and closing of the Merger, in each case, by payment in Cash in full of the entire outstanding principal balance thereof, (including all interest that has been added to the outstanding principal amount of such Note pursuant to Section 3.1(a)), together with any unpaid interest accrued thereon to such date.

(b) Voluntary Prepayment. The Borrower may voluntarily prepay or redeem the Note, in whole, upon written notice to the Purchaser, by payment in Cash in full of the entire outstanding principal balance thereof (including all interest that has been added to the outstanding principal amount of such Note pursuant to Section 3.1(a)).

(c) Optional Redemption by the Holder. Upon the occurrence of (i) a Change of Control (and concurrent with the closing of any such transaction) and (ii) a sale of all or substantially all of the Borrower and its Subsidiaries’ assets, Holder may elect to sell to the Borrower and the Borrower shall be required to purchase the Note held by such Holder in full by payment in Cash in full of the entire outstanding principal balance thereof (including all interest that has been added to the outstanding principal amount of such Note pursuant to Section 3.1(a)). If the Holder elects to sell the Note the Holder shall deliver an irrevocable written notice to the Borrower that the Holder will exercise its right, which notice shall be delivered no less than five (5) Business Days prior to any such transaction.

(d) Mandatory Prepayments. The Borrower shall prepay the Note in the following amounts and at the following times.

(i) *Casualty and Other Insurance Proceeds*. Within five (5) Business Days after any Loan Party or any Subsidiary (or Purchaser as loss payee or assignee) receives any Major Casualty Proceeds, an amount equal to one hundred percent (100%) of such Major Casualty Proceeds.

(ii) *Asset Disposition Proceeds*. Within five (5) Business Days after any Loan Party or any Subsidiary receives the proceeds of any Asset Disposition, the Borrower shall prepay the Note in an amount equal to one hundred percent (100%) of the Net Cash Proceeds of such Asset Disposition.

(iii) *Financing Proceeds and Extraordinary Receipts*. Within five (5) Business Days after any Loan Party or any Subsidiary receives the proceeds of any financings whether by the issuance of Debt or sale of Capital Stock or receives any Extraordinary Receipts, the Borrower shall prepay the Note as follows: (A) if the aggregate proceeds of all such financings and Extraordinary Receipts are less than \$3,000,000, the Borrower shall prepay amount equaling to 50% of the outstanding principal of the Note, and (B) if the aggregate proceeds of all such financings and Extraordinary Receipts are equal to or greater than \$3,000,000, the Borrower shall prepay the Note in full.

(e) Acceleration. In addition, the Note shall be subject to acceleration as set forth in Section 11.2.

3.3 Manner of Payment.

(a) On each Payment Date, the Borrower shall pay in arrears in cash by automatic bank draft or wire transfer of immediately available funds an amount equal to 50% of revenues from all ticket sales generated by KEI on the first nine thousand tickets sold after the date of this Agreement, and thereafter an amount equal to 10% of all such ticket sales revenues until the earlier of the date on which the Note is repaid in full or the Maturity Date. Any other payment of fees, interest, premium and principal payable in respect of the Note may otherwise be paid by automatic bank draft or wire transfer of immediately available funds to an account at a bank designated in writing by the Holder of the Note. In the absence of any such written designation, any such payment shall be deemed made on the date a check

in the applicable amount payable to the order of the Holder thereof is received by the Holder at its last address as reflected in the Note Register (as defined in the Note).

(b) All payments made by the Borrower (pursuant to this Article 3 or otherwise) upon the Obligations relating to the Note and all net proceeds from the enforcement of the Obligations shall be applied (i) *first*, to that portion of the Obligations constituting fees, indemnities and expenses (including reasonable attorney fees) payable to the Holder, (ii) *second*, to the payment of that portion of the Obligations constituting accrued and unpaid interest on the Note, (iii) *third*, to the payment of that portion of the Obligations constituting unpaid principal of the Note, (iv) *last*, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by any Requirements of Law.

ARTICLE 4 CONDITIONS TO THE OBLIGATIONS OF THE PURCHASER

4.1 Conditions to the Obligations of the Purchaser to Purchase the Note on the Closing Date. The obligation of the Purchaser to purchase the Note, fund the Purchase Price on the Closing Date and perform any obligations hereunder shall be subject to the reasonable satisfaction as determined by, or waived by, the Purchaser of the following conditions on or before the Closing Date; provided, that any waiver of a condition shall not be deemed a waiver of any breach of any representation, warranty, agreement, term or covenant, as specifically set forth elsewhere in this Agreement, or of any misrepresentation by the Borrower.

(a) Representations and Warranties. The representations and warranties contained in Article 6 hereof shall be true and correct in all material respects at and as of the Closing Date after giving effect to the Transactions.

(b) Compliance with this Agreement. The Borrower shall have performed and complied with all of its agreements and conditions set forth or contemplated herein and the other Note Documents in all material respects that are required to be performed or complied with by the Borrower on or before the Closing Date, and the Purchaser shall have received at the Closing a certificate to the foregoing effect, dated the Closing Date, and executed by the chief executive officer or chief financial officer on behalf of the Borrower.

(c) Secretary's Certificates. The Purchaser shall have received a certificate from each of the Borrower, dated the Closing Date and signed by the secretary, an assistant secretary, the chief financial officer or the chief executive officer of the Borrower, as applicable, certifying (i) that the attached copies of the Organizational Documents of the Borrower and resolutions of the board of directors or similar governing body of the Borrower approving the Note Documents to which it is a party and the Transactions are all true, complete and correct and remain unamended and in full force and effect, (ii) the incumbency and specimen signature of each officer of the Borrower executing any Note Document to which it is a party or any other document delivered in connection herewith and therewith on behalf of the Borrower and (iii) that each Loan Party and each of their respective subsidiaries are, individually, Solvent.

(d) Documents. The Purchaser shall have received true, complete and correct copies of the Note Documents signed by the Borrower.

(e) Good Standing Certificates. The Borrower shall have delivered to the Purchaser as of a date not more than fifteen (15) days before the Closing Date, good standing certificates and/or certificates of existence, as the case may be, for the Borrower for which such a certificate is issuable by a Governmental Authority for the Borrower's jurisdiction of incorporation or formation and all other jurisdictions where it does business.

(f) No Litigation. No action, suit or proceeding before any court or any Governmental Authority shall have been commenced or threatened in writing, no investigation by any Governmental Authority shall have been commenced and no action, suit or proceeding by any Governmental Authority shall have been threatened in writing against the Purchaser or the Loan Parties seeking to restrain, prevent or change the transactions contemplated hereby or questioning the validity or legality of any of such transactions.

(g) Fees, Etc. On the Closing Date, the Borrower shall have paid to the Purchaser all costs, fees and expenses (including, without limitation, reasonable legal fees and expenses) payable to the Purchaser in accordance with the terms of the Note Documents, which sum shall not exceed \$35,000.

(h) Consents. All consents, exemptions, authorizations, or other actions by, or notices to, or filings with, Governmental Authorities and other Persons in respect of all Requirements of Law and with respect to those Contractual Obligations of the Loan Parties reasonably necessary in connection with the execution, delivery or performance by the Loan Parties, or enforcement against the Loan Parties, of the Note Documents to which they are a party shall have been made or obtained and be in full force and effect, and the Purchaser shall have been furnished with appropriate evidence thereof.

(i) Additional Documents. The Purchaser shall have received each additional document, instrument, legal opinion or other item reasonably requested.

ARTICLE 5 CONDITIONS TO OBLIGATIONS OF THE LOAN PARTIES

The obligations of the applicable Loan Parties to issue the Note and to perform their other obligations hereunder on the Closing Date shall be subject to the reasonable satisfaction as determined by, or waived by, the Borrower of the following conditions on or before the Closing Date:

5.1 Representations and Warranties. The representations and warranties of the Purchaser contained in Article 7 hereof shall be true and correct in all material respects at and as of the Closing Date as if made at and as of such date (and if as of another date, then as of such other date).

5.2 Compliance with this Agreement. The Purchaser shall have performed and complied in all material respects with all of the agreements and conditions set forth or contemplated herein that are required to be performed or complied with by it on or before the Closing Date.

12

ARTICLE 6 REPRESENTATIONS AND WARRANTIES OF THE LOAN PARTIES

The following representations and warranties by the Borrower to the Purchaser are qualified by the disclosure schedules (the “*Disclosure Schedules*”), which set forth certain disclosures concerning the Borrower and its business (provided that any fact or item disclosed with respect to one representation or warranty shall be deemed to be disclosed with respect to each other representation or warranty). The Borrower hereby represents and warrants to the Purchaser as of the date hereof as follows:

6.1 Existence and Power. Each Loan Party that is not a natural Person: (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation, (b) has all requisite power and authority to own and operate its property, to lease the property it operates as lessee and to conduct the business in which it is currently, or is currently proposed to be, engaged, except to the extent that the failure to so own, operate, lease or conduct would not reasonably be expected to have a Material Adverse Effect, (c) is duly qualified as a foreign entity, licensed and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification, except to the extent that the failure to so qualify would not result in a material liability to the Borrower or any of its Subsidiaries and (d) has the power and authority to execute, deliver and perform its obligations under each Note Document to which it is or will be a party and to borrow hereunder. The jurisdictions in which each Loan Party is organized and qualified to do business as of the Closing Date are listed on Schedule 6.1.

6.2 Corporate Authorization; No Contravention. The execution, delivery and performance by each Loan Party that is not a natural Person of each Note Document to which it is or will be a party and the consummation of the Transactions: (a) has been duly authorized by all necessary action on the part of such Loan Party, (b) do not and will not contravene or violate the terms of the Organizational Documents of any Loan Party or any amendment thereto or any Requirement of Law applicable to any Loan Party or any Loan Party’s assets, business or properties, (c) do not and will not, except as set forth on Schedule 6.2, (i) conflict with, contravene, result in any violation or breach of or default under any material Contractual Obligation of any Loan Party (with or without the giving of notice or the lapse of time or both) other than any right to consent, which consents have been obtained, (ii) create in any other Person a right or claim of termination or amendment of any material Contractual Obligation of any Loan Party, or (iii) require modification, acceleration or cancellation of any material Contractual Obligation of any Loan Party which could result in a material adverse effect, and (d) do not and will not result in the creation of any Lien (or obligation to create a Lien) against any property, asset or business of any Loan Party (other than Liens securing the Note and Permitted Liens).

6.3 Governmental Authorization; Third Party Consents. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person in respect of any Requirement of Law or material Contractual Obligation, and no lapse of a waiting period under a Requirement of Law or material Contractual Obligation, is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party (other than any Loan Party that is a natural Person) of the Note Documents to which it is a party or the consummation of the Transactions, except (i) such as have been obtained or made and are in full force and effect, (ii) filings necessary to perfect Liens created by the Note Documents and (iii) consents, approvals, exemptions, authorizations or other actions that are not material to any Loan Party.

6.4 Binding Effect. Each Loan Party has duly executed and delivered the Note Documents to which it is a party and such Note Documents constitute the legal, valid and binding obligations of such Loan Party enforceable against it in accordance with their respective terms, except as enforceability may be limited by Applicable Insolvency Laws and similar laws of general applicability relating to or affecting creditors' rights and by general principles of equity.

6.5 Litigation. Except as set forth on Schedule 6.5, there are no legal actions, suits, proceedings, claims or disputes pending or, to the knowledge of any Loan Party, threatened, at law, in equity, in arbitration or before any Governmental Authority against or affecting any Loan Party that could reasonably be expected to have individually or in the aggregate, a Material Adverse Effect. No injunction, writ, temporary restraining order, decree or any order or determination of any nature by any arbitrator, court or other Governmental Authority purporting to enjoin or restrain the execution, delivery or performance of the Note Documents or, to the knowledge of any Loan Party, which relates to the assets or the business of the Loan Parties, is outstanding.

6.6 Compliance with Laws. Except as set forth on Schedule 6.6, each Loan Party is in compliance with all Requirements of Law, except for such noncompliance that could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

6.7 No Default or Breach. No event has occurred and is continuing or would result from the incurring of Obligations by the Loan Parties under the Note Documents which constitutes or, with the giving of notice or lapse of time or both, would constitute an Event of Default. No Loan Party is in default under or with respect to any material Contractual Obligation.

6.8 Reserved

6.9 Reserved

6.10 Taxes.

(a) Except as set forth on Schedule 6.10, each Loan Party has timely filed all federal, state and other material Tax Returns that it was required to file. All such Tax Returns were true, correct and complete in all material respects. All federal, state and other material Taxes due and payable by each Loan Party (whether or not shown on any Tax Return) have been paid or adequately reserved for in accordance with GAAP. Except as set forth on Schedule 6.10, no Loan Party is currently the beneficiary of any extension of time within which to file any Tax Return. No Loan Party has ever received a written claim by a Governmental Authority in a jurisdiction where any Loan Party does not file Tax Returns that any Loan Party is or may be subject to taxation by that jurisdiction. There are no Liens on any of the assets of any Loan Party that arose in connection with any failure to timely pay any Tax.

(b) Except as set forth on Schedule 6.10, there is no action, suit, proceeding, investigation, examination, audit, or claim now pending or, to the knowledge of any Loan Party, threatened by any Governmental Authority regarding any Taxes relating to any Loan Party. No Loan Party has entered into an agreement or waiver extending any statute of limitations relating to the payment or collection of Taxes of such Person. No Loan Party has incurred, or will incur, any material Tax liability in connection with the Transactions.

6.11 Reserved

6.12 Environmental Compliance.

(a) Hazardous Materials. No Hazardous Materials (i) are currently located on any properties owned, leased or operated by any Loan Party or any of its Subsidiaries in violation of any Environmental Law, or (ii) have been released by any Loan Party, or to the Loan Parties' knowledge, any other Person, into the environment, or deposited, discharged, placed or disposed of at, on, under or near any of such properties in a manner that would require the taking of any action under any Environmental Law and have given rise to, or

could reasonably be expected to give rise to, remediation costs and expenses on the part of the Loan Parties and Subsidiaries in excess of \$25,000. No portion of any such property is being used, or, to the knowledge of any Loan Party, has been used at any previous time, for the disposal, storage, treatment, processing or other handling of Hazardous Materials in material violation of any Environmental Law nor to the Loan Parties' knowledge is any such property affected by any Hazardous Materials Contamination. All written notifications of a release of Hazardous Materials required to be filed by or on behalf of any Loan Party or any of their respective Subsidiaries under any applicable Environmental Law have been filed or are in the process of being timely filed by or on behalf of the applicable Loan Party or Subsidiary.

(b) Notices Regarding Environmental Compliance. No notice, notification, demand, request for information, citation, summons, complaint or order has been issued, no complaint has been filed, no penalty has been assessed and no investigation or review is pending, or to Borrowers' knowledge, threatened by any Governmental Authority or other Person with respect to any (i) alleged violation by any Loan Party or any of their respective Subsidiaries of any Environmental Law, (ii) alleged failure by any Loan Party or any such Subsidiary to have any permits required by applicable Environmental Law for the conduct of its business or to comply with the terms and conditions thereof, (iii) any generation, treatment, storage, recycling, transportation or disposal of any Hazardous Materials or (iv) release of Hazardous Materials, in each case, that would reasonably be expected to have a Material Adverse Effect

(c) Properties Requiring Remediation. No property now owned or leased by any Loan Party or any of their respective Subsidiaries and, to Borrowers' knowledge, no such property previously owned or leased by any Loan Party or any such Subsidiary, to which any Loan Party or any such Subsidiary has, directly or indirectly, transported or arranged for the transportation of any Hazardous Materials, is listed or, to Borrowers' knowledge, proposed for listing, on the National Priorities List promulgated pursuant to CERCLA, or CERCLIS (as defined in CERCLA) or any state list or is the subject of federal, state or local enforcement actions or other investigations which may lead to claims against any Loan Party or any such Subsidiary for clean-up costs, remedial work, damage to natural resources or personal injury claims, including, but not limited to, claims under CERCLA or RCRA.

(d) Underground Storage Tanks. Except in each case as set forth on Schedule 6.12, no Loan Party or Subsidiary operates any underground storage tanks on any property owned or leased by any Loan Party or any of their respective Subsidiaries that (i) are not registered or permitted in accordance with applicable Environmental Laws or (ii) a Loan Party or Subsidiary is required to monitor, maintain, retrofit, upgrade, investigate, abate, remediate or remove under Environmental Law.

(e) Environmental Liens. Except in each case as set forth on Schedule 6.12, there are no Liens under or pursuant to any applicable Environmental Laws on any real property or other assets owned by any Loan Party or any of their respective Subsidiaries, and to the Loan Parties' knowledge no actions by any Governmental Authority have been taken or are in process which could subject any of such properties or assets to such Liens.

For purposes of this Section 6.12, each Loan Party and each of their respective Subsidiaries shall be deemed to include any business or business entity (including a corporation) which is, in whole or in part, a predecessor of such Person for whose conduct such Loan Party or such Subsidiary bears liability by contract or by operation of law.

6.13 [Reserved].

6.14 Investment Company/Government Regulations. The Borrower is not an "investment company" within the meaning of the Investment Company Act of 1940, as amended. No Loan Party is subject to regulation under the Public Utility Holding Company Act of 1935, as amended, the Federal Power Act, the Interstate Commerce Act, or any federal or state statute or regulation limiting its ability to incur Debt.

6.15 [Reserved].

6.16 Capitalization. As of the Closing Date, after giving effect to the transactions contemplated under the Note Documents, the number of shares of issued and outstanding Capital Stock for each Borrower and each Subsidiary thereof shall be as set forth on Schedule 6.16, and such shares of Capital Stock are owned by the Persons in the respective amounts set forth on Schedule 6.16. All such outstanding Capital Stock has been duly authorized by all necessary action of the Borrower or such Subsidiary and has been validly issued and is free and clear of all Liens (other than Liens permitted under the Note Documents). The issuance of the foregoing Capital Stock is not and has not been subject to preemptive rights in favor of any Person other than such rights that have been waived and will not result in the issuance of any additional Capital Stock of the Borrower or any Subsidiary or the triggering of any anti-dilution or similar rights contained in any options, warrant, debentures or other securities or agreements of the Borrower or such Subsidiary. On the

Closing Date, except as set forth on [Schedule 6.16](#), there will be no outstanding securities convertible into or exchangeable for Capital Stock of the Borrower or any Subsidiary or options, warrants or other rights to purchase or subscribe to Capital Stock of the Borrower or any Subsidiary or contracts, commitments, agreements, understandings or arrangements of any kind to which any Loan Party is a party (other than the Organizational Documents of such Loan Party) relating to the issuance of any Capital Stock of such Loan Party, any such convertible or exchangeable securities or any such options, warrants or rights.

6.17 Private Offering. No form of general solicitation or general advertising was used by any Loan Party or its representatives in connection with the offer or sale of the Note to the Purchaser pursuant to this Agreement. Assuming the accuracy of the Purchaser's representations and warranties contained in [Article 7](#), no registration of the Note pursuant to the provisions of the Securities Act or the state securities or "blue sky" laws will be required for the offer, sale or issuance of the Note by any Loan Party to the Purchaser pursuant to this Agreement.

6.18 Broker's, Finder's or Similar Fees. Except as set forth on [Schedule 6.18](#), there are no brokerage commissions, finder's fees or similar fees or commissions payable in connection with the Transactions based on any agreement, arrangement or understanding with any Loan Party or any action taken by any Loan Party.

6.19 Labor Relations. No Loan Party is a party to any collective bargaining agreement.

6.20 Employee Benefit Plans. Within the five-consecutive-year period immediately preceding the first day of the year in which the Closing Date occurs neither any Loan Party nor any ERISA Affiliate thereof has contributed to, or has any actual or contingent, direct or indirect, liability in respect of, any employee benefit plan (as defined in Section 3(3) of ERISA) or other employee benefit arrangement.

6.21 Intellectual Property.

(a) **Ownership and Use.** Each Loan Party owns or has the right to use all Intellectual Property it currently uses in the operation of the business of the Borrower as presently conducted. Each item of Intellectual Property owned, licensed or used by any Loan Party immediately prior to the Closing will be owned, licensed or available for use by such Loan Party on substantially similar terms and conditions immediately following the Closing. The Loan Parties have taken commercially reasonable action to maintain and protect each item of Intellectual Property that it owns, licenses or uses. To the knowledge of the Loan Parties, each item of Intellectual Property owned, licensed or used by such Loan Party is valid and enforceable and otherwise fully complies in all material respects with all laws applicable to the enforceability thereof. However, the Loan Parties have not conducted any invalidity or enforceability searches or studies.

(b) **No Violation or Infringement.** No Loan Party has violated or infringed upon or otherwise come into conflict with any Intellectual Property of third parties, and no Loan Party has received any notice alleging any such violation, infringement or other conflict. To the knowledge of each Loan Party, no third party has infringed upon or otherwise come into conflict with any Intellectual Property of any Loan Party.

(c) **Intellectual Property Listing.** [Schedule 6.21\(c\)](#) identifies each patent or registration (including copyright, trademark, service mark and domain name) owned by a Loan Party (which is active and in force) with respect to any of such Loan Party's Intellectual Property, identifies each patent application or application for registration (including pending applications) that such Loan Party has made with respect to any of its Intellectual Property, and identifies each material license, agreement or other permission that such Loan Party has granted to any third party (whether active and in force) with respect to any of its Intellectual Property. [Schedule 6.21\(c\)](#) also identifies each trade name or unregistered trademark or service mark owned by each Loan Party. With respect to each item of Intellectual Property required to be identified in [Schedule 6.21\(c\)](#) and except as expressly set forth on [Schedule 6.21\(c\)](#): (i) each Loan Party possesses all right, title and interest in and to the item, free and clear of any Liens other than Permitted Liens; (ii) the item is not subject to any order, award, decision, injunction, judgment, ruling, decree, charge, writ, subpoena or verdict entered, issued, made or rendered by any Governmental Authority or arbitrator (each, an "**Order**"); (iii) no proceeding, charge, complaint, claim, demand, notice, action, suit, litigation, hearing, audit, investigation, arbitration or mediation (in each case, whether civil, criminal, administrative, investigative or informal) is pending before any Governmental Authority, arbitrator or mediator (each, a "**Proceeding**") or, to the knowledge of each Loan Party, is threatened or anticipated that challenges the legality, validity, enforceability, use or ownership of the item; and (iv) no Loan Party has agreed to indemnify any Person for or against any interference, infringement, misappropriation or other conflict with respect to the item.

(d) **Intellectual Property Licenses.** Schedule 6.21(d) identifies each item of Intellectual Property other than off the shelf software that any Person other than any Loan Party owns and that such Loan Party uses pursuant to license, agreement or permission (an “**Intellectual Property License**”). With respect to each item of Intellectual Property required to be identified on Schedule 6.21(d) and except as expressly set forth on Schedule 6.21(d): (i) to the knowledge of each Loan Party, such item is not subject to any Order; (ii) to the knowledge of each Loan Party, no Proceeding is pending or is threatened or anticipated that challenges the legality, validity or enforceability of such item; and (iii) such Loan Party has not granted any sublicense or similar right with respect to the Intellectual Property License relating to such item.

6.22 Potential Conflicts of Interest. Other than as set forth on Schedule 6.22, no officer, director or manager (or equivalent Person), partner, stockholder or other security holder of the Borrower or any Subsidiary: (a) is an officer, director, manager, employee or consultant of, any Person that is, or is engaged in business as, a competitor, lessor, lessee, supplier, distributor, sales agent or customer of, or lender to or borrower from, the Borrower or its Subsidiaries; (b) has been a party to any material transaction with the Borrower or any Subsidiary; (c) owns, directly or indirectly, in whole or in part, any tangible or intangible property that the Borrower or any Subsidiary uses or contemplates using in the conduct of business; or (d) has any cause of action or other claim whatsoever against, or owes or has advanced any amount to the Borrower or any Subsidiary, except for advances in the ordinary course of business such as for accrued vacation pay, accrued benefits under employee benefit plans, reasonable and customary expense reimbursements, and similar matters and agreements existing on the date hereof.

6.23 [Reserved].

6.24 Debt. Schedule 6.24 lists (a) the amount of all Debt of the Loan Parties and their Subsidiaries (other than Debt under this Agreement and any Debt being repaid on the date hereof) as of the Closing, (b) the Liens that relate to such Debt and that encumber the assets of such Persons, (c) the name of each lender thereof, and (d) the amount of any unfunded commitments, if any, available to such Persons in connection with any such Debt facilities.

6.25 Material Contracts. Schedule 6.25 lists all written contracts, agreements, commitments and other Contractual Obligations of the Loan Parties as of the Closing Date, other than (a) the Note Documents, (b) purchase orders in the ordinary course of business, and (c) any other written contracts, agreements, commitments and other Contractual Obligations of any Loan Party that do not extend beyond one year or involve the receipt or payment of not more than \$25,000 in any one year. Except as set forth on Schedule 6.25, each of the contracts, agreements, commitments and other Contractual Obligations of any Loan Party required to be set forth on Schedule 6.25 is in full force and effect. Except as set forth on Schedule 6.25, each Loan Party has satisfied in full or provided for all of its liabilities and obligations under each material Contractual Obligation requiring performance prior to the date hereof in all material respects, and is not in default under any of them, nor does any condition exist that with notice or lapse of time or both would constitute such a default. To the knowledge of each Loan Party, no other party to any such material Contractual Obligation is in default thereunder, nor does any condition exist that with notice or lapse of time or both would constitute such a default. Except as set forth on Schedule 6.25, no approval or consent of any Person is needed for the material Contractual Obligations to continue to be in full force and effect after giving effect to the Transactions.

6.26 Insurance. The properties of each Loan Party are insured with financially sound and reputable insurance companies that are not Affiliates of any Loan Party, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in locations where each Loan Party operates. Schedule 6.26 accurately summarizes all of the insurance policies or programs of the Loan Parties in effect as of the date hereof, and indicates the insurer’s name, policy number, expiration date, amount of coverage, type of coverage, annual premiums, exclusions and deductibles, and also indicates any self-insurance program that is in effect. All such policies will remain in full force and effect and will not terminate or lapse by reason of any of the Transactions.

6.27 Solvency. As of the Closing Date, after giving effect to the Transactions and the other transactions contemplated hereby to be consummated on the Closing Date in accordance with the terms hereof, each Loan Party is and each of the Borrower’s Subsidiaries are, individually, Solvent.

