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): **December 15, 2022**

THE ARENA GROUP HOLDINGS, INC.
(Exact name of registrant as specified in its charter)

DELAWARE	**1-12471**	**68-0232575**
(State or other jurisdiction of incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

200 VESEY STREET, 24TH FLOOR NEW YORK, NEW YORK	**10281**
(Address of principal executive offices)	(Zip code)

212-321-5002
(Registrant's telephone number including area code)

(Former name or former address if changed since last report)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value $0.01 per share	AREN	NYSE American

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))

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.

On December 15, 2022, to consummate the Acquisition (as defined below) and to repay approximately $5.9 million of its existing delayed draw term notes due December 31, 2022, The Arena Group Holdings, Inc. (the "Company") issued $36.0 million aggregate principal amount of senior secured notes (the "Bridge Notes") pursuant to a Third Amended and Restated Note Purchase Agreement, by and among the Company, the subsidiary guarantors party thereto, BRF Finance Co., LLC, as agent and purchaser, and the other purchasers from time to time party thereto (the "Note Purchase Agreement"). The Company received net proceeds of $34.8 million from the issuance of the Bridge Notes.

The Company will pay interest on the Bridge Notes at a rate of 12% per annum quarterly in arrears on each of March 31, June 30, September 30 and December 31; provided that, on each of March 1, 2023, May 1, 2023 and July 1, 2023, the interest rate on the Bridge Notes shall increase by 1.5% per annum. The Bridge Notes will mature on December 31, 2023. The Bridge Notes are subject to certain mandatory prepayment requirements, including, but not limited to, a requirement that the Company apply the net proceeds from certain debt incurrences or equity offerings to repay the Bridge Notes. The Company may elect to prepay the Bridge Notes, at any time and from time to time, at its option at 100% of the principal amount thereof.

The Bridge Notes are secured by liens on the same collateral that secures indebtedness under the Company's outstanding secured notes (the "Outstanding Notes"), and are guaranteed by the Company's subsidiaries that guarantee the Outstanding Notes. The Note Purchase Agreement contains covenants and events of default substantially similar to those contained in the note purchase agreement that governed the Outstanding Notes.

On December 15, 2022, the Company entered into an amendment to its financing and security agreement (the "FSA Amendment"), by and among the Company, certain subsidiaries of the Company party thereto and SLR Digital Finance LLC (f/k/a Fast Pay Partners LLC) ("SLR"), pursuant to which (i) the maximum credit limit for the Company's line of credit was increased to $40.0 million (subject to 85% of accounts receivable), (ii) the interest rate on the line of credit was amended to be the prime rate plus 4% and (iii) the maturity of the line of credit was extended to December 31, 2024; provided that the maturity date will be December 31, 2023 if the Company has not refinanced, repaid or extended all of its senior secured notes due December 31, 2023 by August 31, 2023, and provided further, that SLR will be entitled to accelerate the obligations if the Company has not refinanced, repaid or extended all of its senior secured notes due December 31, 2023 by September 30, 2023. The FSA Amendment also permitted the incurrence of the Bridge Notes.

The foregoing descriptions of the Note Purchase Agreement, the Bridge Notes and the FSA Amendment do not purport to be complete and are qualified in their entirety by reference to the full text of the Note Purchase Agreement, the FSA Amendment and the form of Bridge Note, copies of which are filed as Exhibits 10.1, 10.2 and 4.1 to this Current Report on Form 8-K, respectively, and are incorporated herein by reference.

Item 2.01. Completion of Acquisition or Disposition of Assets.

As previously disclosed on a Current Report on Form 8-K filed by the Company with the Securities and Exchange Commission (the "SEC") on December 13, 2022, The Arena Media Brands, LLC (the "Subsidiary"), a Delaware limited liability company and a wholly-owned subsidiary of the Company, entered into an asset purchase agreement on December 7, 2022 with A360 Media, LLC, a Delaware limited liability company ("A360"), and Weider Publications, LLC, a Delaware limited liability company and a wholly-owned subsidiary of A360 (together with A360, the "Seller Parties," and such agreement, the "Asset Purchase Agreement"). On December 15, 2022 (the "Closing Date"), pursuant to the terms set forth in the Asset Purchase Agreement, the Subsidiary purchased and assumed from the Seller Parties, and the Seller Parties sold, transferred, conveyed, assigned and delivered to the Subsidiary, certain assets and liabilities of the Seller Parties related to the digital media operations of Men's Journal and other men's active lifestyle brands (as further set forth and described in the Asset Purchase Agreement, the "Acquisition"). On the Closing Date, the Subsidiary paid $23.0 million in cash. The aggregate consideration for the Acquisition also included $1.0 million paid in November 2022, $1.0 million deposited into an escrow account to be released in accordance with the terms of the Asset Purchase Agreement, subject to adjustments for any indemnification payments, and additional deferred payments totaling approximately $3.5 million to be payable in equal monthly installments over the 27 months following the Closing Date.

The foregoing description in this Item 2.01 of certain terms of the Asset Purchase Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Asset Purchase Agreement, a copy of which is filed as Exhibit 2.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 2.03 Creation of a Direct Financial Obligation.

The information set forth in Item 1.01 above is incorporated by reference into this Item 2.03.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	**Description**
2.1*	Asset Purchase Agreement, dated December 7, 2022, by and among The Arena Media Brands, LLC, Weider Publications, LLC and A360 Media, LLC
4.1	Form of Bridge Note
10.1*	Third Amended and Restated Note Purchase Agreement, dated December 15, 2022, by and among the Company, the subsidiary guarantors party thereto, BRF Finance Co., LLC, as agent and purchaser, and the other purchasers from time to time party thereto
10.2	Sixth Amendment to Financing and Security Agreement, dated December 15, 2022, by and among the Company, the subsidiaries of the Company party thereto and SLR Digital Finance LLC
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

* Certain schedules and exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Company will furnish to the SEC copies of any such schedules upon request.

SIGNATURES

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

Dated: December 20, 2022

THE ARENA GROUP HOLDINGS, INC.

By: */s/ Douglas B. Smith*
Name: Douglas B. Smith
Title: Chief Financial Officer

Exhibit 2.1

Asset Purchase Agreement

By And Among

Weider Publications, LLC

A360 Media, LLC

And

The Arena Media Brands, LLC

December 7, 2022

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Exhibits:

Exhibit A	–	Form of TSA
Exhibit B	–	Form of Bill of Sale
Exhibit C	–	Form of Trademark Assignment Agreement
Exhibit D	–	Form of Domain Name Assignment Agreement
Exhibit E	–	Form of Copyright Assignment Agreement
Exhibit F	–	Escrow Agreement

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this "***Agreement***"), dated as of December 7, 2022 (the "***Agreement Date***"), is entered into by and among A360 MEDIA, LLC, a Delaware limited liability company ("***Parent***"), WEIDER PUBLICATIONS, LLC, a Delaware limited liability company and a wholly owned subsidiary of Parent ("***Seller***"), and THE ARENA MEDIA BRANDS, LLC, a Delaware limited liability company ("***Buyer***") (each, a "***Party***" and, collectively, the "***Parties***").

RECITALS

WHEREAS, Seller is engaged in, among other things, the operation of the Business;

WHEREAS, Buyer, through itself and one or more of its direct or indirect Subsidiaries, desires to purchase and assume, and Seller desires to sell, transfer and assign the Purchased Assets and the Assumed Liabilities of the Business to Buyer and one or more of its direct or indirect Subsidiaries, upon the terms and subject to the conditions specified in this Agreement (the "***Purchase Transactions***");

WHEREAS, Parent and Buyer have executed an advance agreement, pursuant to which Buyer advanced $1,000,000 to Parent (such agreement, the "***Advance Agreement***");

WHEREAS, the managers of Seller have carefully considered the terms of this Agreement and have approved this Agreement and the Purchase Transactions, upon the terms and subject to the conditions set forth herein; and

WHEREAS, the board of directors of Buyer has carefully considered the terms of this Agreement and has approved this Agreement and the Purchase Transactions, upon the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the premises, representations, warranties, covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1

DEFINITIONS

Section 1.1 Certain Definitions

"***Affiliate***" means (a) in the case of an individual, (i) the members of the immediate family (including parents, siblings and children) of the individual, (ii) the individual's spouse and (iii) any Business Entity that directly or indirectly, through one or more intermediaries, is controlled by any of the foregoing individuals, or (b) in the case of a Business Entity, another Business Entity or a Person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such Business Entity.

"***Business***" means Seller's *Men's Journal* and Adventure Sports Network businesses, including the production, sale and distribution of media and other content in electronic and digital format for, through and by the Seller Websites and, in the case of the *Men's Journal* business, the *Men's Fitness* business.

"***Business Day***" means any day other than a Saturday, a Sunday or a day on which banks in New York City, New York are permitted or required by Law to close.

"***Business Employee***" means all employees of Seller or any of its Subsidiaries who are directly engaged in the Business, including any such employees who are Inactive Employees.

"***Business Entity***" means any corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust, company (including any limited liability company or joint stock company), firm or other enterprise, association, organization, entity or group (as defined in Section 13(d)(3) of the Securities Exchange Act of 1934).

"***Business Leases***" means the sublease agreements, lease agreements, executive suite agreements, assignments or other similar agreements pursuant to which Seller leases real properties.

"***Business Real Property***" means, collectively, the real property leased pursuant to the Business Leases.

"***Closing Transfer Documents***" means the Bill of Sale, Trademark Assignment Agreement, Domain Name Assignment Agreement, the Copyright Assignment Agreement, the documents and certificates referred to in Section 2.5 and any other agreement necessary to effect the Transfer of the Purchased Assets and Assumed Liabilities in the Purchase Transactions.

"***Closing Payment***" means $23,000,000 in cash.

"***COBRA***" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

"***Code***" means the Internal Revenue Code of 1986, as amended.

"***Confidential Information***" has the same meaning as the term "Evaluation Material" as defined in the Confidentiality Agreement.

"***Confidentiality Agreement***" means the Confidentiality Agreement, dated as of May 31, 2022 by and between the Buyer and the Seller.

"***Consent***" means any required consent, waiver or approval of, or authorization, order, license, permission, permit, qualification, exemption or waiver by, any third party or Governmental Authority.

"***Contract***" means any legally binding executory contract, subcontract, agreement, license, sublicense, lease, sublease, instrument, indenture, promissory note or other legally binding commitment or undertaking.

"***COVID-19***" means SARS-CoV-2 or COVID-19, and any variants or evolutions thereof or related or associated epidemics, pandemics or disease outbreaks.

"***COVID-19 Measures***" means any applicable Law or any published requirement, directive, pronouncement, guideline or recommendation issued by any Governmental Authority, including the Centers for Disease Control and Prevention and the World Health Organization, in each case, providing for or contemplating business closures or other reductions, changes to business operations, any quarantine, "shelter in place", "stay at home", workforce reduction, social distancing, shutdown, closure, sequester or any other applicable Law by any Governmental Authority in connection with or in response to COVID-19.

"***Deferred Payment***" means $1,000,000 in cash.

"***Dissolution Event***" means (i) a general assignment for the benefit of Seller's creditors, or (ii) any other liquidation, dissolution or winding up of Seller, whether voluntary or involuntary.

"***Dollars***" or "***$***," when used in this Agreement or any other agreement or document contemplated hereby, means U.S. dollars unless otherwise stated.

"***Effect***" has the meaning set forth in the definition of "Material Adverse Effect" in this Section 1.1.

"***Environmental Claim***" means any written claim, Proceeding, complaint or notice of violation alleging violation of, or Liability under, any Environmental Laws.

"***Environmental Laws***" means any applicable foreign, federal, state or local Law, statutes, regulations, codes, ordinances, permits, decrees, orders or common Law relating to, or imposing standards regarding the protection or cleanup of the environment, any Hazardous Materials Activity, the preservation or protection of waterways, groundwater, drinking water, air, wildlife, plants or other natural resources, or the exposure of any individual to Hazardous Materials, including protection of health and safety of employees. Environmental Laws shall include the following U.S. statutes: the Federal Insecticide, Fungicide Rodenticide Act, Resource Conservation & Recovery Act, Clean Water Act, Safe Drinking Water Act, Atomic Energy Act, Occupational Safety and Health Act, Toxic Substance Control Act, Clean Air Act, Comprehensive Environmental Response, Compensation and Liability Act, Emergency Planning and Community Right to Know Act, Hazardous Materials Transportation Act and all analogous or similar foreign, federal state or local Law, each as amended.

"***ERISA***" means the Employee Retirement Income Security Act of 1974, as amended.

"***Escrow Agent***" means Regions Bank.

"***Escrow Agreement***" means the Escrow Agreement to be entered into by the Parties and Escrow Agent at the Closing, in substantially the form attached hereto as Exhibit F.

"***Escrow Fees***" means the total amount to be paid to the Escrow Agent for its services pursuant to the Escrow Agreement.

"***Excluded Print Business***" means Seller's production, sale and distribution of media and other content in physical print format (and Men's Journal digital replica subscription copies), and including any racks or pockets related thereto.

"***GAAP***" means generally accepted accounting principles in the United States.

"***Hazardous Materials***" means any infectious, carcinogenic, radioactive, toxic or hazardous chemical or chemical compound, or any pollutant, contaminant or hazardous substance, material or waste, in each case, whether solid, liquid or gas, including petroleum, petroleum products, by products or derivatives and asbestos and any other substance, material or waste listed, classified or regulated as a "solid waste," "hazardous" "hazardous substance," "hazardous material," "hazardous waste," "toxic," "toxic substance," "toxic waste," "toxic pollutant," "contaminant," or "pollutant" or any similar terms, or that is otherwise subject to regulation, control or remediation, under any Environmental Law.

"***Hazardous Materials Activity***" means the transportation, transfer, recycling, storage, use, disposal, arranging for disposal, treatment, manufacture, removal, remediation, release, exposure of others to, sale, or distribution of any Hazardous Materials or any product or waste containing a Hazardous Material, or product manufactured with ozone depleting substances, including any required labeling, payment of waste fees or charges (including so called eWaste fees) and compliance with any product take back or product content requirements.

"***Inactive Employee***" means any Business Employee who is on maternity or paternity leave, leave under the Family Medical Leave Act of 1993, education leave, national service or military leave, approved personal leave, leave for purposes of jury duty, short-term or long-term disability leave or medical leave.

"***Indebtedness***" of any Person means, without duplication, (a) indebtedness for borrowed money, whether current or funded, secured or unsecured, including that evidenced by notes, bonds, debentures or other similar instruments (and including all outstanding principal, prepayment premiums, if any, and accrued interest, fees and expenses related thereto), (b) any obligations owed with respect to letters of credit, performance or surety bonds, bankers' acceptances and similar facilities (in each case, to the extent drawn), (c) any cash overdrafts, (d) all obligations of such Person for the deferred purchase price of property or services and all obligations of such Person under any conditional sale or other title retention agreement (but excluding trade accounts payable and other accrued current liabilities) and (e) any outstanding guarantees of obligations of the type described in clauses (a) through (d).

"***Indemnified Party***" means a Buyer Indemnified Party or a Seller Indemnified Party, as the case may be.

"***Indemnifying Party***" means the Party obligated to indemnify a Notifying Party and its related Indemnified Parties.

"***knowledge***" of a Party means, with respect to Seller, the actual knowledge of the Persons listed on Schedule 1.1(a)(ii) of the Disclosure Letter.

"***Law***" means any law, treaty, statute, ordinance, rule, code or regulation of a Governmental Authority or judgment, decree, order, writ, award, injunction or determination of an arbitrator or court or other Governmental Authority.

"***Liabilities***" means any Indebtedness, liability or other obligation (whether pecuniary or not, whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due).

"***Liens***" means any mortgage, easement, lease, sublease, right of way, trust or title retention agreement, pledge, lien, charge, security interest or option.

"***Losses***" means any and all claims, losses, damages, Liabilities, settlements, judgments, awards, penalties, fines, costs or expenses (including reasonable legal, expert and consultant fees and expenses), including costs of enforcement.

"***Material Adverse Effect***" means (a) any change, circumstance, occurrence, event or effect ("***Effect***") that, individually or in the aggregate, has had or would reasonably be expected to have a material adverse effect on the condition (financial or otherwise), assets (including intangible assets), Liabilities, business, prospects, operations or results of operations of the Business, taken as a whole; provided that none of the following shall, either alone or in combination, be deemed to constitute a Material Adverse Effect, or shall be taken into account in determining whether a Material Adverse Effect exists or has occurred or is reasonably expected to exist or occur: any Effect resulting from or arising out of (i) the public announcement of the sale of the Business and the execution of this Agreement, (ii) general business, regulatory, financial, political or economic conditions or markets in the United States or other foreign locations where the Business is operated, including any disruption thereof and including changes (A) in prevailing interest rates or fluctuations in currency or (B) affecting financial, credit, foreign exchange or capital market conditions (including the imposition of new or increased tariffs), (iii) general conditions in the industry or markets in which the Business is conducted, (iv) any change or development in Law (including proposed changes or developments) applicable to the Business, or the Purchased Assets, any changes or proposed changes in GAAP (or the applicable accounting standards or principles in any jurisdictions outside of the United States), or the enforcement of interpretation of any of the foregoing, (v) any global or natural conditions or circumstances, including any pandemic (including COVID-19 or COVID-19 Measures), epidemic, plague, or other outbreak of illness or public health event, natural disasters, weather conditions, an outbreak or escalation of war (including whether or not declared), armed hostilities, criminal activities, acts of terrorism, sabotage, political instability or other national or international calamity, crisis or emergency, or any escalation or worsening thereof; provided that in the case of the foregoing clauses (ii), (iii), (iv) and (v), Effects referred to therein shall be excluded only to the extent they do not disproportionately impact the Business relative to the competitors of the Business or the other Business Entities in the industry in which the Business operates (i.e., if there is a disproportionate impact, only the extent of such disproportionate impact shall be taken into account in determining whether a Material Adverse Effect exists or has occurred or is reasonably expected to exist or occur), or (b) any effect or circumstance that would materially impair or materially delay Seller's ability to perform its obligations under this Agreement or the other Transaction Documents.

"***Notifying Party***" means (a) Seller, in the case of any matter for which any Seller Indemnified Party may be entitled to indemnification hereunder and (b) Buyer, in the case of any matter for which any Buyer Indemnified Party may be entitled to indemnification hereunder.

"***Order***" means any order, injunction, judgment, decree, determination, ruling, writ, assessment or arbitration or other award of a Governmental Authority.

"***ordinary course of business***" means any action taken by a Person if: (a) such action is consistent with such Person's past practice, (b) is taken in the ordinary course of such Person's normal day-to-day operations and (c) such action is not required under applicable Law or the Organizational Documents of such Person to be authorized by such Person's stockholders, board of directors or any committee thereof and does not require any other separate or special authorization pursuant to any Contract or applicable Law.

"***Organizational Documents***" means, with respect to any Person, collectively, its organizational documents, including any certificate of incorporation, notarial deed of incorporation, certificate of formation, articles of organization, articles of association, bylaws, operating agreement, certificate of limited partnership, partnership agreement and/or certificates of existence, as applicable.

"***Permits***" means all licenses, permits, franchises, approvals, registrations, authorizations, consents or orders of, or filings with, any Governmental Authority.

"***Permitted Liens***" means: (a) statutory liens for Taxes that are not yet due and payable, (b) statutory liens to secure obligations to landlords, lessors or renters under leases or rental agreements and (c) deposits or pledges made in connection with, or to secure payment of, workers' compensation, unemployment insurance or similar programs mandated by applicable Law.

"***Person***" means an individual, Business Entity or Governmental Authority.

"***Proceeding***" means any action, arbitration, proceeding, litigation or suit commenced, brought, conducted, or heard by or before, any Governmental Authority or arbitrator.

"***Purchase Price***" means the sum of the Closing Payment *plus* the Deferred Payment.

"***Representatives***" of any Person means such Person's directors, managers, members, officers, employees, agents, advisors and representatives (including attorneys, accountants, consultants, financial advisors, financing sources and any representatives of such advisors or financing sources).

"***Sanctioned Person***" means, at any time, (a) any Person listed in any sanctions-related list of designated Persons maintained by OFAC or the U.S. Department of State or by the United Nations Security Council, (b) any Person located, organized, citizen of or resident in a sanctioned country, (c) any Person owned 50% or more by such Persons described in clauses (a) or (b), or (d) an agency or instrumentality of, or entity owned 50% or more by, the government of a sanctioned country.

"***Securities Act***" means the Securities Act of 1933, as amended.

"***Seller Benefit Plans***" means each "employee benefit plan" (within the meaning of ERISA, whether or not subject to ERISA), and each severance, change in control, deferred compensation, retention, or vacation or paid time off, insurance coverage, disability coverage, disability benefits, death benefits, workers' benefits, pension, profit sharing, retirement, incentive, bonus, commission plan, stock option, stock purchase, phantom stock, stock appreciation right, restricted stock unit, employment, individual consulting, or executive compensation or severance program, agreement or arrangement that is sponsored, maintained or contributed to, or required to be contributed to, by Seller or its Subsidiaries for the benefit of any Business Employee.

"***Shared Contracts***" means Contracts of Seller with one or more third parties that relate to, or under which the rights of Seller are exercised for the benefit of, both (x) any Purchased Assets or the Business and (y) any Excluded Assets, including the Excluded Print Business, or any business(es) of Seller and its Subsidiaries other than the Business, including any such Shared Contracts described on Schedule 2.7 of the Disclosure Letter. For the avoidance of doubt, the term Shared Contracts excludes any Contracts solely related to print media.

"***Straddle Period***" means any taxable period that begins on or before the Closing Date and ends after the Closing Date.

"***Subsidiary***" or "***Subsidiaries***" of Buyer, Seller or any other Person means any corporation, partnership or other Business Entity of which Buyer, Seller or such other Person, as applicable (either alone or through or together with any other Subsidiary), owns, directly or indirectly, more than 50% of the stock or other equity interests the holder of which is generally entitled to vote for the election of the board of directors or other governing body of such corporation, partnership or other Business Entity.