6.28 Licenses and Approvals. Except as set forth on Schedule 6.28 hereto, no Loan Party is a party to and has no knowledge of any investigation, notice of apparent liability, violation, forfeiture or other order or complaint issued by or before any court or regulatory body or of any other proceedings which could be reasonably expected to materially and adversely affect the validity or continued effectiveness of the material Licenses of any Loan Party. No Loan Party has reason to believe that such material Licenses will not be

renewed in the ordinary course. Each Loan Party has filed in a timely manner all material reports, applications, documents, instruments and information required to be filed by it pursuant to applicable rules and regulations or requests of every regulatory body having jurisdiction over any of its material Licenses.

6.29 OFAC. Neither any Loan Party nor any Affiliate of any Loan Party: (a) is a Sanctioned Person, (b) has any assets in Sanctioned Entities, or (c) derives any operating income from investments in, or transactions with Sanctioned Persons or Sanctioned Entities. The proceeds of the Note will not be used and have not been used to fund any operations in, finance any investments or activities in, or make any payments to, a Sanctioned Person or a Sanctioned Entity.

6.30 Disclosure. This Agreement, together with all exhibits and schedules hereto, the Note Documents, and the agreements, certificates and other documents furnished to the Purchaser by any Loan Party at the Closing, do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained herein or therein, in the light of the circumstances under which they were made, not misleading.

6.31 No Default. No Default or Event of Default exists or would result from the incurring of the Obligations by any Loan Party or the grant or perfection of the Liens on the Collateral or the consummation of the Transactions.

ARTICLE 7 REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser hereby represents and warrants as follows:

7.1 Authorization; No Contravention. The execution, delivery and performance by the Purchaser of this Agreement: (a) is within its power and authority and has been duly authorized by all necessary action; and (b) does not contravene or violate the terms of its organizational documents or any amendment thereof.

7.2 Binding Effect. This Agreement has been duly executed and delivered by the Purchaser and this Agreement constitutes the Purchaser's legal, valid and binding obligation, enforceable against it in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

7.3 No Legal Bar. The execution, delivery and performance of this Agreement by the Purchaser will not violate any Requirements of Law applicable to it.

7.4 Securities Laws.

(a) The Note is being or will be acquired by the Purchaser hereunder for its own account, not as a nominee or agent, and not with the view to, or for resale in connection with, any distribution thereof in any transaction which would be in violation of state or federal securities laws or which would require the issuance and sale of the Note hereunder to be registered under the Securities Act, subject, however, to the disposition of the Purchaser's property being at all times within its control.

(b) The Purchaser is an "accredited investor" as defined in Rule 501(a) of Regulation D promulgated under the Securities Act.

(c) The Purchaser understands that (i) the Note constitutes "restricted securities" under the Securities Act, (ii) the offer and sale of the Note hereunder is not registered under the Securities Act or under any "blue sky" laws in reliance upon certain exemptions from such registration and that the Borrower is relying on the representations made herein by the Purchaser in its determination of whether such specific exemptions are available, and (iii) the Note may not be transferred except pursuant to an effective registration statement under the Securities Act, or under an exemption from such registration available under the Securities Act and under applicable "blue sky" laws or in a transaction exempt from such registration.

7.5 Governmental Authorization; Third Party Consent. No approval, consent, compliance, exemption or authorization of any Governmental Authority or any other Person in respect of any Requirements of Law, and no lapse of a waiting period under Requirements of Law, is necessary or required in connection with the execution, delivery or performance by it or enforcement against the Purchaser of this Agreement.

ARTICLE 8
AFFIRMATIVE COVENANTS

Until the payment in full in Cash of all of the Obligations, the Loan Parties hereby jointly and severally covenant and agree with the Holder as follows:

8.1 Delivery of Financial and Other Information. The Borrower shall deliver or cause to be delivered to each Holder the following:

(a) If the Borrower or any Subsidiary shall be required to file reports with the Commission pursuant to Section 13(a) or 15(d) of the Exchange Act, promptly upon its becoming available, one copy of each financial statement, report, notice or proxy statement sent by any such Person to stockholders generally, and, a copy of each annual, periodic or current report filed by any such Person with the Commission pursuant to such Sections, and any registration statement, or prospectus in respect thereof, filed by any such Person with any securities exchange or with federal or state securities and exchange commissions or any successor agency; provided, however, that nothing in this Section 8.1(d) shall require the Borrower or any of its Subsidiaries to make any filing under the Securities Act or the Exchange Act which the Borrower or its Subsidiaries are not otherwise obligated to make.

8.2 Use of Proceeds. The Borrower shall use the proceeds of the Note hereunder only as follows: (i) first, for event financing, including the acquisition of Country Stampede event assets and intellectual property (the “*Country Stampede Acquisition*”), and the launch of Country Roots festivals, and (ii) for general working capital.

8.3 Notice of Default. Promptly, and in any event within two (2) Business Days of becoming aware, each Loan Party will give notice in writing to the Holder upon becoming aware of the following: (a) the occurrence of any Default or Event of Default under this Agreement and specify the nature and period of existence thereof and what action such Loan Party is taking (and proposes to take) with respect thereto and (b) any development or other information outside the ordinary course of business of such Loan Party or any of its Subsidiaries and excluding matters of a general economic, financial or political nature which could reasonably be expected to have a Material Adverse Effect.

8.4 Conduct of Business. The Borrower and its Subsidiaries will, and will cause each of its Subsidiaries to, carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is presently conducted and do all things necessary to remain duly incorporated or organized, validly existing and (to the extent such concept applies to such entity) in good standing as a domestic corporation, partnership or limited liability company in its jurisdiction of incorporation or organization, as the case may be, and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted to the extent that the failure to maintain such qualification would not reasonably be expected to have a Material Adverse Effect.

8.5 Taxes and Claims. Each Loan Party will, and will cause each of its Subsidiaries to, timely file all federal and state and other material Tax Returns required by law and will pay when due all Taxes of such Loan Party or such Subsidiary, except those which are being contested in good faith by appropriate proceedings and with respect to which adequate reserves have been set aside in accordance with GAAP, which deferment of payment is permissible so long as no Lien other than a lien permitted hereunder has been entered and such Loan Party’s and its Subsidiaries’ title to, and its right to use, its Properties are not materially adversely affected thereby.

8.6 Insurance.

(a) Each Loan Party will, and will cause each of its Subsidiaries to, maintain insurance in such form and with such companies as are reasonably satisfactory to the Purchaser (it being acknowledged that the Loan Parties’ and Subsidiaries’ insurance companies as of the Closing Date are satisfactory), on all its Property in such amounts and covering such risks as is consistent with sound business practice, and maintain such insurance as is required by the terms of any Collateral Document. Each Loan Party will, and will cause each of its Subsidiaries to, furnish to the Holder upon request full information as to the insurance carried by it.

(b) Each Loan Party will, and will cause each of its Subsidiaries to, at all times keep its real and personal Property which is subject to the Lien of the Holder insured and cause such insurance relating to such Property or business to name the Purchaser as an additional insured and loss payee, as appropriate.

(c) If any Loan Party or any of its Subsidiaries shall fail to maintain all insurance in accordance with this Section 8.6 or Section 8.13 or to timely pay or cause to be paid the premium(s) on any such insurance, or if any Loan Party shall fail to deliver all certificates with respect thereto, the Purchaser shall have the right (but shall be under no obligation), upon prior written notice to such Loan Party or such Subsidiary, to procure such insurance or pay such premiums, and such Loan Party agrees to reimburse the Purchaser, on demand, for all costs and expenses relating thereto.

8.7 Compliance with Laws. Each Loan Party will, and will cause each of its Subsidiaries to, comply with any and all Requirements of Law to which it may be subject including, without limitation, all Environmental Laws and obtain any and all licenses, permits, franchises or other governmental authorizations necessary to the ownership of its Property or to the conduct of its businesses, except where failure to do so could not reasonably be expected to have a Material Adverse Effect. Each Loan Party will, and will cause each of its Subsidiaries to, timely satisfy all material assessments, fines, costs and penalties imposed (after exhaustion of all appeals, provided a stay has been put in effect during such appeal) by any Governmental Authority against such Person or any Property of such Person.

8.8 Maintenance of Properties. Each Loan Party will, and will cause each of its Subsidiaries to, do all things necessary to maintain, preserve, protect and keep its Property (other than Property that is obsolete, surplus, or no longer used or useful in the ordinary conduct of its business) in good repair, working order and condition, make all necessary and proper repairs, renewals and replacements such that its business can be carried on in connection therewith and be properly conducted at all times and pay and discharge when due the cost of repairs and maintenance to its Property, and pay all rentals when due for all real estate leased by such Person.

8.9 Audits and Inspection. Each Loan Party will, and will cause each of its Subsidiaries to, (i) permit any of the representatives of the Purchaser, at reasonable times during normal business hours and upon two (2) Business Days' prior notice not more frequently than once per Fiscal Quarter, to visit and inspect any of its Property, books of account, records and reports to examine, audit and make copies thereof and (ii) promptly upon request thereof, but not less than weekly, schedule and hold calls with the senior management of the Borrower, and to discuss its affairs, finances and accounts with, and to be advised as to the same by, its officers, employees and independent certified public accountants at such reasonable times and intervals as the Purchaser may designate, in each case, at such Loan Party's expense, plus the Purchaser's reasonable out-of-pocket expenses (including without limitation any travel expenses).

8.10 Issue Taxes. Each Loan Party shall pay all stamp duty or other court, documentary, intangible, recording, filing, or similar Taxes, if any, in connection with any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, the Note, excluding, for the avoidance of doubt, any income Tax.

8.11 Delivery of Information by Holder. Each Holder is hereby authorized, to deliver a copy of any financial statement or other information made available by the Loan Parties or their Subsidiaries in connection herewith to any regulatory authority having jurisdiction over such Holder, pursuant to any request therefor by such regulatory authority, and may further divulge to any assignee or purchaser of any portion of the Note or any prospective assignee or purchaser of any portion of the Note, all information, and furnish to such Person copies of any reports, financial statements, certificates, and documents obtained under any provision of this Agreement, or related agreements and documents, provided that such prospective assignee or purchaser shall agree in writing to maintain the confidentiality of such information.

8.12 Execution of Supplemental Documents. Each Loan Party will, and will cause each of its Subsidiaries to, execute and deliver to the Purchaser from time to time, upon demand, such supplemental agreements, statements, assignments and transfers, or instructions or documents relating to the Collateral, and such other instruments as the Purchaser may reasonably request, in order that the full intent of this Agreement or the Security Agreement, as applicable, may be carried into effect.

8.13 Further Assurances. Each Loan Party will, and will cause each of its Subsidiaries to, take any action reasonably requested by the Purchaser in order to effectuate the purposes and terms contained in this Agreement and any of the Note Documents.

8.14 Hazardous Materials. No Loan Party will, or will permit any Subsidiary to, cause or suffer to exist any release or discharge of any Hazardous Material at, to or from any real property owned or operated by a Loan Party or a Subsidiary that would violate any Environmental Law, other than such violations that would not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

ARTICLE 9 NEGATIVE COVENANTS

Until the payment in full in Cash of all of the Obligations, the Loan Parties hereby jointly and severally covenant and agree with the Purchaser as follows:

9.1 Limitations on Debt. No Loan Party shall, nor shall any Loan Party permit any of its Subsidiaries to, create, incur, assume or suffer to exist any Debt, without the Purchaser's prior written consent (which may be withheld in Purchaser's sole discretion), except for (i) the Obligations, (ii) Debt existing as of the date hereof and any extension, renewal or refinancing thereof so long as the principal amount thereof is not increased, and (iii) Debt incurred in connection with the Merger (the "**Permitted Debt**").

9.2 Liens. No Loan Party shall, nor shall any Loan Party permit any of its Subsidiaries to, create or permit to exist any Lien on any of its real or personal properties, assets or rights of whatsoever nature (whether now owned or hereafter acquired), except (the "**Permitted Liens**"):

(a) Liens for Taxes or other governmental charges not at the time delinquent or thereafter payable without penalty or being contested in good faith by appropriate proceedings and, in each case, for which it maintains adequate reserves in accordance with GAAP;

22

(b) Liens on assets arising out of pledge or deposits under workers' compensation, unemployment insurance, pension, social security, retirement benefits or similar legislation in the ordinary course of business consistent with past practice;

(c) Liens subordinated to the Liens securing the Obligations on terms and conditions acceptable to Purchaser in its sole discretion;

(d) Liens securing the Obligations;

(e) Liens granted on accounts receivable;

(f) Lien securing Permitted Debt; and

(g) Liens granted on the real property located at 14001 Marshall Drive, Lenexa, KA 66215.

9.3 Restricted Payments. The Loan Parties shall not (a) declare or pay any dividends on any of its Capital Stock, (b) purchase or redeem any Capital Stock, (c) make any other distribution to holders of its Capital Stock, (d) prepay, purchase or redeem any other Debt that is subordinated to the Obligations, or (e) set aside funds for any of the foregoing, except:

(a) for dividends and distributions to DA to the extent necessary to permit DA to maintain its legal existence and to pay reasonable out-of-pocket general administrative costs and expenses incurred in connection therewith, which are disclosed to the Purchaser not later than five (5) Business Days prior to the payment thereof;

(b) Debt existing as of the date hereof and any extension, renewal or refinancing thereof so long as the principal amount thereof is not increased; and

(c) for dividends and distributions in connection with the Merger.

9.4 Loans. The Borrower shall not, nor shall the Borrower permit any of its Subsidiaries to, make any loans or pay any advances of any nature whatsoever to any Person, except advances in the ordinary course of business to (a) other Loan Parties, vendors, suppliers and contractors and (b) officers, managers and employees for travel and other business expenses in accordance with the policies of the Borrower or such Subsidiary as in effect on the date hereof.

9.5 Investments. No Loan Party shall, nor shall any Loan Party permit any of its Subsidiaries to, make or suffer to exist any investments or commitments therefor, without the Purchaser's prior written consent, except (a) Cash Equivalents (b) extensions of credit in the nature of accounts receivable or notes receivable arising from the sales of goods or services to unaffiliated third parties in the ordinary course of business; (c) investments received in connection with any Insolvency Proceedings in respect of any customers, suppliers or clients of the Borrower; (d) investments in the Subsidiaries existing on the date hereof; and (e) Capital Expenditures permitted by Section 9.10.

9.6 Mergers, Consolidations, Sales. No Loan Party shall, nor shall any Loan Party permit any of its Subsidiaries to, without the prior written consent of the Holder, be a party to any merger or consolidation, or purchase or otherwise acquire all or substantially all of the assets or any stock of any class of, or any partnership or joint venture interest in, any other Person, or, except in the ordinary course of its business, sell, transfer, convey or lease all or any substantial part of its assets, unless in connection with any such transaction all amounts owing under the Note are paid in full. Notwithstanding the foregoing provisions of this Section 9.6, (a) any Subsidiary of the Borrower may be merged or consolidated with or into the Borrower, (b) any Subsidiary of the Borrower may sell, lease, transfer or otherwise dispose of its Property (upon voluntary liquidation or otherwise) to the Borrower, (c) the Loan Parties are allowed to consummate the Merger, and (d) the Borrower is allowed to consummate the Country Stampede Acquisition.

23

9.7 [Reserved].

9.8 Amendment to Organizational Documents. The Borrower will not, nor will it permit any of its Subsidiaries to amend, modify or waive any term or material provision of such Person's Organizational Documents unless (a) required by law, (b) such amendment, modification or waiver could not reasonably be expected to have a Material Adverse Effect on the Purchaser's rights under the Note Documents (including in their capacity as holders of the Capital Stock of the Borrower) or any Loan Party's obligations under the Note Documents, and the Loan Parties provide the Purchaser not less than ten (10) Business Days' prior written notice of such amendment, modification or waiver, or (c) in connection with the Merger.

9.9 Restrictive Agreements. No Loan Party will be or become, or cause or permit any Subsidiary to be or become, a party to any contract or agreement which at the time of becoming a party to such contract or agreement materially limits such Person's ability to perform under this Agreement or under any other Note Document without the prior written consent of the Holder.

9.10 Capital Expenditures. No Loan Party shall make, or cause or permit any Subsidiary to make, any Capital Expenditure or enter into any Capitalized Lease if the aggregate amount of all Capital Expenditures (including the Capital Expenditure in question) made by the Loan Parties and their Subsidiaries, determined on a consolidated basis, during any Fiscal Year made or required to be made by the Loan Parties and their Subsidiaries, determined on a consolidated basis during such Fiscal Year would exceed \$50,000.

9.11 Transactions with Affiliates.

(a) Except for the Merger, no Loan Party shall, nor permit any of its Subsidiaries to, directly or indirectly enter into or permit to exist any material transaction with any Affiliate of any Loan Party or any of its Subsidiaries except for the transactions set forth on Schedule 9.11 or other transactions that are in the ordinary course of any Loan Parties' and its Subsidiaries' business, upon fair and reasonable terms that are no less favorable to such Loan Party or such Subsidiary than would be obtained in an arm's length transaction with a non-affiliated Person.

(b) Without limitation of the foregoing, each Loan Party shall strictly enforce all non-compete or similar agreements between such Loan Party and its employees, officers, directors and Affiliates, and shall not permit any such Person to conduct any business in competition with or relating to the business of any Loan Party except through and for the benefit of the Loan Parties.

9.12 Additional Negative Pledges. No Loan Party shall create or otherwise cause or suffer to exist or become effective, directly or indirectly, (a) any prohibition or restriction (including any agreement to provide equal and ratable security to any other Person in the event a Lien is granted to or for the benefit of Purchaser) on the creation or existence of any Lien upon the assets of the Borrower or any Subsidiary, or (b) any Contractual Obligation which may restrict or inhibit Purchaser's rights or ability to sell or otherwise dispose of the Collateral or any part thereof after the occurrence of an Event of Default.

24

9.13 Use of Proceeds. No Loan Party shall use any proceeds of the sale of the Note hereunder to, directly or indirectly, purchase or carry any “margin stock” (as defined in Regulation U of the Board of Governors of the Federal Reserve System) or to extend credit to others for the purpose of purchasing or carrying any “margin stock” in violation of the provisions of Regulation T, U or X of the Board of Governors of the Federal Reserve System.

9.14 Fiscal Year and Accounting Changes. No Loan Party shall change its fiscal year from December 31 or make any significant change (a) in accounting treatment and reporting practices except as required by GAAP or (b) in Tax reporting treatment except as required by law.

**ARTICLE 10
[RESERVED]**

**ARTICLE 11
EVENTS OF DEFAULT**

11.1 Events of Default. The occurrence of any one or more of the following events shall constitute an “*Event of Default*”:

(a) Default in the payment, after two (2) Business Days when amounts become due, of the principal of the Note (whether at redemption, upon acceleration or otherwise), any interest accrued thereon, or any fees payable in connection therewith;

(b) [Reserved];

(c) Any representation or warranty made by or on behalf of any Loan Party in any of the Note Documents, or any document contemplated by the Note Documents, is incorrect in any material respect (or in any respect if such representation, warranty, or financial statement is by its terms already qualified as to materiality) when made (or deemed made);

(d) Failure by the Borrower or any of its Subsidiaries to comply with any term, covenant or provision contained in this Agreement and, if capable of being cured, such failure to perform or default in performance continues for a period of five (5) Business Days after the Borrower receives notice or knowledge from any source of such failure to perform or default in performance, or in the other Note Documents or any other agreement with the Purchaser and such failure to perform or default in performance continues beyond any applicable grace or cure period;

(e) Failure by any Loan Party to comply with or to perform any other provision of this Agreement (and not constituting an Event of Default under any other provision of this Article 11) and such failure continues unremedied for a period of five (5) Business Days (or such longer period as may be agreed to by the Purchaser) after the earlier of (i) written notice thereof is received by any Loan Party in accordance with Section 13.2 or (ii) a Loan Party obtains knowledge of such failure;

(f) Failure of any Loan Party or any Subsidiary to pay within five (5) Business Days from the date due any payments under any payable or other obligation of the Borrower or its Subsidiaries exceeding \$50,000 individually or in the aggregate; or the default by such Loan Party or any Subsidiary in the performance (beyond the applicable grace period with respect thereto, if any) of any term, provision or condition contained in any agreement pursuant to which any such payable or obligation was created or is governed (after the expiration of any applicable cure period, if any), or any other event shall occur or condition exist, the effect of which default or event is to cause, or to permit the holder or the applicable counterparty to cause, such payable or obligation to become due prior to its stated maturity;

25

(g) Any Loan Party or any Subsidiary (i) ceases or fails to be Solvent, or generally fails to pay, or admits in writing its inability to pay, its debts as they become due; (ii) voluntarily ceases to conduct its business in the ordinary course; (iii) commences any Insolvency Proceeding with respect to itself; or (iv) takes any action to effectuate or authorize any of the foregoing;

(h) Any (i) involuntary Insolvency Proceeding is commenced or filed against any Loan Party or any Subsidiary, or any writ, judgment, warrant of attachment, warrant of execution or similar process is issued or levied against a substantial part of any Loan Party’s or Subsidiary’s properties which is not stayed or dismissed within thirty (30) days; (ii) Loan Party or any Subsidiary admits the material allegations of a petition against it in any Insolvency Proceeding, or an order for relief (or similar order under non-U.S. law) is ordered in any Insolvency Proceeding; or (iii) Loan Party or any Subsidiary acquiesces in the appointment of a receiver, trustee, custodian,

conservator, liquidator, mortgagee in possession (or agent therefor) or other similar Person for itself or a substantial portion of its property or business;

(i) Other than as forth on Schedule 11.1(j), one or more judgments, orders, decrees or arbitration awards is entered against a Loan Party or any Subsidiary involving in the aggregate a liability (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage), as to any single or related series of transactions, incidents or conditions, of \$50,000 or more, and the same shall remain unvacated and unstayed pending appeal for a period of thirty (30) days after the entry thereof;

(j) Any non-monetary judgment, order or decree is entered against a Loan Party or any Subsidiary which has or would reasonably be expected to have a Material Adverse Effect;

(k) Any Collateral Document shall cease to be in full force and effect; or any Loan Party or any Person by, through or on behalf of any Loan Party, shall contest in writing the validity or enforceability of any Collateral Document;

(l) Reserved;

(m) The occurrence of a Change of Control, other than the Merger;

(n) Reserved;

(o) Reserved;

(p) Any Material Adverse Effect occurs; or

(q) The Security Agreement shall fail to secure a valid and perfected lien on any Collateral (as defined in the Security Agreement), including, without limitation, one hundred percent (100%) of the Capital Stock of KEI.

11.2 Acceleration. If any Event of Default occurs and is continuing, the Holder, by written notice to the Borrower, may declare the principal of and interest on the Note to be due and payable immediately. Upon any such declaration of acceleration, such principal and interest shall become immediately due and payable, and the Holder shall be entitled to exercise all of its rights and remedies hereunder and under its Note whether at law or in equity. Additionally, upon the occurrence of any Event of Default by Borrower an additional sum of THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00) (the “Default Payment”), shall be due and owing without notice to Borrower or any other person. Borrower acknowledges that Holder’s collection of any such additional sum is not a fine or penalty but is reasonable compensation to Holder for increased costs and expenses that Holder will incur upon the occurrence of an Event of Default. The outstanding unpaid principal and interest due and owing upon an Event of Default, combined with the Default Payment, shall be paid directly from 25% of Borrower’s and Subsidiaries’ revenues, until all principal and interest due and owing has been received in full from Borrower by Purchaser.

11.3 Set-Off. Upon the occurrence and during the continuation of an Event of Default, in addition to all other rights and remedies that may then be available to the Holder of the Note, each such Holder is hereby authorized at any time and from time to time, without notice to the Borrower (any such notice being expressly waived by the Borrower) to set-off and apply any and all indebtedness at any time owing by such Holder to or for the credit or the account of the Borrower or its Subsidiaries against all amounts which may be owed to such Holder by the Borrower or its Subsidiaries in connection with this Agreement or the Note.

11.4 Lockbox Control Agreement. Subject to the following sentence, immediately following an Event of Default and in no event later than ten (10) Business Days following any such Event of Default, Borrower shall deliver or cause to be delivered to the Purchaser a lockbox account control agreement (the “Account Control Agreement”), in form and substance satisfactory to Purchaser and its counsel, covering such Borrower accounts as determined by Purchaser. In the event any such depository bank or Securities Intermediary (as defined in the Security Agreement) refuses to execute and deliver the Account Control Agreement, the Purchaser, in its sole discretion, may require the applicable Deposit Account (as defined in the Security Agreement) (other than Excluded Deposit Account (as defined in the Security Agreement)) and Investment Property (as defined in the Security Agreement) to be transferred to a Controlled Depository (as defined in the Security Agreement) or Controlled Intermediary (as defined in the Security Agreement), as applicable.

11.5 Liquidated Damages. As liquidated damages, if either (i) Borrower fails to execute and deliver the Account Control Agreement as set forth in Section 11.4 or (ii) there is a final, non-appealable order of a court of competent jurisdiction that there has been

(a) an intentional or willful default or breach under the Account Control Agreement by the Borrower or (b) an act, conduct, or omission with respect to, or in connection with, the Account Control Agreement, which constitutes fraud by the Borrower, an additional sum of \$1,000,000 shall be due and owing immediately without notice to Borrower or any other person. Borrower acknowledges that Holder's collection of any such additional sum is not a fine or penalty but is reasonable compensation to Holder for increased costs and expenses that Holder will incur upon the occurrence of such default or breach.

11.6 Cumulative Remedies. The enumeration of the rights and remedies of the Purchaser set forth in this Agreement is not intended to be exhaustive and the exercise by the Purchaser of any right or remedy shall not preclude the exercise of any other rights or remedies, all of which shall be cumulative, and shall be in addition to any other right or remedy given hereunder or under the other Note Documents or that may now or hereafter exist at law or in equity or by suit or otherwise. No delay or failure to take action on the part of the Purchaser in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege or shall be construed to be a waiver of any Event of Default. No course of dealing between the Borrower, the Purchaser or their respective agents or employees shall be effective to change, modify or discharge any provision of this Agreement or any of the other Note Documents or to constitute a waiver of any Event of Default.

ARTICLE 12 INDEMNIFICATION

12.1 Indemnification. In addition to all other sums due hereunder or provided for in this Agreement, the Borrower and its Subsidiaries, jointly and severally, shall indemnify and hold harmless the Purchaser and its Affiliates and their respective officers, directors, agents, employees, Subsidiaries, partners, members, attorneys, accountants and controlling persons (each, an "**Indemnified Party**") to the fullest extent permitted by law from and against any and all losses, claims, damages, expenses (including, without limitation, reasonable fees, disbursements and other charges of counsel and costs of investigation incurred by an Indemnified Party in any action or proceeding between the Borrower or any of its Subsidiaries and such Indemnified Party (or Indemnified Parties) or between an Indemnified Party (or Indemnified Parties) and any third party or otherwise) or other liabilities or losses (collectively, "**Liabilities**"), in each case resulting from or arising out of any breach of any representation or warranty, covenant or agreement of the Borrower or any of its Subsidiaries in this Agreement or any other Note Document, including without limitation, the failure to make payment when due of amounts owing pursuant to this Agreement or any other Note Document, on the due date thereof (whether at the scheduled maturity, by acceleration or otherwise) or any legal, administrative or other actions (including, without limitation, actions brought by any holders of equity or Debt of the Borrower or any of its Subsidiaries or derivative actions brought by any Person claiming through or in the Borrower's or any of its Subsidiaries' name), proceedings or investigations (whether formal or informal), or written threats thereof, based upon, relating to or arising out of the Note Documents, the transactions contemplated thereby, or any Indemnified Party's role therein or in the transactions contemplated thereby; provided, however, that the Borrower and its Subsidiaries shall not be liable under this Section 12.1 to an Indemnified Party to the extent such Liabilities resulted from the willful misconduct or gross negligence of such Indemnified Party; provided, further, that if and to the extent that such indemnification is unenforceable for any reason other than willful misconduct or gross negligence, the Borrower and its Subsidiaries, jointly and severally, shall make the maximum contribution to the payment and satisfaction of such Liabilities which shall be permissible under Requirements of Law. In connection with the obligation of the Borrower and its Subsidiaries to indemnify for expenses as set forth above, each of the Borrower and its Subsidiaries further agrees, upon presentation of invoices, to reimburse each Indemnified Party for all such expenses (including, without limitation, reasonable fees, disbursements and other charges of counsel and costs of investigation incurred by an Indemnified Party in connection with any Liabilities) as they are incurred by such Indemnified Party.

12.2 Procedure: Notification. Each Indemnified Party under this Article 12 will, after the receipt of notice of the commencement of any action, investigation, claim or other proceeding against such Indemnified Party in respect of which indemnity may be sought from the Borrower and its Subsidiaries under this Article 12, notify the Borrower in writing of the commencement thereof. The omission of any Indemnified Party to so notify the Borrower of any such action shall not relieve the Borrower or any of its Subsidiaries from any liability which it may have to such Indemnified Party unless such omission substantially and irrevocably impairs the Borrower's or any of its Subsidiaries' ability to defend the action, claim or other proceeding. In case any such action, claim or other proceeding shall be brought against any Indemnified Party and it shall notify the Borrower of the commencement thereof, the Borrower shall, with Purchaser's consent, be entitled to assume the defense thereof at its own expense, with counsel satisfactory to such Indemnified Party in its reasonable judgment; provided, that any Indemnified Party may, at its own expense, retain separate counsel to participate in such defense. Notwithstanding the foregoing, in any action, claim or proceeding in which the Borrower or any of its Subsidiaries, on the one hand, and an Indemnified Party, on the other hand, is, or is reasonably likely to become, a party, such Indemnified Party shall have the right to employ separate counsel at the Borrower's or such Subsidiary's expense and to control its own defense of such action,

claim or proceeding if, in the reasonable opinion of counsel to such Indemnified Party, a conflict or potential conflict exists between the Borrower or any of its Subsidiaries, on the one hand, and such Indemnified Party, on the other hand, that would make such separate representation advisable. Each of the Borrower and its Subsidiaries agrees that it will not, without the prior written consent of the Holder, settle, compromise or consent to the entry of any judgment in any pending or threatened claim, action or proceeding relating to the matters contemplated hereby (if any Indemnified Party is a party thereto or has been actually threatened to be made a party thereto) unless (i) such settlement, compromise or consent includes an unconditional release of the Purchaser and each other Indemnified Party from all liability arising or that may arise out of such claim, action or proceeding (ii) the Borrower has provided reasonable prior notice thereof and (iii) the Purchaser has provided its prior written consent to such settlement, compromise or consent, which consent will not be unreasonably withheld or delayed. The rights accorded to Indemnified Parties hereunder shall be in addition to any rights that any Indemnified Party may have at common law, by separate agreement or otherwise.

ARTICLE 13
MISCELLANEOUS

13.1 Survival of Representations and Warranties. All of the representations and warranties made herein shall survive the execution and delivery of this Agreement, any investigation by or on behalf of the Purchaser, acceptance of the Note and payment therefor, or termination of this Agreement.

13.2 Notices. All notices, demands and other communications provided for or permitted hereunder shall be made in writing and shall be by registered or certified first-class mail, return receipt requested, telecopier (with receipt confirmed), courier service, e-mail or personal delivery:

(a) if to the Purchaser:

173 Spring Ridge Drive
Berkeley Heights, NJ 07922
Email Address: bizucker@gmail.com
Attention: Benjamin Zucker

With a copy (which shall not constitute notice) to:

Lucosky Brookman LLP
101 Wood Avenue South
Woodbridge, New Jersey 08830
Attention: Seth Brookman, Esq.
Email Address: sbrookman@lucbro.com

(b) if to the Borrower or any Subsidiary:

Digital Ally, Inc. and Kustom Entertainment, Inc.
14001 Marshall Drive
Lenexa, KA 66215
Email Address: stan.ross@kustoment.com and brody.green@digitalally.com
Attention: Chief Executive Officer

With a copy (which shall not constitute notice) to:

Sullivan & Worcester LLP
1633 Broadway
New York, NY 10019
Attention: David Danovitch, Esq.
Email Address: ddanovitch@sullivanlaw.com

All such notices and communications shall be deemed to have been duly given: when delivered by hand, if personally delivered; when delivered by courier, if delivered by commercial overnight courier service; if mailed, five (5) Business Days after being deposited in the mail, postage prepaid; or if telecopied, when receipt is acknowledged.

13.3 Successors and Assigns.

(a) This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties hereto. Subject to applicable securities laws, the Purchaser may transfer the Note in whole or in part and may assign its rights under the Note Documents at any time, subject to the prior written consent of the Borrower (which may not be unreasonably withheld). The Purchaser may not, without the prior written consent of the Borrower (which may not be unreasonably withheld), assign, bifurcate, syndicate, sell, securitize or grant a participation in all or any portion of the Obligations in a private transaction not constituting a public offering, and the Borrower hereby agrees to cooperate in any such transaction. Such transaction shall be negotiated, executed and performed at the Purchaser's cost and expense; provided that, the Borrower shall be responsible for its own legal fees in connection therewith.

(b) Holder may at any time, with the prior written consent of Borrower (which may not be unreasonably withheld), sell to one or more Persons participating interests in the Note or other interests hereunder (any such Person, a "**Participant**"). In the event of a sale by a Holder of a participating interest to a Participant, (i) such Holder's obligations hereunder shall remain unchanged for all purposes, (ii) Borrower shall continue to deal solely and directly with such Holder in connection with such Holder's rights and obligations hereunder and (iii) all amounts payable by Borrower shall be determined as if such Holder had not sold such participation and shall be paid directly to such Holder. No Participant shall have any direct or indirect voting rights hereunder except with respect to any event described in Section 13.4. Borrower agrees that if amounts outstanding under this Agreement are due and payable (as a result of acceleration or otherwise), each Participant shall be deemed to have the right of setoff in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as a Holder under this Agreement; provided that such right of setoff shall be subject to the obligation of each Participant to share with Holder, as provided in Section 11.3. In the event that a Holder sells a participation, the Holder, as a non fiduciary agent on behalf of the Borrower, shall maintain (or cause to be maintained) in the United States a register (the "**Participant Register**") on which it enters the name and addresses of all participants in the Obligations held by it and the rights of such participants in the Obligations (including principal amount, interest thereon, and fees of the portion of such Obligations that is subject to such participations). No Holder shall have an obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Obligation), except as otherwise required by applicable law and to the Borrower at their reasonable request and then, solely to the extent that such disclosure is required to establish that such participation or Obligation is in registered form under Sections 5f.103-1(c) and 1.871-14(c) of the Treasury Regulations. Any participation or transfer thereof may be effected only by the registration of such participation on the Participant Register.

(c) The Borrower may not assign any of its rights, or delegate any of its obligations, under this Agreement without the prior written consent of the Holder, and any such purported assignment by the Borrower without the written consent of the Holder shall be void and of no effect. Except as provided in Article 12, no Person other than the parties hereto and their successors and permitted assigns is intended to be a beneficiary of any of the Note Documents.

13.4 Amendment and Waiver.

(a) No failure or delay on the part of any of the parties hereto in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies provided for in this Agreement are cumulative and are not exclusive of any remedies that may be available to the parties hereto at law, in equity or otherwise.

(b) Any amendment, waiver, supplement or modification of or to any provision of this Agreement, and any consent to any departure by any party from the terms of any provision of this Agreement, shall be effective (i) only if it is made or given in writing and signed by the Borrower and the Holder and (ii) only in the specific instance and for the specific purpose for which made or given.

(c) Except where notice is specifically required by this Agreement, no notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances.

13.5 Signatures; Counterparts. Facsimile transmissions of any executed original document and/or retransmission of any executed facsimile transmission shall be deemed to be the same as the delivery of an executed original. At the request of any party hereto, the other parties hereto shall confirm facsimile transmissions by executing duplicate original documents and delivering the same to the requesting party or parties. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

13.6 Headings. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

13.7 GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, CONSTRUED IN ACCORDANCE WITH, AND ENFORCED UNDER, THE LAWS OF THE STATE OF NEVADA, WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAW OF SUCH STATE.

13.8 JURISDICTION, JURY TRIAL WAIVER, ETC.

(a) EACH PARTY TO THIS AGREEMENT HEREBY IRREVOCABLY AGREES THAT THE ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE NOTE, OR ANY AGREEMENTS OR TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK AND HEREBY EXPRESSLY SUBMITS TO THE PERSONAL JURISDICTION AND VENUE OF SUCH COURTS FOR THE PURPOSES THEREOF AND EXPRESSLY WAIVES ANY CLAIM OF IMPROPER VENUE AND ANY CLAIM THAT ANY SUCH COURT IS AN INCONVENIENT FORUM. EACH PARTY HEREBY IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO ITS ADDRESS SET FORTH IN SECTION 13.2.

31

(b) EACH LOAN PARTY HEREBY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, THE NOTE, OR ANY OF THE OTHER NOTE DOCUMENTS, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THEREUNDER OR THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS. EACH OF LOAN PARTIES AND THEIR SUBSIDIARIES (i) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE PURCHASER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE PURCHASER WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS AND (ii) ACKNOWLEDGES THAT THE PURCHASER HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT, AND THE OTHER NOTE DOCUMENTS TO WHICH IT IS PARTY BY, AMONG OTHER THINGS, THE WAIVERS AND CERTIFICATIONS CONTAINED HEREIN.

13.9 Severability. If any one or more of the provisions contained in this Agreement, or the application thereof in any circumstance, is held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions hereof shall not be in any way impaired, unless the provisions held invalid, illegal or unenforceable shall substantially impair the benefits of the remaining provisions of this Agreement. The parties hereto further agree to replace such invalid, illegal or unenforceable provision of this Agreement with a valid, legal and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid, illegal or unenforceable provision.

13.10 Rules of Construction. Unless the context otherwise requires, “or” is not exclusive, and references to sections or subsections refer to sections or subsections of this Agreement.

13.11 Entire Agreement. This Agreement, together with the exhibits and schedules hereto and the other Note Documents, is intended by the parties as a final expression of their agreement and intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto in respect of the subject matter contained in this Agreement, the exhibits and schedules hereto and the other Note Documents. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein or therein. This Agreement, together with the exhibits and schedules hereto, and the other Note Documents supersede all prior agreements and understandings between the parties with respect to such subject matter.

13.12 Certain Expenses. The Borrower will pay all expenses of the Purchaser (including, without limitation, reasonable fees, charges and disbursements of counsel to the Purchaser) in connection with (a) any enforcement, amendment, supplement, modification or waiver of or to any provision of this Agreement or any of the other Note Documents or any documents relating thereto (including, without limitation, a response to a request by the Borrower for the consent of the Purchaser to any action otherwise prohibited hereunder or thereunder), (b) consent to any departure from, the terms of any provision of this Agreement or such other documents, and (c) any redemption of the Note or any equity or other interests in the Borrower or any Subsidiary of the Borrower owned by such Holder.

32

13.13 Publicity. Except as may be required by Requirements of Law (including filings by the Holder with the SEC as required under the Securities Act or other applicable law), none of the parties hereto shall issue a publicity release or announcement or otherwise make any public disclosure concerning this Agreement or the transactions contemplated hereby, without prior approval by the other party hereto. If any announcement is required by law to be made by any party hereto, prior to making such announcement such party will deliver a draft of such announcement to the other parties and shall give the other parties an opportunity to comment thereon. Notwithstanding anything herein to the contrary, any party to this Agreement and the other Note Documents (and any employee, representative, or other agent of any such party) may disclose to any and all persons, without limitation of any kind, such party's tax treatment and the tax structure of the Transactions and all materials of any kind (including opinions or other tax analyses) that are provided to it relating to such tax treatment and tax structure; provided, however, notwithstanding the above, any such information and materials shall be kept confidential to the extent necessary to comply with applicable securities laws. Notwithstanding anything herein to the contrary, the Borrower shall be permitted to disclose this Agreement and the Note Documents to any Governmental Authority in connection with any licensing or accreditation necessary or desirable to the conduct of the Borrower's business (it being understood that the Borrower shall provide advance notice of such disclosure to the Purchaser, to the extent practicable).

13.14 Further Assurances. Each of the parties shall execute such documents and perform such further acts (including, without limitation, obtaining any consents, exemptions, authorizations, or other actions by, or giving any notices to, or making any filings with, any Governmental Authority or any other Person) as may be required or desirable to carry out or to perform the provisions of this Agreement, including without limitation, any post-closing assignment(s) by the Holder of a portion of the Note to a Person not currently a party hereto, subject to the limitations set forth herein.

13.15 No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement and the other Note Documents. In the event an ambiguity or question of intent or interpretation arises under any provision of this Agreement or any Note Document, this Agreement or such other Note Document shall be construed as if drafted jointly by the parties thereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement or any other Note Document. No knowledge of, or investigation, including without limitation, due diligence investigation, conducted by, or on behalf of, the Purchaser or any other Holder shall limit, modify or affect the representations set forth in Article 6 of this Agreement or the right of the Holder to rely thereon.

[signature pages follow]

33

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered by their respective officers hereunto duly authorized as of the date first above written.

Borrower:

Digital Ally, Inc.

By: _____

Name:

Title:

Kustom Entertainment, Inc.

By: _____
Name: _____
Title: _____

[signature pages continue]

[Note Purchase Agreement]

Purchaser:

MOSH MAN LLC

By: _____
Name: _____
Title: _____

[Note Purchase Agreement]

SECURITY AGREEMENT

This SECURITY AGREEMENT (as amended, restated, supplemented or otherwise modified from time to time, this “**Agreement**”), dated as of March 1, 2024, by and among by and among Digital Ally, Inc., a Nevada corporation (“DA”), and its subsidiary, Kustom Entertainment, Inc., a Nevada corporation (“KEI” and together with DA, the “**Borrower**”) and any Additional Grantor (as defined below) who may become party to this Agreement (such Additional Grantors, together with the Borrower, each a “**Grantor**” and collectively, the “**Grantors**”), in favor of Mosh Man LLC, a New Jersey limited liability company, as purchaser (the “**Purchaser**”) pursuant to that certain Note Purchase Agreement dated as of the date hereof (as amended, restated, supplemented or otherwise modified from time to time, the “**Purchase Agreement**”) by and among the Borrower and the Purchaser.

STATEMENT OF PURPOSE

WHEREAS, pursuant to the terms of the Purchase Agreement, the Purchaser has agreed to purchase the Notes from the Borrower upon the terms and subject to the conditions set forth therein.

WHEREAS, it is a condition precedent to the obligation of the Purchaser to purchase the Notes from the Borrower under the Purchase Agreement that the Grantors shall have executed and delivered this Agreement to the Purchaser.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, and to induce the Purchaser to enter into the Purchase Agreement, each Grantor hereby agrees with the Purchaser, as follows:

ARTICLE 1 DEFINED TERMS

SECTION 1.1. Terms Defined in the Uniform Commercial Code.

(a) The following terms when used in this Agreement shall have the meanings assigned to them in the UCC (as defined below) as in effect from time to time: “**Accession**”, “**Account**”, “**Account Debtor**”, “**Authenticate**”, “**Certificated Security**”, “**Chattel Paper**”, “**Commercial Tort Claim**”, “**Deposit Account**”, “**Documents**”, “**Electronic Chattel Paper**”, “**Equipment**”, “**Fixture**”, “**General Intangible**”, “**Goods**”, “**Instrument**”, “**Inventory**”, “**Investment Company Security**”, “**Investment Property**”, “**Letter of Credit Rights**”, “**Proceeds**”, “**Record**”, “**Registered Organization**”, “**Security**”, “**Securities Account**”, “**Securities Entitlement**”, “**Securities Intermediary**”, “**Supporting Obligation**”, “**Tangible Chattel Paper**”, and “**Uncertificated Security**”.

(b) Terms defined in the UCC and not otherwise defined herein or in the Purchase Agreement shall have the meaning assigned in the UCC as in effect from time to time.

SECTION 1.2. Definitions.

The following terms when used in this Agreement shall have the meanings assigned to them below:

“**Additional Grantor**” means each Subsidiary of any Loan Party which hereafter becomes a Grantor pursuant to Section 7.14.

“**Agreement**” has the meaning set forth in the Preamble of this Agreement.

“**Assignment of Claims Act**” means, collectively, the Assignment of Claims Act of 1940, as amended, any applicable rules, regulations and interpretations issued pursuant thereto and any amendments to any of the foregoing.

“**Borrower**” has the meaning set forth in the Preamble of this Agreement.

“**Claims Assignment**” means an assignment in a form approved by the Purchaser, properly completed and signed by an officer of the Borrower.

“**Collateral**” has the meaning assigned thereto in Section 2.1.

“**Control**” means the manner in which “control” is achieved under the UCC with respect to any Collateral for which the UCC specifies a method of achieving “control”.

“**Controlled Depository**” has the meaning assigned thereto in Section 4.6.

“**Controlled Intermediary**” has the meaning assigned thereto in Section 4.6.

“**Copyright Licenses**” means any agreement now or hereafter in existence naming any Grantor as licensor or licensee, including, without limitation, those listed in Schedule 3.10, granting any right under any Copyright, including, without limitation, the grant of rights to manufacture, distribute, exploit and sell materials derived from any Copyright.

“**Copyrights**” means, collectively, all of the following: (a) all copyrights, rights and interests in copyrights, works protectable by copyright, copyright registrations and copyright applications anywhere in the world, including, without limitation, those listed on Schedule 3.10 hereto, (b) all reissues, extensions, continuations (in whole or in part) and renewals of any of the foregoing, (c) all income, royalties, damages and payments now or hereafter due and/or payable under any of the foregoing or with respect to any of the foregoing, including, without limitation, damages or payments for past, present or future infringements of any of the foregoing, (d) the right to sue for past, present and future infringements of any of the foregoing and (e) all rights corresponding to any of the foregoing throughout the world.

“**Effective Endorsement and Assignment**” means, with respect to any specific type of Collateral, all such endorsements, assignments and other instruments of transfer requested by the Purchaser with respect to the Security Interests granted in such Collateral, and in each case, in form and substance satisfactory to the Purchaser.

“**Excluded Deposit Account**” means, collectively, those certain Deposit Accounts set forth on Schedule 1.1 hereto.

“**Federal Registration Collateral**” means Collateral with respect to which Liens may be registered, recorded or filed under, or notice thereof given under, any federal statute or regulation.

“**Government**” means the United States government or any agency, department or instrumentality thereof.

“**Grantor(s)**” has the meaning set forth in the Preamble of this Agreement.

“**Intellectual Property**” means, collectively, all of the following: (a) all systems software, applications software and internet rights, including, without limitation, screen displays and formats, internet domain names, web sites (including web links), program structures, sequence and organization, all documentation for such software, including, without limitation, user manuals, flowcharts, programmer’s notes, functional specifications, and operations manuals, all formulas, processes, ideas and know-how embodied in any of the foregoing, and all program materials, flowcharts, notes and outlines created in connection with any of the foregoing, whether or not patentable or copyrightable, (b) concepts, discoveries, improvements and ideas, (c) any useful information relating to the items described in clause (a) or (b), including know-how, technology, engineering drawings, reports, design information, trade secrets, practices, laboratory notebooks, specifications, test procedures, maintenance manuals, research, development, manufacturing, marketing, merchandising, selling, purchasing and accounting, (d) Patents and Patent Licenses, Copyrights and Copyright Licenses, Trademarks and Trademark Licenses, and (e) other licenses to use any of the items described in the foregoing clauses (a), (b), (c) and (d) or any other similar items of such Grantor necessary for the conduct of its business.

“**Issuer**” means any issuer of any Investment Property or Partnership/LLC Interests (including, without limitation, any Issuer as defined in the UCC).

“**Obligations**” has the meaning assigned thereto in the Purchase Agreement. “**Partnership/LLC Agreement**” has the meaning set forth in Section 2.2(a).

“**Partnership/LLC Interests**” means, with respect to any Grantor, the entire partnership interest, membership interest or limited liability company interest, as applicable, of such Grantor in each partnership, limited partnership or limited liability company owned thereby and all rights, powers and benefits as a partner or member thereof, whether under any limited liability company agreement, operating agreement, membership agreement, partnership agreement or similar agreement relating to any Partnership/LLC Interests or under any Requirements of Law, including, without limitation, such Grantor’s capital account, its interest as a partner or member, as applicable, in the net cash flow, net profit and net loss, and items of income, gain, loss, deduction and credit of any such partnership, limited partnership or limited liability company, as applicable, such Grantor’s interest in all distributions made or to be made by any such partnership, limited partnership or limited liability company, as applicable, to such Grantor and all of the other economic rights, titles and interests of such Grantor as a partner or member, as applicable, of any such partnership, limited partnership or limited liability company, as applicable, whether set forth in the partnership agreement or membership agreement, as applicable, of such partnership, limited partnership or limited liability company, as applicable, by separate agreement or otherwise.

“**Patent License**” means all agreements now or hereafter in existence, whether written, implied or oral, providing for the grant by or to any Grantor of any right to manufacture, use or sell any invention covered in whole or in part by a Patent, including, without limitation, any of the foregoing referred to in Schedule 3.10.

“**Patents**” means collectively, all of the following: (a) all patents, rights and interests in patents, all inventions and patent applications anywhere in the world, including, without limitation, those listed on Schedule 3.10 hereto, (b) all reissues, extensions, continuations (in whole or in part) and renewals of any of the foregoing, (c) all income, royalties, damages or payments now or hereafter due and/or payable under any of the foregoing or with respect to any of the foregoing, including, without limitation, damages or payments for past, present or future infringements of any of the foregoing, (d) the right to sue for past, present and future infringements of any of the foregoing and (e) all rights corresponding to any of the foregoing throughout the world.

“**Purchase Agreement**” has the meaning set forth in the Preamble of this Agreement.

“**Purchaser**” has the meaning set forth in the Preamble of this Agreement.

“**Security Interests**” means the security interests granted pursuant to Article 2, as well as all other security interests now or hereafter created or assigned as additional security for the Obligations pursuant to the provisions of the Purchase Agreement or any other Note Document.

“**Trademarks**” means, collectively, all of the following: (a) all trademarks, rights and interests in trademarks, trade names, corporate names, company names, business names, internet domain names, fictitious business names, trade styles, service marks, logos, other business identifiers, prints and labels on which any of the foregoing have appeared or appear, whether registered or unregistered, all registrations and recordings thereof, and all applications in connection therewith (other than each application to register any trademark or service mark prior to the filing under any Requirements of Law of a verified statement of use for such trademark or service mark) anywhere in the world, including, without limitation, those listed on Schedule 3.10 hereto, (b) all reissues, extensions, continuations (in whole or in part) and renewals of any of the foregoing, (c) all income, royalties, damages and payments now or hereafter due and/or payable under any of the foregoing or with respect to any of the foregoing, including, without limitation, damages or payments for past, present or future infringements of any of the foregoing, (d) the right to sue for past, present and future infringements of any of the foregoing and (e) all rights corresponding to any of the foregoing (including the goodwill) throughout the world.

“**Trademark License**” means any agreement now or hereafter in existence, whether written or oral, providing for the grant by or to any Grantor of any right to use any Trademark, including, without limitation, any of the foregoing referred to in Schedule 3.10.

“**UCC**” means the Uniform Commercial Code as in effect in the State of Nevada, as amended or modified from time to time.

“**Vehicles**” means all cars, trucks, trailers, construction and earth moving equipment and other vehicles covered by a certificate of title under the laws of any state, all tires and all other appurtenances to any of the foregoing.

SECTION 1.3. Other Definitional Provisions

Capitalized terms defined in the Purchase Agreement and not otherwise defined herein shall have the meaning assigned thereto in the Purchase Agreement. With reference to this Agreement and each other Note Document, unless otherwise specified herein or in such other Note Document: (a) the definitions of terms herein shall apply equally to the singular and plural forms of the terms defined, (b) whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms, (c) the words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”, (d) the word “will” shall be construed to have the same meaning and effect as the word “shall”, (e) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document, as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (f) any reference herein to any Person shall be construed to include such Person’s permitted successors and assigns, (g) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (h) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (i) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights, (j) the term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form, (k) in the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” and the words “to” and “until” each mean “to but excluding;”(l) Section headings herein and in the other Note Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Note Document and (m) where the context requires, terms relating to the Collateral or any part thereof, when used in relation to a Grantor, shall refer to such Grantor’s Collateral or the relevant part thereof.