"***Tax***" or "***Taxes***" means (i) all taxes, including income, gross receipts, ad valorem, VAT, excise, real property, personal property, sales, use, transfer, withholding, employment, unemployment, insurance, social security, business license, business organization, environmental, workers compensation, profits, license, lease, service, service use, severance, stamp, occupation, windfall profits, customs, duties, franchise and other taxes, fees or other like assessments or charges of any kind whatsoever, together with any interest or any penalty, addition to tax or additional amount (whether disputed or not) imposed by any Taxing Authority, (ii) any Liability for the payment of any amounts of the type described in clause (i) as a result of being a member of an affiliated, consolidated, combined, unitary or aggregate group for any taxable period and (iii) any Liability for the payment of any amounts of the type described in clause (i) or (ii) of this sentence as a result of being a transferee of or successor to any Person or as a result of any express or implied obligation to assume such Taxes or to indemnify any other Person.

"***Tax Return***" means any return, declaration, report, election, disclosure, form, estimated return and information statement filed or required to be filed with a Taxing Authority, including any schedule or attachment thereto, and including any amendment thereof.

"***Taxing Authority***" means any Governmental Authority having jurisdiction over the assessment, determination, collection, or other imposition of any Taxes.

"***Transaction Documents***" means this Agreement, the TSA, the Closing Transfer Documents, the Escrow Agreement and the Exhibits, Appendices and Schedules hereto and thereto.

"***Transactions***" means the transactions contemplated by this Agreement and the Transaction Documents, including the Purchase Transactions.

"***Transfer***" means sell, convey, transfer, assign or deliver.

"***TSA***" means that certain Transition Services Agreement in substantially the form attached hereto as Exhibit A, to be entered into between Seller, through itself and/or one or more of its direct or indirect Subsidiaries, and Buyer, pursuant to which Seller will cause certain services to be provided to Buyer or its Affiliates in connection with the sale of the Business to Buyer.

ARTICLE 2

SALE OF ASSETS AND ASSUMPTION OF LIABILITIES

Section 2.1 Purchased Assets. Subject to Section 2.5, upon the terms and subject to the conditions set forth in this Agreement, at the Closing, Seller and Parent, as applicable (collectively, the "***Seller Parties***" and each a "***Seller Party***"), shall sell, assign, transfer, convey and deliver to Buyer, and Buyer shall acquire and accept from the Seller Parties, all of the Seller Parties' right, title and interest in, to and under all of the following assets of the Seller Parties, in each case free and clear of all Liens other than Permitted Liens (collectively, the "***Purchased Assets***"):

(a) (i) All Seller Intellectual Property primarily related to the Business, including (A) all media properties, content and archives (including all content owned by Seller (including all newsletters, stories, articles, articles and other editorial content, and message boards/comments) and Seller's rights with respect to any content licensed to Seller (e.g., photographs, graphics, videos, articles, etc.), appearing on any Seller Website or in any publication), records, digital files (including all digital files for digital versions of any publications, and any audio files and/or podcasts, including in each case archival copies thereof), research material, technical information (in each case, whether such materials are evidenced in writing, electronically, or otherwise) and (B) the media properties and other assets and Seller Intellectual Property listed on Schedule 2.1(a) of the Disclosure Letter and (ii) the Seller Intellectual Property embodied in the physical, print archives of the *Men's Journal*, *Men's Fitness* and *Adventure Sports Network* publications and the content of such printed materials (the "***Transferred Intellectual Property***");

(b) the Contracts listed on Schedule 2.1(b) of the Disclosure Letter, as such Contracts may be renewed or modified following the Agreement Date in accordance with the Agreement (collectively, the "***Assumed Contracts***") and all rights of the Seller Parties arising thereunder;

(c) intentionally deleted;

(d) all furniture, office supplies, office equipment, computers and laptops, trade fixtures and furnishings located at 2025 Corte del Nogal, Carlsbad, CA 92011 (the "***Carlsbad Office***") or as listed on Schedule 2.1(d) of the Disclosure Letter (the "***Transferred Tangible Assets***");

(e) (i) copies of all Books and Records of the Business, whether print or digital, including (in each case to the extent related to the Business), financial and accounting records, copies of the Assumed Contracts, customer lists, vendor lists, customer files and correspondence, billing and receivables history, marketing materials, media kits, electronic mailing lists, market research and any other document or asset utilized in marketing or publicizing the Business and (ii) all physical, print archives of the *Men's Journal*, *Men's Fitness* and *Adventure Sports Network* publications (collectively, the "***Transferred Books and Records***");

(f) all Seller Data collected or generated through the operation of the Business, including the Seller Data described on Schedule 2.1(f) of the Disclosure Letter (the "***Transferred Data***"); provided that Seller shall be entitled to retain copies of the Transferred Data as and to the extent required under Law or under Seller's document retention policies;

(g) to the extent transferable, all rights and claims under any and all transferable warranties extended by suppliers, vendors, contractors, manufacturers and licensors, and rights to refunds or rebates, in each case that are primarily related to any of the Purchased Assets or the Business;

(h) to the extent transferable, those licenses, permits, approvals and authorizations issued by a Governmental Authority that are primarily related to the Business;

(i) intentionally deleted;

(j) such accounts receivable (including notes, book debts and other amounts due or accrued, whether billed or unbilled), prepaid expenses and deposits of the Seller Parties in each case (A) to the extent arising from, related to or in respect of the Business and (B) limited solely to the period from and after the Effective Time, and subject to reconciliation in accordance with Section 3.3 (the "***Post-Closing Accounts Receivable***");

(k) all rights under or with respect to any claims, causes of action, choses in action, rights of recovery, rights of set-off, credit, defenses or counterclaims and other rights of recoupment, including recoveries by settlement, judgment or otherwise in connection therewith, to the extent exclusively related to the Purchased Assets or Assumed Liabilities, including all rights to seek and obtain injunctive relief and to sue for and recover Losses for infringement to the extent exclusively related to the Purchased Assets or Assumed Liabilities and any copyright or trademark opposition Proceedings for the benefit of the Business; and

(l) goodwill to the extent exclusively related to the Business (the "***Transferred Goodwill***").

Section 2.2 Excluded Assets. Notwithstanding anything to the contrary herein, Buyer is not acquiring hereunder or otherwise the Seller Parties' right and title to, interest in, and claims under any of the assets, properties or rights of the Seller Parties other than the Purchased Assets, including the following assets, properties and rights of the Seller Parties (collectively, the "***Excluded Assets***"):

(a) all cash, cash equivalents, deposits, bank accounts, negotiable instruments and securities of the Seller Parties, other than the Lease Deposits to the extent described in Section 6.15;

(b) all Contracts and Business Leases of Seller or its Affiliates other than the Assumed Contracts and the Assumed Business Leases, including those Contracts of Seller or its Affiliates that are specifically listed or described on Schedule 2.2(b) of the Disclosure Letter (collectively, the "***Excluded Contracts***") and all rights of Seller or its Affiliates arising thereunder;

(c) all tangible assets and other personal property, including furniture, office supplies, office equipment, computers and laptops, trade fixtures and furnishings not located at the Carlsbad Office and not listed or described on Schedule 2.1(d) of the Disclosure Letter;

(d) all corporate minute books and stock records or similar corporate records of the Seller Parties and the Tax Returns and other Tax records of the Seller Parties, and any other Tax-related assets including credits, and claims for refund of Taxes or other governmental charges;

(e) all rights in connection with, and assets of, any Seller Benefit Plan;

(f) shares of any equity interest in any Person;

(g) all Books and Records (other than the Transferred Books and Records);

(h) such accounts receivable (including notes, book debts and other amounts due or accrued, whether billed or unbilled), prepaid expenses and deposits of the Seller Parties, in each case (A) arising from, related to or in respect of the Business and (B) limited solely to the period prior to and ending on the Effective Time, and subject to reconciliation in accordance with Section 3.3 (the "***Pre-Closing Accounts Receivable***");

(i) all goodwill of the Seller Parties (other than the Transferred Goodwill);

(j) all of the Seller Parties' insurance policies and rights thereunder;

(k) all assets of the Seller Parties that are not primarily related to the Business;

(l) the Excluded Print Business; and

(m) all rights of the Seller Parties under this Agreement, any of the other Transaction Documents and/or any instrument or certificate delivered in connection with this Agreement or any of the other Transaction Documents and all records prepared in connection with the Transactions.

Section 2.3 Assumed Liabilities. Upon the terms and subject to the conditions set forth in this Agreement, at the Effective Time, Buyer shall accept, assume and agree to pay, perform, fulfill and discharge when due only the following Liabilities (collectively, the "***Assumed Liabilities***"):

(a) all Liabilities arising out of or relating to the Purchased Assets, but only to the extent such Liabilities arise out of Buyer's operation of the Business or use or operation of the Purchased Assets after the Effective Time;

(b) all Liabilities under the Assumed Contracts, in each case to the extent such Liabilities arise after the Effective Time, and do not relate to any tort, breach, default or violation by or on behalf of Seller prior to the Effective Time, including all accounts payable of Seller thereunder to the extent arising from, related to or in respect of the Business and the period from and after the Effective Time (the "***Post-Closing Accounts Payable***") (and subject to reconciliation in accordance with Section 3.3); and

(c) all Liabilities arising out of or relating to Buyer's employment of the Transferred Business Employees following the Effective Time, including for salaries, wages, profit sharing plans, bonuses, retention payments and other similar liabilities accruing following the Effective Time.

For the avoidance of doubt, the Parties expressly agree that the Assumed Liabilities shall exclude any liability that (A) arises from Seller's breach or default under the Assumed Contracts or (B) is an Excluded Liability.

Section 2.4 Excluded Liabilities. The Parties agree that, except for the Assumed Liabilities, Buyer shall not accept, assume, pay, perform, fulfill or discharge or otherwise have any Liability for, any Liabilities of Seller or any Affiliate of Seller (whether now existing or hereafter arising), and Seller and its Affiliates shall retain, and shall be solely responsible and liable for paying, performing, fulfilling and discharging when due, all Liabilities of Seller and its Affiliates other than the Assumed Liabilities, including the following Liabilities (collectively, the "***Excluded Liabilities***"):

(a) any Liability to the extent arising out of or related to the Excluded Assets;

(b) any Liability to the extent arising out of or related to the Excluded Print Business;

(c) any Liability arising out of or relating to any tort, breach, default or violation by Seller on or prior to the Effective Time;

(d) all Liabilities under the Assumed Contracts, in each case to the extent such Liabilities arise prior to and ending at the Effective Time, including all accounts payable of the Seller Parties to the extent arising from, related to or in respect of the Business prior to and ending at the Effective Time (the "***Pre-Closing Accounts Payable***") (and subject to reconciliation in accordance with Section 3.3);

(e) any Proceeding to the extent relating to or arising out of the ownership or use of the Purchased Assets or the ownership or operation of the Business on or prior to the Effective Time;

(f) any Taxes of the Seller Parties, including any Transfer Taxes, and any Taxes imposed on or with respect to the Purchased Assets for a taxable period (or portion thereof) ending on or before the Effective Time;

(g) all Indebtedness of the Seller Parties (including, for the avoidance of doubt, the Advance Agreement);

(h) all Liabilities relating to any Business Lease other than the Assumed Business Leases;

(i) any Liability of the Seller Parties in connection with the employment of any current or former employee or other service provider of Seller, including any Transferred Business Employees, on or prior to the Effective Time, including any Liability of the Seller Parties constituting workers' compensation claims of such personnel with respect to occurrences on or prior to the Effective Time, and any Liability of the Seller Parties in connection with the termination of employment of any current or former employee or other service provider of Seller, including any Transferred Business Employees;

(j) all Liabilities under or related to any Seller Benefit Plan, whether in respect of any current or former employee of Seller, including any Transferred Business Employees, or their covered dependents, or any other current or former employees of Seller, for benefits, claims or entitlements under any Seller Benefit Plans;

(k) all Liabilities under or related to any settlement agreement related to the Business or otherwise entered into by Seller prior to the Effective Time; and

(l) any Liabilities of Seller arising out of Seller's negotiation and preparation of this Agreement and consummation and performance of the Transactions, including the Escrow Fees.

Section 2.5 Transfer. The right, title and interest in and to the Purchased Assets of the Seller Parties shall be sold, assigned, transferred, conveyed and delivered, and the Assumed Liabilities shall be assumed, in accordance with this Article 2 pursuant to transfer and assumption agreements and such other instruments in such form as may be required to legally effect a conveyance of the Purchased Assets and an assumption of the Assumed Liabilities. Such transfer and assumption agreements shall be in a form mutually agreed by the Seller Parties and Buyer and shall include, with respect to the Purchased Assets and Assumed Liabilities, a bill of sale and assignment and assumption agreement in substantially the form attached hereto as Exhibit B (collectively, the "***Bill of Sale***"), a trademark assignment agreement in substantially the form attached hereto as Exhibit C (the "***Trademark Assignment Agreement***"), a domain name assignment agreement in substantially the form attached hereto as Exhibit D (the "***Domain Name Assignment Agreement***") and a copyright assignment agreement in substantially the form attached hereto as Exhibit E (the "***Copyright Assignment Agreement***").

Section 2.6 Required Consents.

(a) To the extent that the assignment by Seller to Buyer of any Purchased Asset or the assumption by Buyer of any Assumed Liability is not permitted without the Consent of another Person or Persons or would otherwise constitute a breach or other contravention under any Contract or Law to which Seller is a party or by which it is bound, or in any way would adversely affects rights of Buyer upon transfer of such Purchased Asset or Assumed Liability, this Agreement and the Closing Transfer Documents shall not be deemed to constitute an assignment of any such Purchased Asset or an assumption of any such Assumed Liability until such Consent is obtained and is effective in accordance with its terms (or such assignment and assumption is no longer illegal), and such asset (a "***Contingent Asset***") shall only become a Purchased Asset and such liability (a "***Contingent Liability***") shall only become an Assumed Liability at such time as such Consent has been obtained and becomes effective in accordance with its terms (or such assignment and assumption is no longer illegal).

(b) Buyer and Seller shall use their respective commercially reasonable efforts to obtain any consents or waivers required to assign to Buyer any Contingent Asset or Contingent Liability, without any conditions to such transfer (including the making of any payments) or changes or modifications of terms thereunder; provided that Buyer shall not be obligated to pay any consideration therefor to any third party from whom consent or waiver is requested.

(c) If any consent referred to in Section 2.6(a) is not obtained prior to Closing for an Assumed Contract, until any such consent is obtained, (i) Buyer and Seller will take commercially reasonable actions necessary or appropriate to provide Buyer with all of the benefits of such Assumed Contract, and for Buyer to bear the costs and liabilities, in each case, arising after the Closing, with respect to such Contingent Assets and Contingent Liabilities, to the extent permitted by Law, (ii) Seller shall take such actions as may be reasonably requested by Buyer with respect to such Contingent Assets and Contingent Liabilities, (iii) Buyer will use commercially reasonable efforts to cooperate with Seller in any reasonable arrangement necessary to provide that neither Seller nor any of its Affiliates are responsible for any Liability (other than Excluded Liabilities) relating to or arising out of such Contingent Asset or Contingent Liability and (iv) Seller shall not amend, modify or supplement in any way the terms of, or terminate, such Assumed Contract without the prior written consent of Buyer.

Section 2.7 Shared Contracts.

(a) The Seller Parties shall use commercially reasonable efforts (it being understood that neither Seller nor any of its Affiliates shall be required to make any payments to Buyer or a third party other than one-time fees that Seller or its Affiliates may incur in connection with the separation or replication of any Specified Shared Contract), and Buyer will work together in good faith with the Seller Parties, to separate or replicate (on substantially the same terms) and Transfer the portion of each Specified Shared Contract that relates to the Business (the interest in such portion of a Specified Shared Contract, "***Split Interest***") to and for the benefit of Buyer as of the Effective Time. As used herein, a "***Specified Shared Contract***" means each Shared Contract set forth on Schedule 2.7 of the Disclosure Letter, which schedule may be updated following the Agreement Date upon reasonable written request by Buyer and the consent of Seller, which will not be unreasonably withheld, conditioned or delayed. For the avoidance of doubt, Seller shall not be obligated under this Section 2.7 to Transfer any portion of a Split Interest to the extent such portion is also related to the Excluded Assets. Notwithstanding anything to the contrary in this Section 2.7, Seller's obligation to pay fees in connection with the separation or replication of any Specified Shared Contract shall not exceed (i) $5,000 for any Specified Shared Contract, and (ii) $25,000 in the aggregate for all Specified Shared Contracts.

(b) If any Specified Shared Contract is not separated or replicated, and any Split Interest is not Transferred, in each case as contemplated under Section 2.7(a), on or prior to the Effective Time, Seller hereby agrees to use commercially reasonable efforts (it being understood that neither Seller nor an of its Affiliates shall be required to make any payments to Buyer or a third party other than one-time fees that Seller or its Affiliates may incur in connection with the separation or replication of any Specified Shared Contract), and Buyer will work together in good faith with the Seller Parties, to (i) implement arrangements (including subleasing, sublicensing or subcontracting) (A) to provide the underlying rights and benefits of the applicable Seller Party to Buyer related to the Business and (B) for Buyer to assume all corresponding obligations thereunder, (ii) obtain any requisite Consent required to separate or replicate such Specified Shared Contract (on substantially the same terms) and thereby Transfer such Split Interest, as applicable, and upon receipt of the foregoing, effect such Transfer, and (iii) to enforce, at the reasonable request of and for the benefit of Buyer, any and all claims, rights and benefits of the applicable Seller Party (to the extent related to the Split Interest), against any third party thereto arising from any such Split Interest.

(c) Notwithstanding anything in this Agreement to the contrary, unless and until any required third-party Consent with respect to the separation or replication of the applicable Specified Shared Contract, and the Transfer of the appliable Split Interest, is effected with the counterparty to such Specified Shared Contract (such time, the "***Consent Receipt Time***"), no such Split Interest shall constitute a Purchased Asset; provided that the obligations (other than Excluded Liabilities) relating to or arising in connection with such Split Interest that would have otherwise constituted Assumed Liabilities at the Closing, shall, upon such Transfer to Buyer, be deemed to be an Assumed Liability for purposes of this Agreement to the same extent as if Transferred to Buyer at Closing. Once the Consent Receipt Time occurs with respect to any such Split Interest, such Split Interest shall be Transferred to or assumed by Buyer (but not before such time and not before the Closing Date) for no additional consideration, and, in each case, the rights, title and interest to such Split Interest shall be deemed to be Purchased Assets for purposes of this Agreement.

Section 2.8 Further Assurances. Following the Closing but subject to Section 2.6, (A) Seller and its Affiliates (as appropriate) will execute and deliver such further instruments, certificates, agreements and other documents and perform such other actions, subject to Section 2.6(b), (i) as Buyer may reasonably require to more effectively Transfer to Buyer any of the Purchased Assets, (ii) as Seller may reasonably determine would be required to deliver to Buyer such other assets owned by Seller in order to make the representation and warranty set forth in Section 4.15(c) true and correct in all material respects (it being understood that any asset delivered pursuant to this Section 2.8 shall be deemed to constitute a Purchased Asset for all purposes hereunder), and (iii) as Buyer may reasonably require for Seller to more effectively retain any of the Excluded Liabilities and (B) Buyer will execute and deliver such instruments, certificates, agreements and other documents and perform such other actions as Seller or its Affiliates may reasonably require for Buyer to more effectively assume the Assumed Liabilities. In addition to the foregoing, to the extent any right related to the Excluded Assets (i) is not used in or necessary for the operation of the Business and (ii) was included in the Assumed Contracts, upon Seller's written request, the Parties will use commercially reasonable efforts to convey such rights to Seller (it being understood that neither Buyer nor any of its Affiliates shall be required to make any payments to Seller or a third party in furtherance of the foregoing).

ARTICLE 3

CLOSING; PURCHASE PRICE

Section 3.1 Closing. Unless this Agreement is terminated pursuant to Article 9, the closing of the Purchase Transactions and the other transactions hereunder (the "***Closing***") shall take place electronically on the date that is the later of (A) three Business Days following the day on which each of the conditions set forth in Article 7 are satisfied or waived by the parties entitled to the benefit of the same (other than those conditions that are by their nature to be satisfied at the Closing, but subject to the fulfillment or waiver of those conditions) and (B) December 15, 2022, or at such other date as the Parties may agree in writing (such date of the Closing being herein referred to as the "***Closing Date***"). The effective time of the Closing for Tax, operational and all other matters shall be deemed to be 11:59 p.m. (local time in each jurisdiction in which the Business is conducted) on the Closing Date (the "***Effective Time***"). At the Closing: (i) Buyer shall deliver to Seller the Transaction Documents to which Buyer is a party (other than this Agreement), in each case executed by Buyer; and (ii) Seller shall deliver to Buyer the Transaction Documents to which Seller and/or Parent is a party (other than this Agreement), in each case executed by Seller and/or Parent, as the case may be.

Section 3.2 Purchase Price. The total consideration for the Purchased Assets shall consist of (i) the Purchase Price (subject to Section 8.3) and (ii) the assumption by Buyer, directly or indirectly, as set forth in the Bill of Sale, of the Assumed Liabilities.

Section 3.3 Payment of Purchase Price; Post-Closing Reconciliation; Wrong Pockets.

(a) On the Closing Date, Buyer shall pay the Closing Payment to Seller. In accordance with Section 1.1(a) of the Advance Agreement, the Advanced Amount shall be deemed repaid in full effective upon the Closing.

(b) On the Closing Date, Buyer shall deliver an amount equal to the Deferred Payment to the Escrow Agent pursuant to the terms of the Escrow Agreement.

(c) In no way limiting the generality of Section 3.3(d), no later than 90 days following the Closing Date, Seller and Buyer will reconcile (i) the Pre-Closing Accounts Receivable and Post-Closing Accounts Receivable (including any funds received or collected by Seller or any Affiliate relating to the Purchased Assets (including any Post-Closing Accounts Receivable included in the Purchased Assets)) and (ii) the Pre-Closing Accounts Payable and the Post-Closing Accounts Payable. Any funds received from Pre-Closing Accounts Receivable and payments made pursuant to Pre-Closing Accounts Payable shall be attributed to Seller and any funds received from Post-Closing Accounts Receivable and payments made pursuant to Post-Closing Accounts Payable shall be attributable to Buyer. After the computation of the foregoing, Seller and Buyer shall execute a funds flow statement and the net balance, if any, shall be paid within 15 days of the date Seller and Buyer execute such reconciliation statement. In the event Seller and Buyer cannot agree on an item or items of reconciliation, they shall escalate the matter within each Party to senior management and attempt, for a period of 30 days, to reach agreement. If no agreement is reached, then Seller and Buyer will identify a nationally recognized accounting firm with whom neither has or had a material business relationship in the prior three (3) years to make a final determination that shall be non-appealable and binding. If the accounting firm determines that the actual amount is more than 10% off the amount originally claimed, then the Party against whom such determination is made shall be responsible for the costs of the accounting firm in making such determination.