ARTICLE 2 SECURITY INTEREST

SECTION 2.1. Grant of Security Interest

Each Grantor hereby grants, pledges and collaterally assigns to the Purchaser a security interest in all of such Grantor’s right, title and interest in all property or interests in property of such Grantor, including the following property, now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest, and wherever located or deemed located, but excluding any real property owned by a Grantor (collectively, the “*Collateral*”), as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations:

- (a) all Accounts
- (b) all cash and currency;
- (c) all Chattel Paper;
- (d) all Commercial Tort Claims identified on Schedule 3.8;
- (e) all Deposit Accounts, following an Event of Default;

5

- (f) all Documents;
- (g) all Equipment;
- (h) all Fixtures;
- (i) all General Intangibles;
- (j) all Instruments;

(k) all Intellectual Property, including Grantor’s rights under any Patent Licenses, Trademark Licenses, and Copyright Licenses, subject to the terms of such Licenses;

- (l) all Inventory;
- (m) all Investment Property;
- (n) all Letter of Credit Rights;
- (o) Partnership/LLC Interests, except for Nobility Healthcare, LLC;
- (p) all Vehicles;
- (q) all other Goods not otherwise described above;
- (r) all books and records pertaining to the Collateral; and

(s) to the extent not otherwise included, all Proceeds and products of any and all of the foregoing, all Accessions to any and all of the foregoing and all collateral security and Supporting Obligations (as now or hereafter defined in the UCC) given by any Person with respect to any of the foregoing;

provided, that the Security Interests granted herein shall not extend to, and the term “Collateral” shall not include (i) any obligation or property of any kind due from, owed by or belonging to any Sanctioned Person,

(ii) any property to the extent the grant of a security interest in such property is prohibited by applicable law, (iii) any “intent to use” trademark applications for which a statement of use has not been filed and accepted with the U.S. Patent and Trademark Office or (iv) any rights under any lease, instrument, contract or agreement of any Grantor (including any Patent Licenses, Trademark Licenses and Copyright Licenses) to the extent that the granting of a security interest therein would, under the express terms of such lease, instrument, contract, license or agreement (A) be prohibited or restricted or (B) constitute a default under or result in a termination of any such lease, instrument, contract or agreement governing such right, unless

(I) such prohibition or restriction is not enforceable or is otherwise ineffective under any Requirements of Law or (II) consent to such security interest has been obtained from any applicable third party. Notwithstanding any of the foregoing, such proviso shall not affect, limit, restrict or impair the grant by any Grantor of a Security Interest in any Account or any money or other amounts due and payable to such Grantor or to become due and payable to such Grantor under, or Proceeds of, such lease, instrument, contract or agreement unless such security interest in such Account, money or other amount due and payable, or Proceeds thereof, is also specifically prohibited or restricted by the terms of such lease, instrument, contract or other agreement or such security interest in such Account, money or other amount due and payable or Proceeds thereof would expressly constitute a default under or would expressly grant a party a termination right under any such lease, instrument, contract or agreement governing such right unless, in each case, (I) such prohibition is not enforceable or is otherwise ineffective under any Requirements of Law or (II) consent to such security interest has been obtained from any applicable third party; provided further, that notwithstanding anything to the contrary contained in the foregoing proviso, the Security Interests granted herein shall immediately and automatically attach to and the term “Collateral” shall immediately and automatically include the rights under any such lease, instrument, contract or agreement and in such Account, money, or other amounts due and payable to any Grantor at such time as such prohibition, restriction, event of default or termination right terminates or is waived or consented to by such applicable third party or is no longer enforceable or effective under applicable Requirements of Law.

SECTION 2.2. Partnership/LLC Interests.

(a) Each limited liability agreement, operating agreement, membership agreement, partnership agreement or similar agreement relating to any Partnership/LLC Interests (as amended, restated, supplemented or otherwise modified from time to time, a “**Partnership/LLC Agreement**”) shall permit each member, manager and partner that is a Grantor to pledge all of the Partnership/LLC Interests in which such Grantor has rights to and grant and collaterally assign to the Purchaser a lien and security interest in all of the Partnership/LLC Interests in which such Grantor has rights without any further consent, approval or action by any other party, including, without limitation, any other party to any Partnership/LLC Agreement or otherwise, except for those consents that have been (or will be) obtained.

(b) Upon the occurrence and during the continuance of an Event of Default, (i) the Purchaser or its respective designees shall have the right (but not the obligation) to be substituted for the applicable Grantor as a member, manager or partner under the applicable Partnership/LLC Agreement and (ii) the Purchaser shall have all rights, powers and benefits of such Grantor as a member, manager

or partner, as applicable, under such Partnership/LLC Agreement. For the avoidance of doubt, such rights, powers and benefits of a substituted member shall include all voting and other rights and not merely the rights of an economic interest holder. So long as this Agreement remains in effect, no further consent, approval or action by any other party including, without limitation, any other party to the Partnership/LLC Agreement or otherwise shall be necessary to permit the Purchaser to be substituted as a member, manager or partner pursuant to this paragraph, except for those consents that have been (or will be) obtained. The rights, powers and benefits granted pursuant to this paragraph shall inure to the benefit of the Purchaser and its respective successors, assigns and designated agents, as intended third party beneficiaries.

SECTION 2.3. Grantor Remains Liable.

Anything herein to the contrary notwithstanding: (a) each Grantor shall remain liable to perform all of its duties and obligations under the contracts and agreements included in the Collateral to the same extent as if this Agreement had not been executed, (b) the exercise by the Purchaser of any of the rights hereunder shall not release any Grantor from any of its duties or obligations under the contracts and agreements included in the Collateral, (c) neither the Purchaser nor any other Holder shall have any obligation or liability under the contracts and agreements included in the Collateral by reason of this Agreement, nor shall the Purchaser or any other Holder be obligated to perform any of the obligations or duties of any Grantor thereunder or to take any action to collect or enforce any claim for payment assigned hereunder, and (d) neither the Purchaser nor any other Holder shall have any liability in contract or tort for any Grantor's acts or omissions.

**ARTICLE 3
REPRESENTATIONS AND WARRANTIES**

To induce the Purchaser to enter into the Purchase Agreement, each Grantor hereby represents and warrants to the Purchaser and each Holder, as applicable, that:

SECTION 3.1. Existence.

Such Grantor that is not a natural person is (a) duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation (as applicable), (b) has the requisite power and authority to own, lease and operate its properties and to conduct the business in which it is currently, or is currently proposed to be, engaged, and (c) is duly qualified as a foreign entity, licensed and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification, and where failure to do so qualify would reasonably be expected to have a Material Adverse Effect.

SECTION 3.2. Authorization of Agreement; No Conflict.

Such Grantor has the right, power and authority and has taken all necessary company and other action to authorize the execution, delivery and performance of, this Agreement. This Agreement has been duly executed and delivered by the Grantor, or in the case of each Grantor that is not a natural person, the duly authorized officer of such Grantor or any Issuer, and this Agreement constitutes the legal, valid and binding obligation of such Grantor enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar state or federal debtor relief laws from time to time in effect which affect the enforcement of creditors' rights in general and the availability of equitable remedies. The execution, delivery and performance by such Grantor of this Agreement will not, by the passage of time, the giving of notice or otherwise, violate any material provision of such Grantor's Organizational Documents (solely with regard to each Grantor that is not a natural person), any material Contractual Obligations or any Requirements of Law applicable to such Grantor and will not result in the creation or imposition of any Lien (or obligation to create a Lien), other than the Security Interests and Permitted Liens, upon or with respect to any property, asset or business of such Grantor.

SECTION 3.3. Consents.

No approval, consent, compliance, exemption, authorization or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against such Grantor or any Issuer of Investment Property constituting Collateral of this Agreement, except (a) as may be required by laws affecting the offering and sale of securities generally, (b) such as have been obtained or made and are in full force and effect, (c)

SECTION 3.4. Perfected Liens.

Each financing statement naming such Grantor as a debtor and that is attached to this Agreement as Exhibit A, is in appropriate form for filing in the appropriate filing offices of the states specified on Schedule 3.6. The Security Interests granted pursuant to this Agreement (a) constitute valid and enforceable security interests in all of the Collateral in favor of the Purchaser as collateral security for the Obligations, and (b): (1) when UCC financing statements containing an adequate description of the Collateral shall have been filed in the offices specified in Schedule 3.6, the Security Interests will constitute perfected security interests in all right, title and interest of such Grantor in the Collateral to the extent that a security interest therein may be perfected by filing pursuant to the UCC, prior to all other Liens and rights of others therein except for Permitted Liens; and (2) when each Intellectual Property Security Agreement has been filed with the applicable Governmental Authority, the Security Interests will constitute perfected security interests in all right, title and interest of such Grantor in the Intellectual Property therein described to the extent that a security interest therein may be perfected by filing with such Governmental Authority, prior to all other Liens and rights of others therein except for Permitted Liens; and (3) when each control agreement has been executed and delivered to the Purchaser, the Security Interests will constitute perfected security interests in all right, title and interest of such Grantor in the Deposit Accounts and Securities Accounts, as applicable, subject thereto to the extent that a security interest therein may be perfected by such control agreement, prior to all other Liens and rights of others therein and subject to no adverse claims except for Permitted Liens.

SECTION 3.5. Title, No Other Liens.

Except for the Security Interests, such Grantor owns each item of the Collateral free and clear of any and all Liens or claims other than Permitted Liens. No Grantor has authenticated any agreement authorizing any secured party thereunder to file a financing statement under the UCC of any state which names such Grantor as debtor or other public notice with respect to all or any part of the Collateral and no such financing statement or public notice is on file or of record in any public office, except such as have been filed in favor of the Purchaser pursuant to this Agreement or in connection with Permitted Liens.

SECTION 3.6. State of Organization; Location of Inventory, Equipment and Fixtures; Other Information.

(a) The exact legal name of such Grantor is set forth on Schedule 3.6 (as such schedule may be updated from time to time pursuant to Section 4.3).

(b) If such Grantor is not a natural person, such Grantor is organized under the laws of the state identified on Schedule 3.6 across from such Grantor's name (as such schedule may be updated from time to time pursuant to Section 4.3). If such Grantor is not a natural person, the taxpayer identification number and, to the extent applicable, registered organization number of such Grantor is set forth on Schedule 3.6 under such Grantor's name (as such schedule may be updated from time to time pursuant to Section 4.3). If such Grantor is a natural person, the social security number of such Grantor is set forth on Schedule 3.6 under such Grantor's name (as such schedule may be updated from time to time pursuant to Section 4.3).

(c) All Collateral consisting of Inventory, Equipment and Fixtures (whether now owned or hereafter acquired) is (or will be) located at the locations specified on Schedule 3.6, except as otherwise permitted hereunder or in the Purchase Agreement.

(d) The mailing address, chief place of business, chief executive office and office where such Grantor keeps its books and records relating to the Collateral is located at the locations specified on Schedule 3.6 under such Grantor's name. Such Grantor has no other places of business except those separately set forth on Schedule 3.6 under such Grantor's name. Such Grantor does no business nor has such Grantor done business during the past five (5) years under any trade name or fictitious business name except as disclosed on Schedule 3.6 under such Grantor's name. Except as disclosed on Schedule 3.6 under such Grantor's name, no Grantor has acquired assets from any Person, other than assets acquired in the ordinary course of such Grantor's business from a Person engaged in the business of selling goods of such kind, during the past five (5) years.

SECTION 3.7. Accounts.

Each existing Account constitutes, and each hereafter arising Account will constitute, the legally valid and binding obligation of the applicable Account Debtor. The amount represented by such Grantor to the Purchaser as owing by each Account Debtor is, or will be, the correct amount actually and unconditionally owing, except for ordinary course cash discounts and allowances where applicable. No Account Debtor has any defense, set-off, claim or counterclaim against such Grantor that can be asserted against the Purchaser, whether in any proceeding to enforce Purchaser's rights in the Collateral or otherwise except defenses, setoffs, claims or counterclaims that are not, in the aggregate, material to the value of the Accounts. None of the Accounts is, nor will any hereafter arising Account be, evidenced by a promissory note or other Instrument (other than a check) that has not been pledged to the Purchaser in accordance with the terms hereof.

SECTION 3.8. Other Collateral.

Other than as set forth on Schedule 3.8 (and in the case of clause (b), as such schedule may be amended in accordance with Section 4.15), as of the date hereof, such Grantor does not hold (a) any Chattel Paper in the ordinary course of its business, (b) any Commercial Tort Claims, or (c) any Instruments or is named a payee of any promissory note or other evidence of indebtedness.

SECTION 3.9. Deposit Accounts.

As of the date hereof, all Deposit Accounts (excluding Excluded Deposit Accounts but including, without limitation, cash management accounts that are Deposit Accounts), securities accounts and lockboxes including the: (a) owner of the account, (b) name and address of financial institution or securities broker where such accounts are located, (c) account numbers and (d) the general purpose or use of such account owned by such Grantor are listed on Schedule 3.9.

SECTION 3.10. Intellectual Property.

(a) Schedule 3.10 sets forth, as of the date hereof (as such schedule may be updated from time to time pursuant to Section 4.3), a list of all Copyright registrations, Copyright applications, issued Patents, Patent applications, Trademark registrations, Trademark applications and domain names owned or registered by such Grantor or subject to applications for registration by such Grantor in its own name.

(b) Except as set forth in Schedule 3.10 on the date hereof (as such schedule may be updated from time to time pursuant to Section 4.3), none of the Intellectual Property owned by such Grantor is the subject of any licensing or franchise agreement pursuant to which such Grantor is the licensor or franchisor.

SECTION 3.11. Inventory.

To the knowledge of such Grantor, Collateral consisting of Inventory is of good and merchantable quality, free from any material defects. To the knowledge of such Grantor, none of such Inventory is subject to any licensing, Patent, Trademark, trade name or Copyright with any Person that restricts such Grantor's ability to manufacture and/or sell such Inventory. The completion of the manufacturing process of such Inventory by a Person other than such Grantor would be permitted under any contract to which such Grantor is a party or to which the Inventory is subject.

SECTION 3.12. Investment Property; Partnership/LLC Interests; Capital Stock.

(a) As of the date hereof, all Investment Property (including, without limitation, Securities Accounts and cash management accounts that are Investment Property) and all Partnership/LLC Interests owned by such Grantor are listed on Schedule 3.12 (as such schedule may be updated from time to time pursuant to Section 4.3).

(b) All Investment Property and all Partnership/LLC Interests issued by any Issuer to such Grantor (i) have been duly and validly issued and, if applicable, are fully paid and nonassessable, (ii) are beneficially owned of record by such Grantor and (iii) constitute all the issued and outstanding Capital Stock or Partnership/LLC Interests, as applicable, of such Issuer issued to such Grantor.

(c) None of the Partnership/LLC Interests (i) are dealt in or traded on a Securities exchange or in Securities markets, (ii) by their terms expressly provide that they are Securities governed by Article 8 of the UCC, (iii) are Investment Company Securities or (iv) are held in a Securities Account.

(d) Except as set forth on Schedule 3.12, no Organizational Document of any Issuer or Grantor prohibits the Grantor from pledging any Investment Property or Partnership/LLC Interests, as applicable, to, and granting and collaterally assigning to, the Purchaser, a lien and security interest in such Grantor's Investment Property or Partnership/LLC Interests, as applicable, and no further consent, approval or action by any other party, including without limitation, any other party to any Organizational Document or otherwise, is required.

(e) So long as this Agreement remains in effect, no further consent, approval or action by any other party including, without limitation, any other party to any Organizational Document of any Issuer, shall be necessary to permit the Purchaser or its designee to be substituted as the equity holder of such Issuer pursuant to the terms of this Agreement.

SECTION 3.13. Vehicles.

As of the date hereof, all Vehicles owned by any Grantor are listed on Schedule 3.13.

**ARTICLE 4
COVENANTS**

Until the Obligations shall have been paid in full in cash and the Purchase Agreement has been terminated unless consent has been obtained in the manner provided for in Section 7.1, each Grantor covenants and agrees that:

SECTION 4.1. Maintenance of Perfected Security Interest; Further Information.

(a) Such Grantor shall maintain the Security Interests created by this Agreement as a first priority perfected Security Interest (subject only to Permitted Liens) and shall defend such Security Interests against the claims and demands of all Persons whomsoever (other than the holders of Permitted Liens).

(b) Such Grantor will from time to time furnish to the Purchaser, upon the Purchaser's reasonable request, statements and schedules further identifying and describing the assets and property of such Grantor and such other reports in connection therewith as the Purchaser may request, all in reasonable detail.

SECTION 4.2. Maintenance of Insurance.

(a) Such Grantor will maintain insurance on its Property in accordance with Section 8.6 of the Purchase Agreement.

(b) Except as permitted by the Purchase Agreement, all insurance referred to in Section 4.2(a) shall (i) [reserved], (ii) provide that no cancellation, material reduction in amount or material change in coverage thereof shall be effective until at least thirty (30) days after receipt by the Purchaser of written notice thereof and (iii) be satisfactory in all other respects to the Purchaser.

(c) To the extent required by the Purchase Agreement, upon the reasonable request of the Purchaser from time to time, such Grantor shall deliver to the Purchaser evidence of the insurance coverage referred to in this Section 4.2.

SECTION 4.3. Changes in Locations; Changes in Name or Structure.

Such Grantor will not, except upon thirty (30) days' prior written notice to the Purchaser and, subsequent to such notice, delivery to the Purchaser of (a) all additional financing statements (executed if necessary for any particular filing jurisdiction) and other instruments and other documents, in each case, as requested by the Purchaser to maintain the validity, perfection and priority of the Security Interests provided for herein and (b) if applicable, a written supplement to the schedules hereto:

(i) permit any Deposit Account (other than Excluded Deposit Accounts) to be held by or at a depository bank other than (A) the depository bank that held such Deposit Account as of the date hereof as set forth on Schedule 3.9 or (B) upon thirty (30) days prior written notice to the Purchaser, any other depository bank (provided that such Grantor shall comply with, and shall cause such depository bank to comply with, the terms and conditions of Section 4.6(a));

(ii) permit any Investment Property (other than Certificated Securities delivered to the Purchaser pursuant to [Section 4.5](#)) to be held by a Securities Intermediary other than the Securities Intermediary that holds such Investment Property as of the date hereof as set forth on [Schedule 3.12](#);

(iii) with regard to any Grantor that is not a natural person, change its jurisdiction of incorporation or formation, as applicable, or location of its chief executive office (or the location where such Grantor maintains its books and records relating to Accounts, Documents, General Intangibles, Instruments and Investment Property in which it has any interest), or with regard to any Grantor that is a natural person, his domicile, from each as identified on [Schedule 3.6](#); or

(iv) change its name, identity or with regard to any Grantor that is not a natural person, corporate or organizational structure to such an extent that any financing statement filed by the Purchaser in connection with this Agreement would become misleading under the UCC or any applicable Requirements of Law.

SECTION 4.4. [Required Notifications.](#)

Such Grantor shall promptly (and in any event, within five (5) Business Days) notify the Purchaser upon obtaining knowledge thereof, in writing, of: (a) any Lien (other than the Security Interests or Permitted Liens) on any of the Collateral which would adversely affect the ability of the Purchaser to exercise any of its remedies hereunder, (b) the occurrence of any other event which would reasonably be expected to have a Material Adverse Effect on the aggregate value of the Collateral or on the Security Interests, (c) the acquisition or ownership by such Grantor of any (i) Commercial Tort Claim, (ii) Deposit Account (other than Excluded Deposit Accounts), or (iii) Investment Property after the date hereof and (e) any (i) infringement or potential infringement of any Intellectual Property, (ii) any claim or Lien granted or asserted with respect to any Intellectual Property or (iii) any actual or potential infringement by the Borrower of any Intellectual Property of any other Person.

SECTION 4.5. [Delivery Covenants.](#)

Such Grantor will deliver and pledge to the Purchaser all Certificated Securities, Partnership/LLC Interests evidenced by a certificate, negotiable Documents, Instruments, and Tangible Chattel Paper owned or held by such Grantor, in each case, together with an Effective Endorsement and Assignment and all Supporting Obligations, as applicable, promptly following a written request by the Purchaser. If any of the Partnership/LLC Interests constituting Collateral and consisting of membership interests in a limited liability company or general or limited partnership interests in a limited partnership or limited liability partnership is hereafter designated by the relevant Grantor as a “security” under (and as defined in) Article 8 of the UCC, such Grantor shall cause such Partnership/LLC Interests to be certificated and shall deliver all certificates or other documents evidencing or representing the Partnership/LLC Interests to the Purchaser, accompanied by Partnership/LLC Interests powers, all in form and substance satisfactory to the Purchaser.

SECTION 4.6. [Control Covenants.](#)

(a) As provided in the Purchase Agreement, following an Event of Default, each Grantor shall instruct (i) each depository bank holding a Deposit Account (other than Excluded Deposit Accounts) owned by such Grantor and (ii) each Securities Intermediary holding any Investment Property owned by such Grantor, to execute and deliver a control agreement, sufficient to provide the Purchaser with Control of such Deposit Account or Investment Property and otherwise in form and substance satisfactory to the Purchaser in its sole discretion (any such depository bank executing and delivering any such control agreement, a “**Controlled Depository**”, and any such Securities Intermediary executing and delivering any such control agreement, a “**Controlled Intermediary**”). In the event any such depository bank or Securities Intermediary refuses to execute and deliver such control agreement, the Purchaser, in its sole discretion, may require the applicable Deposit Account (other than Excluded Deposit Accounts) and Investment Property to be transferred to a Controlled Depository or Controlled Intermediary, as applicable. After the date hereof to the extent required by the Purchase Agreement, all Deposit Accounts (other than Excluded Deposit Accounts) and all Investment Property will be maintained with a Controlled Depository or a Controlled Intermediary, as applicable.

(b) Upon the request of the Purchaser, such Grantor will take such actions and deliver all such agreements as are requested by the Purchaser to provide the Purchaser with Control of all Letter of Credit Rights and Electronic Chattel Paper owned or held by

such Grantor, including, without limitation, with respect to any such Electronic Chattel Paper, by having the Purchaser identified as the assignee of the Record(s) pertaining to the single authoritative copy thereof.

(c) With respect to any Inventory of such Grantor: (i) such Inventory is located at one of such Grantor's locations set forth in Schedule 3.6 hereto (as such Schedule 3.6 may be modified and updated from time to time by written notice to Purchaser), except for inventory which, in the Ordinary Course of Business, is in transit (A) from a supplier to such Grantor, or (B) between the locations specified in Schedule 3.6; (ii) promptly upon the written request of the Purchaser, each applicable Grantor shall obtain a landlord agreement in form and substance satisfactory to Purchaser in its sole discretion in place with respect to any leased locations where Collateral is stored or located; (iii) promptly upon the written request of the Purchaser, each applicable Grantor shall obtain a bailee letter agreement delivered to Purchaser in form and substance satisfactory to Purchaser in its sole discretion for any such location where Collateral is stored or located; (iv) promptly upon the written request of the Purchaser, each applicable Grantor shall obtain a mortgagee waiver delivered to Purchaser in form and substance satisfactory to Purchaser in its sole discretion for any such location owned by any Grantor where Collateral is stored or located; (v) such Grantor has good and merchantable title to such Inventory and such Inventory is not subject to any Lien whatsoever except for the Lien granted to Purchaser hereunder, and except for Permitted Liens; (vi) such Inventory is not subject to any licensing, patent, royalty, trademark, trade name or copyright agreements with any third parties that restricts such Grantor's ability to manufacture and/or sell the Inventory; and (vii) the disposition of such Inventory by Purchaser following an Event of Default shall not require the consent of any Person and shall not constitute a breach or default under any Contract or agreement to which such Grantor is a party or to which such Inventory is subject. Further, such Grantor shall perfect and protect such Grantor's ownership interests in all Inventory stored with a consignee against creditors of the consignee by filing and maintaining financing statements against the consignee reflecting the consignment arrangement filed in all appropriate filing offices, providing any written notices required by the UCC or any Requirements of Law to notify any prior creditors of the consignee of the consignment arrangement, and taking such other actions as may be appropriate to perfect and protect such Grantor's interests in such Inventory under Section 2-326, Section 9-103, Section 9-324 and Section 9-505 of the UCC or otherwise under any Requirements of Law. All such financing statements filed pursuant to this Section 4.6(c) shall be assigned to the Purchaser.

SECTION 4.7. Filing Covenants.

Pursuant to Section 9-509 of the UCC and any other Requirements of Law, such Grantor authorizes the Purchaser to file or record financing statements and other filing or recording documents or instruments with respect to the Collateral in such form and in such offices as the Purchaser determines appropriate to perfect the Security Interests of the Purchaser under this Agreement. Such financing statements shall describe the Collateral in the same manner as described herein. Further, a photographic or other reproduction of this Agreement shall be sufficient as a financing statement or other filing or recording document or instrument for filing or recording in any jurisdiction. Such Grantor hereby authorizes, ratifies and confirms all financing statements and other filing or recording documents or instruments filed by Purchaser prior to the date of this Agreement. Upon payment in full of the Obligations, the Purchaser authorizes the Grantor to file or record termination statements and other filing or recording documents or instruments with respect to the Collateral in such form and in such offices as the Grantor determines appropriate to terminate the Security Interests of the Purchaser under this Agreement.

SECTION 4.8. Accounts.

(a) Other than in the ordinary course of business consistent with its past practice, such Grantor will not (i) grant any extension of the time of payment of any Account, (ii) compromise or settle any Account for less than the full amount thereof, (iii) release, wholly or partially, any Account Debtor, (iv) allow any credit or discount whatsoever on any Account or (v) amend, supplement or modify any Account in any manner that could reasonably be likely to adversely affect the value thereof.

(b) Such Grantor will deliver to the Purchaser a copy of each material demand, notice or document received by it that questions, contests or calls into doubt the validity or enforceability of any material Account.

(c) At any time and from time to time upon the Purchaser's reasonable request and at the expense of such Grantor, such Grantor shall cause independent public accountants or others satisfactory to the Purchaser to furnish to the Purchaser reports showing reconciliations, aging and test verifications of, and trial balances for, the Accounts.

SECTION 4.9. Intellectual Property.

(a) Such Grantor (either itself or through licensees) (i) will use each registered Trademark (owned by such Grantor) and Trademark for which an application (owned by such Grantor) is pending, to the extent reasonably necessary to maintain such Trademark in full force free from any claim of abandonment for non-use, (ii) will maintain products and services offered under such Trademark at a level substantially consistent with the quality of such products and services as of the date hereof, (iii) will not (and will not permit any licensee or sublicensee thereof to) do any act or knowingly omit to do any act whereby such Trademark could reasonably be expected to become invalidated or impaired in any way, (iv) will not do any act, or knowingly omit to do any act, whereby any issued Patent owned by such Grantor could reasonably be expected to become forfeited, abandoned or dedicated to the public, (v) will not (and will not permit any licensee or sublicensee thereof to) do any act or knowingly omit to do any act whereby any registered Copyright owned by such Grantor or Copyright for which an application is pending (owned by such Grantor) could reasonably be expected to become invalidated or otherwise impaired and (vi) will not (either itself or through licensees) do any act whereby any material portion of the Copyrights may fall into the public domain.

(b) Such Grantor will notify the Purchaser promptly if it knows, or has reason to know, that any application or registration relating to any Intellectual Property owned by such Grantor may become forfeited, abandoned, dedicated to the public or fallen into the public domain, or of any adverse determination or development (including, without limitation, the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any court or tribunal in any country) regarding such Grantor's ownership of, or the validity of, any material Intellectual Property owned by such Grantor or such Grantor's right to register the same or to own and maintain the same.

(c) Whenever such Grantor, either by itself or through any agent, employee, licensee or designee, shall file an application for the registration of any Intellectual Property with the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency in any other country or any political subdivision thereof, such Grantor shall notify the Purchaser of such filing within five (5) Business Days after the last day of the fiscal quarter in which such filing occurs. Upon request of the Purchaser, such Grantor shall execute and deliver, and have recorded, any and all agreements, instruments, documents, and papers as the Purchaser may request to evidence the Purchaser's and the Holders' security interest in any material Copyright, Patent or Trademark and the goodwill and General Intangibles of such Grantor relating thereto or represented thereby.

15

(d) Such Grantor will take all necessary or appropriate steps, at such Grantor's sole cost and expense, including, without limitation, in any proceeding before the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency in any other country or any political subdivision thereof, to maintain and pursue each application (and to obtain the relevant registration) and to maintain each registration of such Grantor's material Intellectual Property, including, without limitation, filing of applications for renewal, affidavits of use and affidavits of incontestability.

(e) In the event that any material Intellectual Property owned by such Grantor is infringed, misappropriated or otherwise violated by a third party, such Grantor shall (i) at such Grantor's sole cost and expense, take such actions as such Grantor shall deem necessary or appropriate under the circumstances to protect such Intellectual Property and (ii) promptly notify the Purchaser after it learns of such infringement, misappropriation or violation.

(f) Each Grantor shall promptly following such request deliver to Purchaser a copyright security agreement, patent security agreement and/or trademark security agreement, each in form and substance acceptable to the Purchaser, and all other documents, instruments and other items as may be reasonably necessary for such agreements to be filed with the U.S. Copyright Office and the U.S. Patent and Trademark Office, as applicable.

(g) In the event any Grantor acquires or becomes entitled to any new or additional Federal Registration Collateral consisting of Intellectual Property, or rights thereto, such Grantor shall give Purchaser prompt written notice thereof (in any event, not later than five (5) days after such acquisition or entitlement), and shall amend (and hereby so authorizes Purchaser to amend) the schedules to the respective security agreements or enter into new or additional security agreements to include any such new or additional Intellectual Property.

(h) Each Grantor shall cause all officers, employees and consultants of such Grantor who have access to proprietary information and develop, invent, program or design any Intellectual Property to execute and deliver to such Grantor an agreement regarding the protection of proprietary information, and the assignment to or ownership by such Grantor of all Intellectual Property arising from the services performed for such Grantor by such Persons.

(i) No Grantor shall abandon any material right to file an Intellectual Property application nor shall any Grantor abandon any material pending Intellectual Property application, or registered Intellectual Property, without the prior written consent of the Purchaser

(j) Each Grantor agrees to maintain the quality of any and all products in connection with which the Trademarks are used, consistent with commercially reasonable business practices.

(k) For the sole purpose of enabling Purchaser to exercise its rights and remedies under this Agreement, and solely to the extent necessary to exercise such rights and remedies and for no other purposes, each Grantor hereby grants to Purchaser a nonexclusive license to use, license or sublicense any Intellectual Property now owned or hereafter acquired by such Grantor and constituting Collateral, effective upon the occurrence and during the continuance of any Event of Default. This right and assignment shall inure to the benefit of Purchaser and its successors, assigns and transferees, whether by voluntary conveyance, operation of law, assignment, transfer, foreclosure, deed in lieu of foreclosure or otherwise. Such license is granted free of charge, without requirement that any monetary payment whatsoever including any royalty or license fee, be made to any Grantor or any other Person by Purchaser or any other Person.

SECTION 4.10. Investment Property; Partnership/LLC Interests.

(a) Without the prior written consent of the Purchaser, no Grantor shall (i) vote to enable, or take any other action to permit, any applicable Issuer to issue any Investment Property or Partnership/LLC Interests, except for such additional Investment Property or Partnership/LLC Interests that will be subject to the Security Interest granted herein in favor of the Purchaser or (ii) enter into any agreement or undertaking restricting the right or ability of such Grantor, the Purchaser or any other Holder to sell, assign or transfer any Investment Property or Partnership/LLC Interests or Proceeds thereof. Such Grantor will take all commercially reasonable actions to defend such Security Interest of the Purchaser in and to any Investment Property and Partnership/LLC Interests against the claims and demands of all Persons whomsoever.

(b) Except in connection with the Merger, if such Grantor shall become entitled to receive or shall receive (i) any Certificated Securities (including, without limitation, any certificate representing a dividend or distribution paid in equity or a distribution in connection with any reclassification, increase or reduction of capital or any certificate issued in connection with any reorganization), option or rights in respect of the ownership interests of any Issuer, whether in addition to, in substitution of, as a conversion of, or in exchange for, any Investment Property, or otherwise in respect thereof, or (ii) any sums paid upon or in respect of any Investment Property upon the liquidation or dissolution of any Issuer, such Grantor shall accept the same as the agent of the Purchaser and the other Holders, hold the same in trust for the Purchaser and the other Holders, segregated from other funds of such Grantor, and promptly deliver the same to the Purchaser in accordance with the terms hereof.

SECTION 4.11. Equipment.

Except as permitted by the Purchase Agreement, such Grantor will maintain each item of Equipment in good working order and condition (reasonable wear and tear and obsolescence excepted).

SECTION 4.12. Vehicles.

To the extent requested by the Purchaser, the Grantors agree to provide to the Purchaser a revised and updated Schedule 3.14 on an annual basis or more frequent basis as reasonably requested. Upon the request of the Purchaser upon the occurrence and during the continuance of an Event of Default, all applications for certificates of title or ownership indicating the Purchaser's first priority Lien on the Vehicle (subject to any Permitted Liens) covered by such certificate, and any other necessary documentation, shall be filed in each office in each jurisdiction which the Purchaser shall deem reasonably advisable to perfect its Liens on the Vehicles.

SECTION 4.13. Further Assurances.

Upon the request of the Purchaser and at the sole expense of such Grantor, such Grantor will promptly and duly execute and deliver, and have recorded, such further instruments and documents and take such further actions as the Purchaser may request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted, including, without limitation, (a) the assignment of any material Contractual Obligation, and (b) all applications, certificates, instruments, registration

statements, and all other documents and papers the Purchaser may request and as may be required by law in connection with the obtaining of any consent, approval, registration, qualification, or authorization of any Person deemed necessary or appropriate for the effective exercise of any rights under this Agreement.

SECTION 4.14. Commercial Tort Claims.

Each Grantor shall provide Purchaser with written notice of all commercial tort claims promptly, but in any event within three (3) Business Days, following the occurrence of any events giving rise to any such claim(s) (regardless of whether legal proceedings have yet been commenced), such notice to contain a brief description of the claim(s), the events out of which such claim(s) arose and the parties against which such claims may be asserted and, if applicable in any case where legal proceedings regarding such claim(s) have been commenced, the case title together with the applicable court and docket number. Upon delivery of each such notice, such Grantor shall be deemed to thereby grant to Purchaser a security interest in and lien on such commercial tort claims described therein and all proceeds thereof, and Grantor shall deliver to the Purchaser a revised Schedule 3.8 consistent with such notice and description.

ARTICLE 5 REMEDIAL PROVISIONS

SECTION 5.1. General Remedies.

If an Event of Default shall occur and be continuing, the Purchaser may exercise, in addition to all other rights and remedies granted to them in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Obligations, all rights and remedies of a secured party under the UCC or any other Requirements of Law. Without limiting the generality of the foregoing, the Purchaser, without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon any Grantor or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances, forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may, subject to the approval of the Required Holders, forthwith sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Purchaser or any other Holder or elsewhere upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk. The Purchaser may disclaim all warranties in connection with any sale or other disposition of the Collateral, including, without limitation, all warranties of title, possession, quiet enjoyment and the like. The Purchaser shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in any Grantor, which right or equity is hereby waived and released. Each Grantor further agrees that, during the existence and continuance of an Event of Default, and at the Purchaser's request, to assemble the Collateral and make it available to the Purchaser at places which the Purchaser shall select, whether at such Grantor's premises or elsewhere. To the extent permitted by any Requirements of Law, such Grantor waives all claims, damages and demands it may acquire against the Purchaser or any other Holder arising out of the exercise by them of any rights hereunder except to the extent any such claims, damages, or demands result solely from the gross negligence or willful misconduct of the Purchaser or any Holder, in each case against whom such claim is asserted. If any notice of a proposed sale or other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least ten (10) days before such sale or other disposition.

SECTION 5.2. Voting Rights.

Subject to the remaining provisions of this Section 5.2, each of the Grantors shall have the right to vote all or any portion of its pledged Investment Property and Partnership/LLC Interests on all limited liability company or corporate questions for all purposes not inconsistent with the terms of this Agreement or the other Note Documents. To that end, if the Purchaser transfers all or any portion of the pledged Collateral into its name or the name of its nominee, to the extent authorized to do so under this Agreement or any of the other Note Documents, the Purchaser shall, upon the request of such Grantor, unless an Event of Default exists, execute and deliver or cause to be executed and delivered to such Grantor, proxies with respect to the pledged Collateral pledged by such Grantor. Each of the Grantors hereby grants to the Purchaser an irrevocable proxy such that from and after written notice to such Grantor, after the occurrence and during the continuance of an Event of Default, of an intent to exercise such rights, the Purchaser shall be entitled to exercise all voting powers pertaining to such Grantor's pledged Collateral at all times during the existence of an Event of Default, including the power to call and attend all meetings of the shareholders or members of the applicable Issuer to be held from time to time with full power to act and vote in the name, place and stead of such Grantor (whether or not the pledged Investment Property and Partnership/LLC Interests shall have been transferred into its name or the name of its nominee or nominees), give all consents, waivers and ratifications in respect

of the pledged Collateral and otherwise act with respect thereto as though it were the owner thereof, and any and all proxies theretofore executed by the Grantors shall terminate and thereafter be null and void and of no effect whatsoever.

SECTION 5.3. Specific Remedies.

(a) The Purchaser hereby authorizes each Grantor to collect such Grantor's Accounts; provided, however, that, the Purchaser may curtail or terminate such authority at any time after the occurrence and during the continuance of an Event of Default.

(b) Upon the occurrence and during the continuance of an Event of Default:

(i) the Purchaser may communicate with Account Debtors of any Account subject to a Security Interest and upon the request of the Purchaser, each Grantor shall notify (such notice to be in form and substance satisfactory to the Purchaser) its Account Debtors and parties to the material Contractual Obligations subject to a Security Interest that such Accounts and material Contractual Obligations have been assigned to the Purchaser;

19

(ii) each Grantor shall forward to the Purchaser, on the last Business Day of each week, deposit slips related to all cash, money, checks or any other similar items of payment received by the Grantor during such week, and, if requested by the Purchaser, copies of such checks or any other similar items of payment, together with a statement showing the application of all payments on the Collateral during such week and a collection report with regard thereto, in form and substance reasonably satisfactory to the Purchaser;

(iii) whenever any Grantor shall receive any cash, money, checks or any other similar items of payment relating to any Collateral (including any Proceeds of any Collateral), subject to the terms of any Permitted Liens, such Grantor shall hold such cash, money, checks or any other similar items of payment in trust for the Purchaser as property of the Purchaser and the other Holders, separate from the other funds of such Grantor, and the Purchaser shall have the right to transfer or direct the transfer of the balance of each Deposit Account;

(iv) the Purchaser shall have the right to receive any and all cash dividends, payments or distributions made in respect of any Investment Property or Partnership/LLC Interests or other Proceeds paid in respect of any Investment Property or Partnership/LLC Interests, and any or all of any Investment Property or Partnership/LLC Interests shall be registered in the name of the Purchaser or its nominee, and the Purchaser or its nominee may exercise (A) all voting, corporate and other rights pertaining to such Investment Property or Partnership/LLC Interests at any meeting of shareholders, partners or members of the relevant Issuers or otherwise and (B) any and all rights of conversion, exchange and subscription and any other rights, privileges or options pertaining to such Investment Property or Partnership/LLC Interests as if it were the absolute owner thereof (including, without limitation, the right to exchange at its discretion any and all of the Investment Property or Partnership/LLC Interests upon the merger, consolidation, reorganization, recapitalization or other fundamental change in the corporate, partnership or limited liability company structure of any Issuer or upon the exercise by any Grantor or the Purchaser of any right, privilege or option pertaining to such Investment Property or Partnership/LLC Interests, and in connection therewith, the right to deposit and deliver any and all of the Investment Property or Partnership/LLC Interests with any committee, depository, transfer agent, registrar or other designated agency upon such terms and conditions as the Purchaser may determine), all without liability except to account for property actually received by it; but the Purchaser shall have no duty to any Grantor to exercise any such right, privilege or option and the Purchaser and the other Holders shall not be responsible for any failure to do so or delay in so doing. In furtherance thereof, each Grantor hereby authorizes and instructs each Issuer with respect to any Collateral consisting of Investment Property or Partnership/LLC Interests to (i) comply with any instruction received by it from the Purchaser in writing that (A) states that an Event of Default has occurred and is continuing and (B) is otherwise in accordance with the terms of this Agreement, without any other or further instructions from such Grantor, and each Grantor agrees that each Issuer shall be fully protected in so complying following receipt of such notice and prior to notice that such Event of Default is no longer continuing, and (ii) except as otherwise expressly permitted hereby, pay any dividends, distributions or other payments with respect to any Investment Property or Partnership/LLC Interests directly to the Purchaser; and

20

(v) subject to the approval of the Required Holders, the Purchaser shall be entitled to (but shall not be required to): (A) proceed to perform any and all obligations of the applicable Grantor under any material Contractual Obligation and

exercise all rights of such Grantor thereunder as fully as such Grantor itself could, (B) do all other acts which the Purchaser may deem necessary or proper to protect its Security Interest granted hereunder, provided such acts are not inconsistent with or in violation of the terms of the Purchase Agreement, of the other Note Documents or any Requirements of Law, and (C) sell, assign or otherwise transfer any material Contractual Obligation in accordance with the Purchase Agreement, the other Note Documents and any Requirements of Law, subject, however, to the prior approval of each other party to such material Contractual Obligation, to the extent required under such material Contractual Obligation.

(c) Unless an Event of Default shall have occurred and be continuing and the Purchaser shall have given notice to the relevant Grantor of the Purchaser's intent to exercise its corresponding rights pursuant to Sections 5.1, 5.2 and 5.3(b), each Grantor shall be permitted to receive all cash dividends, payments or other distributions made in respect of any Investment Property and any Partnership/LLC Interests, in each case paid in the normal course of business of the relevant Issuer and consistent with past practice, to the extent permitted in the Purchase Agreement and the other Note Documents, and to exercise all voting and other corporate, partnership and limited liability company rights with respect to any Investment Property and any Partnership/LLC Interests; provided, however, that, no vote shall be cast or other corporate, partnership and limited liability company right exercised or other action taken which, in the Purchaser's reasonable judgment, would impair the Collateral in any material respect or which would result in a Default or Event of Default under any provision of the Purchase Agreement, this Agreement or any other Note Document.

(d) Assignment of Claims. Each Grantor shall execute and deliver an assignment of claims agreement, in form and substance reasonable satisfactory to the Purchaser, with respect to all litigation claims held by such Grantor (including all Commercial Tort Claims), which shall be amended together with any amendment pursuant to Section 4.15.

SECTION 5.4. Application of Proceeds.

If an Event of Default shall have occurred and be continuing, at any time at the Purchaser's election, the Purchaser may, subject to the approval of the Required Holders, apply all or any part of the Collateral or any Proceeds of the Collateral in payment in whole or in part of the Obligations (after deducting all reasonable costs and expenses of every kind incurred in connection therewith or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Purchaser and the other Holders hereunder, including, without limitation, reasonable documented attorneys' fees and disbursements) in accordance with the Purchase Agreement. Only after (i) the payment by the Purchaser of any other amount required by any provision of law, including, without limitation, Section 9-610 and Section 9-615 of the UCC and (ii) the payment in full in cash of the Obligations, shall the Purchaser account for the surplus, if any, to any Grantor, or to whomever may be lawfully entitled to receive the same (if such Person is not a Grantor).

SECTION 5.5. Waiver, Deficiency.

Each Grantor hereby waives, to the extent permitted by any Requirements of Law, all rights of redemption, appraisalment, valuation, stay, extension or moratorium now or hereafter in force under any Requirements of Law in order to prevent or delay the enforcement of this Agreement or the absolute sale of the Collateral or any portion thereof. Each Grantor shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay its Obligations and the reasonable fees and disbursements of any attorneys employed by the Purchaser to collect such deficiency.

ARTICLE 6 THE PURCHASER

SECTION 6.1. Purchaser's Appointment as Attorney-In-Fact.

(a) Each Grantor hereby irrevocably constitutes and appoints the Purchaser and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Grantor and in the name of such Grantor or in its own name, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Agreement in accordance with this Agreement, and, without limiting the generality of the foregoing, each Grantor hereby gives the Purchaser the power and right, on behalf of such Grantor, without notice to or assent by such Grantor, to do any or all of the following upon the occurrence and during the continuation of an Event of Default, unless prohibited by any Requirement of Law:

(i) in the name of such Grantor or its own name, or otherwise, take possession of and indorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due under any Account or material Contractual Obligation

subject to a Security Interest or with respect to any other Collateral and file any claim or take any other action or proceeding in any court of law or equity or otherwise deemed necessary and appropriate by the Purchaser for the purpose of collecting any and all such moneys due under any Account or material Contractual Obligation subject to a Security Interest or with respect to any other Collateral whenever payable;

(ii) in the case of any Intellectual Property, execute and deliver, and have recorded, any and all agreements, instruments, documents and papers as the Purchaser may request to evidence the Purchaser's security interest in such Grantor's Intellectual Property and the goodwill and General Intangibles of such Grantor relating thereto or represented thereby;

(iii) pay or discharge taxes and Liens levied or placed on or threatened against the Collateral, effect any repairs or any insurance called for by the terms of this Agreement and pay all or any part of the premiums therefor and the costs thereof;

(iv) execute, in connection with any sale provided for in this Agreement, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral; and

(v) (A) direct any party liable for any payment under any of the Collateral to make payment of any and all moneys due or to become due thereunder directly to the Purchaser or as the Purchaser shall direct; (B) ask or demand for, collect, and receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Collateral; (C) sign and indorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, notices and other documents in connection with any of the Collateral; (D) commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any portion thereof and to enforce any other right in respect of any Collateral; (E) defend any suit, action or proceeding brought against such Grantor with respect to any Collateral; (F) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the Purchaser may deem appropriate; (G) license or assign any Copyright, Patent or Trademark (along with the goodwill of the business to which any such Copyright, Patent or Trademark pertains), for such term or terms, on such conditions, and in such manner, as the Purchaser shall in its sole discretion determine; and (H) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Purchaser were the absolute owner thereof for all purposes, and do, at the Purchaser's option and such Grantor's expense, at any time, or from time to time, all acts and things which the Purchaser deems necessary to protect, preserve or realize upon the Collateral and the Purchaser's and the other Holders' Security Interests therein and to effect the intent of this Agreement, all as fully and effectively as such Grantor might do.

(b) If any Grantor fails to perform or comply with any of its agreements contained in this Agreement, the Purchaser, at its option, but without any obligation so to do, may perform or comply, or otherwise cause performance or compliance, with such agreement in accordance with the provisions of Section 6.1(a).

(c) The reasonable expenses of the Purchaser or any other Holder incurred in connection with actions taken pursuant to the terms of this Agreement, together with interest thereon at a rate per annum equal to the highest rate per annum at which interest would then be payable on any category of past due Obligations under the Purchase Agreement, from, and including, the date of payment by the Purchaser or such Holder to, and including, the date reimbursed by the relevant Grantor, shall be payable by such Grantor to the Purchaser or such Holder on demand.

(d) Each Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof in accordance with Section 6.1(a). All powers, authorizations and agencies contained in this Agreement are coupled with an interest and are irrevocable until this Agreement is terminated and the Security Interests created hereby are released.

SECTION 6.2. Duty of Purchaser With Respect to the Collateral.

The Purchaser's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under Section 9-207 of the UCC or otherwise, shall be to deal with it in the same manner as the Purchaser deals with similar property for its own account. Neither the Purchaser, any Holder nor any of their respective officers, directors, employees or agents shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any Grantor or any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof, except for their own gross negligence or willful misconduct. The powers conferred on the Purchaser and the Holders hereunder are solely to protect the Purchaser's and the other Holders' interests in the Collateral and shall not

impose any duty upon the Purchaser or any Holder to exercise any such powers. The Purchaser and the Holders shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their officers, directors, employees or agents shall be responsible to any Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct.

SECTION 6.3. Authority of Purchaser.

Each Grantor acknowledges that the rights and responsibilities of the Purchaser under this Agreement with respect to any action taken by the Purchaser or the exercise or non-exercise by the Purchaser of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Agreement shall, as between the Purchaser and the Holders, be governed by the Purchase Agreement and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Purchaser and the Grantors, the Purchaser shall be conclusively presumed to have full and valid authority so to act or refrain from acting, and no Grantor shall be under any obligation, or entitlement to make any inquiry respecting such authority.

**ARTICLE 7
MISCELLANEOUS**

SECTION 7.1. Amendments in Writing.

None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except in accordance with Section 13.4 of the Purchase Agreement.

SECTION 7.2. Notices.

All notices, requests and demands to or upon the Purchaser or any Grantor hereunder shall be effected in the manner provided for in Section 13.2 of the Purchase Agreement.

SECTION 7.3. No Waiver by Course of Conduct, Cumulative Remedies.

Neither the Purchaser nor any Holder shall by any act (except by a written instrument pursuant to Section 7.1), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or Event of Default. No failure to exercise, nor any delay in exercising on the part of the Purchaser or any Holder, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Purchaser or any Holder of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Purchaser or such Holder would otherwise have on any future occasion. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

SECTION 7.4. Enforcement Expenses, Indemnification.

(a) The Grantors, jointly and severally, shall pay all reasonable expenses incurred by the Purchaser to the extent any Loan Party would be required to do so pursuant to Section 13.12 of the Purchase Agreement.

(b) The Grantors, jointly and severally, shall indemnify and hold harmless each Indemnified Party to the extent any Loan Party would be required to do so pursuant to Article 12 of the Purchase Agreement.

(c) To the fullest extent permitted by Requirements of Law, each Grantor shall not assert, and hereby waives, any claim against any Indemnified Party, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Note Document or any agreement or instrument contemplated hereby or the transactions contemplated hereby or thereby. No Indemnified Party referred to in this Section 7.4 shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Note Documents or the transactions contemplated hereby or thereby.

(d) Notwithstanding the termination of this Agreement, the indemnities to which the Purchaser and the other Holders are entitled under the provisions of this Section 7.4 and any other provision of this Agreement and the other Note Documents shall continue in full force and effect and shall protect the Purchaser and the other Holders against events arising after termination of this Agreement as well as before.

(e) All amounts due under this Section 7.4 shall be payable promptly after demand therefor.

SECTION 7.5. Set-Off.

Upon the occurrence and during the continuation of an Event of Default, in addition to all other rights and remedies that may then be available to any Holder of the Note, each such Holder is hereby authorized at any time and from time to time, without prior notice to any Grantor (any such notice being expressly waived by each Grantor) to setoff and apply any and all indebtedness at any time owing by such Holder to or for the credit or the account of any Grantor against all amounts which may be owed to such Holder by such Grantor in connection with this Agreement or any other Note Document to the same extent such Holder would be permitted to setoff and apply indebtedness owing by such Holder to or for the credit of any Loan Party pursuant to Section 11.3 of the Purchase Agreement.

SECTION 7.6. Successors and Assigns.

This Agreement shall be binding upon the successors and assigns of each Grantor and shall inure to the benefit of each Grantor (and shall bind all Persons who become bound as a Grantor to this Agreement), the Purchaser and the other Holders and their respective successors and assigns; provided, however, that no Grantor may assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of the Required Holders (given in accordance with Section 7.1). The Purchaser may, subject to the provisions of the Purchase Agreement, assign, transfer or delegate any of its rights or obligations under this Agreement at any time.

SECTION 7.7. Signatures; Counterparts.

Facsimile or other electronic transmissions (including via e-mailed .pdf) of any executed original document and/or retransmission of any executed facsimile or other electronic transmission shall be deemed to be the same as the delivery of an executed original. At the request of any party hereto, the other parties hereto shall confirm facsimile or other electronic transmissions by executing duplicate original documents and delivering the same to the requesting party or parties. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

SECTION 7.8. Severability.

If any one or more of the provisions contained in this Agreement, or the application thereof in any circumstance, is held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions hereof shall not be in any way impaired, unless the provisions held invalid, illegal or unenforceable shall substantially impair the benefits of the remaining provisions of this Agreement. The parties hereto further agree to replace such invalid, illegal or unenforceable provision of this Agreement with a valid, legal and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid, illegal or unenforceable provision.

SECTION 7.9. Heading.

The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

SECTION 7.10. Entire Agreement.

This Agreement, together with the exhibits and schedules hereto and the other Note Documents, is intended by the parties as a final expression of their agreement and intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto in respect of the subject matter contained herein and therein. There are no restrictions, promises, warranties or undertakings,

other than those set forth or referred to herein or therein. This Agreement, together with the exhibits and schedules hereto, and the other Note Documents supersede all prior agreements and understandings between the parties with respect to such subject matter.

SECTION 7.11. Governing Law.

THIS AGREEMENT SHALL BE GOVERNED BY, CONSTRUED IN ACCORDANCE WITH, AND ENFORCED UNDER, THE LAWS OF THE STATE OF NEVADA, WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAW OF SUCH STATE.

SECTION 7.12. JURISDICTION, JURY TRIAL WAIVER, ETC.