(d) In the event that, on or after the Closing, either of Buyer and Seller receives payments or funds due or belonging to the other Party pursuant to the terms hereof or any of the Transaction Documents, then the Party receiving such payments or funds shall promptly forward or cause to be promptly forwarded such payments or funds to the proper Party (with appropriate endorsements, as applicable), and will account to such other Party for all such receipts. The Parties acknowledge and agree that, except as otherwise provided in this Agreement, there is no right of offset regarding such payments and a Party may not withhold funds received from third parties for the account of the other Party in the event there is a dispute regarding any other issue under this Agreement or any other Transaction Documents. Without limiting the foregoing provisions of this Section 3.3, Seller agrees that Buyer shall, following the Closing, have the right and authority to endorse any checks or drafts received by Buyer in respect of any Post-Closing Accounts Receivable included in the Purchased Assets and Seller shall furnish to Buyer such evidence of this authority as Buyer may reasonably request. Following the Closing, if Buyer or its Affiliates receives any mail or packages addressed to Seller or its Affiliates and delivered to Buyer not relating to the Business, the Purchased Assets or the Assumed Liabilities, Buyer shall promptly deliver (or cause to be delivered) such mail or packages to Seller. Following the Closing, if Seller or its Subsidiaries receives any mail or packages delivered to Seller relating to the Business, the Purchased Assets or the Assumed Liabilities, Seller shall promptly deliver (or cause to be delivered) such mail or packages to Buyer.

Section 3.4 Allocation of Purchase Price. As soon as practicable (but in any event within 90 Business Days) after the Closing, Buyer shall deliver to Seller a statement (the "***Allocation Statement***") that allocates the Purchase Price among the Purchased Assets as of the Effective Time in accordance with the principles of Section 1060 of the Code and the regulations thereunder (and any other corresponding or similar requirements under applicable Tax Law). Such Allocation Statement shall be subject to Seller's review. Seller may provide comments on such Allocation Statement and Buyer shall consider and respond to such comments in good faith for a period of up to 30 Business Days. If Buyer and Seller are not able to resolve all written comments made by Seller within the applicable 30 Business Day period, each of Buyer and Seller shall be allowed to use such Party's own allocation of the Purchase Price. Buyer and Seller shall act in accordance with the Allocation Statement (to the extent agreed upon by Buyer and Seller in accordance with this Section 3.4) in the course of any Tax audit, Tax review or Tax litigation relating thereto, and take no position (and each shall cause its respective Subsidiaries not to take any position) inconsistent with the Allocation Statement for income Tax purposes in any jurisdiction, unless otherwise required pursuant to a "determination" within the meaning of Section 1313(a) of the Code. Buyer and Seller shall each be responsible for the preparation of their own Section 1060 statements and forms in accordance with applicable Tax Law and in a manner consistent with the Allocation Statement (to the extent agreed upon by the Parties in accordance with this Section 3.4), and each shall execute and deliver to each other such statements and forms as are reasonably requested by the other Party. In the event that the Allocation Statement is disputed by any Taxing Authority, (a) the Party receiving notice of the dispute shall promptly notify the other Party of such notice and (b) both Buyer and Seller shall use commercially reasonable efforts to defend the Allocation Statement in any Proceedings or settle such dispute in a manner mutually acceptable to Buyer and Seller.

Section 3.5 Title Passage; Delivery of Purchased Assets. At the Closing, all of the right, title and interest of Seller (including any risk of loss) in and to all of the Purchased Assets as they exist as of the Closing shall pass to Buyer. The Purchased Assets and control thereof, shall be delivered to Buyer in the form and to the location mutually agreed by Seller and Buyer before the Closing Date or pursuant to the TSA.

Section 3.6 Withholding. Each of Seller and Buyer shall be entitled to deduct and withhold from any amounts payable pursuant to this Agreement and the other Transaction Documents such amounts as are required to be deducted and withheld under applicable Law (such Party that deducts and withholds, the "***Withholding Party***"); provided that the Withholding Party shall give the other Party reasonable prior notice of the Withholding Party's intention to so withhold, and give the other Party a reasonable opportunity to respond. To the extent such amounts are so deducted or withheld under this Section 3.6, such amounts shall be treated for all purposes of this Agreement and the other Transaction Documents as having been paid by the Withholding Party to the other Party to the extent so paid to the appropriate Governmental Authority.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth specifically on the disclosure letter delivered by Seller on the Agreement Date and attached hereto (the "***Disclosure Letter***") (with the disclosure in any section or subsection of the Disclosure Letter being deemed to qualify or apply to other sections and subsections of this Article 4 to the extent that it is reasonably apparent on the face of such disclosure that such disclosure should qualify or apply to such other sections and subsections), Seller represents and warrants to Buyer as follows:

Section 4.1 Corporate Existence. Seller is duly organized, validly existing and in good standing under the Law of its jurisdiction of organization. Seller has the requisite corporate, partnership or similar power and authority to execute and deliver this Agreement and each other Transaction Document to which it is a party and to consummate the Transactions and to own, lease or otherwise hold the Purchased Assets owned, leased or otherwise held by it. Seller has no Subsidiaries.

Section 4.2 Corporate Authority. This Agreement and the other Transaction Documents to which Seller is (or becomes) a party and the consummation of the Transactions involving Seller have been duly authorized by Seller by all requisite corporate, limited liability company, partnership or other action prior to Closing and no other Proceedings on the part of Seller or its equityholders are necessary for Seller to authorize the execution or delivery of this Agreement or any of the other Transaction Documents or to perform any of their obligations hereunder or thereunder. Seller has full corporate or other organizational (as applicable) power and authority to execute and deliver this Agreement and the other Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder. This Agreement has been duly executed and delivered by Seller, and the other Transaction Documents will be duly executed and delivered by Seller at or prior to the Closing. Assuming the due authorization, execution and delivery by Buyer of this Agreement or any other Transaction Document, as applicable, this Agreement constitutes, and the other Transaction Documents when so executed and delivered will constitute, a valid and legally binding obligation of Seller, enforceable against it in accordance with its terms, except as enforceability may be affected by bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar Law relating to or affecting creditors' rights generally, and general equitable principles (collectively, the "***Enforceability Exceptions***").

Section 4.3 Governmental Approvals and Consents; Non-Contravention.

(a) No Consent, order or license or permit from, notice to or registration, declaration or filing with, any U.S., foreign, federal, state, provincial, municipal or local government, government agency, court of competent jurisdiction, administrative agency or commission, or other governmental or regulatory authority or instrumentality ("***Governmental Authority***") is required on the part of Seller in connection with the execution, delivery or performance of this Agreement or any of the other Transaction Documents or the consummation of the Transactions.

(b) Except as set forth on Schedule 4.3(b) of the Disclosure Letter, the execution and delivery of this Agreement and the other Transaction Documents by Seller, the performance by Seller of its obligations hereunder and thereunder and the consummation by Seller of the Transactions do not and will not (without notice, lapse of time, or both) (i) violate or conflict with or result in any breach under any provision of the Organizational Documents of Seller, (ii) result in any violation or breach of, or constitute any default under, or give rise to a right of termination, cancellation or acceleration of any obligation or a loss of a benefit under, or require that any Consent be obtained with respect to, any material Permit or Material Assumed Contract or (iii) assuming compliance with the matters described in Section 4.3(a), violate, conflict with or result in any breach under any provision of any Law applicable to Seller or any Purchased Assets.

Section 4.4 Contracts.

(a) Schedule 4.4(a) of the Disclosure Letter identifies (x) each of the Assumed Contracts (each such listed Assumed Contract, a "***Material Assumed Contract***") to which Seller is a party as of the Agreement Date and (y) each Shared Contract (each such listed Shared Contract, a "***Material Shared Contract***") in effect as of the Agreement Date, in each case of clauses (x) and (y), that meets the following criteria (the Material Shared Contract and Material Assumed Contracts, collectively, the "***Material Contracts***"):

(i) any distributor, sales, advertising (including insertion orders) or media production Contract that either (A) Seller is a party to and that is primarily related to the Business and involves payments to or from the Business in excess of $10,000 annually, or (B) is a Shared Contract that involves payments to or from the Business in excess of $25,000 annually;

(ii) any continuing Contract for the purchase, sale or license of materials, supplies, equipment, services, software, Intellectual Property or other assets where either (A) Seller is a party to such Contract, it is primarily related to the Business and involves payments to or from the Business in excess of $10,000 annually, or (B) is a Shared Contract that involves payments to or from the Business in excess of $25,000 annually;

(iii) any Contract providing for the development of any software, content, technology or Intellectual Property, independently or jointly, by or for the Business where either (A) Seller is a party to such Contract, it is primarily related to the Business and involves payments to or from the Business in excess of $10,000 annually, or (B) is a Shared Contract that involves payments to or from the Business in excess of $25,000 annually;

(iv) any Contract granting most favored customer pricing to any Person, or any Contract providing for the grant of exclusive sales, distribution, marketing or other exclusive rights, rights of refusal, rights of first negotiation or similar rights and/or terms to any Person, or any Contract materially limiting the freedom of Seller to engage in the Business or compete with any Person in connection with Seller's conduct of the Business, in each case, that (x) apply to any Purchased Asset or (y) will apply to the activities of Buyer after the Closing with respect to the Business and that is not terminable by Seller on 90 days' notice or less without premium or penalty;

(v) (A) each Business Lease and (B) any Contract pursuant to which Seller is a lessor or lessee of any office furniture, fixtures or other personal property involving payments in respect of the Business in excess of $10,000 per annum;

(vi) each Contract granting a Lien upon any Purchased Asset;

(vii) any Contract to license or authorize any third party to use any Seller-Owned Intellectual Property, excluding non-exclusive licenses or rights granted in the ordinary course of business to suppliers, distributors, vendors or customers;

(viii) (A) any management service, partnership or joint venture Contract, (B) any Contract that involves a sharing of revenues, profits, cash flows, expenses or losses with other Persons or (C) any Contract that involves the payment of royalties to any other Person, in each case in relation to the Business or the Purchased Assets;

(ix) any Contract pursuant to which Seller has acquired a business or entity, or assets of a business or entity since January 1, 2019, in each case that is related to the Business, whether by way of merger, consolidation, purchase of stock, purchase of assets, license or otherwise;

(x) any Contract requiring any capital commitment or capital expenditures (including any series of related expenditures) related to the Business where either (A) Seller is a party to such Contract and it involves payments to or from the Business in excess of $10,000 annually, or (B) such Contract is a Shared Contract that involves payments to or from the Business in excess of $25,000 annually;

(xi) any settlement agreement primarily related to the Business since January 1, 2019; and

(xii) any Contract with any Governmental Authority.

(b) Each Material Assumed Contract and Specified Shared Contract is valid, binding and in full force and effect with respect to, and enforceable against, Seller and, to the knowledge of Seller, each other party thereto, subject to and except as such enforceability may limited by the effect, if any, of the Enforceability Exceptions. None of the Material Assumed Contracts or Specified Shared Contracts have been amended or modified except as set forth therein. Seller is not in breach or default in the performance of any of its obligations under any Material Assumed Contract or Specified Shared Contract and, to the knowledge of Seller, as of the Agreement Date, no other party to such Material Assumed Contract or Specified Shared Contract is in breach or default thereunder, and no event exists that, with the giving of notice or lapse of time or both, would constitute a breach, default or event of default on the part of Seller under any Material Assumed Contract or Specified Shared Contract to which it is a party or, to the knowledge of Seller, any other party thereto. Seller has provided Buyer true, complete and correct copies of all written Material Assumed Contracts and Specified Shared Contracts (including, in each case, all amendments, addenda, exhibits or schedules thereto). With respect to each such Person that is a counterparty to the Material Assumed Contracts or the Specified Shared Contracts, (i) there are no outstanding or, to the knowledge of Seller, threatened (in writing) disputes or controversies with such Person, and (ii) such Person has not terminated or, to the knowledge of Seller, threatened or stated an intention to terminate in writing, or materially decreased or materially adversely altered, its relationship with Seller or any Affiliate of Seller, with respect to the Business or, to the knowledge of Seller, threatened (in writing) or stated an intention to do any of the foregoing in writing.

Section 4.5 Litigation. There are no (i) pending or, to the knowledge of Seller, threatened Proceedings in writing against Seller relating to the Purchased Assets, the Business or the Business Employees or (ii) Orders imposed upon Seller relating to the Purchased Assets, the Business or the Business Employees. There is no Proceeding by Seller pending or which Seller intends to initiate relating to the Purchased Assets, the Business or the Business Employees.

Section 4.6 Intellectual Property Rights.

(a) As used herein, the following terms have the meanings indicated below:

(i) "***Data Subject***" means the individual and/or, to the extent protected under applicable Privacy Laws, the legal entity to whom Personal Data relates.

(ii) "***EEA***" means the European Economic Area, as constituted from time to time, and shall be deemed to include Switzerland and the United Kingdom.

(iii) "***Intellectual Property***" means any and all forms of industrial and intellectual property, and all rights associated therewith, throughout the world, including all patents and applications therefor and all reissues, divisions, renewals, extensions, provisionals, continuations and continuations-in-part thereof, all inventions (whether patentable or not), invention disclosures, improvements, trade secrets, confidential and proprietary information, knowhow, technology, technical data, proprietary processes and formulae, algorithms, specifications, all industrial designs and any registrations and applications therefor, all trade names, logos, trade dress, trademarks and service marks, trademark and service mark registrations, trademark and service mark applications, and any and all goodwill associated with and symbolized by the foregoing items, Internet domain name registrations, web addresses, all copyrights, copyright registrations and applications therefor, and all other rights corresponding thereto, all computer programs, source code, object code, whether embodied in software, firmware or otherwise, assemblers, applets, compilers, user interfaces, application programming interfaces, protocols, architectures, documentation, annotations, comments, designs, development tools, files, records and data, all schematics, test methodologies, test vectors, emulation and simulation tools and reports, hardware development tools, models, tooling, prototypes, breadboards and other devices, data, data structures, databases, data compilations and collections, inventions (whether or not patentable), invention disclosures, discoveries, improvements, technology and information, tools, concepts, techniques, methods, processes, customer lists and supplier lists and all rights therein, all moral and economic rights of authors and inventors, however denominated, and any similar or equivalent rights to any of the foregoing, and all tangible embodiments of the foregoing or any intellectual property rights in any form and embodied in any media.

(iv) "***Personal Data***" means any information relating to an identified or identifiable Data Subject, including a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that Data Subject or any other piece of information that allows the identification of a Data Subject or is otherwise considered personally identifiable information or personal information under applicable Law, including Tracking Data.

(v) "***Privacy Laws***" means each applicable Law applicable to the privacy protection or security of Personal Data, including the General Data Protection Regulation (EU) 2016/679, the UK General Data Protection Regulation (as defined in Section 3(10) of the Data Protection Act 2018 as supplemented by Section 205(4) of that Act ("***UK GDPR***")), the California Consumer Privacy Act of 2018 as amended by the California Privacy Rights Act of 2020, the Federal Trade Commission Act, the CAN-SPAM Act, the Children's Online Privacy Protection Act of 1998, as amended, the Telephone Consumer Protection Act, the Payment Card Industry Data Security Standards, the Video Privacy Protection Act, and direct marketing and advertising, profiling and tracking, e-mail, text messaging and/or telemarketing.

(vi) "***Process,***" ***"Processed"*** or "***Processing***" means, with respect to data, any operation or set of operations such as collection, recording, organization, structuring, storage, adaptation, enhancement, enrichment or alteration, retrieval, consultation, analysis, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

(vii) "***Seller Data***" means all data collected, generated, or received in connection with the Business, including Seller-Licensed Data, Seller-Owned Data and Personal Data.

(viii) "***Seller Data Agreement***" means any Contract involving Seller Data to which Seller is a party or is bound by.

(ix) "***Seller Intellectual Property***" means any and all Seller-Owned Intellectual Property and any and all Third-Party Intellectual Property that is used by Seller, in each case in connection with the Business.

(x) "***Seller-Licensed Data***" means all data that is Processed by Seller in connection with the Business that is owned, held, collected, or purported to be owned, held or collected by a third party.

(xi) "***Seller-Owned Data***" means each element of data collected, generated, or received by or in connection with the Business that Seller owns, holds or controls or purports to own, hold or control.

(xii) "***Seller-Owned Intellectual Property***" means any and all Intellectual Property that is owned or purported to be owned by Seller and used in connection with the Business.

(xiii) "***Seller Privacy Policies***" means, collectively, any and all (A) of the data protection, data usage, data privacy and security policies of Seller, whether applicable internally, or published on Seller Websites or otherwise made available by Seller, and (B) Contracts with third parties relating to the Processing of Seller Data, in each case that relates to the Business.

(xiv) "***Seller Registered Intellectual Property***" means the United States, international and foreign: (A) patents and patent applications (including provisional applications), (B) registered trademarks, applications to register trademarks, intent-to-use applications, or other registrations or applications related to trademarks, (C) registered Internet domain names and (D) registered copyrights and applications for copyright registration, in each case registered or filed in the name of, or owned by, Seller and related to the Business.

(xv) "***Seller Websites***" means all web sites owned, operated or hosted by Seller or through which Seller conducts the Business (including those web sites operated using the domain names listed on Schedule 4.6(c) of the Disclosure Letter), and the underlying platforms for such web sites.

(xvi) "***Third-Party Intellectual Property***" means any and all Intellectual Property owned or purported to be owned by a third party.

(xvii) "***Tracking Data***" means (A) any information or data collected in relation to on-line, mobile or other electronic activities or communications that can reasonably be associated with a particular Person, user, computer, mobile or other device, or instance of any application or mobile application, (B) any information or data collected in relation to off-line activities or communications that can reasonably be associated with or that derives from a particular Person, user, computer, mobile or other device or instance of any application or mobile application or (C) any device or network identifier (including IP address or MAC address), device activity data or data collected from a networked physical object.

(b) Status. Seller has full title and exclusive ownership of, or is duly licensed under or otherwise authorized to use, all Intellectual Property necessary for the conduct of the Business. Except as set forth on Schedule 4.6(b) of the Disclosure Letter, no third party has any Lien on any of Transferred Intellectual Property or Transferred Data.

(c) Seller Registered Intellectual Property. Schedule 4.6(c) of the Disclosure Letter lists all Seller Registered Intellectual Property, registered proprietor, the status of such registration or application, the jurisdictions in which it has been issued or registered or in which any application for such issuance and registration has been filed or the jurisdictions in which any other filing or recordation has been made and all actions that are required to be taken by Seller within 120 days following the Agreement Date in order to avoid prejudice to, impairment or abandonment of such Intellectual Property (including all office actions, provisional conversions, annuity or maintenance fees or re-issuances). Each item of material Seller Registered Intellectual Property included in the Transferred Intellectual Property ("***Transferred Registered Intellectual Property***") is valid (or in the case of applications, applied for) subsisting and enforceable. All registration, maintenance and renewal fees currently due in connection with such Transferred Registered Intellectual Property have been paid and all documents, recordations and certificates in connection with such Transferred Registered Intellectual Property currently required to be filed have been filed with the relevant patent, copyright, trademark or other authorities in the United States or foreign jurisdictions, as the case may be, for the purposes of prosecuting, maintaining and perfecting such Transferred Registered Intellectual Property and recording Seller's ownership interests therein.

(d) Invention Assignment and Confidentiality Agreement. In each case as it relates to the Business: Seller has used commercially reasonable efforts to secure from all (i) current and former consultants, advisors, employees and independent contractors who independently or jointly contributed to or participated in the conception, reduction to practice, creation or development of any Intellectual Property for Seller and (ii) named inventors of patents and patent applications owned or purported to be owned by Seller (any such Person described in clause (i) or (ii), an "***Author***"), either (a) exclusive ownership of all of the Authors' right, title and interest in and to such Intellectual Property, or (b) the right to use and otherwise commercialize or exploit such Intellectual Property in the operation of the Business as presently conducted.

(e) Business Confidential Information. Seller has taken commercially reasonable steps to protect and preserve the confidentiality of all confidential or non-public information of Seller (including trade secrets) or provided by any third party to Seller, in each case that relates to the Business ("***Business Confidential Information***"). All current and former employees and contractors of Seller and any third party having access to Business Confidential Information have either executed and delivered to Seller a written legally binding agreement regarding the protection of such Business Confidential Information or are bound by a duty of confidentiality to the Seller. There has been no breach of confidentiality obligations on the part of Seller or, to the knowledge of Seller, by any third party with respect to Business Confidential Information.

(f) Non-Infringement. To the knowledge of Seller, there is no unauthorized use, unauthorized disclosure, infringement or misappropriation of any Seller-Owned Intellectual Property by any third party. Since January 1, 2019, Seller has not sent a notice to any third party alleging infringement or misappropriation of any Intellectual Property relating to the Business. Seller has not brought any Proceeding for infringement or misappropriation of any Seller-Owned Intellectual Property that are currently pending or unresolved. Except as set forth on Schedule 4.6(f) of the Disclosure Letter, to the knowledge of Seller, Seller has no Liability for infringement or misappropriation of any Third-Party Intellectual Property relating to the Business. To the knowledge of Seller, the operation of the Business, including (i) the design, development, reproduction, marketing, licensing, sale, offer for sale, distribution, provision and/or use of the Seller-Owned Intellectual Property and (ii) Seller's use of any product, device, process or service used in the Business as previously conducted or currently conducted, has not and does not infringe (directly or indirectly, including via contribution or inducement), misappropriate or violate any Third-Party Intellectual Property, breach any terms of service, click-through agreement or any other agreement or rules, policies or guidelines applicable to use of such Third-Party Intellectual Property. Since January 1, 2019, Seller has not been sued in any Proceeding or received any written communications (including any third-party reports by users) alleging that Seller has infringed, misappropriated, or violated or, by conducting the Business, would infringe, misappropriate, or violate any Intellectual Property of any other Person or entity. No Seller Intellectual Property is subject to any Proceeding, Order, settlement agreement or right that restricts in any manner the use, transfer or licensing thereof by Seller, or that may affect the validity, use or enforceability of any Seller Intellectual Property. Seller has not received any opinion of counsel that any Seller-Owned Intellectual Property or the operation of the Business, as previously or currently conducted, infringes or misappropriates any Third-Party Intellectual Property.

(g) Licenses; Agreements. Except as set forth in Schedule 4.4(a)(vii) of the Disclosure Letter, Seller has not granted any exclusive licenses to any Seller-Owned Intellectual Property, and Seller is not bound by or a party to any option with respect to any of Seller-Owned Intellectual Property.

(h) Software. Seller does not own any proprietary software.

(i) Information Technology.

(i) Seller Databases. Schedule 4.6(i)(i) of the Disclosure Letter identifies and describes each distinct electronic or other repository or database containing (in whole or in part) Seller Data maintained by or for Seller at any time (collectively, the "***Seller Databases***"), the types of Seller Data in each such database (including by Seller-Licensed Data and Seller-Owned Data), the means by which Seller Data was collected or received and the security policies that have been adopted and maintained with respect to each such Seller Database.

(ii) Processing. Seller has valid and subsisting contractual rights to Process or to have Processed all Seller-Licensed Data, howsoever obtained or collected, by or for Seller, in the manner that it is Processed by or for Seller. Seller has all rights, and all permissions, licenses or authorizations required under applicable Law (including Privacy Laws) and relevant Contracts (including Seller Data Agreements), to retain, produce copies, prepare derivative works, disclose, combine with other data, and grant third parties rights, as applicable, to each of Seller-Licensed Data as necessary for the operation of the Business as currently conducted. Seller has been and is in compliance with all Contracts pursuant to which Seller Processes or has Processed Seller-Licensed Data, and the consummation of the Transactions will not conflict with, or result in any violation or breach of, or default under, any such Contract.

(iii) Seller Data. Seller owns all right, title and interest in and to each element of Seller-Owned Data. Seller has the right to Process all Seller-Owned Data without obtaining any permission or authorization of any Person. Other than as set forth on Schedule 4.6(i)(iii) of the Disclosure Letter, Seller has not entered into any Contract governing any Seller-Owned Data or to which Seller is a party or bound by, except the standard terms of use entered into by third-party users (copies of which have been provided to Buyer).

(j) Seller Websites. The contents of any Seller Website and all of Seller's transactions related to the Business conducted over the Internet comply with applicable Law and codes of practice in any applicable jurisdiction in all material respects. The contents of any Seller Website do not include or incorporate any harmful, fraudulent, threatening, abusive, harassing, defamatory, vulgar, obscene, profane, hateful or otherwise objectionable content, including, without limitation, any material that supports or otherwise encourages wrongful conduct that would constitute a criminal offense, give rise to civil liability.

(k) Digital Millennium Copyright Act. Except as set forth on Schedule 4.6(k) of the Disclosure Letter, Seller conducts and has conducted the Business in such a manner as to take reasonable advantage, if and when applicable, of the safe harbors provided by Section 512 of the Digital Millennium Copyright Act (the "***DMCA***"), including by informing users of its services of such policy, designating an agent for notice of infringement claims, registering such agent with the U.S. Copyright Office, and taking appropriate action upon receiving notice of possible infringement in accordance with the "notice and take-down" procedures of the DMCA or such other applicable Law.

Section 4.7 Privacy and Data Protection.

(a) Seller's data, privacy and security practices and Processing of Personal Data conform, and at all times since January 1, 2019 have conformed in all material respects, to all Seller Privacy Commitments, Privacy Laws and Seller Data Agreements. Seller has at all times since January 1, 2019: (A) had a valid legal basis (including providing adequate notice and obtaining any necessary consents from Data Subjects) required for the Processing of Personal Data as conducted by or for Seller and (B) abided by any privacy choices (including opt-out preferences) of Data Subjects relating to Personal Data, in each case in connection with the Business (such obligations along with those contained in Seller Privacy Policies, collectively, "***Seller Privacy Commitments***"). Neither the execution, delivery and performance of this Agreement nor the taking over by Buyer of all of Seller Databases, Seller Data and other information relating to Seller's end users, employees, vendors or clients, or any other category of Data Subjects, will cause, constitute or result in a material breach or material violation of any Privacy Laws or Seller Privacy Commitments, any Seller Data Agreements or any standard terms of service entered into by Seller with Data Subjects the Personal Data of whom is Processed by Seller and its data processors. Copies of all current and prior Seller Privacy Policies have been made available to Buyer and such copies are true, correct and complete. Seller or its Affiliates have not relied on anonymization of Personal Data or consent to process any Personal Data.

(b) Seller has established and maintains commercially appropriate technical, physical and organizational measures and security systems and technologies in material compliance with all data security requirements under Privacy Laws and Seller Privacy Commitments that are designed to protect Seller Data against accidental or unlawful Processing in a manner appropriate to the risks represented by the Processing of such data by Seller and its data processors. Seller has, and to the knowledge of Seller their respective data processors have, taken commercially reasonable steps to ensure the reliability of their contractors who have access to Seller Data, to train such contractors on all applicable aspects of Seller Privacy Commitments and to ensure that all contractors with the authority and/or ability to access such data are under written obligations of confidentiality with respect to such data.

(c) As it relates to the Business since January 1, 2019, Seller has not received or experienced and, to the knowledge of Seller, there is no circumstance (including any circumstance arising as a result of an audit or inspection carried out by any Governmental Authority) that would reasonably be expected to give rise to, any Proceeding, Order, notice, communication, warrant, regulatory opinion, audit result or allegation from a Governmental Authority or any other Person (including an end user): (i) alleging or confirming non-compliance with a relevant requirement of Seller Data Agreements, Privacy Laws or Seller Privacy Commitments, (ii) requiring or requesting Seller to amend, rectify, cease Processing, de-combine, permanently anonymize, block or delete any Seller Data, (iii) permitting or mandating relevant Government Authorities to investigate, requisition information from or enter the premises of, Seller or (iv) claiming compensation from Seller. Seller has not been involved in any Proceedings involving non-compliance or alleged non-compliance with Seller Data Agreements, Privacy Laws or Seller Privacy Commitments.

(d) Schedule 4.7(d) of the Disclosure Letter contains the complete list of notifications and registrations made by Seller under Privacy Laws with relevant Governmental Authorities in connection with Seller's Processing of Personal Data for or in relation to the Business. All such notifications and registrations are valid, accurate, complete and fully paid up and, to the knowledge of Seller, the consummation of the Transactions will not invalidate such notification or registration or require such notification or registration to be amended. Other than the notifications and registrations set forth on Schedule 4.7(d) of the Disclosure Letter, no other registrations or notifications are required in connection with the Processing of Personal Data by Seller. Seller does not, and has used commercially reasonable efforts to ensure it does not, Process the Personal Data of any natural Person considered a child under the age of 13 in connection with the Business. If Seller knowingly Processes Personal Data from such a child, Seller has either obtained the appropriate parental consent required under Privacy Laws or deleted such data.

(e) Where Seller uses a data processor to Process Personal Data in connection with the Business, the data processor has provided guarantees, warranties or covenants in relation to Processing of Personal Data, confidentiality, security measures and agreed to compliance with those obligations that are sufficient for Seller's compliance with Seller Data Agreements, Privacy Laws and Seller Privacy Commitments, and there is in existence a written Contract between Seller and each such data processor that complies with the requirements of all Privacy Laws and Seller Privacy Commitments. Seller has made available to Buyer true, correct and complete copies of all such Contracts. To the knowledge of Seller, such data processors have not breached any such Contracts pertaining to Personal Data Processed by such Persons on behalf of Seller.

(f) Seller has not transferred or permitted the transfer of Personal Data relating to the Business that originates in the EEA outside the EEA, except where such transfers have complied with the requirements of Seller Data Agreements, Privacy Laws and Seller Privacy Commitments.

(g) As it relates to the Business since January 1, 2019, to the knowledge of Seller, no security incident, violation of any data security policy, breach, or unauthorized access in relation to Seller Data, Seller Databases, or Business Confidential Information (including Personal Data in Seller's possession, custody or control) has occurred that resulted in unauthorized access, acquisition, interruption of access or other Processing, disclosure, use, denial of use, alteration, corruption, destruction, theft or loss of Seller Data or, to the knowledge of Seller, is threatened, and there has been no unauthorized or illegal Processing of any of the foregoing.

Section 4.8 Tax Matters.

(a) Seller has properly completed and timely filed all Tax Returns for income Taxes and all other material Tax Returns required to be filed by it prior to the Effective Time, has timely paid all amounts in respect of material Taxes shown as due on such Tax Returns to the appropriate Governmental Authority. All material Tax Returns were complete and accurate and have been prepared in compliance with applicable Law. There is no claim for Taxes that has resulted in a Lien against any of the assets of Seller.

(b) To the knowledge of Seller, there is (i) no past or pending audit of, or Tax controversy associated with, any Taxes or Tax Return of Seller that has been or is being conducted by a Taxing Authority, (ii) no other procedure, proceeding or contest of any refund or deficiency in respect of Taxes pending or on appeal with any Governmental Authority, (iii) no extension of any statute of limitations on the assessment of any Taxes granted by Seller currently in effect and (iv) no agreement to any extension of time for filing any Tax Return that has not been filed. No claim has ever been made by any Governmental Authority in a jurisdiction where Seller does not file Tax Returns that Seller is or may be subject to taxation by that jurisdiction.

(c) Seller is not party to or bound by any Tax sharing, Tax indemnity, or Tax allocation agreement, and Seller has no Liability or potential Liability to another party under any such agreement.

(d) Seller is not subject to Tax in any jurisdiction other than its country of incorporation, organization or formation by virtue of having employees, a permanent establishment or any other place of business in such jurisdiction. Seller is not subject to any type of Tax in any U.S. state where it does not file Tax Returns applicable to such type of Tax.

(e) Seller has (i) complied with all applicable Law relating to the payment, reporting and withholding of Taxes (including withholding of Taxes pursuant to Sections 1441, 1442, 1445, 1446, 1471, 1472 and 3406 of the Code or similar provisions under any foreign law), (ii) withheld (within the time and in the manner prescribed by applicable Law) from employee wages or consulting compensation and paid over to the proper Governmental Authorities (or is properly holding for such timely payment) all amounts required to be so withheld and paid over under all applicable Law, including federal and state income Taxes, Federal Insurance Contribution Act, Medicare, Federal Unemployment Tax Act, relevant state income and employment Tax withholding laws, and (iii) timely filed all withholding Tax Returns, for all periods through and including the Closing Date.

(f) Neither the execution and delivery of this Agreement, nor the consummation of the Transactions, either alone or in combination with another event (whether contingent or otherwise) will, or would reasonably be expected to, give rise directly or indirectly to the payment of any amount that would reasonably be expected to be characterized as a "parachute payment" within the meaning of Section 280G of the Code (or any corresponding or similar provision of state, local or foreign Tax law).

Section 4.9 Compliance with Law; Permits.

(a) The Business is being and has at all times since January 1, 2019 been conducted by Seller in compliance in all material respects with the Law applicable thereto, and Seller is in compliance in all material respects with the Law applicable to its ownership of the Purchased Assets. Seller has not received any written notices of violation with respect to any Law applicable to the conduct of the Business or the ownership of the Purchased Assets.

(b) Seller has all material Permits necessary to conduct the Business as currently conducted. Seller has not received any written notice from any Governmental Authority regarding (i) any actual or possible material violation of any Permit, or any failure to comply in any respect with any term or requirement of any Permit, in each case related to the Business or (ii) any actual or possible revocation, withdrawal, suspension, cancellation, termination or modification of any Permit related to the Business.

Section 4.10 Environmental Matters. The Business and the Purchased Assets are and have at all times been in compliance in all material respects with all Environmental Laws, including the possession of, and the compliance with, all material Permits required under Environmental Laws. There has not been any release of Hazardous Materials by Seller at or from the Business Real Property in violation of Environmental Laws. Seller has not received any Environmental Claim relating to the Business, and to the knowledge of Seller, there are no Environmental Claims threatened in writing against the Business.

Section 4.11 Financial Information. Seller has made available to Buyer true and correct copies of the unaudited balance sheets of the Business as of December 31, 2020 and December 31, 2021 and unaudited balance sheets of the Business for the nine-month period ended September 30, 2022 (the "***Seller Financial Information***"). The Seller Financial Information (i) was prepared in good faith in accordance with the books of account and other financial records of Seller, (ii) presents fairly, in all material respects, the financial position of the Business (except for Taxes and the presentation of Excluded Assets and Excluded Liabilities) as of the respective dates thereof and for such periods indicated therein, and (iii) has been prepared in good faith on a basis consistent with the past practices of Seller and throughout the periods involved (collectively, the "***Accounting Principles***"); provided that, for the avoidance of doubt, the Seller Financial Information has not been compiled, reviewed, examined, audited or subjected to any other procedures performed by Seller's independent accountants (and such independent accountants have not expressed any opinion or other form of assurance on the Seller Financial Information). All accounts receivable (including notes, book debts and other amounts due or accrued, whether billed or unbilled), prepaid expenses and deposits arising from, related to or in respect of the Business are invoiced and collected by, or held at the level of, as applicable, Parent.

Section 4.12 Employees; Employee Benefits.

(a) Seller has made available to Buyer a true, complete and correct list of each Business Employee, as well as, to the extent permitted by applicable Law, each such Business Employee's: (i) name, (ii) position, (iii) employing entity, (iv) work location, (v) date of hire and length of service (including with any entity acquired by Seller or any Affiliate of Seller), (vi) annual salary or hourly rate, as applicable, (vii) status as exempt/non-exempt from the overtime requirements of the Fair Labor Standards Act and status as full time/part time, (viii) short-term or long-term disability or other leave status, (ix) target bonus for the current fiscal year and bonus paid or payable for the most recently completed fiscal year, the annual incentive or commission plan in which such individual is eligible to participate, and such individual's accrued bonus or accrued commissions, if any, (x) amount of accrued and unpaid hours of vacation, paid time off, sick leave and any other leave applicable to such Business Employee (by type), and (xi) work authorization/visa information and expiration dates, as applicable (such list, the "***Business Employee List***"). Seller has made available to Buyer a true, complete and correct list of Seller's consultants and independent contractors who are directly engaged in the digital portion of the Business and have been paid $25,000 or more by Seller during the 12-month period ended September 30, 2022, and, for each, a copy of the agreement pursuant to which they are engaged or, if none, such individual's compensation, such individual's initial date of engagement, whether such engagement has been terminated by written notice by either party thereto, the notice or termination provisions applicable to the services provided by such individual, the city/country where such individual provides services, whether such individual provides services directly to Seller or via a third-party entity or agency, and, if applicable, the person to whom the individual reports.

(b) Except as would not result in any Liability to Buyer, Seller is in compliance in all material respects with all applicable Law regarding employment practices, terms and conditions of employment, equal opportunity and wages and hours, including Worker Adjustment and Retraining Notification Act of 1988, as amended, ERISA, COBRA and the Fair Labor Standards Act of 1938, as amended (or similar local Law), with respect to the Business Employees and the conduct of the Business by Seller.

(c) As of the Agreement Date, there is not presently pending or existing, and to the knowledge of Seller, there is not threatened, any strike, slowdown, picketing, work stoppage or disputes related to the Business or the Business Employees. Seller is not party to or bound by any collective bargaining agreement, works council or labor Contract related to the Business or the Business Employees, other than such agreements or Contracts that are mandated by applicable Law. As of the Agreement Date, to the knowledge of Seller, no union organization effort is threatened, initiated or is in progress with respect to the Business or the Business Employees.

(d) Neither Seller nor any of its ERISA Affiliates, nor any predecessor thereof, sponsors, maintains or contributes to, has sponsored, maintained or contributed to, a multiemployer plan within the meaning of Section 3(37) of ERISA that, in each case, would result in the imposition of any material Liability to Buyer or any of its Affiliates. Neither Seller nor any of its ERISA Affiliates has incurred any unsatisfied Liability (including withdrawal Liability) under, and, to the knowledge of Seller, no circumstances exist that would result in any Liability to Seller, its Subsidiaries, or any of their ERISA Affiliates under, Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA that would result in the imposition of any Liability on Buyer or any of its Affiliates.

(e) Except as would not result in any Liability to Buyer, neither Seller nor any of its ERISA Affiliates has any Liability with respect to an obligation to provide medical, dental or life insurance coverage or any other welfare benefits after termination of employment in respect of any Business Employee, except as may be required under Section 4980B of the Code or other applicable Law.

(f) Except as would not result in any Liability to Buyer, no Seller Benefit Plan is sponsored, maintained or contributed to under any Law or applicable custom of any jurisdiction outside of the United States.

(g) Except as described in Schedule 4.12(g) of the Disclosure Letter, or except as would not result in any Liability to Buyer, the execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions hereunder and thereunder (including the consummation of the Purchase Transactions) will not (i) entitle any Business Employee to extra severance pay under any Seller Benefit Plan exceeding such severance required by applicable Law, (ii) result in any payment becoming due, accelerate the time of payment or vesting of benefits, or increase the amount of compensation due to any Business Employee under any Seller Benefit Plan or (iii) result in any "excess parachute payment" (as defined in Section 280G(b)(1) of the Code) being made to any Business Employee who is a "disqualified individual" within the meaning of Section 280G of the Code.

Section 4.13 Real Property.

(a) Schedule 4.13(a) of the Disclosure Letter sets forth a list of the Business Real Property. Seller has good and valid leasehold interests in or good, marketable fee title to, as applicable, all its Business Real Property free and clear of any Liens other than Permitted Liens. All Assumed Business Leases are in full force and effect, constitute legal, valid and binding obligations of Seller and to the knowledge of Seller, the other parties thereto, and such Contracts are enforceable in accordance with their respective terms, subject to the Enforceability Exceptions. There exists no breach, default or event of default (or occurrence or event that with notice or lapse of time or both would result in a breach, default or event of default) under any Assumed Business Lease (or any lease underlying a Business Lease) by Seller or, to the knowledge of Seller as of the Agreement Date, any other party thereto.

(b) Seller has not given to, nor received from, any other Person any written notice since January 1, 2020 (i) regarding any actual, alleged, possible, or potential breach of, or default under, any lease agreement in respect of any Business Real Property or (ii) announcing or threatening termination or cancellation of any lease agreement in respect of any Business Real Property.

(c) To the knowledge of Seller, there are no condemnation or eminent domain proceedings or compulsory purchase pending or threatened that would interfere with Seller's present use of the Business Real Property, and Seller has not leased, subleased or licensed any Business Real Property to any Person.

Section 4.14 Fair Consideration; No Fraudulent Conveyance. The transfer of the Purchased Assets to Buyer as contemplated by this Agreement and the other Transaction Documents is made in exchange for fair and equivalent consideration, and Seller is not insolvent nor will be rendered insolvent by the Transfer of the Purchased Assets as contemplated by this Agreement and other Transaction Documents. Seller is not entering into this Agreement or the Transactions with the intent to defraud, delay or hinder its creditors and the consummation of the Transactions will not have any such effect. The Transactions will not give rise to any right of any creditor of Seller to assert any claim for fraudulent conveyance against Buyer, any of its Subsidiaries or any of the Purchased Assets in the hands of Buyer or any of their respective successors and assigns following the Closing.

Section 4.15 Title, Condition and Sufficiency of Purchased Assets.

(a) Except as set forth on Schedule 4.15(a) of the Disclosure Letter, Seller has good and valid title to the Purchased Assets (or in the case of leased Purchased Assets, valid leasehold interests in such leased Purchased Assets), free and clear of all Liens.

(b) The Transferred Tangible Assets are in good working condition and repair, ordinary wear and tear excepted.

(c) After giving effect to the TSA, and subject to the employment of the Transferred Business Employees, (i) except for the Excluded Assets and as set forth in Schedule 4.15(c)-1 of the Disclosure Letter, the Purchased Assets constitute all of the Contracts, assets, rights and properties (whether real, personal or mixed and whether tangible or intangible) necessary, and such assets, rights and properties are sufficient, to enable Buyer, following the Closing, to conduct the Business in substantially the same manner the Business is currently conducted and (ii) except as set forth in Schedule 4.15(c)-2 of the Disclosure Letter, the Purchase Assets constitute all of the Contracts, assets, rights and properties (whether real, personal or mixed and whether tangible or intangible) necessary, and such assets, rights and properties are sufficient, to enable Buyer, following the Closing, to conduct the affiliate marketing/commerce portion of the Business (the "***Specified Business***") in substantially the same manner the Specified Business is currently conducted.

Section 4.16 Absence of Certain Developments. Except for actions taken to effect the Transactions as contemplated hereunder or any other Transaction Document, from September 30, 2022 through the Agreement Date, (a) there has not been any Effect that, individually or in the aggregate, has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (b) the Business has been conducted in the ordinary course in all material respects and (c) Seller has not taken any action that would, if taken by Seller from the Agreement Date through the Closing Date, require the consent of Buyer under Section 6.1(a).

Section 4.17 Finders; Brokers. Seller has not employed any finder or broker in connection with the Transactions who would have a valid claim for a fee or commission from Buyer in connection with the negotiation, execution or delivery of this Agreement or any of the other Transaction Documents or the consummation of any of the Transactions.

Section 4.18 No Other Representations and Warranties. Except for the representations and warranties contained in this Article 4 (including the related portions of the Disclosure Letter), neither Seller nor any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of Seller, including any representation or warranty as to the accuracy or completeness of any information regarding the Business or the Purchased Assets furnished or made available to Buyer, or as to the future revenue, profitability or success of the Purchased Business, or any representation or warranty arising from statute or otherwise in law. The foregoing shall not impair any remedy available to Buyer as a result of fraud committed by Seller.

ARTICLE 5

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as follows:

Section 5.1 Corporate Existence. Buyer is duly organized, validly existing and in good standing under the Law of its jurisdiction of organization. Buyer has the requisite corporate, partnership or similar power and authority to execute and deliver this Agreement and each Transaction Document to which it is a party and to consummate the Transactions.

Section 5.2 Corporate Authority. This Agreement and the other Transaction Documents to which Buyer is (or becomes) a party and the consummation of the Transactions involving such Persons have been duly authorized by Buyer by all requisite corporate, limited liability, partnership or other action prior to Closing and no other Proceedings on the part of Buyer or its stockholders are necessary for Buyer to authorize the execution and delivery of this Agreement or any of the other Transaction Documents, to perform any of their obligations hereunder or thereunder or consummate the Purchase Transactions. Buyer has full corporate or other organizational (as applicable) power and authority to execute and deliver this Agreement and the other Transaction Documents to which it is a party, to perform its obligations hereunder and thereunder and consummate the Purchase Transactions. This Agreement has been duly executed and delivered by Buyer, and the other Transaction Documents will be duly executed and delivered by Buyer at or prior to the Closing. Assuming the due authorization, execution and delivery by Seller of this Agreement or any other Transaction Document, as applicable, this Agreement constitutes, and the other Transaction Documents when so executed and delivered will constitute, valid and legally binding obligations of Buyer, enforceable against it in accordance with its terms, subject to the Enforceability Exceptions.