(a) EACH PARTY TO THIS AGREEMENT HEREBY IRREVOCABLY AGREES THAT THE ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE PURCHASED SECURITIES, ANY OTHER NOTE DOCUMENTS OR ANY OF THE AGREEMENTS OR TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK AND HEREBY EXPRESSLY SUBMITS TO THE PERSONAL JURISDICTION AND VENUE OF SUCH COURTS FOR THE PURPOSES THEREOF AND EXPRESSLY WAIVES ANY CLAIM OF IMPROPER VENUE AND ANY CLAIM THAT ANY SUCH COURT IS AN INCONVENIENT FORUM. EACH PARTY HEREBY IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO ITS ADDRESS SET FORTH IN SECTION 13.8 OF THE PURCHASE AGREEMENT, SUCH SERVICE TO BECOME EFFECTIVE TEN (10) DAYS AFTER SUCH MAILING.

(b) EACH PARTY TO THIS AGREEMENT HEREBY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, THE OTHER NOTE DOCUMENTS, OR THE PURCHASED SECURITIES, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THEREUNDER OR THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS. EACH GRANTOR (i) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY TO THIS AGREEMENT (OR ANY HOLDER) HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT ANY SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS AND (ii) ACKNOWLEDGES THAT OTHER PARTIES TO THIS AGREEMENT AND THE OTHER NOTE DOCUMENTS HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT, AND THE OTHER NOTE DOCUMENTS TO WHICH THEY ARE PARTY BY, AMONG OTHER THINGS, THE WAIVERS AND CERTIFICATIONS CONTAINED HEREIN.

SECTION 7.13. Acknowledgements.

(a) Each Grantor hereby acknowledges that:

(i) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Note Documents to which it is a party;

(ii) it has received a copy of the Purchase Agreement and has reviewed and understands the same;

(iii) neither the Purchaser nor any other Holder has any fiduciary relationship with or duty to such Grantor arising out of or in connection with this Agreement or any of the other Note Documents, and the relationship between such Grantor, on the one hand, and the Purchaser and the other Holders, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(iv) no joint venture is created hereby or by the other Note Documents or otherwise exists by virtue of the transactions contemplated hereby or thereby among the Holders or among such Grantor and the Holders.

(b) Each Grantor party to this Agreement acknowledges receipt of a copy of this Agreement and agrees to be bound hereby and to comply with the terms hereof insofar as such terms are applicable to it. Each Grantor agrees to provide such notices to the Purchaser as may be necessary to give full effect to the provisions of this Agreement.

SECTION 7.14. Additional Grantors.

Each Subsidiary of any Grantor that is required by the Purchaser in writing to become a party to this Agreement shall become a Grantor for all purposes of this Agreement upon execution and delivery by such Subsidiary of a joinder agreement in form and substance satisfactory to the Purchaser.

SECTION 7.15. Releases.

(a) At such time as the Obligations shall have been paid in full in cash and the Purchase Agreement has been terminated, the Collateral shall be released from the Liens created hereby, and this Agreement and all obligations (other than those expressly stated to survive such termination) of the Purchaser, the other Holders and each Grantor hereunder shall terminate, all without delivery of any instrument or performance of any act by any party, and all rights to the Collateral shall revert to the Grantors. At the request and sole expense of any Grantor following any such termination, the Purchaser shall deliver to such Grantor any Collateral held by the Purchaser hereunder, and, at the request of any Grantor, execute and deliver to such Grantor such documents as such Grantor shall reasonably request to evidence such termination.

(b) If any of the Collateral shall be sold, transferred or otherwise disposed of by any Grantor in a transaction permitted by the Purchase Agreement or otherwise permitted by the Purchaser, then the Purchaser, at the request and sole expense of such Grantor, shall execute and deliver to such Grantor all releases or other documents reasonably necessary or desirable to evidence the release of such Liens created hereby on such Collateral. In the event that all the Capital Stock of any Grantor shall be sold, transferred or otherwise disposed of in a transaction permitted by the Purchase Agreement, then, at the request of the Borrower and at the expense of such Grantor, such Grantor shall be released from its obligations hereunder; provided, however, that the Loan Parties shall have delivered to the Purchaser, at least ten (10) Business Days prior to the date of the proposed release, a written request for release identifying the relevant Grantor and a description of the sale or other disposition in reasonable detail, including the price thereof and any expenses in connection therewith, together with a certification by such Grantor stating that such transaction is in compliance with the Purchase Agreement and the other Note Documents.

(c) In furtherance of this Section 7.15, the Purchaser shall immediately release any Lien covering any asset that has been disposed of in accordance with the provisions of the Note Documents. In connection therewith, the Purchaser agrees to execute and deliver to any Grantor upon such release such UCC termination statements or amendments, any certificates for terminating the Liens, and such other documentation as may be necessary or desirable to effect the termination and release of the Liens on the Collateral, including executing short form releases of security interests over any Intellectual Property in a form approved by Grantor in its reasonable discretion, suitable for filing in the USPTO, Copyright Office, and any other applicable patent, copyright, or trademark office or agency.

SECTION 7.16. All Powers Coupled With Interest.

All powers of attorney and other authorizations granted to the Purchaser and any Persons designated by the Purchaser to any provisions of this Agreement or any of the other Note Documents shall be deemed coupled with an interest and shall be irrevocable so long as any of the Obligations remain unpaid or unsatisfied or the Purchase Agreement has not been terminated.

IN WITNESS WHEREOF, the parties hereto have caused this Security Agreement to be executed under seal by their duly authorized officers, all as of the day and year first written above.

Borrower:

Digital Ally, Inc.

By: _____
Name:
Title:

Kustom Entertainment, Inc.

By: _____
Name:
Title:

[signature pages continue]

28

Purchaser:

MOSH MAN LLC

By: _____

Name:

Title:

[Security Agreement]

29

EXHIBIT A

Financing Statements

30

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the “**Agreement**”) is made and entered into this 1st day of March, 2024 (the “**Effective Date**”), by and between JC Entertainment, LLC, a Kansas limited liability company (**Seller**), and Kustom 440, Inc., a Nevada corporation (“**Buyer**” or “**Kustom**”). Seller and Buyer are each a **Party**, and collectively, the **Parties** to this Agreement.

RECITALS

WHEREAS, Seller produces, plans, stages, manages, and coordinates a music entertainment event known as “**Country Stampede**,” is party to certain contracts to host and operate the 2024 Country Stampede as shown in Schedule 8(r), and owns all intellectual property arising out of and relating to Country Stampede (“**Country Stampede Intellectual Property**”). The Assumed Contracts (defined below) and the Country Stampede Intellectual Property are collectively referred to as the “**Purchased Assets**,” as further defined in Section 1.1); and

WHEREAS, Buyer produces, plans, stages, manages, and coordinates a variety of entertainment events, including music festivals, and desires to purchase from Seller, and Seller desires to sell to Buyer, the Purchased Assets on the terms and subject to the conditions set forth herein;

NOW, THEREFORE, in consideration of the recitals above and the mutual covenants and promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Sale and Purchase of the Purchased Assets.

1.1 *Definition of Country Stampede Intellectual Property and Assignment of Same:* Subject to the terms and conditions of this Agreement, on the **Closing Date** (as defined in Article 8 hereof), Seller will sell, convey, assign, transfer and deliver to the Buyer, and Buyer will purchase, acquire, and accept from the Seller, free and clear of all Encumbrances, all of the Seller’s right, title and interest in and to all of the **Purchased Assets**. As used in this Agreement, the term “**Country Stampede Intellectual Property**” includes, without limitation, the following:

- (a) all inventions (whether patentable or not patentable and whether or not reduced to practice), technology, know-how, improvements, and developments utilized by, encompassed by, relying upon, used in, or otherwise related to or associated with (directly or indirectly) with Country Stampede for any jurisdiction throughout the world;
 - (b) the trademark(s) listed in Exhibit A, including all goodwill, applications, and registrations associated therewith and the right to sue for past infringement;
 - (c) all trademarks and service marks (whether registered or unregistered), trade dress, logos, slogans, trade names, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith used for or in conjunction with Country Stampede, including, without limitation, the trademark “Country Stampede,” and including the right to sue for past infringement;
-
- 1
-
- (d) all copyrightable works (whether registered or unregistered), all copyrights, and all applications, registrations, and renewals utilized by, encompassed by, relying upon, used in, or otherwise related to or associated with (directly or indirectly) Country Stampede for any jurisdiction throughout the world, specifically including, without limitation, all source code, object code, data, databases, flowcharts, block diagrams, user manuals, developer notes, and any other information or documents related to any software associated with Country Stampede, including the right to sue for past infringement;
 - (e) all mask works arising from, relating to, or used in connection with Country Stampede, and all applications, registrations, and renewals in connection therewith, including the right to sue for past infringement;

- (f) Records and data generated by, used by, relied upon, stored by, or otherwise arising out of or used in connection with Country Stampede, including without limitation any third-party data, such as data associated solely with customers or attendees of Country Stampede.
- (g) the Internet domain names listed on Exhibit A, and any domain names (whether registered or unregistered) using the “Country Stampede” trademark;
- (h) the social media handles and associated profiles (including without limitation all data, feed history, and other information associated with or maintained by the profile) listed in Exhibit A;
- (i) all confidential business information (including designs and drawings associated with the trademarks, financial records that are necessary for the ongoing operations of Country Stampede, customer information, vendor and supplier lists, pricing and cost information, and business and marketing plans and proposals) associated with Country Stampede;
- (j) all advertising and promotional materials associated with Country Stampede, regardless of form or medium;
- (k) all of Seller’s claims, causes of action, and rights of recovery regarding Country Stampede;
- (l) all documents and information in any form whatsoever necessary for creating, developing, organizing, improving upon, selling, or otherwise enjoying the benefit and functionality of Country Stampede, excluding any financial information from Seller, its members, or employees not directly and solely relating to Country Stampede;
- (m) the rights, obligations, and interest in all of the Assumed Contracts identified on Exhibit A;
- (n) all other proprietary rights in Country Stampede business not otherwise listed above.

The Purchased Assets shall not include any of the Excluded Assets (as defined in Article 2 hereof).

1.2 *Transfer of the Country Stampede Intellectual Property to Buyer*: Seller agrees to effectuate the following transfer of the Country Stampede Intellectual Property:

- (a) all trademark(s) listed in Exhibit A;
- (b) for all domain names and social media profiles listed in Exhibit A, execute commensurate with Closing the Domain Name Transfer Agreement listed as Exhibit B;
- (c) for all social media accounts and handles, execute commensurate with closing the Social Media Transfer Agreement set forth in Exhibit C;
- (d) commensurate with Closing, provide all requested information set forth in Exhibit A related to the acquired domain names and social media accounts and handles. To the extent Seller does not know an item of requested information, Seller agrees to provide any and all information necessary and take all necessary steps for Buyer to take over or otherwise control an account associated with the respective domain name or social media profile; and
- (e) commensurate with Closing, provide access to a secure repository storing all source code, documents, information, and data associated with Country Stampede, including without limitation, all documents and information identified in Sections 1.1(d), 1.1(f), 1.1(j), and 1.1(m). For the source code associated with Country Stampede, Seller expressly agrees to provide an editable copy of the source code in a native format.

1.3 *Effectuating Assignments*: Seller shall execute any instrument that may be reasonably necessary or desirable to accomplish the purposes of the assignments of the Country Stampede Intellectual Property. In addition to the requirement of Section 1.2, Seller agrees to timely execute any documents necessary for Buyer to effectuate registration of any Country Stampede Intellectual Property or the assignments of this Agreement.

1.4 *Waiver of Moral Rights*: Seller waives any moral rights, as defined by U.S. Copyright Statutes, in and to any Country Stampede Intellectual Property or Country Stampede, including without limitation any copyrightable works associated with Country Stampede (the “**Moral Rights Waiver**”). The Moral Rights Waiver includes, without limitation, a waiver regarding the right to the integrity of, to be associated with, to modify, to prevent the use of, and to restrain the publication of the Country Stampede Intellectual Property or Country Stampede, throughout the World. Seller agrees that anything Buyer or any affiliate may do with any Country Stampede Intellectual Property or Country Stampede does not and will not constitute any prejudice to Seller’s reputation.

1.5 *Goods*. Buyer is also purchasing certain physical equipment from Seller which are a part of the Purchased Assets. Buyer understands that unless Seller has made a warranty or representation in Section 8 below, or elsewhere in this Agreement, Seller makes no representations or warranties as to the Purchased Assets. Any hardware and equipment (“**Goods**”), such as tents and lighting, that Seller conveys to Buyer hereunder are being provided **AS IS WHERE IS and WITH ALL FAULTS** and that Seller expressly disclaims any and all other warranties, whether express or implied, with regard to those Goods.

3

2. Excluded Assets. Notwithstanding anything herein to the contrary, the Purchased Assets shall not include any of the following assets, properties and rights of Seller (collectively, the “**Excluded Assets**”):

- (a) Cash, bank accounts, securities, or any other assets of Seller, except for assets associated with Country Stampede and the Country Stampede Intellectual Property;
- (b) The logo, tradenames, trademarks, service marks, corporate names, and Internet domain names containing or consisting of the words JC Entertainment and not specifically relating to the Country Stampede Intellectual Property;
- (c) All Contracts, leases, licenses and other agreements to which Seller is a party unless specifically assumed herein with regard to Purchased Assets;
- (d) All inventories, hardware, supplies, work in process, and finished goods not relating to Purchased Assets;
- (e) The financial records of Seller, except as expressly included herein pertaining to the Purchased Assets;
- (f) All hardware, software, intellectual property, and other business property of Seller exclusively relating to JC Entertainment and not used exclusively in conjunction with the Purchased Assets, and any other property of Seller which is not utilized in connection with the Purchased Assets not specifically defined in Article 2, whether or not such property is reflected on Seller’s books and records;
- (g) The organizational documents of the Seller, including the minute books, ownership ledgers, and other constituent records relating to the organization of the Seller;
- (h) The name, logo, and any tradenames, trademarks, service marks, corporate names, and Internet domain names of any and all other assets of Christopher Payne, or any entity in which Christopher Payne is a member/shareholder/owner, that are not exclusively related to the Purchased Assets; and
- (i) Personal property, mementos, gifts, or the like given to any owner, officer, employee, or agent of JC Entertainment relating to the Purchased Assets, or any artist who performed over the years.
- (j) Contracts not assigned to Buyer, which will be cancelled by Seller, as set forth on Schedule 8(c).

4

3. Assumption of Liabilities. Except as expressly stated in this agreement, no obligations or liabilities of Seller of any kind are being assumed by Buyer, and the following liabilities of Seller are expressly excluded from assumption by Buyer pursuant to this Agreement, whether arising prior to, on, or after Closing:

- (a) All accounts payable and accrued payment obligations of Seller; and

- All liabilities, debts, losses, obligation, fines, penalties, and claims of any nature, whether accrued, liquidated, contingent, matured or unmatured, (collectively, “**Obligations**”), relating to legal actions, suppliers and vendors of
- (b) Seller, Seller’s distributors and resellers, corporate organization, Seller’s employees and employment matters (including wages, benefits, and payroll liabilities), environmental matters and all taxes Seller is required to pay under the laws of the United States, the State of Kansas, and every other jurisdiction in which Seller is required to pay taxes; and

3. **Purchase Price.** Subject to the terms and conditions of this Agreement, the aggregate amount to be paid by Buyer to purchase the Purchased Assets shall be the sum of FIVE HUNDRED FORTY TWO THOUSAND NINE HUNDRED FIFTY NINE and 15/100 DOLLARS (\$542,959.15) (the “**Purchase Price**”), payable as follows: the sum of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) shall be paid at Closing, with the remainder to be paid on or before thirty days from Closing. Seller shall be entitled to keep all non-refunded ticket sales for the 2024 Country Stampede made prior to Closing, as well as any other funds already paid to Seller including funds provided by advertisers or sponsors. Further, Buyer shall be obligated, to the extent a refund is sought after Closing, to provide such refund, if appropriate, to the customer requesting a refund, and shall indemnify and hold harmless Seller from any and all claims, liabilities, costs, suits, or the like relating to such refund request.

5. **Tax Matters.** Seller shall pay any and all taxes assessed against Seller arising out of the sale of the Purchased Assets to Buyer.

6. **Closing.** The closing (“**Closing**”) shall take place at 3:00 p.m. on Friday, March 1, 2024 (the “**Closing Date**”), at Kustom’s offices located at 14001 Marshall Drive, Lenexa, Kansas 66215, or at such other time and place as the parties shall mutually agree upon in writing. The Parties expressly agree that, if feasible, the Closing may occur remotely. At the Closing, Buyer shall deliver the Purchase Price to Seller, and Seller shall sell, transfer, assign and deliver all right, title and interest in and to the Purchased Assets to Buyer, free and clear of all liens, claims and encumbrances and otherwise in accordance with this Agreement pursuant to such instruments of transfer as Buyer may reasonably require.

7. Additional Agreements

- Training. Seller shall provide to Buyer’s personnel from time to time from and after the date this Agreement is executed and continuing for sixty (60) days following the Closing Date technical assistance and training with respect to Country Stampede and the Country Stampede Intellectual Property, including information relating to the production, plans, staging, management, and festival coordination relating to Country Stampede. Any reasonable out-of-pocket travel, food and lodging costs incurred by Seller in connection with such assistance will be paid by Buyer. Nothing in this Agreement shall require Seller or Seller’s officers, members, or employees, to disclose Seller’s financial data to comply with this provision.
- (a)

-
- Employees. Prior to or at the time of Closing, Seller shall terminate all of its employees associated with the Purchased Assets and, after Closing, Buyer may at its discretion re-employ one or more employees previously employed by Seller immediately prior to being terminated pursuant to this Agreement.
- (b)

- Sales and Use Taxes. Seller shall be responsible for and agrees to pay when due all sales and use taxes arising out of the transactions contemplated hereunder.
- (c)

- Further Assurances. Seller agrees that it will execute and deliver or cause to be executed and delivered from time to time such instruments, documents, agreements, assurances and consents, and take such other actions as Buyer reasonably may require to more effectively convey, transfer to and vest in Buyer ownership, and to put Buyer in possession, of the Purchased Assets, including, but not limited to, any intellectual property agreements and assignments. All such assignments, bills of sale and other instruments shall effectively transfer to Buyer full title to the Purchased Assets, free and clear of all Encumbrances, except as expressly set forth herein
- (d)

- Conditions and Best Efforts. The Parties will use their commercially reasonable best efforts to effectuate the transactions contemplated by this Agreement and to fulfill all the conditions of the obligations of each Party under this Agreement, and will do all legal acts and things as may be required to carry out any Party’s obligations under this Agreement and to consummate and complete this Agreement, including the obtaining of all necessary actions or nonactions, waivers, consents and approvals from Governmental Bodies and the making of all necessary registrations and filings (including filings with Governmental Bodies, if any). The Parties will use their commercially reasonable best efforts to take all legal steps as may be necessary to obtain an approval or waiver from, or to avoid an action or
- (e)

proceeding by any Governmental Body; to obtain all necessary consents, and approvals or waivers from Third Parties. Furthermore, the Parties will use their commercially reasonable best efforts to take all steps as may be necessary to, and to strictly comply with, the requirements of the Securities Act, SEC rules and regulations thereunder and applicable state law, and rules and regulations as they may apply to Buyer (“**NASDAQ Rules**”), as such NASDAQ Rules relate or apply to this Agreement, including all rules and requirements regarding audited financials and public announcements required by or under the aforementioned Laws.

- (f) Consents. Prior to the Closing Date, Seller will complete all actions and procedures, corporate and otherwise, and obtain all consents or other authorizations necessary or proper to authorize the transactions contemplated hereunder and to enable Seller to perform all of its obligations hereunder.

6

- (g) Non-Disclosure; Confidentiality.

(A) Except for any specific communication or disclosure to which the other Party has given its prior written consent, previously disclosed to the public, or which may be required by Law, and except for accountants, attorneys, a Party’s agents, or Parties involved in the transaction contemplated herein, each Party agrees that, except as provided herein, it shall not communicate or disclose to any other Person (a) the fact that discussions or negotiations are taking place concerning the acquisition of the Purchased Assets; or (b) any terms, conditions or other facts with respect to the possible acquisition of the Purchased Assets, including the status thereof.

(B) From the date hereof, each Party hereto and their respective Affiliates, shall for a period for three (3) years, from and after the earlier of: (i) the Closing Date (even if the Closing of the sale of Assets does not occur on such date for any reason whatsoever); or (ii) the date of any rescission or termination of this Agreement by any Party, pursuant to a right of termination under this Agreement; keep confidential and not, directly or indirectly, divulge to any Person or use for their own benefit, any Confidential Information of the other Parties. This provision shall not apply to, or protect from use or disclosure, information which (i) a Party can establish by competent documentation was known to it without restriction prior to disclosure by another Party; (ii) is or becomes a matter of public knowledge through no fault of the Party charged with maintaining the confidentiality of another Party’s Confidential Information; (iii) is rightfully received by a Party from a Third Party who has the lawful right to make such disclosure; (iv) was independently developed by a Party without use of the other Party’s Confidential Information, and such independent development can be established by competent documentation; or (v) is required by operation of law to be disclosed by a Party, provided, however, that such Party required to make a disclosure by operation of law gives reasonable notice of the intended disclosure and reasonable opportunity to challenge such legal requirement(s). In the event that any Party is requested or required to disclose any Confidential Information of any other Party, it shall notify such other Party of the request or requirement so that such other Party may seek an appropriate protective order or waive compliance with the provisions of this Section. The prohibitions against disclosure of any Confidential Information recited herewith shall be in addition to and not in lieu of, any rights or remedies that any Party may have available pursuant to the Laws of any jurisdiction or at common Law to prevent the disclosure of trade secrets or proprietary information and the enforcement by each Party of its rights and remedies pursuant to this Agreement shall not be construed as a waiver of any other rights or available remedies that it may possess in law or equity absent this Agreement. This Section shall survive Closing or any rescission or other termination of this Agreement.

If, in the event, the Country Stampede festival is not held for a period of fourteen months from the previous festival, the Parties’ obligations under this Section 7(g) shall terminate.

7

- (h) Brokers’ Fees. Neither Buyer nor Seller has employed or retained any broker, agent, finder or other party (“**Broker**”) or incurred any obligation for brokerage fees, finder’s fees or commissions (“**Brokers’ Fees**”) with respect to the transactions contemplated by this Agreement. Should any Brokers’ Fees be claimed in connection with the transactions contemplated herein or pursuant to any other agreements between a Party and a Third Party for brokerage services, the Party that retained the Broker shall be solely responsible for the payment of such fees.

- (i) Covenant Not to Compete. Except as provided by this Agreement, in order to ensure to Buyer the full benefits of the Purchased Assets, for three (3) years after the Closing Date or until the Country Stampede festival does not occur for a period of fourteen months, whichever occurs first, neither Seller nor Payne shall directly or indirectly:

assist or have an interest in (whether or not such interest is active and whether as owner, partner, investor, shareholder, officer, director or as any other type of principal whatever) any Person that is, or is about to become, directly or indirectly engaged in any business or activity (whether such enterprise is in operation or in the planning or development stage) that competes in any manner with Country Stampede, including the production, planning, staging, management, and/or coordination of music entertainment festivals or events (the “**Business**”);

- (ii) enter into the employment of or act as an independent contractor or agent for or advisor or consultant to, any Person that is or is about to become directly or indirectly engaged in, any business or activity (whether such enterprise is in operation or in the planning or development stage) that competes in any manner with Country Stampede or engages in the Business.

- (iii) Seller and Payne covenant, warranty, and confirm that (A) each is represented by counsel with respect to this Agreement, including Section 8(j) and Section 8(k) herein, (B) they agree that this provision and this Agreement shall be construed according to and governed by the laws of the State of Kansas without regard to its conflicts of laws principles, (C) any action by any Party hereto arising out of or relating to this Agreement or arising from or relating to the relationship of the Parties to this Agreement (including any contract, tort, common law or statutory claims, whether in law or in equity) shall be in the District Court for Johnson County, Kansas (and its appellate courts) or in the United States District Court for the District of Kansas (and its appellate courts), and (D) they expressly agree not to bring any proceedings arising out of or relating to Section 8(j) and Section 8(k) of this Agreement in any other courts.

- (j) Non-solicitation. In order to ensure that Buyer receives the full benefits of the Purchased Assets, for three (3) years after the Closing Date or until the Country Stampede festival does not occur for a period of fourteen months, whichever occurs first, Seller and Payne, shall not, directly or indirectly, either by itself, himself, or through another Person:

(i) Contact, solicit, advise or consult, any former supplier, independent contractor, or vendor of Seller, or a Third Party with whom Seller transacted business related to Country Stampede (collectively, “**Supplier(s)**”), for the purpose of causing such Supplier to engage in the Business or in any way compete with Country Stampede;

(ii) Induce, or attempt to induce, any former Supplier of Seller to cancel, diminish, decrease or curtail any business relationship, contractual or otherwise, with the Buyer in the operation of Country Stampede or the Business; or

(iii) Contact, solicit, induce or attempt to induce or influence any former Supplier to terminate its contractual relationship with the Buyer.

- (k) Notice and Opportunity to Cure. Notwithstanding anything to the contrary in this Agreement or in any other agreement to be entered into in connection herewith, no Party shall be deemed to be in default of its obligation under this Agreement to make any payment due herein or therein, unless and until the failure to make such payment is not cured within fifteen (15) days after written notice of such failure is given by Seller or Buyer to the defaulting Party.

8. Representations and Warranties of Seller. Seller and Payne hereby make the following representations and warranties to Buyer, each of which, based on Seller’s and Payne’s Knowledge, is true and correct on the date hereof and will be true and correct on the Closing Date in all material respects, each of which shall be unaffected by any investigation heretofore or hereafter made by Buyer and each of which shall survive the Closing and the transactions contemplated hereby:

- (a) Seller’s Organization and Authority. Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Kansas. Seller has the power to execute and deliver this Agreement and all other agreements to be executed by Seller in connection herewith and to carry out the transactions contemplated hereby and thereby. The execution, delivery and performance of this Agreement and any other agreement or instrument to be executed and delivered by Seller in connection herewith will not violate or breach any provision of any mortgage, trust indenture, lien, lease, agreement, instrument, order, judgment, law, statute, regulation, ordinance, decree, Seller’s articles of incorporation or bylaws, or other restriction of any kind or character to which Seller is subject or by which

any of its property is bound. This Agreement and all other agreements to be executed by Seller in connection herewith have been duly authorized, executed and delivered by Seller and are valid, binding and enforceable against Seller in accordance with their terms.

- (b) No Notices. Seller has not received any notice of non-compliance not previously corrected with respect to the Purchased Assets under any applicable law.