Section 5.3 Governmental Approvals and Consents; Non-Contravention.

(a) No Consent, order, or license or permit from, notice to or registration, declaration or filing with, any Governmental Authority is required on the part of Buyer or any of its Affiliates in connection with the execution, delivery or performance of this Agreement or any of the other Transaction Documents or the consummation of the Transactions except as would not prevent or delay the consummation of any of the Transactions.

(b) The execution and delivery of this Agreement and the other Transaction Documents by Buyer, the performance by Buyer of its respective obligations hereunder and thereunder and the consummation by Buyer of the Transactions do not and will not (without notice or lapse of time, or both) (i) violate or conflict with or result in any breach under any provision of the respective certificate of incorporation or bylaws or equityholders' agreement or similar Organizational Documents of Buyer (ii) result in any violation or breach of, or constitute any default under, or give rise to a right of termination, cancellation or acceleration of any obligation or a loss of a benefit under, or require that any Consent be obtained with respect to any material Permit or material Contract, or (iii) assuming compliance with the matters described in Section 5.3(a), violate, conflict with or result in any breach under any provision of any Law applicable to Buyer or any of its properties or assets, in each case except as would not prevent or delay the consummation of any of the Transactions.

Section 5.4 Finders; Brokers. None of Buyer or any of its Affiliates has employed any finder, broker or investment banker in connection with the Transactions who would have a valid claim for a fee, commission or expenses from Seller in connection with the negotiation, execution or delivery of this Agreement or any of the other Transaction Documents or the consummation of any of the Transactions.

ARTICLE 6

AGREEMENTS OF BUYER AND SELLER

Section 6.1 Operation of the Business.

(a) From the Agreement Date until the earlier of the Closing Date and termination of this Agreement pursuant to Article 9 (the "***Pre-Closing Period***"), Seller shall:

(i) continue to operate and conduct the Business in the ordinary course of business and in material compliance with applicable Law;

(ii) in each case to the extent related to the Purchased Assets, the Assumed Liabilities or the Business: (A) pay all accounts payable and pay or perform its other obligations in the ordinary course of business, (B) use commercially reasonable efforts consistent with past practice and policies to collect accounts receivable when due and not extend credit outside of the ordinary course of business, and (C) use its commercially reasonable efforts consistent with past practice and policies to preserve intact its present business organizations, keep available the services of the Business Employees and preserve its relationships with customers, suppliers, distributors, licensors, licensees, and others having business dealings with it;

(iii) maintain each of the Business Real Properties leased under the Assumed Business Leases in accordance with the terms of the applicable Assumed Business Lease;

(iv) promptly notify Buyer of any change, occurrence or event not in the ordinary course of business, or of any change, occurrence or event that, individually or in the aggregate with any other changes, occurrences and events, would reasonably be expected to have a Material Adverse Effect or cause any of the conditions set forth in Article 7 not to be satisfied; and

(v) notify (A) Buyer in writing promptly after learning of any Proceeding by or before any Governmental Authority or arbitrator initiated by or against it with respect to the Business, or, to the knowledge of Seller, threatened in writing against the Business (a "***New Litigation Claim***"), (B) Buyer of ongoing material developments in any New Litigation Claim or any litigation claim pending against the Business as of the Agreement Date and (C) consult in good faith with Buyer regarding the conduct of the defense of any New Litigation Claim or any litigation claim pending against the Business as of the Agreement Date.

(b) Except as otherwise provided in Section 6.1(b) of the Disclosure Letter, during the Pre-Closing Period, without the prior written consent of Buyer, Seller shall not take any of the following actions with respect to the Purchased Assets, the Assumed Liabilities or the Business:

(i) transfer, sell, lease, license or otherwise convey or dispose of, abandon or allow to lapse (other than at the expiration by its non-extendable and non-renewable term), or subject to any Lien (other than Permitted Liens), the Purchased Assets (or assets or property that would have been Purchased Assets, but for such transfer or disposition), in each case other than (A) sales or non-exclusive licenses of Transferred Intellectual Property to customers or other business partners in the ordinary course of business or (B) sales or dispositions of obsolete or inoperable Purchased Assets;

(ii) except in the ordinary course of business, (A) enter into any Contract that if in effect on the Agreement Date would be a Material Contract (other than a Shared Contract) or (B) amend in any material respect, renew or waive any material provision of any existing Material Contract (other than a Shared Contract, automatic renewals in accordance with the terms of such Material Contract or other renewals of customer contracts not adverse to the Business);

(iii) enter into any Contract providing for the grant of exclusive sales, distribution, marketing or other exclusive rights, rights of refusal, rights of first negotiation or similar preemptive rights and/or terms to any Person related to the Business or the Purchased Assets;

(iv) (A) commence a Proceeding or (B) settle or compromise any Proceeding, unless all amounts paid in respect thereof are Excluded Liabilities or are paid or otherwise satisfied in full prior to the Closing;

(v) (A) transfer any employee of Seller or its Affiliates into the Business such that they would fall under the definition of Business Employee, transfer any Business Employee out of the Business such that they would no longer be included as a Business Employee, hire any Business Employee (except to fill current vacancies set forth on Schedule 6.1(b)(v) of the Disclosure Letter or vacancies arising after the Agreement Date due to the departure of any Business Employee) or terminate any Business Employees, (B) increase the compensation or benefits of any Business Employees, other than, in the case of clause (B), as required by Law or in accordance with any pre-existing contractual obligations set forth in Schedule 6.1(b)(v) of the Disclosure Letter or (C) grant or pay, or enter into any Contract providing for the granting of any severance, retention or termination pay, or the acceleration of vesting or other benefits, to any Business Employee;

(vi) extend the period for payment of Accounts Payable or accelerate the payment of Accounts Receivable, in each case other than in the ordinary course of business;

(vii) change the invoicing practices of Seller with respect to the Business in a manner that would accelerate the timing for delivering invoices for services of the Business to customers under Assumed Contracts;

(viii) make any material capital expenditures or material research and development expenditures other than in the ordinary course of business and reasonably necessary for the continued operation of the Business; or

(ix) enter into any agreement to do any of the foregoing.

(c) If Seller desires to take an action that would be prohibited pursuant to Section 6.1(a) or Section 6.1(b) without the prior written consent of Buyer, prior to taking such action, Seller may request such written consent by sending an electronic mail to the representative of Buyer listed on Schedule 6.1(c) of the Disclosure Letter and Buyer may deliver to Seller its written consent (to the extent granted) via electronic mail.

(d) Nothing contained in this Agreement shall give Buyer, directly or indirectly, the right to control or direct the operations of the Business and, prior to the Closing, Seller shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over their respective businesses and operations.

Section 6.2 Access to Information; Confidentiality.

(a) During the Pre-Closing Period, Seller shall, and shall cause its Subsidiaries to, permit Buyer and its authorized agents or Representatives to have reasonable access during regular business hours to: (i) such properties, books, records, Contracts and financial (including working papers) and operating data of the Business, the Purchased Assets or the Assumed Liabilities and (ii) the Business Employees listed on Schedule 6.2 of the Disclosure Letter and other members of management of Seller knowledgeable about the Business, the Purchased Assets or the Assumed Liabilities, in each case as Buyer may reasonably request in order to review information and documentation and ask questions relative to the properties, books, Contracts and other records of the Business, the Purchased Assets or the Assumed Liabilities and to conduct any other reasonable investigations, in each case for any reasonable business purpose relating to the consummation of the Purchase Transactions. All requests for access to the offices, properties, books and records of Seller and its Subsidiaries shall be made to such Representatives of Seller as Seller shall designate, who shall be solely responsible for coordinating all such requests and all access permitted hereunder. It is further agreed that neither Buyer nor any of its Affiliates, agents or Representatives acting on its behalf shall contact any of the employees, customers, suppliers, partners, Subsidiaries or Affiliates of Seller in connection with the Transactions, whether in person or by telephone, electronic or other mail or other means of communication, without the specific prior authorization of such Representatives of Seller (not to be unreasonably withheld, conditioned or delayed). Notwithstanding anything to the contrary in the foregoing, neither Seller nor any of its Subsidiaries shall be required to provide access to or disclose information where such access or disclosure would reasonably be expected to cause the waiver of any attorney-client privilege of Seller or such Subsidiaries or contravene any Law or binding agreement of Seller or such Subsidiaries (provided that Seller shall inform Buyer as to the general nature of what is being withheld as a result of the foregoing and shall use commercially reasonable efforts to disclose such information in a way that would not waive such privilege or contravene any applicable Law or binding agreement, including by entering into a joint defense or similar agreement).

(b) Each Party expressly acknowledges and agrees that this Agreement and the other Transaction Documents to which it is a party and their respective terms and all information, whether written or oral, furnished by a Party to another Party or any Affiliate of such other Party, in connection with the negotiation of this Agreement or the other Transaction Documents or pursuant to this Section 6.2 shall be treated as "Evaluation Material" of such Party under the Confidentiality Agreement.

(c) Except as otherwise expressly provided in this Agreement or any other Transaction Document, Seller shall hold and shall cause its Subsidiaries to hold, and shall use commercially reasonable efforts to cause its Representatives to hold, in strict confidence and not to disclose, release or use (except as may be necessary to enforce its rights as described in clause (iii), in connection with the performance of its obligations under this Agreement or the preparation of any Tax Returns required to be filed by it), without the prior written consent of Buyer, any and all Confidential Information related to Buyer, the Purchased Assets the Assumed Liabilities and/or the Business; provided that Seller may disclose, or may permit disclosure of, such information (i) to its Representatives who have a need to know such information for a purpose not prohibited by this Section 6.2(c) and are informed of their obligation to hold such information confidential to the same extent as is applicable to Seller and in respect of whose failure to comply with such obligations Seller will be responsible, (ii) if Seller, its Subsidiaries or its Representatives are required to disclose any such information pursuant to applicable Law or pursuant to the applicable rules and regulations of any national securities exchange applicable to listed companies or (iii) in connection with the enforcement of any right or remedy relating to this Agreement or any other Transaction Documents or the Transactions. Notwithstanding anything to the contrary in the foregoing, in the event that any demand or request for disclosure of such confidential and proprietary information is made pursuant to clause (ii), Seller shall to the extent practicable and permissible promptly notify Buyer of the existence of such request or demand and shall provide Buyer a reasonable opportunity to seek an appropriate protective order or other remedy (and cooperate with Buyer with respect thereto, at Buyer's sole cost and expense), and in the event such protective order or other remedy is not obtained, Seller may disclose such confidential and proprietary information without Liability hereunder, but shall furnish only that portion of such confidential and proprietary information that Seller is advised by legal counsel it is legally required to disclose and shall, to the extent requested by Buyer, exercise commercially reasonable efforts, at Buyer's sole cost and expense, to preserve the confidentiality of such information. Notwithstanding anything to the contrary herein, this Section 6.2(c) shall not apply to information to the extent relating to the Excluded Assets, Excluded Liabilities or Seller's or its Subsidiaries' businesses other than the Business, nor shall it prevent disclosure of information under customary confidentiality agreements in connection with any transaction or proposal with respect to an acquisition of control of Seller (whether by way of merger, purchase of capital stock, purchase of assets, joint venture, license or lease or otherwise).

(d) Except as otherwise expressly provided in this Agreement or any other Transaction Document, Buyer shall hold, and shall use commercially reasonable efforts to cause its Representatives to hold, in strict confidence and not to disclose, release or use (except as may be necessary to enforce its rights as described in clause (iii), in connection with the performance of its obligations under this Agreement or preparation of any Tax Returns required to be filed by it), without the prior written consent of Seller, any and all Confidential Information related to the Excluded Assets, the Excluded Liabilities and/or the businesses of Seller (other than the Business); provided that Buyer may disclose, or may permit disclosure of, such information (i) to its Representatives who have a need to know such information for a purpose not prohibited by this Section 6.2(d) and are informed of their obligation to hold such information confidential to the same extent as is applicable to Buyer and in respect of whose failure to comply with such obligations Buyer will be responsible, (ii) if Buyer, its Affiliates or its Representatives are required to disclose any such information pursuant to applicable Law or pursuant to the applicable rules and regulations of any national securities exchange applicable to listed companies or (iii) in connection with the enforcement of any right or remedy relating to this Agreement or any other Transaction Documents or the Transactions. Notwithstanding anything to the contrary in the foregoing, in the event that any demand or request for disclosure of such confidential and proprietary information is made pursuant to clause (ii), Buyer shall to the extent practicable and permissible promptly notify Seller of the existence of such request or demand and shall provide Seller a reasonable opportunity to seek an appropriate protective order or other remedy (and cooperate with Seller with respect thereto, at Seller's sole cost and expense), and in the event such protective order or other remedy is not obtained, Buyer may disclose such confidential and proprietary information without Liability hereunder, but shall furnish only that portion of such confidential and proprietary information that Buyer is advised by legal counsel it is legally required to disclose and shall, to the extent requested by Seller, exercise commercially reasonable efforts, at Seller's sole cost and expense, to preserve the confidentiality of such information. Notwithstanding anything to the contrary herein, this Section 6.2(d) shall not apply to information to the extent relating to the Purchased Assets, the Assumed Liabilities, or with respect to the Business, information that does not relate to the Excluded Assets.

Section 6.3 Necessary Efforts.

(a) Subject to the terms and conditions of this Agreement and to applicable Law, Seller and Buyer agree, and Seller agrees to cause its Subsidiaries, to use their respective commercially reasonable efforts to take, or cause to be taken, all actions and to use their respective commercially reasonable efforts to do, or cause to be done, all things necessary, proper or advisable to consummate and make effective the Transactions and to use their respective commercially reasonable efforts to cause the conditions to each Party's obligation to close the Transactions as set forth in Article 7 to be satisfied as promptly as practicable, including using their respective commercially reasonable efforts to take all actions necessary (i) to obtain all Consents, licenses, certificates, permits, approvals, clearances, expirations, consents, waivers or terminations of applicable waiting periods, authorizations, qualifications and orders of any Governmental Authority (each, a "***Governmental Consent***") or other Persons, including with respect to any Assumed Contracts, required in connection with the consummation of the Transactions, except, in the case of a Consent of a Person other than a Governmental Authority, as requested by Buyer (it being understood that the failure to obtain any such Consents contemplated by this Section 6.3 shall not, by itself, cause the conditions set forth in Section 7.2(b) or Section 7.3(b) to be deemed not to be satisfied), (ii) to effect all such necessary registrations and filings with the Governmental Authorities in order to consummate and make effective the Purchase Transactions and the other Transactions and (iii) to comply with all requirements under applicable Law that may be imposed on it with respect to this Agreement and the Purchase Transactions.

(b) Notwithstanding anything to the contrary herein, it is expressly understood and agreed that: (i) Buyer shall not have any obligation to litigate or contest any Proceeding challenging any of the Transactions as violative of any applicable Law and (ii) Buyer shall be under no obligation to proffer, make proposals, negotiate, execute, carry out or submit to agreements or Orders providing for (A) the sale, transfer, license, divestiture, encumbrance or other disposition or holding separate (through the establishment of a trust or otherwise) of any assets, categories of assets, operations or categories of operations of Buyer or any of its Affiliates, (B) the discontinuation of any product or service of Buyer or any of its Affiliates, (C) the licensing or provision of any technology, software or other Intellectual Property Rights of Buyer or any of its Affiliates to any Person, or (D) the imposition of any limitation or regulation on the ability of Buyer or any of its Affiliates to freely conduct their business or own their respective assets.

Section 6.4 Public Disclosures. Neither Buyer nor Seller shall, and Buyer and Seller shall cause each of their respective Subsidiaries and its and their respective directors, officers, employees, Affiliates and Representatives not to, directly or indirectly, issue any press release or other public statement relating to the terms of this Agreement or the Transactions, without the prior written approval of the other Party, except that: (a) Buyer or Seller may issue such release or statement or make such other disclosures as they may reasonably determine is necessary to comply with applicable Law or the rules and regulations of any applicable national securities exchange, (b) Buyer may disclose any information concerning the Transactions that it deems appropriate in its reasonable judgment, in light of its status as a publicly-owned company, including to securities analysists and institutional investors and in press interviews and (c) Buyer or Seller may make customary disclosures to its existing and potential lenders and financing sources subject to confidentiality undertakings no less restrictive than those of Buyer pursuant to this Agreement and the Confidentiality Agreement; provided that, in each case, to the extent in the good faith judgment of such Party it is reasonably practicable to do so, such Party shall provide the other Party with a reasonable opportunity in light of the circumstances to review such Party's intended communication (to the extent made in writing) and consider in good faith modifications to the intended communication reasonably requested by the other Party.

Section 6.5 Post-Closing Access to Records and Personnel.

(a) Exchange of Information. After the Closing, for a period of seven (7) years after the Closing Date, upon receipt of reasonable prior notice, each Party agrees to provide, or cause to be provided, to each other, as soon as reasonably practicable after written request therefor and at the requesting Party's sole expense, reasonable access during normal business hours, to, and in manner so as not to unreasonably interfere with the conduct of such other Party's business the other Party's employees (without substantial disruption of employment) and to any and all files, documents, books and records that are in a Party's possession, including customer lists, invoices and purchase orders, cost records, sales and pricing data, marketing materials, supplier records, product data, manuals and literature, technical information, drawings, specifications and other engineering data, evidences of title and other business records, in each case, relating to the conduct of the Business on or before the Closing Date and (x) in the case of Seller, the Excluded Assets and Excluded Liabilities and (y) in the case of Buyer, the Purchased Assets and the Assumed Liabilities (collectively, the "***Books and Records***"), to the extent reasonably available and in the possession or under the control of the other Party that the requesting Party reasonably needs (i) to comply with reporting, disclosure, filing or other requirements imposed on the requesting Party (including under applicable securities Law) by a Governmental Authority having jurisdiction over the requesting Party, (ii) for use in any other judicial, regulatory, administrative or other Proceeding, or in order to satisfy Tax, audit, accounting, claims, regulatory, litigation or other similar requirements, (iii) in connection with the filing of any Tax return or election or any amended return or claim for refund, determining a liability for Taxes or a right to a refund of Taxes or any Tax audit or other Proceeding in respect of Taxes, (iv) to comply with its obligations under this Agreement or the other Transaction Documents or (v) in connection with any other matter requiring access to any such employees, books, records, documents, files and correspondence of the other Party, solely to the extent necessary for each party's performance of its obligations under this Agreement and the other agreements contemplated hereby or otherwise necessary for Buyer's operation of the Business after Closing or Seller's operation of its businesses (other than the Business) after Closing, as the case may be; provided that no Party shall be required to provide access to or disclose (x) information where such access or disclosure would be reasonably expected to violate any Law, or waive any attorney-client or other similar privilege (provided that in the event such provision of information would reasonably be expected to violate any Law or waive any attorney-client or other similar privilege, the Party with such information shall inform the other as to the general nature of what is being withheld as a result of the foregoing and shall take all reasonable measures to permit the disclosure in a manner that avoids any such violation or waiver, including by entering into a joint defense or similar agreement and in accordance with Section 10.14) or (y) any financial or other information that such Party does not maintain in the ordinary course of business or is otherwise not reasonably available under its current reporting systems, and each Party may redact information regarding itself or its Subsidiaries not relating to Business, the Purchased Assets or the Assumed Liabilities.

(b) Ownership of Information. Any information owned by a Party that is provided to a requesting Party pursuant to this Section 6.5 shall be deemed to remain the property of the providing Party. Unless specifically set forth herein, nothing contained in this Agreement shall be construed as granting or conferring rights of license or otherwise in any such information.

(c) Record Retention. Except as otherwise provided herein, each Party agrees to use its commercially reasonable efforts to retain the Books and Records in its possession or control for a reasonable period of time as set forth in its regular document retention policy, as such policy may be amended from time to time, or for such longer period as may be required by Law, or until the expiration of the relevant representation or warranty under any of the Transaction Documents and any related claim of indemnification related thereto. Notwithstanding the foregoing, any Party may destroy or otherwise dispose of any Books and Records in accordance with its retention policy; provided that prior to any such destruction or disposal of any Books and Records other than e-mails that occurs prior to the second (2^{nd}) anniversary of the Closing Date, (i) such Party shall provide no less than two months' prior written notice to the other Party of any such proposed destruction or disposal (which notice shall specify in reasonable detail which of the Books and Records is proposed to be so destroyed or disposed of) and (ii) if a recipient of such notice shall request in writing prior to the scheduled date for such destruction or disposal that any of the information proposed to be destroyed or disposed of be delivered to such recipient, such Party proposing the destruction or disposal shall, as promptly as practicable, arrange for the delivery of such of the Books and Records as was requested by the recipient (it being understood that all reasonable out-of-pocket costs associated with the delivery of the requested Books and Records shall be paid by such recipient); provided, further, that the foregoing shall not apply to e-mails that are destroyed in accordance with a Party's regular document retention policies.

(d) Limitation of Liability. No Party shall have any Liability to any other Party in the event that any information exchanged or provided pursuant to this Section 6.5 is found to be inaccurate. No Party shall have any Liability to any other Party if any information is destroyed or lost after commercially reasonable efforts by such Party to comply with the provisions of Section 6.5(c).

(e) Confidential Information. Nothing in this Section 6.5 shall require (i) any Party to violate any agreement with any third parties regarding the confidentiality of confidential and proprietary information; provided that in the event that any Party is required under this Section 6.5 to disclose any such information, that Party shall inform the other as to the general nature of what is being withheld as a result of the foregoing and shall use commercially reasonable efforts to seek to obtain such third party's Consent to the disclosure of such information and implement requisite procedures to enable the disclosure of such information or take all reasonable measures to permit the disclosure in a manner that avoids any such violation, (ii) any Party to disclose any information if Seller or any of its Subsidiaries, on the one hand, and Buyer or any of its Subsidiaries, on the other hand, are adverse parties in a litigation (including any such litigation relating to this Agreement or the Transactions), to the extent the information is related thereto (or the subject matter thereof) or requested in connection therewith (provided that such restriction shall not apply to any information to the extent necessary for such Party to prepare any Tax Returns or any filings required by the rules and regulations of any national securities exchange) or applicable Law. The covenants contained herein shall in no event be considered a waiver of any attorney-client privilege, work product privilege or any similar privilege.

Section 6.6 Employee Relations and Benefits.

(a) Offer Letters; Terms and Conditions of Employment. Seller shall cooperate and work with Buyer to help Buyer identify Business Employees and contractors of Seller to whom Buyer may elect to offer continued employment or engagement with Buyer or a Subsidiary of Buyer. With respect to any Business Employee or contractor of Seller who receives an offer of employment or engagement from Buyer, Seller shall assist Buyer with its efforts to enter into an Offer Letter or independent contractor agreement, with such Business Employee or contractor as soon as practicable after the Agreement Date and in any event prior to the Closing Date (any such Business Employees who accept such offers of employment, the "***Transferred Business Employees***" and together with any contractors that accept such offers of engagement, the "***Transferred Business Service Providers***"). Buyer shall make an offer of employment to all Business Employees set forth on the Business Employee List, with base salaries substantially the same or better as are set forth in the Business Employee List opposite each such Business Employee but shall not be obligated to engage any contractors of Seller. Notwithstanding the foregoing, if during the Pre-Closing Period Buyer reasonably determines that any of the Business Employees set forth on the Business Employee List are either (i) not directly involved in the Business or (ii) solely or primarily involved in any business of Parent or Seller other than the Business, including the Excluded Print Business, Buyer shall promptly notify Seller and shall not be obligated to extend an offer of employment to such Business Employee. With respect to matters described in this Section 6.6, Seller will consult with Buyer (and will consider in good faith the advice of Buyer) prior to sending any notices or other communication materials to the Business Employees or any of its contractors. Seller and its Affiliates will be solely responsible for complying with the requirements of Section 4980B of the Code for all Business Employees. Seller shall cash out the Transferred Business Employees for all accrued but unused vacation and other paid time-off of such Transferred Business Employees in accordance with the terms and conditions applicable to the provision thereof under the vacation pay or other paid time-off policy of Seller or its Affiliates applicable to such Transferred Business Employees as of and up to the Effective Time.

(b) Consent to Hiring. Seller hereby consents to the hiring or engagement, as applicable, of the Transferred Business Employees and Transferred Business Service Providers by Buyer and waives, with respect to the employment or engagement by Buyer of the Transferred Business Employees and Transferred Business Service Providers, any claims or rights Seller may have against Buyer or the Transferred Business Employees and Transferred Business Service Providers under any non-competition, confidentiality or employment agreement or consulting agreement to the extent the Transferred Business Employees and Transferred Business Service Providers will perform services for Buyer.

(c) Pre-Closing Liabilities. Seller and its Affiliates shall be solely responsible for any and all Liabilities in respect of the Business Employees, including the Transferred Business Employees, and their beneficiaries and dependents, arising prior to the Closing, and relating to or arising out of or in connection with, to the extent applicable, (i) the employment of any personnel by Seller or its Affiliates, (ii) the participation in or accrual of benefits or compensation under, or the failure to participate in or to accrue compensation under, any Seller Benefit Plans, (iii) salaries, wages, bonuses, incentive compensation, commissions, retention payments, vacation, sick pay or other compensation or payroll items (including deferred compensation), (iv) any severance, separation or termination Liabilities, including such Liabilities incurred in connection with the Closing and (v) any unpaid payroll Taxes, social security or equivalent Taxes, unpaid fees for medical insurance or similar coverage, and unemployment or equivalent Taxes imposed on Seller in its capacity as employer, and performance of any obligation to any Governmental Authority to withhold income or other Taxes from wages of employees.

(d) No Third-Party Beneficiaries. Nothing in this Section 6.6 is intended to or shall (i) prevent Buyer, on or after the Closing Date, from terminating the employment or engagement of any Transferred Business Employees or Transferred Business Service Providers, or (ii) confer any rights or remedies (including third-party beneficiary rights) on any Business Employees or contractor of Seller, or any beneficiary thereof.

Section 6.7 Tax Matters.

(a) Transfer Taxes. All value-added, transfer, documentary, sales, use, stamp, registration and other Taxes and fees (including any penalties and interest) incurred in connection with the transfer of the Purchased Assets ("***Transfer Taxes***") shall be paid by Seller when due, and Seller and Buyer shall, at their own expense, file all necessary Tax Returns and other documentation with respect to all such transfer, documentary, sales, use, stamp, registration and other Taxes and fees to the extent such Party is required to file under applicable Law.

(b) Tax Returns.

(i) Following the Closing, each of Buyer and Seller shall, and shall cause their respective Affiliates to, duly file or cause to be duly filed any Tax Return required to be filed by it in respect of any Tax. If a Party is liable under this Agreement for any portion of a Tax shown due on any Tax Return required to be filed by another Party, the Party obligated to file such Tax Return shall deliver a copy of the relevant portions of such Tax Return (taking into account any extensions, if applicable) to the liable Party. The liable Party shall pay the Party obligated to file such Tax Return the portion of the Tax so shown due for which it is so liable within five Business Days. This Section 6.7(b) shall not apply to any Transfer Taxes, which shall be governed by Section 6.7(a).

(ii) With respect to the Business, in the case of any Straddle Period, the amount of Taxes allocable to the portion of the Straddle Period ending on the Closing Date shall be deemed to be (A) in the case of Taxes imposed on a periodic basis (such as real or personal property Taxes), the amount of such Taxes for the entire period (or, in the case of such Taxes determined on an arrears basis, the amount of such Taxes for the immediately preceding period) multiplied by a fraction, the numerator of which is the number of calendar days in the Straddle Period ending on and including the Closing Date and the denominator of which is the number of calendar days in the entire relevant Straddle Period and (B) in the case of Taxes not described in clause (A) (such as franchise Taxes or Taxes that are based on or related to income or receipts), the amount of any such Taxes shall be determined as if such taxable period ended as of the close of business on the Closing Date.

(c) Cooperation and Assistance. Seller and Buyer shall reasonably cooperate with each other in the filing of any Tax Returns and the conduct of any audit or other Proceeding. They each shall make available such other documents as are reasonably necessary to carry out the intent of this Section 6.7.

Section 6.8 Non-Competition; Non-Solicitation.

(a) During the period commencing on the Closing Date and ending 24 months after the Closing Date, Seller will not, and will cause its Affiliates not to, participate or engage in, or hold any ownership interest in any Person who engages in, any business that directly competes with the Business as it is operated on the Closing Date (the "***Restricted Business***"); provided that (i) Seller may in all events, continue to perform any Restricted Business for the benefit of Buyer or any of its Affiliates as required or contemplated by this Agreement or any other Transaction Document, (ii) the restrictions contained in this Section 6.8(a) shall not restrict the acquisition by Seller, directly or indirectly, of less than 1% of the outstanding capital stock of any publicly traded company engaged in a Restricted Business, (iii) Seller will not be restricted from activities in which it is engaged as of the Closing (excluding the Business), and (iv) Seller may acquire other media brands or businesses after the Closing, provided that any media brands or businesses acquired by Seller during such 24-month period may not derive more than twenty percent (20%) of their aggregate revenues at the time of acquisition from activities that are directly competitive with the Restricted Business. For purposes of illustration, the parties intend that publications such as *Men's Health*, *Esquire* and *GQ* would be directly competitive with the Restricted Business, but publications with a specific active or outdoor theme such as fishing or boating would not be directly competitive with the Restricted Business unless such theme is the primary subject of any of the Adventure Sports Network's publications as of the Closing.

(b) During the period commencing on the Closing Date and ending 24 months after the Closing Date, Seller will not directly or indirectly, solicit to hire in any capacity (whether as an employee, consultant, independent contractor or otherwise) any Transferred Business Employee. This restriction shall not apply to Persons that have been terminated by Buyer at least six months prior to commencement of employment discussions between Seller or its representatives and such Person and nothing in this Section 6.8(b) shall restrict Seller from engaging in general or public searches, solicitations or advertising by or on behalf of Seller (including through search firms) that are not specifically directed towards any such Person described in the immediately preceding sentence.

(c) Each Party acknowledges and agrees that the covenants and agreements set forth in this Section 6.8 were a material inducement to the other Party to enter into this Agreement and to perform its obligations hereunder. Seller hereby acknowledges that the restrictive covenants set forth in this Section 6.8 are reasonable in terms of duration, scope and area restrictions and are limited to the scope that is necessary to protect the goodwill of the Business and to prevent the impairment of the value of the substantial investment therein being made by Buyer hereunder. The Parties agree that, if any court of competent jurisdiction in a final, non-appealable judgment determines that a specified time period, a specified geographical area, a specified business limitation or any other relevant feature of this Section 6.8 is unreasonable, arbitrary or against public policy, then a lesser time period, geographical area, business limitation or other relevant feature that is determined by such court to be reasonable, not arbitrary and not against public policy may be enforced against the applicable Party. It is agreed that any breach or threatened breach of the restrictive covenants set forth in this Section 6.8 would cause irreparable injury to the non-breaching Party and that money damages would not provide an adequate remedy to the non-breaching Party.

Section 6.9 Exclusivity. During the Pre-Closing Period, Seller will not, nor will it authorize or permit any of its Subsidiaries or Representatives to, directly or indirectly: (i) solicit or knowingly encourage, facilitate or induce the making, submission or announcement of, or take any other action designed or reasonably likely to facilitate, any inquiry, expression of interest, proposal or offer concerning the sale or other conveyance of any material portion of the Business as an alternative to the Transactions (an "***Acquisition Proposal***") from any Person other than Buyer or its Affiliates or Representatives, (ii) deliver or make available to any Person any nonpublic information with respect to the Business (other than in the ordinary course of business) or afford access to the properties, books, records or representatives of the Business to any Person (other than Buyer or its Affiliates or Representatives, or as required by applicable Law) or (iii) negotiate, or accept any proposals, offers or inquiries from, or enter into any Contract with, any Person relating to or in connection with any Acquisition Proposal. Notwithstanding anything to the contrary herein, in no event shall any transaction or proposal with respect to an acquisition of control of Seller (whether by way of merger, purchase of capital stock, purchase of assets, joint venture, license, lease or otherwise) constitute an Acquisition Proposal.

Section 6.10 TSA Schedule Supplements. As promptly as practicable following the Agreement Date and in any event prior to the Closing, Buyer and Seller agree to negotiate in good faith with respect to the schedules to be attached to the TSA, including any additions, modifications, adjustments or clarifications with respect to any matters set forth in such schedules as of the Agreement Date.

Section 6.11 Cooperation in Litigation. Without limiting the obligations of the Parties under Article 8, from and after the Closing, upon the written request of a Party, the other Parties shall reasonably cooperate with the requesting Party in the investigation, prosecution or defense of any Proceedings arising from or related to the conduct of the Business, the ownership, operation or use of the Purchased Assets or the Assumed Liabilities and, in each case, involving one or more third parties. Such cooperation shall include (a) providing, and causing a Party's Affiliates or Subsidiaries, as applicable, to provide documentary or other evidence, (b) implementing or causing a Party's Affiliates to implement record retention, litigation holds or other documentary or evidence policies and (c) making and causing a Party's Affiliates to make available directors, officers and employees to give depositions or testimony, all as reasonably requested by the requesting Party from time to time.

Section 6.12 Excluded Print Business. Seller will, at its sole cost and expense, continue to operate the Excluded Print Business with respect to the *Men's Journal* publication in the ordinary course of business: (i) with respect to publishing, for the remainder of calendar year 2022; and (ii) with respect to distribution to, and sales through newsstands and other outlets, and related returns, for so long as is customary in the industry. Promptly following January 1, 2023, Seller shall cease publishing *Men's Journal* and wind-down, at its sole cost and expense, the Excluded Print Business with respect to the *Men's Journal* publication, which shall include completing the distribution, sale and processing of returns of the publications printed prior to January 1, 2023. Buyer hereby grants to Seller, a non-exclusive, royalty-free, worldwide license to use any of the Transferred Intellectual Property (a) until the end of calendar year 2022 to print and publish *Men's Journal*, and (b) until the completion of the wind-down, solely in connection with, and as necessary for, Seller's operation and wind-down of the Excluded Print Business. Notwithstanding anything in the contrary in the foregoing, the Parties will work together to enable Seller to offer to *Men's Journal* print subscribers a subscription to *Sports Illustrated* to fulfill Seller's obligation to such *Men's Journal* print subscribers.

Section 6.13 Seller Dissolution Event. Seller shall provide written notice to Buyer promptly, and in any event no later than ten Business Days, after effecting a Dissolution Event.

Section 6.14 Disclosure Updates. If, after the Agreement Date, Seller obtains knowledge that any representation or warranty of Seller contained in this Agreement would not be true and correct as of the Closing (each, a "***Disclosure Update***"), then Seller may give Buyer written notice of such Disclosure Update, which notice shall include a detailed description of the Events giving rise to such Disclosure Update and the representations and warranties of Seller to which such Disclosure Update relates, and shall be signed by an officer of Seller (each, a "***Disclosure Update Notice***"). Any Disclosure Update that: (i) is the result of an Event first occurring after the Agreement Date and not as a result of any action that is wrongful or not taken in good faith by any Seller Party, including any breach, default or violation of applicable Law by such Seller Party, (ii) is not material and (iii) does not pertain to any representation or warranty under Section 4.5 or Section 4.6(f), in each case as reasonably determined by Buyer (each, a "***Permitted Disclosure Update***"), shall be deemed an update and supplement to the Disclosure Letter for all purposes under this Agreement (including, for the avoidance of doubt, Article 8), but only as and to the extent described in the applicable Disclosure Update Notice and, for the avoidance of doubt, the description of the Permitted Update contained in the Disclosure Update Notice shall be deemed to be representations and warranties of Seller under Article 4 for all purposes under this Agreement (including, for the avoidance of doubt, Article 8). As used herein, the term "***Event***" shall mean the existence or occurrence of any act, circumstance, condition, event, fact or incident, or any set or combination of any of the foregoing.

Section 6.15 Assumed Business Leases.

(a) During the Pre-Closing Period, Buyer and Seller shall use their commercially reasonable efforts to obtain the consent of the landlord under the Business Leases set forth on Schedule 6.15 of the Disclosure Letter to the assignment of such Business Leases to Buyer, including the Lease Deposits (the "***Assumed Business Leases***").

(b) If Buyer and Seller cannot obtain the consent of such landlord on terms that are reasonably acceptable to Buyer and Seller prior to the Closing, in lieu of Seller assigning the Assumed Business Leases to Buyer, then, following the Closing, on a monthly basis, Seller shall deliver to Buyer (through Buyer's AP system, as described in the TSA) an invoice (a "***Lease Invoice***") setting forth third-party charges for such month that are (i) required to be paid by Seller under the Assumed Business Leases, or (ii) otherwise reasonably necessary to maintain the Carlsbad Office, including base rent, additional rent, utilities, taxes, insurance and maintenance, together with any documentation reasonably requested by Buyer. Buyer shall pay Seller all amounts reflected on a Lease Invoice within fifteen (15) days after receipt. Upon expiration of the Assumed Business Leases, Seller shall pay Buyer an amount equal to the deposit of $475,000 under the Assumed Business Leases (the "***Lease Deposits***"), less (x) any amounts required to be paid by Seller upon termination of such leases (including any damage to the leased premises), and (y) any amounts then owing by Buyer to Seller under any Lease Invoices. Seller shall make such payment within fifteen (15) days after Seller and the landlord under the Assumed Business Leases have agreed upon all amounts then due upon termination of such leases. Buyer shall remove all tangible personal property included in the Purchased Assets from the Carlsbad Office prior to the termination of the Assumed Business Leases.

ARTICLE 7

CONDITIONS TO CLOSING

Section 7.1 Conditions Precedent to Obligations of Buyer and Seller. The respective obligations of the Parties to consummate and cause the consummation of the Transactions shall be subject to the satisfaction (or written waiver by the Party for whose benefit such condition exists) on or prior to the Closing Date of each of the following conditions:

(a) No Injunction, etc. No Governmental Authority of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any Law that is in effect on the Closing Date that has or would have the effect of prohibiting, enjoining or restraining the consummation of the Transactions to occur on the Closing Date or otherwise making such transactions illegal.

(b) Regulatory Authorizations. Buyer and Seller shall have timely obtained from each Governmental Authority all approvals, waivers and consents, if any, necessary for consummation of, or in connection with, the Transactions.

Section 7.2 Conditions Precedent to Obligation of Seller. The obligation of Seller to consummate and cause the consummation of the Transactions shall be subject to the satisfaction (or written waiver by Seller) on or prior to the Closing Date of each of the following conditions:

(a) Accuracy of Representations and Warranties of Buyer. The representations and warranties of Buyer contained in this Agreement shall have been and be true and correct in all material respects (without giving effect to any limitation as to "materiality," "material," "in all material respects" or other derivations of the word "material" used alone or in a phrase that have a similar impact or effect, set forth therein) as of the Agreement Date and as of the Closing Date as though made on the Closing Date (except to the extent expressly made as of an earlier date, in which case as of such earlier date). Seller shall have received a certificate dated as of the Closing Date and signed on behalf of Buyer by an authorized officer of Buyer to such effect.

(b) Covenants of Buyer. Buyer shall have complied in all material respects with all covenants and agreements contained in this Agreement and the other Transaction Documents to be performed by it prior to the Closing. Seller shall have received a certificate dated as of the Closing Date and signed by an authorized officer of Buyer to such effect.

(c) Receipt of Closing Deliveries. Seller shall have received at or prior to the Closing a counterpart to the Transaction Documents to which Buyer is a party (other than this Agreement), in each case duly executed by Buyer.

Section 7.3 Conditions Precedent to Obligation of Buyer. The obligation of Buyer to consummate and cause the consummation of the Transactions shall be subject to the satisfaction (or waiver by Buyer) on or prior to the Closing Date of each of the following conditions:

(a) Accuracy of Representations and Warranties of Seller. The representations and warranties of Seller contained in this Agreement shall have been and be true and correct in all material respects (without giving effect to any limitation as to "materiality," "material," "in all material respects," "Material Adverse Effect" or other derivations of the word "material" used alone or in a phrase that have a similar impact or effect, set forth therein) as of the Agreement Date and as of the Closing Date as though made on the Closing Date (except to the extent expressly made as of an earlier date, in which case as of such earlier date). Buyer shall have received a certificate dated as of the Closing Date and signed on behalf of Seller by an authorized officer of Seller to such effect.

(b) Covenants of Seller. Seller shall have complied in all material respects with all covenants contained in this Agreement and the other Transaction Documents to be performed by it prior to the Closing. Buyer shall have received a certificate dated as of the Closing Date and signed by an authorized officer of Seller to such effect.

(c) Business Material Adverse Effect. There shall not have occurred a Material Adverse Effect on the Business that is continuing.

(d) Receipt of Closing Deliveries. Buyer shall have received at or prior to the Closing:

(i) evidence reasonably satisfactory to Buyer of (A) the consent to assignment required in connection with the Transactions under the Assumed Contracts set forth on Schedule 4.3(b) of the Disclosure Letter, other than with respect to the Assumed Business Leases, and (B) the delivery of notice as promptly as practicable following the Agreement Date, and in any event prior to the earlier of the Closing and the date on which notice is required to be delivered under the applicable Assumed Contract, to the party to the Assumed Contract, as set forth on Schedule 4.3(b) of the Disclosure Letter;

(ii) a certificate pursuant to Section 897 of the Code certifying that Seller is not a foreign person, as defined in Section 1445(f)(3) of the Code in accordance with Section 1.1445-2(b) of the Treasury Regulations, duly executed by Seller; and

(iii) a counterpart to the Transaction Documents to which Seller and/or Parent is a party (other than this Agreement), in each case duly executed by Seller and/or Parent, as the case may be.

In no event shall any of the following be a condition to Buyer's obligation to consummate the transactions contemplated by this Agreement: (A) the resignation of a Business Employee prior to the Closing or the failure of a Business Employee to accept Buyer's offer of employment prior to the Closing; or (B) Buyer's receipt of, or the availability of, any funds to pay the Purchase Price; or (C) the parties' obtaining any consent of the landlord under the Assumed Business Leases.

ARTICLE 8

INDEMNIFICATION

Section 8.1 Indemnification.

(a) Following the Closing and subject to the terms and conditions of this Article 8, Seller shall indemnify and hold harmless Buyer, its Affiliates and their respective officers, directors, employees, stockholders, successors and assigns (each, a "***Buyer Indemnified Party***" or collectively, the "***Buyer Indemnified Parties***") from and against, and shall compensate and reimburse each Buyer Indemnified Party for, all Losses incurred, sustained, suffered or paid by such Buyer Indemnified Party arising out of, resulting from or in connection with:

(i) any failure of any representation or warranty made by Seller in this Agreement to be true and correct (A) as of the Agreement Date (except in the case of representations and warranties that by their terms speak only as of a specified date or dates, which representations and warranties shall be true and correct as of such date or dates) or (B) as of the Closing Date as though such representation or warranty were made as of the Closing Date, but taking into account any Permitted Disclosure Update (except in the case of representations and warranties that by their terms speak only as of a specific date or dates, which representations and warranties shall be true and correct as of such date or dates);

(ii) any breach by Seller of its covenants hereunder;

(iii) any fraud, intentional misrepresentation or willful breach by or on behalf of Seller; or

(iv) any Excluded Liabilities (such Losses, individually and collectively, the "***Buyer Losses***").

(b) Following the Closing and subject to the terms and conditions provided in this Article 8, Buyer shall indemnify and hold harmless Seller and its Affiliates and their respective officers, directors, employees, stockholders, successors and assigns (each, a "***Seller Indemnified Party***" or collectively, the "***Seller Indemnified Parties***") from and against, and shall compensate and reimburse each Seller Indemnified Party for, all Losses incurred, sustained, suffered or paid by such Seller Indemnified Party arising out of, resulting from or in connection with:

(i) any failure of any representation or warranty made by Buyer in this Agreement to be true and correct (A) as of the Agreement Date (except in the case of representations and warranties that by their terms speak only as of a specified date or dates, which representations and warranties shall be true and correct as of such date or dates) or (B) as of the Closing Date as though such representation or warranty were made as of the Closing Date (except in the case of representations and warranties that by their terms speak only as of a specific date or dates, which representations and warranties shall be true and correct as of such date or dates);

(ii) any breach by Buyer of its covenants hereunder;

(iii) any fraud, intentional misrepresentation or willful breach by or on behalf of Buyer; or

(iv) any Assumed Liabilities (such Losses, individually and collectively, the "***Seller Losses***").