9

- (c) Undisclosed Liabilities. Seller has no liabilities or obligations whatsoever, either accrued, absolute, contingent or otherwise as to, or that may affect, the Purchased Assets, except those which (i) specifically will be disclosed in the Disclosure Schedule attached as Schedule 8(c) hereto, or any other Schedule or Exhibit to this Agreement, or (ii) incurred in or as a result of the normal and ordinary course of business since the date of the latest disclosure, all of which have been consistent with past practices and none of which are materially adverse.

- (d) Ownership. The Seller is the sole owner of all of the Purchased Assets, including the Country Stampede Intellectual Property, being purchased hereunder.

- (e) Third Party Intellectual Property. If any part of the Purchased Assets utilizes or utilized any Third Party Intellectual Property, Seller has disclosed the same on Schedule 8(e), and has valid, legally enforceable rights by license to use, and to transfer and assign to Buyer the rights to use, such Third Party Intellectual Property.

- (f) Title to Purchased Assets. At Closing, Seller shall have good, marketable and exclusive title to all the Purchased Assets, and all such assets will be transferred to Buyer at the Closing free and clear of all liens, claims, encumbrances and restrictions whatsoever.

- (g) No Violation of the Seller's Rights. To the Knowledge of the Seller and Payne, no Person has infringed or misappropriated any of the Purchased Assets. Immediately after the Closing (subject to making any filings necessary to perfect rights), Buyer will have sole rights to bring actions for infringement or misappropriation of the Purchased Assets. The Seller has not commenced or threatened any legal proceeding, or asserted any allegation or claim, against any Person for infringement or misappropriation of the Purchased Assets or breach of any agreement involving the Purchased Assets, except as disclosed on Schedule 8(g).

- (h) No Violation of Third Party Rights. To Payne and Seller's Knowledge, Seller's creation, use, sale, license, or other transfer of the Purchased Assets does not infringe or misappropriate any other Person's intellectual property and, after the Closing, Buyer's use of the Purchased Assets will not infringe or misappropriate any other Person's intellectual property. The Seller has not received notice (in writing or otherwise) of any pending or threatened legal proceeding or any written allegation or claim in which any Person alleges that the Seller, any of the Purchased Assets, or any use, sale, license, transfer, development, or other exploitation thereof has violated any Person's intellectual property rights and, to both Seller's Knowledge and Payne's Knowledge, no basis for any such actual or threatened legal proceeding, claim or allegation exists. To both Seller's Knowledge and Payne's Knowledge, there are no pending or threatened disputes between the Seller and any other Person relating to the Purchased Assets.

- (i) Seller's Compliance with Laws; Litigation. To the Knowledge of Seller and Payne, Seller is not in violation of any law, rule, regulation or court order, whether local, state or federal or arising under any other jurisdiction, against, or relating to the Seller, or in connection with this Agreement, or any of the Purchased Assets. Except as may be disclosed in Schedule 8(i), there are no judgments, suits, actions or proceedings pending or, to the Knowledge of Seller and Payne, threatened, in any court or other tribunal of record against Seller or the Purchased Assets.

10

- (j) Tax Returns and Tax Audits. There are no tax liens, whether imposed by any federal, state or local taxing authority, outstanding against any of the Purchased Assets, Seller and Payne will not permit any tax liens to be imposed upon the Purchased Assets, and Seller and Payne will defend, indemnify, and hold Buyer harmless should any federal, state or local taxing authority seek to place a tax lien on the Purchased Assets for taxes assessed and owed prior to Closing.

- (k) Competing Offers. Seller has not entered into any other Contract or understanding to sell or otherwise transfer the Purchased Assets.
- (l) Insurance. There are no pending insurance claims for losses related to the Country Stampede or the Purchased Assets. Seller owns an insurance policy as identified in Schedule 8(l).
- (m) Proprietary Information and Confidentiality. The Seller has taken commercially reasonable and appropriate steps to protect and preserve its trade secrets and all other confidential information included in or relevant to the Purchased Assets. None of its (or any Affiliate's) current or former employees, consultants, independent contractors, or other agents have any rights in or to the Purchased Assets.
- (n) Inbound Licenses And Rights. No Third Party Intellectual Property of any kind or nature is, as of the Closing Date, or historically has been used by the Seller in connection with the Purchased Assets, except as disclosed in Schedule 8(n) which contains a complete list and brief description of all Third Party Intellectual Property Rights used in connection with Country Stampede and/or the Purchased Assets as of the Closing Date, or that has been used historically in connection with Country Stampede and/or the Purchased Assets. With respect to any such disclosures under this Section (n) in the aforementioned Disclosure Schedule, the Seller has not breached any of the licenses or other agreements governing such Third Party Intellectual Property Rights, and, to the Knowledge of Seller and Payne, no other party to those agreements has breached those agreements. No part of the Purchased Assets has been placed in (or is otherwise subject to) any escrow arrangement of any kind for the benefit of any Third Party.
- (o) Outbound Licenses and Rights. Schedule 8(o) lists all agreements, if any, under which the Seller has licensed or otherwise granted rights in any of the Purchased Assets to any Person, including a separate lists for any of the following related to the Purchased Assets: (i) any exclusive rights granted to any third Person; (ii) any source code escrow or other form of delivery or disclosure of any source code to or for the benefit of any Person; or (iii) any other agreements to which Seller is a party that give other Persons the right to use, market or otherwise exploit or commercialize any of the Purchased Assets.

- (p) No Restrictions. The Purchased Assets are free of any and all royalty and other payment obligations and other Claims and Encumbrances and, without limiting the generality of the foregoing, is not subject to any limitations or restrictions on Seller's use. There is no legal proceeding, order, agreement or other similar arrangement that prohibits or restricts the Seller from using the Purchased Assets or developing, licensing, transferring or otherwise exploiting any software, properties, or other assets relating to the Purchased Assets anywhere in the world.
- (q) Suppliers. Delivered separately as Schedule 8(q) is a complete and accurate list of the names, addresses and telephone numbers of all of Seller's Suppliers needed to produce, plan, stage, manage, and coordinate Country Stampede, and setting forth each Suppliers' activities regarding Country Stampede. To the Knowledge of Seller and Payne, as of the date of the execution of this Agreement, no material Supplier of Seller currently under contract for the 2024 for Country Stampede has cancelled or threatened in writing to cancel or otherwise modify its relationship with Seller. To the Knowledge of Seller and Payne as of the date of the execution of this Agreement, no current or former Supplier of Seller arising out of or used in connection with Country Stampede has any Claims against Seller.
- (r) Material Contracts. Schedule 8(r) sets forth all the material Contracts Seller currently utilizes in the operation of the 2024 Country Stampede or in regard to the Purchased Assets. Except as disclosed in Schedule 8(r), all of the Contracts are in full force and effect, and Seller has received no notices of any claims of default by Seller under any of the Contracts. The contracts to be assigned and assumed by Buyer listed on Exhibit A have been delivered to Buyer in full.
- (s) Customers. Delivered separately are all data bases that Seller maintains regarding customers of, and attendees at, Country Stampede. To the Knowledge of Seller and Payne, as of the date of the execution of this Agreement, the relationships of Seller with its customers are good commercial working relationships. To the Knowledge of Seller and Payne, as of the date of the execution of this Agreement, there are no outstanding and unresolved customer complaints made arising out of or related to Country Stampede. To the Knowledge of Seller and Payne as of the date of the execution of this Agreement, no current or former customer has any Claims against Seller, arising out of or relating to Country Stampede.

- Effect of Closing. Upon and after the Closing, the Buyer will be the sole owner of, and will have valid and marketable title to, the Purchased Assets, and will have the full right to use, license and transfer the Purchased Assets in the same manner and on the same terms that the Seller had immediately prior to the Closing. The Seller is not legally bound by any agreements or obligations under which the occurrence of the Closing would (i) obligate the Seller or the Buyer to license or otherwise grant rights to any other Person in the Purchased Assets, (ii) result in any Claim or any Encumbrance on the Purchased Assets, (iii) give rise to any right of any Third Party to terminate, or impair in any material manner, any Third Party Intellectual Property Rights included in the Purchased Assets or otherwise contravene or conflict with Buyer's right to enjoy the benefit of the Third Party Intellectual Property Rights, or (iv) otherwise increase any burdens or decrease any rights relating to the Purchased Assets in any material manner.

12

- (u) Validity. There are no known facts or circumstances that would render any of the Purchased Assets invalid or unenforceable.
- (v) Intent. The transactions provided for herein are being undertaken in good faith and are not being undertaken with any intent to hinder, delay, defraud, or mislead any past, present, or future creditors of the Seller. The Purchase Price for the Purchased Assets represents fair value and was negotiated at arms' length between the Seller and Buyer.
- (w) Reliance. The foregoing representations and warranties are made by the Seller and Payne with the knowledge and expectation that Buyer is materially relying thereon in connection with the transactions provided for in this Agreement, including the purchase of the Purchased Assets.
- (x) Full Disclosure. No representation or warranty of Seller or Payne in this Agreement, including the Schedules and Exhibits to the extent such Schedules and Exhibits were required, or in any certificate to be furnished by Seller pursuant to this Agreement contains or will contain any knowingly untrue statement of a material fact or omits or will omit a known material fact necessary to make the statements contained therein not misleading. To the best Knowledge of Seller and Payne, there is no fact which Seller or Payne has not disclosed in writing to Buyer which materially adversely affects, or may materially adversely affect, Country Stampede, its operations or prospects, or the Purchased Assets.
- (y) Seller makes no representations or warranties as to the Purchased Assets other than those expressly made in Section 8 or elsewhere in this Agreement.
- (z) Upon Closing, Seller represents, warrants, and agrees that it will discontinue and refrain from all direct and indirect uses of any trademark, service mark, domain name, or social media account/handle that contains or consists of any of the Country Stampede Intellectual Property or any confusingly similar words unless done so in coordination with Buyer or Buyer's assignee.
- (aa) Seller warrants and represents that no third parties have been authorized to use, or otherwise have any claims or rights to the Country Stampede Intellectual Property.
- (bb) Seller warrants and represents that it owns no other trademarks, service marks, domain names, or social media accounts/handles related to the Purchased Assets other than those identified in this Agreement.

13

9. Representations and Warranties of Buyer. Buyer hereby makes the following representations and warranties to Seller, each of which is true and correct on the date hereof and will be true and correct on the Closing Date in all material respects, each of which shall be unaffected by any investigation heretofore or hereafter made by Seller and each of which shall survive the Closing and the transactions contemplated hereby:

- (a) Buyer's Organization and Authority. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Nevada. Buyer has the power to execute and deliver this Agreement and all other agreements to be executed by Buyer in connection herewith and to carry out the transactions contemplated hereby and thereby. The execution, delivery and performance of this Agreement or any other agreement or instrument to be executed and delivered by Buyer in connection herewith will not violate or breach any provision of any mortgage,

trust indenture, lien, lease, agreement, instrument, order, judgment, law, statute, regulation, ordinance, decree, Buyer's articles of incorporation or bylaws, or other restriction of any kind or character to which Buyer is subject to or by which any of its property is bound. This Agreement and all other agreements to be executed by Buyer in connection herewith have been duly authorized, executed and delivered by Buyer and are valid, binding and enforceable against Buyer in accordance with their terms.

- (b) Profitability; Operating Results. Buyer understands that Seller is not making any representations, warranties, or projections about the revenues, sales, profitability or other operating results that Buyer may achieve after the Closing, or the taxes that Buyer shall be responsible to pay after Closing from Buyer's business operations.
- (c) Buyer is not aware of any information that is inconsistent with any of Seller's and Payne's warranties and/or representations provided in this Agreement.

10. NOT APPLICABLE.

11. Conditions Precedent to Buyer's Obligation. Each and every obligation of Buyer to be performed in connection with the Closing on the Closing Date shall be subject to the satisfaction of the following conditions:

- (a) Representations and Warranties True as of the Closing Date. The representations and warranties made by Seller and/or Payne in this Agreement shall be true in all material respects on and as of the Closing Date with the same effect as though such representations and warranties had been made or given on and as of the Closing Date and Buyer shall have received from Seller's Manager a certificate on behalf of Seller to the effect, to the best of his Knowledge and belief, after due inquiry, that all such representations and warranties are true and correct in all material respects as of the Closing Date and that Seller has complied in all material respects with the provisions of Section 11(b) hereof.

- (b) No Material Change. The condition (financial or otherwise) of the Purchased Assets shall not be adversely and materially affected or threatened to be affected in any way as a result of fire, explosion, earthquake, disaster, accident, any action or threatened action by the United States or any other governmental authority, flood, drought, embargo, riot, civil disturbance, uprising, activity of armed forces, or act of God or public enemy.

- (c) Compliance with Agreement. Seller shall have performed and complied in all material respects with all of its obligations under this Agreement which are to be performed or complied with by Seller prior to or on the Closing Date.

- (d) Instruments of Transfer. Seller shall have delivered to Buyer a bill of sale substantially in the form of the Bill of Sale and Assignment Agreement attached hereto as Exhibit D, and such other assignments and other instruments of transfer and conveyance (including contract assignments, patent and patent application assignments) as Buyer shall reasonably deem to be necessary to vest in Buyer all right, title and interest in and to the Purchased Assets.

- (e) Proceedings and Instruments Satisfactory. All proceedings, corporate or other, to be taken in connection with the transactions contemplated by this Agreement, and all documents incident thereto, shall be reasonably satisfactory in form and substance to Buyer and Buyer's counsel; and Seller shall have made available to Buyer for examination the originals or true and correct copies of all documents relating to Country Stampede required under this Agreement, which Buyer may reasonably request.

- (f) Seller's Corporate Resolutions. Seller shall have delivered to Buyer a certified copy of the resolutions of Seller's Members and Managers authorizing the execution, delivery and performance of this Agreement and authorizing the acts of its officers and employees in carrying out the terms and provisions hereof.

- (g) Assignment of Intellectual Property. Seller shall have delivered to Buyer such executed Assignments of Intellectual Property in the forms attached as Exhibit B and Exhibit C hereto as Buyer shall reasonably request to affect the assignment to Buyer of all right, title and interest in and to the Purchased Assets to Seller.

- (h) Employees, Suppliers, Vendors, Distributors, and Resellers. At Closing, Seller shall have terminated the services of all employees, Suppliers, vendors, distributors, and resellers performing services for or in connection with Country Stampede and the Purchased Assets, except for those Suppliers, vendors, distributors, resellers, and other Third Parties

performing services for or in connection with Country Stampede under a contract assigned to and assumed by Buyer as part of the Purchased Assets.

12. Conditions Precedent to Seller's Obligations. Each and every obligation of Seller to be performed on the Closing Date shall be subject to the satisfaction of the following conditions:

- (a) Payment of Purchase Price. Buyer shall pay the Purchase Price.
- (b) Assumption of Liabilities and Other Obligations. As of the Closing Date, Buyer shall assume only such Assumed Liabilities as expressly set forth in this Agreement. Buyer shall not assume any other liabilities or obligations of Seller.
- (c) Compliance with Agreement. Buyer shall have performed and complied in all material respects with all of its obligations under this Agreement which are to be performed or complied with by it prior to or on the Closing Date, in form and substance reasonably satisfactory to Seller.
- (d) Representations and Warranties True as of the Closing Date. The representations and warranties made by Buyer in this Agreement shall be true in all material respects on and as of the Closing Date with the same effect as though such representations and warranties had been made or given on and as of the Closing Date and Seller shall have received from Buyer's Manager a certificate on behalf of Buyer to the effect that to the best of his Knowledge and belief, after due inquiry, all such representations and warranties are true and correct in all material respects as of the Closing Date.
- (e) Buyer's Resolutions. Buyer shall have delivered to Seller a certified copy of the resolutions of Buyer's Board of Directors authorizing the execution, delivery and performance of this Agreement and authorizing the acts of its managers, officers and/or employees in carrying out the terms and provisions hereof.

13. Indemnification and Setoff.

(a) Indemnification.

- Indemnification Obligations of the Seller. Seller and Payne shall each indemnify, defend and hold harmless the Buyer and each of its Affiliates and each of their respective officers, directors, stockholders, members, managers, employees, agents and representatives and each of the heirs, executors, successors and assigns of any of the foregoing (collectively hereinafter referred to as the "**Buyer Indemnified Parties**") from, against and in respect of any and all claims, liabilities, obligations, losses, cost, expenses, penalties, fines, taxes, deficiencies, assessments and judgments (at equity or at law) and damages whenever arising or incurred (including amounts paid in settlement in accordance herewith, costs of investigation and reasonable accountants' and attorneys' fees and expenses) to the extent arising out of or relating to:
- (i)

- (A) any misrepresentation, knowing breach or inaccuracy of any representation or warranty made by Seller in this Agreement or any transfer instrument or other certificate or documents delivered by Seller or Payne in connection with this Agreement;
- (B) any failure by Seller or Payne to perform or observe, or to have performed or observed, in full, any covenant, agreement, obligation or condition to be performed by Seller or Payne in this Agreement.

- (C) any liability or obligation for any unpaid Taxes of Seller, and any Taxes arising out of or relating to events which shall have occurred, or services performed, or products sold, or the sale of the Purchased Assets or the operation of Country Stampede by Seller prior to the Closing;
- (D) all Excluded Liabilities and any other liability, claim or obligation resulting from or arising out of events which shall have occurred, or services performed, or products sold, or the business operations of Seller prior to the

Closing and any other liability or obligation of Seller of any nature whatsoever other than the Assumed Liabilities; and

any and all Claims arising from or relating to the Purchased Assets, and/or actions of Seller, that accrued or arose (E) during Seller's ownership of the Purchased Assets, even if such Claims are alleged, filed, or pursued on or after Closing, but this indemnity will not apply to Claims that occurred, accrued or arose on or after Closing.

(ii) Indemnification Obligations of the Buyer. The Buyer shall indemnify and hold harmless the Seller and each of their respective officers, directors, members, managers, employees, shareholders, agents, and representatives and each of the heirs, executors, successors and permitted assigns of any of the foregoing (collectively hereinafter referred to as the "**Seller Indemnified Parties**") from, against and in respect of any and all claims, liabilities, obligations, losses, costs, expenses, penalties, fines, taxes, deficiencies, assessments and judgments (at equity or at law, including statutory and common) and damages whenever arising or incurred (including amounts paid in settlement in accordance herewith, costs of investigation and reasonable accountants' and attorneys' fees and expenses) to the extent arising out of or relating to:

(A) Buyer's failure to perform, discharge or satisfy the Assumed Liabilities, if any;

any misrepresentation, breach or inaccuracy of any representation or warranty made by the Buyer in this (B) Agreement or in any Buyer Ancillary Document(s) or any other certificate or documents delivered by Buyer in connection with the Agreement; and

any failure by Buyer to perform or observe, or to have performed or observed, in full, of any covenant, agreement, (C) obligation, condition or undertaking to be performed by the Buyer in this Agreement or in any Buyer Ancillary Document(s); and

any and all Claims arising from or relating to the Purchased Assets, and or actions of Buyer, that accrue, occur, (D) and or arose on or after Closing, but this indemnity will not apply to Claims that occurred, accrued or arose during Seller's ownership, even if such Claims are alleged, filed, or pursued on or after Closing.

Claims. Should any claim be made by a person not a party to this Agreement with respect to any matter to which the foregoing indemnity relates, the Indemnified Party, on not less than thirty (30) days' notice to the Indemnifying Party, may make settlement of such claim and such claim and such settlement shall be binding on the Indemnified Party and the Indemnifying Party for the purposes of this Article and Section; provided, however, that if within said 30-day period the Indemnifying Party shall have requested the Indemnified Party to contest any such claim at the expense of the Indemnifying Party, the Indemnified Party will promptly comply and the Indemnifying Party shall have the right to direct the defense of such claim or any litigation based thereon at its own expense through counsel of its own choosing, provided that to the satisfaction of the Indemnified Party, the Indemnifying Party shall indemnify and secure the Indemnified Party against such contested claims and for the expenses of contesting and defending the claims, and the Indemnified Party shall have the right to participate in the defense of such claim or any litigation based thereon at its own expense and through counsel of its own choosing.

(b) Period of Limitation. The indemnities contained in this Article 13 shall expire two (2) years after the Closing Date ("**Limitation Period**") (i) except with respect to any loss, liability or expense as to which notice has been given pursuant to Section 13(b) within such period, in which case the indemnification period shall be extended until final resolution of such loss, liability or expense, (ii) there shall be no Limitation Period with respect to breach of the representations and warranties set forth in Sections 8(d) (*Ownership*), 8(f) (*Title to Purchased Assets*), and 8(j) (*Tax Returns and Tax Audits*) herein, Section 9; and (iii) there shall be no Limitation Period with respect to claims based upon fraud.

(c) Limitations of Liability, Seller. Except with respect to breach of the representations and warranties set forth in Sections 8(d) (*Ownership*), 8(f) (*Title to Purchased Assets*), and 8(j) (*Tax Returns and Tax Audits*) herein or claims based upon fraud, for which there shall be no limitations of liability pursuant to this Section 13(e), (i) the Seller's maximum indemnification liability under this Agreement shall be limited to the Purchase Price, and, (ii) no indemnification shall be required to be made by the Seller under this Article 13 unless the aggregate amount of losses, liabilities and expenses

by the Buyer Indemnified Parties exceeds \$15,000, and then only to the extent of the excess. The limitation in this subsection (e) shall not apply to indemnification required pursuant to Section 13(a)(i)(E).

- (f) Limitations of Liability, Buyer. Except with respect to Buyer's obligation to pay the Purchase Price or claims based upon fraud or breach of Buyer's Warranties, (i) Buyer's maximum indemnification liability under this Agreement shall be limited to an amount equal to the Purchase Price, and (ii) no indemnification shall be required to be made by the Buyer under this Article 13 unless the aggregate amount of losses, liabilities and expenses by the Seller Indemnified Parties exceeds \$15,000, and then only to the extent of the excess. The limitation in this subsection (f) shall not apply to indemnification required pursuant to Section 13(a)(ii)(D).

14. Termination.

- (a) This Agreement may be terminated prior to the Closing Date:
- (i) By mutual consent of the Parties hereto;
 - (ii) By Buyer pursuant to Section 10(a) hereof;
 - (iii) By Buyer if any of the conditions to its obligations hereunder shall not have been satisfied at or prior to Closing and (if not satisfied) shall not have been waived by it; and
 - (iv) By Seller if any of the conditions to its obligations hereunder shall not have been satisfied at or prior to Closing and (if not satisfied) shall not have been waived by it.

- (b) The right of termination hereof, as granted to the respective Parties hereto under Section 14(a) above, shall be in addition to, and not in lieu of, any other legal or equitable remedy which the terminating Party may have for or in respect of any breach of the obligations hereunder or failure to satisfy a condition to its obligations hereunder by another Party hereto.

15. Additional Definitions. The following terms, as used herein, have the following meanings:

- (a) The term "**Affiliate**" in this Agreement has the meaning set forth in Rule 12b-2 of the regulations promulgated under the Securities Exchange Act of 1934, as amended.

- (b) The term "**Buyer Ancillary Document(s)**" in this Agreement includes any certificates, agreements, documents or other instruments, other than this Agreement, to be executed and delivered by Buyer in connection with the transactions contemplated by this Agreement.

- (c) The term "**Claims**" in this Agreement means all claims, charges, penalties, judgments, fines, amounts paid in settlement, assessments, remediation, liabilities, obligations, losses, damages, deficiencies, diminutions in value, Taxes, fees, costs and expenses, including all reasonable attorneys' fees and court costs and the reasonable costs incurred by any Person.

- (d) The term "**Confidential Information**" shall mean confidential or proprietary information or confidential documents, terms and conditions relating to the businesses of either Party or the acquisition of the Purchased Assets (including the investigation, negotiation, and performance of the transaction of this Agreement), and all financial information regarding each Party and its Affiliates, including proprietary information relating to products, confidential records, computer software programs, pricing information, marketing information, business activities, customers, and financial information or prospects of the business in any form including printed, written, oral, visual, electronic on software, but excluding any such information which is otherwise publicly available or not of a proprietary nature.

- (e) The term “**Contract**” in this Agreement means any agreement, contract, lease, license, consensual obligation, promise or undertaking (whether written or oral and whether express or implied).
- (f) The term “**Country Stampede**” in this Agreement means the country music festival operated annually under that name, and the intellectual property rights and goodwill relating thereto.
- (g) The term “**Encumbrances**” in this Agreement means all mortgages, liens, pledges, security interests, charges, claims, restrictions and encumbrances of any nature whatsoever.
- (h) The term “**Governmental Bodies**” in this Agreement means any federal, state or local or foreign government, any political subdivision thereof, or any court, administrative or regulatory agency, department, instrumentality, body or commission, or other governmental authority or agency, domestic or foreign.
- (i) The term “**Indemnified Party(ies)**” in this Agreement means, as the context requires, the Buyer Indemnified Parties or the Seller Indemnified Parties.
- (j) The term “**Indemnifying Party(ies)**” in this Agreement means, as the context requires, the Buyer or the Seller (as defined in Subsection 13(a)(i)).
- (k) The term “**Knowledge**” in this Agreement, with respect to the Seller or Payne, means all facts known or which would have been known by such individual or any officer, director, executive, manager, or principal or controlling shareholder of the Seller on the date hereof after reasonable investigation with respect to the matters at hand. As to Payne, specifically, any and all knowledge, including Payne’s representations and warranties made in this Agreement are limited to January 1, 2021, to present.
- (l) The term “**Laws**” in this Agreement means all statutes, rules, codes, regulations, restrictions, ordinances orders, decrees, approvals, directives, judgments, injunctions, writs, awards and decrees of, or issued by, any Governmental Body.
- (m) The term “**NASDAQ**” in this Agreement is an acronym for the American stock exchange known as the National Association of Securities Dealers Automated Quotations.
- (n) Not Applicable.

- (o) The term “**Person**” in this Agreement means any individual, corporation, partnership, limited liability company, trust, other form of business or investment entity, and any foreign, federal, state or local government or governmental agency of any kind.
- (p) The term “**SEC**” in this Agreement means the Securities and Exchange Commission.
- (q) The term “**Securities Act**” in this Agreement means the Securities Act of 1933, as amended.
- (r) The term “**Seller Ancillary Documents**” in this Agreement includes any certificates, agreements, documents or other instruments, other than this Agreement, to be executed and delivered by Seller or Payne in connection with the transactions contemplated by this Agreement.
- (s) The term “**Business**” in this Agreement means the business of Seller producing, plannings, staging, managing, and coordinating a music entertainment event entitled Country Stampede or using the Country Stampede Intellectual Property.
- (t) The term “**Taxes**” in this Agreement means all taxes, assessments, charges, duties, fees, levies and other governmental charges (including interest, penalties or additions associated therewith), including income, franchise, capital stock, real property, personal property, tangible, withholding, employment, payroll, social security, social contribution, unemployment compensation, disability, transfer, sales, use, excise, license, occupation, registration, stamp, premium,

environmental, customs duties, alternative or add-on minimum, estimated, gross receipts, value-added and all other taxes of any kind imposed by any Governmental Entity, whether disputed or not.