(c) Materiality standards or qualifications, qualifications or requirements that a matter be or not be "reasonably expected" or "reasonably likely" to occur and qualifications by reference to the defined term "Material Adverse Effect" in any representation, warranty, covenant, agreement or obligation will be taken into account in determining whether an inaccuracy of such representation or warranty, or a breach of such covenant, agreement or obligation exists but will not be taken into account in determining the amount of any Losses with respect to such inaccuracy or breach.

Section 8.2 Certain Limitations; Additional Terms.

(a) The maximum aggregate Liability of Buyer for all Losses under this Article 8 shall not exceed an amount equal to the Purchase Price actually paid to Seller. The maximum aggregate Liability of Seller for (i) all Losses pursuant to clause (i) of Section 8.1(a), other than in respect of Fundamental Representations (each, a "***General Claim***"), shall not exceed an amount equal to 12.5% of the Purchase Price and (ii) for all Losses under this Article 8 shall not exceed an amount equal to the Purchase Price. Notwithstanding anything to the contrary herein, the foregoing limitations shall not apply to any claim for indemnification made by the applicable Indemnified Party pursuant to clauses (iii) or (iv) of Section 8.1(a) or Section 8.1(b), as applicable (each a "***Fundamental Claim***"), for which there shall be no liability cap. As used herein, the term "***Fundamental Representations***" means: (A) with respect to Seller, the representations and warranties set forth in Section 4.1 (*Corporate Existence*), Section 4.2 (*Corporate Authority*), Section 4.6(f) (Non-Infringement), Section 4.15(a) and (c) (*Title and Sufficiency*) and Section 4.17 (*Finders; Brokers*); and (B) with respect to Buyer, the representations and warranties set forth in Section 5.1 (*Corporate Existence*), Section 5.2 (*Corporate Authority*) and Section 5.4 (*Finders; Brokers*).

(b) Notwithstanding anything to the contrary, no Buyer Indemnified Party will be entitled to any indemnification for any Losses pursuant to Section 8.1(a)(i) (other than Losses arising out of, resulting from or in connection with Fundamental Representations) hereunder unless and until the total of all Losses with respect to such matters exceeds One Hundred Fifty Thousand Dollars ($150,000.00) (the "***Basket***"), at which time Seller shall be liable for all Losses including the amount of the Deductible, subject to the limitations described in Section 8.2(a).

(c) All Losses shall be calculated net of the amount of any recoveries actually received by an Indemnified Party under any insurance policies or contractual indemnification or contribution provisions with third parties (calculated net of any actual collection costs, reasonable expenses, premium adjustments or retrospectively rated premiums incurred or paid to procure such recoveries) with respect to such Losses; provided that, in each case, the Indemnified Party shall have no obligation to seek, obtain or pursue any such recoveries. If the amount to be reduced hereunder from any payment required hereunder is determined after payment of any amount otherwise required to be paid to an Indemnified Party pursuant to this Article 8, such Indemnified Party shall repay to the Indemnifying Party, promptly after such determination, any amount that should not have been paid pursuant to this Article 8 had such determination been made at the time of such payment. Nothing provided in this Article 8 shall limit any duty of an Indemnified Person to mitigate Losses under applicable Law.

(d) The rights of the Indemnified Party to indemnification, compensation or reimbursement, payment of Losses or any other remedy under this Agreement shall not be affected by any investigation conducted with respect to, or any knowledge acquired (or capable of being acquired) at any time, whether before or after the execution and delivery of this Agreement or the Closing Date, with respect to the accuracy or inaccuracy of or compliance with, any representation, warranty, covenant or agreement made by the Indemnifying Party. No Indemnified Party shall be required to show reliance on any representation, warranty, certificate or other agreement in order for such Indemnified Party to be entitled to indemnification, compensation or reimbursement hereunder. If an Indemnified Party's claim under this Article 8 may be properly characterized in multiple ways in accordance with this Article 8 such that such claim may or may not be subject to different limitations depending on such characterization, then such Indemnified Party will have the right to characterize such claim in a manner that maximizes the recovery and time to assert such claim permitted in accordance with this Article 8; provided that no Indemnified Party shall be entitled to recover more than once for the same Loss.

Section 8.3 Indemnification Procedures; Third-Party Claims; Seller Dissolution Event.

(a) Claims Period. The period of time during which an Indemnified Party may make a claim for Losses arising out of, resulting from or in connection with: (i) any General Claim shall commence at the Closing and terminate at 11:59 p.m. Eastern time on the date that is 15 months following the Closing, (ii) any other claim for indemnification hereunder (other than Fundamental Claims) shall commence at the Closing and terminate at 11:59 p.m. Eastern time on the date that is 24 months following the Closing, (iii) the failure of any Fundamental Representation in this Agreement to be true and correct as aforesaid shall commence at the Closing and terminate at 11:59 p.m. Eastern time on the date that is 36 months following the Closing, and (iv) any Fundamental Claim shall commence at the Closing and terminate at 11:59 p.m. Eastern time on the date that is 72 months following the Closing (each such period, a "***Claims Period***"). The Parties acknowledge and agree that with respect to any claim that any Party may have against any other Party that is permitted pursuant to the terms of this Agreement, the Claims Period set forth and agreed to in this Section 8.3(a) shall govern when any such claim may be brought and shall replace and supersede any statute of limitations that may otherwise be applicable. Notwithstanding anything to the contrary herein, any matter as to which a Notifying Party has asserted a claim for indemnity in compliance with this Article 8 during the applicable Claims Period that is pending or unresolved at the end of such Claims Period shall continue to survive until such matter is finally resolved by the Parties.

(b) General Claim Procedure; Set-Off.

(i) During the applicable Claims Period, a Notifying Party may deliver to the applicable Indemnifying Party one or more certificates signed by any officer of the Notifying Party (each, a "***Claim Certificate***"): (A) stating that an Indemnified Party has incurred, paid, reserved or accrued, or in good faith believes that it may incur, pay, reserve or accrue, Losses, (B) stating the amount of such Losses (that, in the case of Losses not yet incurred, paid, reserved or accrued, may be the maximum amount believed by the Notifying Party in good faith to be incurred, paid, reserved, accrued or demanded by a third party), and (C) specifying in reasonable detail (based upon the information then possessed by the Notifying Party) the individual items of such Losses included in the amount so stated and the nature of the claim to which such Losses are related.

(ii) Such Claim Certificate (A) need only specify such information to the knowledge, after reasonable investigation, of such officer of the Notifying Party as of the date thereof, (B) will not limit any of the rights or remedies of any Indemnified Party with respect to the underlying facts and circumstances specifically set forth in such Claim Certificate and (C) may be updated and amended from time to time by the Notifying Party by delivering any updated or amended Claim Certificate, so long as the delivery of the original Claim Certificate is made within the applicable Claims Period and such update or amendment relates to the underlying facts and circumstances specifically set forth in such original Claims Certificate; provided that all claims for Losses properly set forth in a Claim Certificate or any update or amendment thereto will remain outstanding until such claims have been resolved or satisfied, notwithstanding the expiration of such Claims Period. No delay in providing such Claim Certificate within the applicable Claims Period will affect an Indemnified Party's rights hereunder, unless (and then only to the extent that) the applicable Indemnifying Party is materially prejudiced thereby.

(iii) If the Indemnifying Party notifies the Notifying Party that it does not dispute the claim described in such notice, or fails to notify the Notifying Party within 30 Business Days after delivery of such notice by the Notifying Party whether the Indemnifying Party disputes the claim described in such notice, the Loss in the amount specified in the Notifying Party's notice shall be conclusively deemed a Liability of the Indemnifying Party and, subject in all cases to the limitations set forth in this Article 8, the Indemnifying Party shall pay the amount of such Loss to the Indemnified Party on demand.

(iv) If the Indemnifying Party has timely disputed its Liability with respect to such claim, the Indemnifying Party and the Notifying Party shall proceed in good faith to negotiate a resolution of such dispute and, if not resolved through negotiations, such dispute shall be resolved by litigation subject to Section 10.9. Notwithstanding anything to the contrary contained herein, the Indemnifying Party shall pay the amount or otherwise cause the satisfaction of any such Loss no later than 10 Business Days following the final determination of the Indemnifying Party's Liability (whether such determination is made pursuant to the procedures set forth in this Section 8.3, by written agreement between the Indemnifying Party and the Notifying Party or by final adjudication subject to Section 10.9).

(v) Notwithstanding any provision of this Agreement to the contrary, the Parties hereby acknowledge and agree that, in addition to any other right hereunder (including pursuant to this Article 8), Buyer will have the right to set off against the Deferred Payment any amounts that are as of such time owed to or reasonably claimed by Buyer Indemnified Parties pursuant to any Claim Certificate delivered in accordance with this Section 8.3, up to 100% of any Losses for which a Buyer Indemnified Party is or would be entitled to indemnification hereunder (the "***Set-Off Amount***"), subject in all cases to all applicable limitations in this Article 8. Any portion of the Deferred Payment remaining after a reduction by the Set-Off Amount will be paid to Seller in accordance with the applicable terms of this Agreement. The reduction of the Deferred Payment by a Set-Off Amount by Buyer in good faith, whether or not the claim is ultimately determined to be justified, will not constitute a breach of this Agreement. In the event the aggregate Set-Off Amount is determined to be greater than the amount of Losses finally determined (after exhausting all available appeals or other forums for reconsideration) to be payable in respect of such indemnification claim in accordance with Article 8 (the amount by which the Set-Off Amount exceeds the finally determined amount of such indemnification claim, "***Set-Off Surplus***"), Buyer will pay the Set-Off Surplus to Seller within 10 Business Days after such final determination.

(c) Third-Party Claims.

(i) In the event an Indemnified Party becomes aware of a third-party claim that an Indemnified Party believes may result in a claim for indemnification pursuant to this Article 8 by or on behalf of an Indemnified Party (a "***Third-Party Claim***"), such Indemnified Party shall promptly notify the Indemnifying Party of such Third-Party Claim (a "***Third-Party Claim Notice***"). In addition, the Indemnified Party will use commercially reasonable efforts to deliver promptly to the Indemnifying Party copies of material pleadings, notices, offers of settlement and communications with respect to such Third-Party Claim to the extent that receipt of such documents would not adversely affect any privilege of the Indemnified Party in respect of such Third-Party Claim, and the Indemnified Party shall keep the Indemnifying Party reasonably apprised of material developments with respect to such Third-Party Claim and the defense thereof, including amounts incurred and reasonably expected to be incurred for Defense Costs by the Indemnified Party, and shall consider, in good faith, any recommendations made by the Indemnifying Party with respect thereto.

(ii) Subject to Section 8.3(c)(iii) below, the Indemnifying Party may elect (by written notice to the Indemnified Party within 10 Business Days after the Indemnifying Party receives notice of such claim) to assume and control the defense of a Third-Party Claim with counsel selected by the Indemnifying Party reasonably acceptable to the Indemnified Party. Should the Indemnifying Party so elect to assume the defense of a Third-Party Claim, the Indemnifying Party shall not be liable to the Indemnified Party for Defense Costs subsequently incurred by the Indemnified Party in connection with the defense thereof for so long as it continues to direct such defense. If the Indemnifying Party assumes such defense, the Indemnified Party shall have the right to participate in the defense thereof and to employ, at its own expense, counsel separate from the counsel employed by the Indemnifying Party, it being understood that the Indemnifying Party shall control such defense and shall be empowered to settle or resolve such Third-Party Claim.

(iii) The Indemnifying Party shall not be entitled to assume the defense of any Third-Party Claim if (A) in the case where the Indemnifying Party is Seller, such Third-Party Claim relates to individual rights of privacy or publicity, libel or defamation involving the Business or the Purchased Assets or would reasonably be expected to cause or otherwise result in the impairment of any of Buyer's trademarks, (B) the Third-Party Claim relates to or arises in connection with any criminal proceeding, action, indictment, allegation or investigation, (C) the Third-Party Claim involves monetary damages in excess of the amounts that the Indemnifying Party would otherwise be liable for pursuant to this Article 8, (D) the Third-Party Claim seeks specific performance or injunctive relief against the Indemnified Party, (E) the Third-Party Claim alleges, or seeks a finding or admission of, a violation of Law by the Indemnified Party or any of its Affiliates, (F) the Indemnifying Party failed or is failing to diligently prosecute or defend such Third-Party Claim or (G) the Indemnifying Party is also a party to such claim and the Indemnified Party determines in good faith that joint representation would be inappropriate.

(iv) Each of the Parties shall cooperate reasonably, and shall cause their Affiliates to cooperate reasonably, in the defense or prosecution (or settlement) of any Third-Party Claim against any of them. Such cooperation shall include using commercially reasonable efforts in (A) the retention and (upon the reasonable request of an Indemnifying Party or other Party involved in such claim) the provision of documents, records and information that are reasonably relevant to such Third-Party Claim upon reasonable request therefor (subject to the receiving Party's agreement to appropriate provisions for maintaining confidentiality and privilege in a manner consistent with Section 6.2 and Section 6.11) and (B) making employees available on any basis reasonably requested by such Party to provide additional information and explanation of any material provided hereunder or otherwise relating to the Third-Party Claim.

(v) If the Indemnifying Party assumes the defense of a Third-Party Claim in accordance with this Section 8.3(c), the Indemnifying Party may compromise or settle the same; provided that the Indemnifying Party shall give the Indemnified Party notice reasonably in advance of any proposed compromise or settlement and in no event shall the Indemnifying Party compromise or settle any Third-Party Claim without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld, conditioned or delayed), unless such compromise or settlement (A) provides for no relief other than the payment of monetary damages borne solely by the Indemnifying Party, (B) does not include any admission of wrongdoing or violation of Law on the part of the Indemnified Party or its Affiliates and (C) includes an unconditional release from all liability or obligation of the Indemnified Party in respect thereof.

(vi) If the Indemnifying Party elects not to, or is not entitled to assume the defense of any Third-Party Claim in accordance with the terms of Section 8.3(c), the Indemnified Party may assume and control the defense of the Third-Party Claim with counsel reasonably acceptable to the Indemnifying Party in such manner and on such terms as the Indemnified Party reasonably deems appropriate, including paying and/or agreeing to pay, in settlement or resolution of such claim, any amounts to the third party making such claim (such amounts, collectively, a "***Settlement Payment***"), subject to the terms of this Section 8.3(c). If the Indemnified Party has assumed the control of the defense of the Third-Party Claim, the Indemnified Party shall diligently prosecute such claim, and the Indemnifying Party and its counsel (at the Indemnifying Party's sole cost and expense) may participate in (but not control the conduct of) the defense of a Third-Party Claim, except to the extent such participation would adversely affect any privilege of the Indemnified Party in respect of such Third Party Claim. For any period during which the Indemnified Party has assumed control of the defense of a Third-Party Claim in accordance with this Section 8.3(c), the Indemnifying Party shall be liable to indemnify the Indemnified Party for any Defense Costs if the allegations or claims underlying such Third Party Claim, taken as alleged or claimed, would be reasonably likely to be indemnifiable under this Article 8. As used herein, the term "***Defense Costs***" means the reasonable costs and reasonable expenses incurred by an Indemnified Party in connection with any investigation, defense, settlement or resolution of a Third-Party Claim and the enforcement and protection of its rights under this Agreement in respect thereof (including reasonable attorneys' fees, other reasonable professionals' and experts' fees and court or arbitration costs); provided that, for the avoidance of doubt, the term Defense Costs does not include a Settlement Payment itself. Defense Costs shall constitute Losses for which the Indemnified Parties shall be indemnified if the allegations or claims underlying such Third Party Claim, taken as alleged or claimed, would be reasonably likely to be indemnifiable under this Article 8. In the event that an Indemnified Party determines to settle or resolve any such Third-Party Claim and make a Settlement Payment in connection therewith, an Indemnified Party shall seek the consent of the Indemnifying Party to such Settlement Payment, which shall not be unreasonably withheld, delayed or conditioned.

(d) Seller Dissolution Event. Upon and following a Dissolution Event, Seller hereby designates Parent to act as its representative and as its true and lawful attorney-in-fact and exclusive agent, for all purposes expressly set forth herein, and Parent shall have the authority to do all things and to perform all acts, as contemplated by or deemed advisable by it in connection with this Agreement, in each case for and on behalf of Seller. In no way limiting the foregoing, upon and following a Dissolution Event, any Claim Certificates, notices, requests for consent or other communications to be directed to Seller as the Indemnifying Party shall instead be directed to Parent, acting as Seller's representative pursuant to this Section 8.3(d), and Parent shall be subject to the same obligations of action, including deadlines for responses, as would have Seller if such communications had been directed to Seller. Buyer and its Affiliates will be entitled to rely on such appointment and treat Parent as the duly appointed attorney-in-fact of Seller and as having the duties, power and authority provided for in this Section 8.3(d).

Section 8.4 Treatment of Indemnification Payments. Any payment made pursuant to the indemnification obligations arising under this Agreement shall be treated as an adjustment to the Purchase Price.

Section 8.5 Exercise of Remedies by Persons Other than the Parties. No Buyer Indemnified Party (other than Buyer or any successor or assignee of Buyer) is entitled to assert any indemnification claim or exercise any other remedy under this Agreement unless Buyer (or any successor or assignee of Buyer) consents to the assertion of the indemnification claim or the exercise of the other remedy. No Seller Indemnified Party (other than Seller or any successor or assignee of Seller) is entitled to assert any indemnification claim or exercise any other remedy under this Agreement unless Seller (or any successor or assignee of Seller) consents to the assertion of the indemnification claim or the exercise of the other remedy.

Section 8.6 Sole and Exclusive Remedy. Following the Closing, except in respect of a dispute under Section 3.3(c) (which shall be governed by Section 3.3(c)), and except in respect of fraud, from and after the Closing, the indemnification provisions contained in this Article 8 will constitute the sole and exclusive recourse and remedy of the Parties with respect to any claim arising from this Agreement or the transactions contemplated hereby, whether by contract, statute, tort or otherwise. Notwithstanding the foregoing, the provisions of this Article 8 will not restrict the right of any party to seek specific performance or other equitable remedies. The parties hereto agree that the provisions in this Agreement relating to indemnification, and the limits imposed on the Buyer Indemnified Parties' and the Seller Indemnified Parties' remedies with respect to this Agreement and the transactions contemplated hereby, were specifically bargained for between sophisticated parties and were specifically taken into account in the determination of the amounts to be paid hereunder. Notwithstanding anything to the contrary herein, nothing in this Section 8.6 shall be deemed to limit the rights or remedies of any Indemnified party under any other Transaction Document.

ARTICLE 9

TERMINATION

Section 9.1 Termination Events. Without prejudice to other remedies which may be available to the Parties by Law or this Agreement, this Agreement may be terminated and the Transactions may be abandoned:

(a) by mutual written consent of Buyer and Seller, if the board of directors (or a duly authorized committee thereof) of each Party so determines;

(b) after December 15, 2022 (the "***Outside Date***") by either Buyer or Seller by notice to the other Parties if the Closing shall not have been occurred on or prior to the Outside Date; provided that the right to terminate this Agreement under this Section 9.1(b) shall not be available to any Party whose failure to perform any of its obligations under this Agreement has been the principal cause of, or resulted in, the failure of the Closing to occur on or before such date; provided, further, that no Party shall have any right to terminate this Agreement pursuant to this Section 9.1(b) during the pendency of a Proceeding by the other Party for specific performance to consummate the Transactions (including to effect the Closing in accordance with Section 3.1) pursuant to Section 10.7 hereof;

(c) by either Buyer, on the one hand, or Seller and Parent, on the other hand, by notice to the other Party, if (i) a Governmental Authority of competent jurisdiction shall have issued a nonappealable final order, decree or ruling or taken any other nonappealable final action, in each case having the effect of permanently restraining, enjoining or otherwise prohibiting the consummation of the Transactions to occur on the Closing Date; provided that no Party shall have the right to terminate this Agreement pursuant to this Section 9.1(c)(i) if such Party's failure to perform its obligations under this Agreement has been the principal cause of, or resulted in, such order, decree or ruling or other action or (ii) any U.S. federal or state Law has been enacted that would make the consummation of the Transactions illegal;

(d) by Seller, if there has been a breach of any representation or warranty set forth in Article 5, or a breach of any covenant or agreement on the part of Buyer set forth in this Agreement, and which breach (i) would cause the conditions set forth in Section 7.2(a) or Section 7.2(b) not to be satisfied and (ii) shall not have been cured within 20 Business Days (or by the Outside Date, if earlier) following receipt by Buyer of written notice of such breach from Seller; provided that the right to terminate this Agreement pursuant to this Section 9.1(d) will not be available to Seller if Seller is then in breach of any representations, warranties, covenants or agreements contained in this Agreement such that any condition set forth in Section 7.3(a) or Section 7.3(b) is then incapable of being satisfied; or

(e) by Buyer, if there has been a breach of any representation or warranty set forth in Article 4, or a breach of any covenant or agreement on the part of Seller set forth in this Agreement, and which breach (i) would cause the conditions set forth in Section 7.3(a) or Section 7.3(b) not to be satisfied and (ii) shall not have been cured within 20 Business Days (or by the Outside Date, if earlier) following receipt by Seller of written notice of such breach from Buyer; provided that the right to terminate this Agreement pursuant to this Section 9.1(e) will not be available to Buyer if Buyer is then in breach of any representations, warranties, covenants or agreements contained in this Agreement such that any condition set forth in Section 7.2(a) or Section 7.2(b) is then incapable of being satisfied.

Section 9.2 Effect of Termination. In the event of any termination of this Agreement as provided in Section 9.1, this Agreement shall forthwith become wholly void and of no further force and effect, all further obligations of the Parties shall terminate and there shall be no Liability on the part of any Party (or any stockholder, Affiliate, director, officer, employee, agent, consultant or Representative of such Party) to any other Party (or its stockholders, Affiliates, directors, officers, employees, agents, consultants or Representatives), except that the provisions of Section 6.2(b), this Section 9.2, Section 9.3 and Article 10 of this Agreement shall remain in full force and effect and the Parties shall remain bound by and continue to be subject to the provisions thereof. Notwithstanding the foregoing, but subject to Section 9.3, the provisions of this Section 9.2 shall not relieve a Party of any Liability for any willful and intentional breach of this Agreement occurring prior to the termination of this Agreement or pursuant to the sections specified in this Section 9.2 to survive such termination.

Section 9.3 Expenses. Except as otherwise expressly provided herein or in any Transaction Document, including in this Section 9.3, whether or not the Closing occurs, each Party shall each pay their respective expenses (such as legal, investment banker and accounting fees) incurred in connection with the negotiation and execution of this Agreement and the other Transaction Documents and the consummation of the Transactions.