(u) The term “**Third Parties**” or “**Third Party**” in this Agreement means any Person, Governmental Body, or any other third party.

(v) The term “**Third Party Intellectual Property**” in this Agreement means intellectual property owned by any Third Party and licensed to Seller or any of its Affiliates as of the Closing Date for use in connection with Country Stampede or the Purchased Assets and identified in Schedule 8(e).

16. Miscellaneous.

(a) Notices. Any notices given under this Agreement shall be deemed to be effectively given when delivered personally or placed in the United States mail, postage prepaid, by certified or registered mail, addressed, in the case of Seller, as follows:

If to Seller: Christopher Payne
JC Entertainment, LLC
PO BOX 515
Raymore, MO 64083

21

with a copy to:

Chris Napolitano
Ensz & Jester, P.C.
1100 Main Street, Suite 2121
Kansas City, Missouri 64105

and if to Buyer: Kustom 440, Inc.
14001 Marshall Drive
Lenexa, Kansas 66215
Attention: Stanton Ross

with a copy to: The Law Office of Leslie Kulick, LLC
11117 Juniper Drive
Leawood, KS 66211
Attention: Leslie A. Kulick

or to such other address as any Party shall provide notice of to the other Parties in accordance with this Agreement.

(b) Survival of Representations, Warranties, Covenants and Liabilities. The completion of the sale hereunder shall not terminate any of the covenants, representations, warranties or liabilities of the Parties under this Agreement, and the same shall continue and survive the completion of said sale.

(c) Entire Agreement. This Agreement, along with the Schedules and Exhibits referenced herein, constitutes the entire agreement between the Parties concerning the subject matter hereof, superseding all previous agreements, proposals, representations, or understandings, whether oral or written. It may be modified only by a writing duly executed by each of the Parties hereto or their successors or assigns.

(d) Assignment. Buyer may freely assign its rights or delegate or novate any of its obligation under this Agreement to any Affiliate or to any Third Party without the consent of Seller. Seller may not assign this Agreement, or any of its rights or obligations under this Agreement, without the prior written consent of Buyer, which will not be unreasonably withheld. This Agreement is binding upon and will inure to the benefit of the Parties and their respective successors and permitted assigns.

- (e) Governing Law; Arbitration. This Agreement shall be construed according to and governed by the laws of the State of Kansas without regard to its conflicts of laws principles. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by arbitration to take place in Kansas City, Missouri. The arbitration shall be administered by the American Arbitration Association (“AAA”) utilizing the Commercial Arbitration Rules of the AAA (“Rules”), as modified by any other instructions that the Parties may agree to at that time, except that each Party shall have the right to conduct discovery in any manner and to the extent authorized by the Federal Rules of Civil Procedure as interpreted by the federal courts. If there is any conflict between the Rules and the provisions of this Section 16(e), the provisions of this Section 16(e) shall prevail. This clause shall not preclude the Parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. In the event that the arbitrator issues an interim award for provisional relief, either Party may petition a court of appropriate jurisdiction to confirm, correct or vacate the interim award.

There shall be three arbitrators unless the Parties are able to agree to a single arbitrator. In the absence of such agreement, within ten (10) days after the initiation of an arbitration proceeding, Seller shall select one arbitrator and Buyer shall select another arbitrator, and those two arbitrators shall select, within ten (10) days, a third arbitrator. If those two arbitrators, within ten (10) days, are unable to select a third arbitrator, the third arbitrator shall be appointed by the commercial panel of the American Arbitration Association (“AAA”). The decision in writing of at least two of the three arbitrators shall be final and binding upon the Parties. In selecting arbitrators pursuant to this Section, the arbitrators must have experience in the field of intellectual property law.

The arbitrators shall be bound by and shall strictly enforce the terms of this Agreement, and may not limit, expand or otherwise modify its terms. The arbitrators shall make a good faith effort to apply substantive applicable law but an arbitration decision shall not be subject to review because of errors of law. The arbitrators shall be bound to honor claims of attorney-client privilege or work product doctrine recognized at law but the arbitrator shall have discretion to determine whether any such claim of privilege or work product doctrine applies.

The arbitrators’ decision shall provide a reasoned basis for the resolution of each dispute and for any award. The arbitrators shall not have power to award damages in connection with any dispute in excess of actual compensatory damages and shall not multiply actual damages or award consequential, punitive, or exemplary damages, nor award any other damages that are excluded under any provisions of this Agreement.

Each party shall bear its own fees and expenses with respect to the arbitration and any proceeding related thereto and the Parties shall share equally in the fees and expenses of the AAA and the arbitrators.

Except as otherwise expressly provided herein, the arbitrators shall have the power and authority to award any remedy or judgment that could be awarded by a state or federal court with jurisdiction in the state of Kansas. The award rendered by arbitration shall be final and binding upon the Parties and judgment upon the award may be entered in any court of competent jurisdiction in the United States.

- (f) Signatures. This Agreement may be executed in several counterparts, all of which together shall constitute one agreement binding on all Parties hereto, notwithstanding that all the Parties have not signed the same counterpart. A signature provided by electronic or facsimile transmission shall constitute a valid signature for the purpose of this Agreement.
- (g) Negotiated Transaction. The provisions of this Agreement were negotiated by the Parties hereto and said Agreement shall be deemed to have been drafted by all the Parties hereto.
- (h) Exhibits; Schedules. All of the Exhibits and Schedules to this Agreement are hereby incorporated herein by this reference and made a part of this Agreement.

- (i) Further Assurances. Seller agrees that it will execute and deliver or cause to be executed and delivered from time to time such instruments, documents, agreements, and consents and assurances, and take such other actions as Buyer reasonably may require to more effectively convey, transfer to and vest in Buyer and to put Buyer in possession of the Purchased Assets.
- (j) Buyer's Investigations. No investigation by Buyer shall reduce or otherwise affect the obligation or liability of Seller with respect to any representations, warranties, covenants or agreements made herein or in any other certificate, instrument, agreement or document executed or delivered in connection with this Agreement unless such investigation and knowledge derived therefrom results in a breach of Buyer's warranties made in Section 9 or otherwise in this Agreement.
- (k) Interpretation. Any pronoun used in this Agreement shall include the corresponding masculine, feminine and neutered forms. The words "include," "includes," and "including" shall be deemed to be followed by the phrase "without limitation." The words "herein," "hereof," "hereto," "hereunder," and similar terms shall refer to this Agreement, unless the context otherwise requires. The references to Exhibits, Sections, Subsections, or Articles are references to the Exhibits, Sections, Subsections or Articles of this Agreement, unless the context otherwise requires.
- (l) Headings. The headings of the sections and paragraphs of this Agreement have been inserted for convenience of reference only and shall in no way restrict or otherwise modify any of the terms or provisions hereof.
- (m) Severability. In the event any provision of this Agreement is held to be illegal, invalid or unenforceable to any extent, (i) the legality, validity and enforceability of the remainder of this Agreement shall not be affected thereby, (ii) said provision shall be modified by the court to the extent necessary to render it not illegal, invalid or unenforceable, and (iii) this Agreement shall continue in full force and effect as modified and shall be enforced to the greatest extent permitted by law.

- (n) No Third-Party Beneficiaries. This Agreement is entered into for the benefit of the Parties hereto and no person and no Party hereto shall have any rights, except as expressly stated herein, to object to or recover any damage or loss resulting from any course of conduct by any of the Parties or by reason of any amendment hereto or the failure of any Party to enforce the obligation of any other Party hereto. Nothing in this Agreement shall be construed as creating any third-party beneficiary rights in or to any third person.
- (o) Specific Performance; Injunctive Relief. The Parties hereto expressly acknowledge and agree that the Purchased Assets are special and unique and that a breach of any of the terms or provisions of this Agreement in respect to the sale and purchase thereof will result in irreparable injury for which there is no adequate remedy at law, and therefore, notwithstanding anything herein or otherwise to the contrary, Buyer and Seller shall be entitled to equitable relief and specific performance to compel compliance hereunder, without the requirement for posting any bond or security.
- (p) Waiver of Jury Trial. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.
- (q) Remedies. Except as otherwise expressly provided herein, any and all remedies herein conferred upon a Party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity, upon such Party.

Signature Page to Follow

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

SELLER: JC ENTERTAINMENT, a Kansas limited liability company

By: _____
Name: Christopher Payne
Title: _____

BUYER: KUSTOM 440, INC., a Nevada corporation

By: _____
Name: Stanton E. Ross
Title: President

Christopher Payne hereby joins in this Agreement for the purpose of making certain representations, warranties, covenants, and indemnities as stated herein. However, any representations and warranties are limited to his knowledge from January 1, 2021, to the date of Closing.

Christopher Payne, individually

EXHIBIT LIST

- Exhibit A** Country Stampede Intellectual Property
- Exhibit B** Domain Name Transfer Agreement
- Exhibit C** Social Media Transfer Agreement
- Exhibit D** Form Bill of Sale

EXHIBIT A PURCHASED ASSETS

All trademarks used by Country Stampede, including:

Country Stampede
Country Stampede Music Festival
Heartland Stampede
Heartland Stampede Music Festival
Country Stampede at the Heartland
Party in the Heartland

DOMAIN NAMES

www.countrystampede.com

SOCIAL MEDIA PROFILES

Country Stampede (Meta, formerly Facebook) <https://www.facebook.com/countrystampedefestival>
@countrystampede (X, formerly Twitter) <https://twitter.com/CountryStampede>
@heartlandstampede (Instagram) <https://www.instagram.com/heartlandstampede/>
YouTube https://www.youtube.com/channel/UCNQLEYBvio0a1FWLL_GDIxw?view_as=subscriber
Spotify <https://open.spotify.com/user/y4k8iy4z2638ynywiv56v50y8>

GOODS

- 1. Miscellaneous staging equipment.

MISCELLANEOUS ASSETS

Customer Databases

Past event attendance Databases in possession of Seller

Current Material Contracts

Buyer expressly assumes all Seller’s obligations, responsibilities, and liability under the agreements with the following:

- 1. Azura Amphitheater Rental Agreement dated January 10, 2024, between Seller and New West Presentations, Inc. (2024 Agreement which mutually renews).
- 2. Audacy Radio, 2024 Agreement (2024 WDAF Sponsorship Agreement).
- 3. TicketSocket User Agreement for Country Stampede dated March 3, 2022 (36 month agreement.
- 4. 2024 Agreement with Juan Fiesta Corp. dated January 22, 2024.
- 5. 2024 Kansas Strong Sponsorship Agreement dated January 1, 2024.
- 6. 2024 Kansas Lottery Sponsorship Agreement dated January 18, 2024.
- 7. 2024 Booking Services Agreement between Seller and Neste Event Marketing, LLC (Live Nation).
- 8. 2024 Cumulus Contract.
- 9. TicketSmarter Sponsorship Agreement dated February 1, 2024.
- 10. KFKF and Q104 partner agreement.

EXHIBIT B

DOMAIN NAME TRANSFER AGREEMENT

This Domain Name Transfer Agreement (hereinafter “Agreement”) is made effective as of the 1st day of March, 2024 (hereinafter “the Effective Date”), by and between JC Entertainment, LLC dba Country Stampede (“JCE”), on the one hand, and Kustom 440, Inc. (“Kustom”). JCE and Kustom may be collectively referred to as “the Parties.”

WHEREAS, JCE has registered, used and is the registered owner of the domain name <countrystampede.com> (the “Domain Name”);

WHEREAS, Kustom has, pursuant to an Asset Purchase Agreement, purchased the Domain Name and JCE has agreed to transfer the Domain Name to Kustom.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the sufficiency of which is acknowledged, JCE hereby assigns and otherwise transfers to Kustom all of its rights, title (including ownership), and interest in and to the Domain Name, including without limitation, the right to sue and collect damages and/or profits for any and all infringement or other unauthorized use of the Domain Name occurring after transfer of the Domain Name, by any person or entity.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

KUSTOM 440, INC.

JC ENTERTAINMENT, LLC

By: _____

By: _____

Name:

Name:

Title:

Title:

EXHIBIT C

SOCIAL MEDIA TRANSFER AGREEMENT

This Social Media Transfer Agreement (hereinafter “Agreement”) is made effective as of the 1st day of March, 2024 (hereinafter “the Effective Date”), by and between JC Entertainment, LLC dba Country Stampede (“JCE”), on the one hand, and Kustom 440, Inc. (“Kustom”). JCE and Kustom may be collectively referred to as “the Parties.”

WHEREAS, JCE has registered, used and is the registered owner of the following social media accounts/handles:

- Country Stampede (Meta, formerly Facebook) <https://www.facebook.com/countrystampedefestival>
- @countrystampede (X, formerly Twitter) <https://twitter.com/CountryStampede>
- @heartlandstampede (Instagram) <https://www.instagram.com/heartlandstampede/>
- YouTube https://www.youtube.com/channel/UCNQLEYBvio0a1FWLL_GDlxw?view_as=subscriber
- Spotify <https://open.spotify.com/user/y4k8iy4z2638ynywiv56v50y8>

(the “Social Media”);

WHEREAS, Kustom has, pursuant to an Asset Purchase Agreement, purchased the Social Media and JCE has agreed to transfer the Social Media to Kustom.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the sufficiency of which is acknowledged, JCE hereby assigns and otherwise transfers to Kustom all of its rights, title (including ownership), and interest in and to the Social Media, including without limitation, the right to sue and collect damages and/or profits for any and all infringement or other unauthorized use of the Social Media occurring after transfer of the Social Media, by any person or entity.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

KUSTOM 440, INC.

JC ENTERTAINMENT, LLC

BY: _____

Name: Stanton E. Ross
Title: President

BY: _____

Name: Christopher Payne
Title: Manager, Member

EXHIBIT D

BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT is executed as of 3:00 p.m. on the 1st day March, 2024 (the “**Bill of Sale**”) by JC Entertainment, LLC, a Kansas limited liability company (“**Seller**”), in favor of Kustom 440, a Nevada corporation (“**Buyer**”). All capitalized terms used herein but not defined herein shall have the meanings set forth in the Asset Purchase Agreement (defined below).

WITNESSETH:

WHEREAS, Buyer and Seller are, concurrently with the execution of this Bill of Sale, consummating certain transactions contemplated by that certain Asset Purchase Agreement by and between Buyer and Seller, dated as of March 1, 2024 (the “**Asset Purchase Agreement**”), whereby Buyer is purchasing certain contracts and the Intellectual Property assets used in connection with Country Stampede, an entertainment event (the “**Purchased Assets**”, as defined in the Asset Purchase Agreement);

WHEREAS, Seller desires to execute this Bill of Sale for the purpose of conveying the Purchased Assets to Buyer; and

WHEREAS, Buyer desires to accept such conveyance.

NOW, THEREFORE, in consideration of the premises, representations, warranties, mutual covenants and agreements set forth in the Asset Purchase Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller hereby agrees as follows:

1. Sale of Purchased Assets. On the terms and subject to the provisions of the Asset Purchase Agreement, Seller does hereby sell, transfer, convey, and deliver to Buyer and its successors and assigns, free and clear of all encumbrances, security interests and liens, all of Seller's right, title, and interest in and to the Purchased Assets, and Buyer hereby accepts such delivery.

2. Acceptance and Assumption of Contracts. On the terms and subject to the provisions of the Asset Purchase Agreement, subject only to obtaining any required consents as set forth on Schedule 8(r), Seller does hereby sell, assign, transfer, convey, and deliver to Buyer all of Seller's right, title, obligations, and interest in and to the Contracts set forth on Exhibit A of the Asset Purchase Agreement, and Buyer does hereby accept such assignment, and hereby assumes the same on and after the Closing Date.

3. Further Assurances. From time to time after the date of this Bill of Sale, upon the request of either Seller or Buyer, the other party shall execute and deliver such instruments, documents or other writings as may be reasonably necessary or desirable to confirm and carry out and to effectuate fully the intent and purpose of this Bill of Sale.

4. Miscellaneous. Nothing in this Bill of Sale shall confer upon any person or entity, other than Buyer and Seller and their respective successors and assigns, any remedy or claim under this Bill of Sale or any terms, covenants or conditions hereof, and the terms of this Bill of Sale shall be for the sole benefit of the parties hereto and their respective successors and assigns. This Bill of Sale in no way defeats, limits, alters, impairs, enhances or enlarges any term of the Asset Purchase Agreement or any other agreement, including, without limitation, any rights the parties may have under the representations and warranties set forth in the Asset Purchase Agreement. No representations and warranties are made in this Bill of Sale, and the same are expressly disclaimed, it being understood and agreed that all of the rights and obligations of the parties with respect to the Purchased Assets are governed by the Asset Purchase Agreement.

IN WITNESS WHEREOF, Seller has caused this Bill of Sale to be executed by a duly authorized officer as of the date first above written.

SELLER:

JC Entertainment, LLC

By: _____
Christopher Payne, Member and Manager

Accepted:

Kustom 440, Inc.

By: _____
Stanton E. Ross, President

Schedule 8(c)

Seller Liabilities

Contracts or subscriptions not assigned to Buyer, which will be cancelled by Seller:

**Forward Sports Marketing
Vonage Phone System VOIP**

Mail Chimp
Merch Processor
Auth.net
website wix hosting
Facebook ads
google ad words

Schedule 8(e)

Third Party Intellectual Property

- **None other than to the extent the agreements with vendors, sponsors, and other providers (as identified on Exhibit A) constitute the use of Third Party Intellectual Property.**
-

Schedule 8(g)

Seller's Claims and Litigation

- **None**
-

Schedule 8(i)

Third Party Claims and Litigation

- **None**
-

Schedule 8(l)

Insurance Policies

- **K & K Insurance(Certificate of Insurance attached); was for 2023 Country Stampede**
 - **Employers, Policy No. EIG 5229938 00 (no certificate attached)**
-

Schedule 8(n)

Third Party Intellectual Property Rights used in connection with the Purchased Assets

- **None other than to the extent the agreements with vendors, sponsors, and other providers (as identified on Exhibit A) constitute the use of Third Party Intellectual Property.**
-

Schedule 8(o)

Outbound Licenses And Rights

- **See Contracts listed in Exhibit A.**
-

Schedule 8(q)

Seller's Country Stampede Related Suppliers

See Contracts listed in Exhibit A

See attached Supplier List

Schedule 8(r)

Material Contracts

- **See Contracts listed in Exhibit A**

Contract Restrictions:

Transfer of the 2024 Neste Event Marketing, LLC Booking Agreement requires the consent of Neste Live.

Transfer of TicketSocket User Agreement for Country Stampede dated March 3, 2022 requires consent.



KUSTOM ENTERTAINMENT ACQUIRES PRESTIGIOUS COUNTRY STAMPEDE MUSIC FESTIVAL

Growing entertainment company adds historic and impactful festival, as it gains momentum leading into 2024 festival season

KANSAS CITY, March 5, 2024 – Digital Ally, Inc. (NASDAQ: DGLY) – Kustom Entertainment, Inc. (“Kustom Entertainment”), a premier live event marketing and concert production company and current subsidiary of Digital Ally Inc. (“Digital Ally”) (Nasdaq: DGLY), is thrilled to announce the recent acquisition of the renowned Country Stampede Music Festival. This strategic move marks a significant milestone for Kustom Entertainment, solidifying its presence and influence in the entertainment industry.

Established in 1996, the Country Stampede Music Festival is an annual three-day outdoor music and camping extravaganza that has become a cherished tradition, attracting country music enthusiasts from far and wide. The festival, nationally recognized as one of the largest music festivals in the Midwest, has hosted some of the biggest names in country music, including Taylor Swift, Chris Stapleton, Kenny Chesney, Faith Hill, Miranda Lambert, Reba McEntire, Tim McGraw, Jason Aldean, Luke Bryan, LeAnn Rimes, and many more.

Country Stampede won the coveted Governor’s Outstanding Tourism Event award in the State of Kansas and has been honored with numerous other awards over the years. Television shows such as the CMT Top 20 Countdown, Ellen, and The Outdoor Channel have filmed and broadcast live from the Country Stampede Music Festival.

Expressing his excitement about the acquisition, Stan Ross, CEO of Kustom Entertainment, stated, “We are honored to carry on the tradition of Country Stampede Music Festival. This acquisition is more than a business venture; it is a celebration of the rich history and culture of country music. We are committed to preserving the festival’s legacy while introducing new elements that will captivate music fans for years to come.”

Kustom Entertainment plans to build upon this festival’s legacy and broaden the presence of Country Stampede in further states in the years to come. Kustom Entertainment promises a seamless transition for both fans and partners, and an unforgettable experience for all attendees. The festival features a 2024 lineup that includes Chris Janson, Riley Green, Jon Pardi, among other artists, and runs this summer from June 27th to 29th at Azura Amphitheatre in Bonner Springs, Kansas.

Get your tickets at www.countrystampede.com

About Kustom Entertainment, Inc.

Kustom Entertainment, Inc., a wholly owned subsidiary of Digital Ally, provides oversight to currently wholly owned subsidiaries TicketSmarter, Inc. (“Ticket Smarter”), Kustom 440, Inc. (“Kustom 440”), and BirdVu Jets, Inc. (“BirdVu Jets”). Kustom Entertainment is focused on live event and concert production, to accompany TicketSmarter’s primary and secondary ticketing options.

TicketSmarter offers tickets to more than 125,000 live events ranging from concerts to sports and theatre shows. TicketSmarter is the official ticket resale partner of 35+ collegiate conferences, 300+ universities, and hundreds of events and venues nationally. TicketSmarter is a primary and secondary ticketing solution for events and high-profile venues across North America. For more information, visit www.TicketSmarter.com.

Established in late 2022, Kustom 440 is an entertainment division of Kustom Entertainment, Inc., whose mission it is to attract, manage and promote concerts, sports and private events. Kustom 440 is unique in that it brings a primary and secondary ticketing platform, in addition to its well-established relationships with artists, venues, and municipalities. For more information, visit www.Kustom440.com.

For more information, contact:

Stanton E. Ross, CEO
Info@kustoment.com

Forward-Looking Statements

This press release contains certain forward-looking statements within the meaning of the “safe harbor” provisions of the Private Securities Litigation Reform Act of 1995. These forward-looking statements include, without limitation, the products offered by Kustom Entertainment and the markets in which it operates, and Kustom Entertainment’s projected future results. Words such as “believe,” “project,” “expect,” “anticipate,” “estimate,” “intend,” “strategy,” “future,” “opportunity,” “plan,” “may,” “should,” “will,” “would,” “will be,” “will continue,” “will likely result,” and similar expressions are intended to identify such forward-looking statements. Forward-looking statements are predictions, projections and other statements about future events that are based on current expectations and assumptions and, as a result, are subject to significant risks and uncertainties that could cause the actual results to differ materially from the expected results. Most of these factors are outside Kustom Entertainment’s control and are difficult to predict. Factors that may cause actual future events to differ materially from the expected results, include, but are not limited to: (i) the risk of downturns and the possibility of rapid change in the highly competitive industry in which Kustom Entertainment operates, (ii) the risk that demand for Kustom Entertainment’s services may be decreased due to a decrease in the number of large-scale sporting events, concerts and theater shows, (iii) the risk that any adverse changes in Kustom Entertainment’s relationships with buyer, sellers and distribution partners may adversely affect the business, financial condition and results of operations, (iv) the risk that Changes in Internet search engine algorithms and dynamics, or search engine disintermediation, or changes in marketplace rules could have a negative impact on traffic for Kustom Entertainment’s sites and ultimately, its business and results of operations; (v) the risk that any decrease in the willingness of artists, teams and promoters to continue to support the secondary ticket market may result in decreased demand for Kustom Entertainment’s services; (vi) the risk that Kustom Entertainment is not able to maintain and enhance its brand and reputation in its marketplace, adversely affecting Kustom Entertainment’s business, financial condition and results of operations, (viii) the risk of the occurrence of extraordinary events, such as terrorist attacks, disease epidemics or pandemics, severe weather events and natural disasters, (ix) the risk that because Kustom Entertainment’s operations are seasonal and its results of operations vary from quarter to quarter and year over year, its financial performance in certain financial quarters or years may not be indicative of, or comparable to, Kustom Entertainment’s financial performance in subsequent financial quarters or years; (x) the risk that periods of rapid growth and expansion could place a significant strain on Kustom Entertainment’s resources, including its employee base, which could negatively impact Kustom Entertainment’s operating results; (xi) the risk that Kustom Entertainment may never achieve or sustain profitability; (xii) the risk that Kustom Entertainment may need to raise additional capital to execute its business plan, which may not be available on acceptable terms or at all; (xiii) the risk that third-parties suppliers and manufacturers are not able to fully and timely meet their obligations and (xiv) the risk that Kustom Entertainment is unable to secure or protect its intellectual property. The foregoing list of factors is not exhaustive. Forward-looking statements speak only as of the date they are made. Readers are cautioned not to put undue reliance on forward-looking statements, and Kustom Entertainment assumes no obligation and do not intend to update or revise these forward-looking statements, whether as a result of new information, future events, or otherwise.

Cover

Mar. 05, 2024

Cover [Abstract]

<u>Document Type</u>	8-K
<u>Amendment Flag</u>	false
<u>Document Period End Date</u>	Mar. 05, 2024
<u>Entity File Number</u>	001-33899
<u>Entity Registrant Name</u>	DIGITAL ALLY, INC.
<u>Entity Central Index Key</u>	0001342958
<u>Entity Tax Identification Number</u>	20-0064269
<u>Entity Incorporation, State or Country Code</u>	NV
<u>Entity Address, Address Line One</u>	14001 Marshall Drive
<u>Entity Address, City or Town</u>	Lenexa
<u>Entity Address, State or Province</u>	KS
<u>Entity Address, Postal Zip Code</u>	66215
<u>City Area Code</u>	(913)
<u>Local Phone Number</u>	814-7774
<u>Written Communications</u>	false
<u>Soliciting Material</u>	false
<u>Pre-commencement Tender Offer</u>	false
<u>Pre-commencement Issuer Tender Offer</u>	false
<u>Title of 12(b) Security</u>	Common stock, \$0.001 par value
<u>Trading Symbol</u>	DGLY
<u>Security Exchange Name</u>	NASDAQ
<u>Entity Emerging Growth Company</u>	false