ARTICLE 10

MISCELLANEOUS

Section 10.1 Notices. Except as otherwise expressly provided in this Agreement, all communications provided for hereunder shall be in writing and shall be deemed to be given when delivered in person, upon delivery by e-mail transmission with non-automated receipt confirmed, or on the next Business Day when sent by overnight courier, and

If to Buyer: The Arena Media Brands, LLC
200 Vesey Street, 24th Floor
New York, NY 10281
Attention: General Counsel
Email:

with copies to:	Fenwick & West LLP 555 California Street San Francisco, CA 94104 Attention: Samuel B. Angus; Ken S. Myers; Victoria A. Lupu Email:
If to Seller:	Weider Publications, LLC c/o A360 Media, LLC 1955 Lake Park Dr. SE, Suite 400 Smyrna, GA 30080 Attention: President Email:
with copies to:	A360 Media, LLC 1955 Lake Park Dr. SE, Suite 400 Smyrna, GA 30080 Attention: General Counsel Email:
If to Parent (or to Seller upon and following a Dissolution Event):	A360 Media, LLC 1955 Lake Park Dr. SE, Suite 400 Smyrna, GA 30080 Attention: General Counsel Email:

or to such other address as any such Party shall designate by written notice to the other Party.

Section 10.2 Bulk Transfers. Buyer waives compliance with the provisions of all applicable Law relating to bulk transfers in connection with the Transfer of the Purchased Assets.

Section 10.3 Severability. If any provision of this Agreement shall be declared by any court of competent jurisdiction to be illegal, void or unenforceable, all other provisions of this Agreement and the application of such provision to other persons or circumstances other than those which it is determined to be illegal, void or unenforceable, shall not be impaired or otherwise affected and shall remain in full force and effect to the fullest extent permitted by applicable Law, and Seller and Buyer shall negotiate in good faith to replace such illegal, void or unenforceable provision with a provision that corresponds as closely as possible to the intentions of the Parties as expressed by such illegal, void or unenforceable provision.

Section 10.4 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument. Copies of executed counterparts transmitted by telecopy, ..pdf, facsimile or other electronic transmission service shall be considered original executed counterparts for purposes of this Section 10.4. Once this Agreement is signed, any reproduction of this Agreement made by reliable means (for example, photocopy or facsimile) is considered an original, to the extent permissible under applicable Law.

Section 10.5 Assignment; Third-Party Beneficiaries. This Agreement shall not be assigned by a Party without the prior written consent of the other Parties, and any attempted assignment, without such consent, shall be null and void. Subject to the foregoing, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the Parties and their respective successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any Person other than Buyer, Seller or their successors or permitted assigns, any rights or remedies under or by reason of this Agreement (except that Article 8 is intended to benefit the Indemnified Parties).

Section 10.6 Amendment; Waiver. This Agreement may be amended, supplemented or otherwise modified only by a written instrument executed by both Parties. No waiver by a Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and executed by the Party so waiving. Except as provided in the preceding sentence, no action taken pursuant to this Agreement, including any investigation by or on behalf of any Party, or a failure or delay by any Party in exercising any power, right or privilege under this Agreement shall be deemed to constitute a waiver by the Party taking such action of compliance with any representations, warranties, covenants or agreements contained herein, or in any documents delivered or to be delivered pursuant to this Agreement or in connection with the Closing hereunder. The waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

Section 10.7 Specific Performance. The Parties agree that irreparable damage may occur if any provision of this Agreement was not performed in accordance with the terms hereof or were otherwise breached and that the Parties shall be entitled (without the requirement to post a bond or other security) to an injunction or injunctions to prevent breaches and threatened breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in addition to any other remedy to which they are entitled at Law or in equity.

Section 10.8 Governing Law. This Agreement and all claims and Proceedings arising out of this Agreement shall be governed by, and construed in accordance with, the internal Law of the State of Delaware (whether arising in contract, tort, equity or otherwise), without regard to any conflicts or choice of law principles that would result in the application of any Law other than the Law of the State of Delaware.

Section 10.9 Consent to Jurisdiction. The Parties hereby irrevocably and unconditionally submit to the exclusive jurisdiction and venue of the Court of Chancery of the State of Delaware or, if such court shall not have jurisdiction, any Federal court of the United States located within the State of Delaware, solely with respect to any and all claims and Proceedings related to this Agreement and the interpretation and enforcement of the provisions of this Agreement and of the documents referred to in this Agreement, and in respect of the Transactions (including resolution of disputes under Article 8 hereof), and, to the fullest extent permitted by Law, hereby waive, and agree not to assert, as a defense in any action, suit or other Proceeding for the interpretation or enforcement hereof or thereof, that it is not subject thereto or that such action, suit or other Proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement or any such document may not be enforced in or by such courts, and the Parties irrevocably and unconditionally agree that all claims with respect to such action, suit or other Proceeding shall be heard and determined in such a Delaware State or, to the extent permitted by Law, Federal court. The Parties hereby consent to and grant any such court jurisdiction over the Person of such Parties and over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action, suit or Proceeding in the manner provided for notices in Section 10.1 or in such other manner as may be permitted by applicable Law, shall be valid and sufficient service thereof. The Parties further agree, to the extent permitted by Law, that final and non-appealable judgment against a Party in any action or Proceeding contemplated above shall be conclusive and may be enforced in any other jurisdiction within or outside the United States by suit on the judgment, a certified or exemplified copy of which shall be conclusive evidence of the fact and amount of such judgment.

Section 10.10 Entire Agreement. This Agreement and the other Transaction Documents, the Confidentiality Agreement, the Disclosure Letter and the Exhibits and Schedules hereto set forth the entire agreement and understanding of the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, representations or warranties relating to such subject matter. In the event of any inconsistency between the provisions of this Agreement and any Closing Transfer Document, the provisions of this Agreement shall prevail.

Section 10.11 No Joint Venture. Nothing in this Agreement creates a joint venture or partnership among the Parties. This Agreement does not authorize any Party (i) to bind or commit, or to act as an agent, employee or legal representative of, another Party, except as may be specifically set forth in other provisions of this Agreement or (ii) to have the power to control the activities and operations of another Party. The Parties are independent contractors with respect to one another under this Agreement. Each Party agrees not to hold itself out as having any authority or relationship contrary to this Section 10.11.

Section 10.12 WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT, EQUITY OR OTHERWISE) ARISING OUT OF OR RELATING TO OR IN CONNECTION WITH THIS AGREEMENT OR THE ACTIONS OF ANY PARTY HERETO IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT HEREOF OR THEREOF.

Section 10.13 Rules of Construction; Interpretation.

(a) The Parties have been represented by counsel during the negotiation, preparation and execution of this Agreement and the other Transaction Documents and, therefore, hereby waive, with respect to this Agreement, any other Transaction Document and each Exhibit and each Schedule attached hereto or thereto, the application of any Law or rule of construction providing that ambiguities in an agreement or other document shall be construed against the Party drafting such agreement or document.

(b) When a reference is made in this Agreement to Sections, Exhibits, Appendices or Schedules, such reference shall be to a Section of, or an Exhibit or Appendix to this Agreement or Schedule of the Disclosure Letter unless otherwise indicated. The words “hereof”, “herein”, “hereto” and “hereunder” and words of similar import when used in this Agreement will refer to this Agreement as a whole (including any exhibits, appendices and schedules to this Agreement) and not to any particular provision of this Agreement. The words “include”, “including” or “includes” when used herein shall be deemed in each case to be followed by the words “without limitation” or words having similar import. The phrases “provided to,” “furnished to,” “made available” and phrases of similar import when used herein, unless the context otherwise requires, shall mean that a true, correct and complete copy of the information or material referred to has been physically or electronically provided to the Party or its Representatives to whom such information or material is to be provided, and in addition, in the case of “provided to,” “furnished to,” or “made available” to Buyer, material that has been posted in the “data room” established by or on behalf of Seller and hosted by Dropbox only if so posted at least one Business Day prior to the Agreement Date. The headings and table of contents in this Agreement are included for convenience of reference only and will not limit or otherwise affect the meaning or interpretation of this Agreement. Unless the context of this Agreement otherwise requires: (i) words of any gender include each other gender, (ii) words using the singular or plural number also include the plural or singular number, respectively, (iii) the terms “hereof,” “herein,” “hereunder” and derivative or similar words refer to this entire Agreement, (iv) references to clauses without a cross-reference to a Section or subsection are references to clauses within the same Section or, if more specific, subsection, (v) references to any Person include the successors and permitted assigns of that Person and (vi) references from or through any date shall mean, unless otherwise specified, from and including or through and including, respectively. The word “extent” in the phrase “to the extent” means the degree to which a subject or other thing extends and such phrase shall not mean simply “if.” Unless indicated otherwise, (A) any action required to be taken by or on a day or Business Day may be taken until 11:59 PM Eastern Time on such day or Business Day, (B) all references to “days” shall be to calendar days unless otherwise indicated as a “Business Day” and (C) all days, Business Days, times and time periods contemplated by this Agreement will be determined by reference to Eastern Time. Unless indicated otherwise, all mathematical calculations contemplated by this Agreement shall be rounded to the tenth decimal place, except in respect of payments, which shall be rounded down to the nearest whole U.S. cent.

(c) Any reference in this Agreement to wire transfers or other payments requires payment in Dollars unless otherwise expressly stated in that reference. Any amounts to be converted into Dollars for the purpose of calculating any amounts under this Agreement shall be converted into Dollars at the applicable exchange rate published by the Wall Street Journal on the immediately preceding day.

Section 10.14 Parent Guaranty.

(a) Parent hereby irrevocably and unconditionally guarantees to the Buyer Indemnified Parties the due and punctual payment and performance of Seller's indemnification obligations under this Agreement (collectively, the "***Guaranteed Obligations***"); provided that no Buyer Indemnified Party shall seek or be entitled to any recourse under the guarantee set forth in this Section 10.14 (the "***Guaranty***") unless and until the applicable Buyer Indemnified Parties shall have made a claim and demand for payment from Seller and Seller has not, within five Business Days, made payment in full of, or performed in full, such Guaranteed Obligations (in each case, a "***Default***"). This Guaranty is, subject to the occurrence of a Default, an absolute, unconditional and continuing guarantee of the full and punctual payment and performance by Seller of the Guaranteed Obligations and not of collection. Upon the occurrence of a Default, the obligations of Parent hereunder with respect to the underlying matter of such Default shall become immediately due and payable to the applicable Buyer Indemnified Party; provided that, to the extent Parent is called upon to satisfy any Guaranteed Obligation on behalf of Seller, Parent shall have all of the rights and defenses that Seller would have had Seller performed such obligation directly. Claims under this Guaranty may be made on one or more occasions. No failure on the part of any Buyer Indemnified Party to exercise, and no delay in exercising, any right, remedy or power pursuant to this Section 10.14 shall operate as a waiver thereof, nor shall any single or partial exercise by any Buyer Indemnified Party of any right, remedy or power pursuant to this Section 10.14 preclude any other or future exercise of any right, remedy or power pursuant to this Section 10.14.

(b) Parent hereby represents and warrants and covenants to Buyer that: (i) Parent has full corporate or other organizational (as applicable) power and authority to execute and deliver this Agreement and to perform its obligations hereunder, (ii) this Agreement has been duly executed and delivered by Parent and (iii) assuming the due authorization, execution and delivery by the other Parties hereto of this Agreement, this Agreement constitutes a valid and legally binding obligation of Parent, enforceable against it in accordance with its terms, except for the Enforceability Exceptions.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date first above written.

WEIDER PUBLICATIONS, LLC

By: */s/ Marc Fierman*
Name: Marc Fierman
Title: Executive Vice President, Chief Financial Officer

A360 MEDIA, LLC

By: */s/ Marc Fierman*
Name: Marc Fierman
Title: Executive Vice President, Chief Financial Officer

THE ARENA MEDIA BRANDS, LLC

By: */s/ Ross Levinsohn*
Name: Ross Levinsohn
Title: Chief Executive Officer

[*Signature Page to Asset Purchase Agreement*]

Exhibit 4.1

THIRD A&R NOTE

THIS THIRD A&R NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR OTHER APPLICABLE SECURITIES LAW AND MAY NOT BE SOLD, ASSIGNED, PLEDGED OR OTHERWISE TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT COVERING THE TRANSFER OR PURSUANT TO AN EXEMPTION FROM REGISTRATION.

THE FOLLOWING INFORMATION IS SUPPLIED SOLELY FOR U.S. FEDERAL INCOME TAX PURPOSES. THIS THIRD A&R NOTE MAY BE ISSUED WITH ORIGINAL ISSUE DISCOUNT (''OID'') WITHIN THE MEANING OF SECTION 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE ''CODE''), AND THIS LEGEND IS REQUIRED BY TREASURY REGULATIONS PROMULGATED UNDER SECTION 1275(c) OF THE CODE.

HOLDERS MAY OBTAIN INFORMATION REGARDING THE AMOUNT OF OID (IF ANY), THE ISSUE PRICE, THE ISSUE DATE, AND THE YIELD TO MATURITY RELATING TO THE NOTES BY CONTACTING THE LEGAL DEPARTMENT AT THE ARENA GROUP HOLDINGS, INC., 200 VESEY STREET, 24TH FLOOR, NEW YORK, NY 10281, LEGAL@THEARENAGROUP.NET, OR AT (212) 321-5002.

THE ARENA GROUP HOLDINGS, INC.

Note due December 31, 2023

No. 1
$36,000,000.00 December 15, 2022

THE ARENA GROUP HOLDINGS, INC., a Delaware corporation (the "Company"), for value received, hereby promises to pay to BRF FINANCE CO., LLC (the foregoing, and any successors or its registered assigns of this Third A&R Note, "Holder"), the principal amount of THIRTY-SIX MILLION DOLLARS ($36,000,000.00) on the Existing Notes Maturity Date, with interest (computed on the basis of the actual number of days elapsed over a 360-day year) on the unpaid balance of such principal amount at the rates, on the dates and in the manner specified in the Note Purchase Agreement (as defined below); provided that in no event shall the amount payable by the Company as interest on this Third A&R Note exceed the highest lawful rate permissible under any law applicable hereto. Payments of principal, premium, if any, and interest hereon shall be made in lawful money of the United States of America by the method and at the address for such purpose specified in the Note Purchase Agreement hereinafter referred to, and such payments shall be overdue for purposes hereof if not made on the originally scheduled date of payment therefor, without giving effect to any applicable grace period.

This Third A&R Note is one of the Company's Third A&R Notes due on the Existing Notes Maturity Date, issued pursuant to that certain Third Amended and Restated Note Purchase Agreement dated December 15, 2022 (such agreement, as amended, modified and supplemented from time to time, the "Note Purchase Agreement") by, among others, the Company, the other Note Parties named therein, and the Purchasers named therein, and the holder hereof is entitled to the benefits of the Note Purchase Agreement and the other Note Documents referred to in the Note Purchase Agreement and may enforce the agreements contained therein and exercise the remedies provided for thereby or otherwise available in respect thereof, all in accordance with the terms thereof.

This Third A&R Note is subject to prepayment only as specified in the Note Purchase Agreement.

Capitalized terms used herein without definition have the meanings ascribed to them in the Note Purchase Agreement.

This Third A&R Note is in registered form and is transferable only by surrender hereof at the principal executive office of the Company as provided in the Note Purchase Agreement. This Third A&R Note may not be transferred except in accordance with the provisions of the Note Purchase Agreement and any purported transfer in violation of the terms of the Note Purchase Agreement shall be null and void. The Company may treat the person in whose name this Third A&R Note is registered on the Note register maintained at such office pursuant to the Note Purchase Agreement as the owner hereof for all purposes, and the Company shall not be affected by any notice to the contrary.

In case an Event of Default, as defined in the Note Purchase Agreement, shall occur and be continuing, the unpaid balance of the principal of this Third A&R Note may be declared and become due and payable in the manner and with the effect provided in the Note Purchase Agreement.

The parties hereto, including the makers and all guarantors and endorsers of this Third A&R Note, hereby waive presentment, demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance or enforcement of this Third A&R Note.

THIS THIRD A&R NOTE SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK.

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IN WITNESS WHEREOF, the Company has executed this Third A&R Note as an instrument under seal as of the date first above written.

THE ARENA GROUP HOLDINGS, INC.

By: _____
Name: Douglas B. Smith
Title: Chief Financial Officer

[Signature Page to Third A&R Note]

Exhibit 10.1

Third Amended and Restated Note Purchase Agreement

dated as of December 15, 2022

by and among

The Arena Group Holdings, Inc.,
as the Borrower,

The Guarantors Named Herein,

BRF Finance Co., LLC,
as Agent and a Purchaser,

and

The Other Purchasers From Time to Time Party Hereto

THIRD AMENDED AND RESTATED NOTE PURCHASE AGREEMENT

This THIRD AMENDED AND RESTATED NOTE PURCHASE AGREEMENT (this "Agreement") is dated as of December 15, 2022 and entered into by and among **The Arena Group Holdings, Inc.**, a Delaware corporation (the "Borrower"), the Guarantors from time to time party hereto, each of the Purchasers (as defined herein) from time to time named on Schedule I attached hereto and **BRF Finance Co., LLC**, in its capacity as agent for the Purchasers ("Agent").

RECITALS

The Borrower, the Guarantors, the Purchasers and the Agent are parties to a Note Purchase Agreement, dated as of June 10, 2019 (as amended prior to the Second Amended and Restated Note Purchase Agreement, the "Original Note Purchase Agreement"), as such Original Note Purchase Agreement was amended and restated in its entirety by that certain Amended and Restated Note Purchase Agreement, dated as of June 14, 2019, as such Amended and Restated Note Purchase Agreement was amended and restated in its entirety by that certain Second Amended and Restated Note Purchase Agreement dated March 24, 2020 (the "Second Amended and Restated Note Purchase Agreement"), as such Second Amended and Restated Note Purchase Agreement was amended by that certain Amendment No. 1 to Second Amended and Restated Note Purchase Agreement, dated as of October 23, 2020, that certain Amendment No. 2 to Second Amended and Restated Note Purchase Agreement, dated as of May 19, 2021, that certain Amendment No. 3 to Second Amended and Restated Note Purchase Agreement dated December 6, 2021, and that certain Amendment No. 4 to Second Amended and Restated Note Purchase Agreement dated January 23, 2022 (and as further amended and in effect immediately prior to the Third A&R Effective Date referred to below, the "Existing Note Purchase Agreement").

The Borrower, the Guarantors, the Purchasers and the Agent have agreed to amend and restate the Existing Note Purchase Agreement on the terms set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, the Borrower, Guarantors, Agent and Purchasers agree as follows:

SECTION 1. DEFINITIONS AND ACCOUNTING TERMS

1.1. Certain Defined Terms. The capitalized terms not otherwise defined in this Agreement shall have the meanings set forth below:

"A&R Effective Date" means June 14, 2019.

"A&R Notes" means the additional notes purchased by the Purchasers from the Borrower on the A&R Effective Date in the amounts set forth on Schedule I under the heading "A&R Notes".

"ABG License" means that certain Licensing Agreement dated as of the A&R Effective Date by and between the Borrower, as licensee, and ABG-SI LLC, a Delaware limited liability company, as licensor.

"ABG-SI License" means that certain Content Creation and Licensing Agreement, dated as of May 24, 2019, by and between Meredith Corporation, ABG-SI LLC and, solely for purposes of Section 1 of Schedule C thereto, ABG Intermediate Holdings 2 LLC, as in effect on the A&R Effective Date.

"Affiliate" means, with respect to any Person, another Person: (a) directly or indirectly controlling, controlled by, or under common control with, the Person specified; (b) directly or indirectly owning or holding ten percent (10%) or more of any Equity Interest in the Person specified; or (c) ten percent (10%) or more of whose stock or other Equity Interest having ordinary voting power for the election of directors or the power to direct or cause the direction of management, is directly or indirectly owned or held by the Person specified; provided, however, that neither Agent nor any Purchaser shall be an Affiliate of any Note Party or of any Subsidiary of any Note Party for purposes of this definition. For purposes of this definition, "control" (including with correlative meanings, the terms "controlling", "controlled by" and "under common control with") means the possession directly or indirectly of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of Equity Interests, or by contract or otherwise.

"Agent" has the meaning assigned to that term in the introductory paragraph, together with any successor Agent appointed pursuant to Section 9.1(G).

"Agreement" has the meaning assigned to that term in the introductory paragraph hereof.

"Amended and Restated Fee Letter" means that certain fee letter dated as of the A&R Effective Date between the Borrower and the Agent.

"Anti-Terrorism Laws" means (i) the Money Laundering Control Act of 1986 (i.e., 18 U.S.C. §§ 1956 and 1957), (ii) the Bank Secrecy Act, as amended by the USA PATRIOT Act, (iii) the laws, regulations and Executive Orders administered by the United States Department of the Treasury's Office of Foreign Assets Control ("OFAC"), (iv) the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 and implementing regulations by the United States Department of the Treasury, (v) the Proceeds of Crime (Money Laundering) and, to the extent applicable to the Borrower or any of its Subsidiaries, the Terrorist Financing Act (Canada), (vi) any law enacted in the United States or any other jurisdiction in which the Borrower or any of its Subsidiaries operate prohibiting or directed against terrorist activities or the financing of terrorist activities (e.g., 18 U.S.C. §§ 2339A and 2339B), (vii) the foreign asset control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any enabling legislation or executive order relating thereto, or (viii) any similar laws relating to terrorism or money laundering enacted in the United States or any other jurisdictions in which the Borrower or any of its Subsidiaries operate, as any of the foregoing laws may from time to time be amended, renewed, extended, or replaced and all other legal requirements of any Governmental Authority governing, addressing, relating to, or attempting to eliminate, terrorist acts and acts of war and any regulations promulgated pursuant thereto.

"Applicable ECF Percentage" means, for any Fiscal Quarter, (a) if Excess Cash Flow is greater than or equal to $5,000,000, fifty percent (50%), and (b) if Excess Cash Flow is less than $5,000,000, thirty percent (30%).

"Applicable Law" means all laws, rules and regulations applicable to the Person, conduct, transaction, covenant, Note Document or contract in question, including all applicable common law and equitable principles; all provisions of all applicable state, provincial, federal and foreign constitutions, statutes, rules, regulations and orders of any Governmental Authority, and all orders, judgments and decrees of all applicable courts and arbitrators.

"Approved Fund" means any Fund that is administered or managed by (a) a Purchaser, (b) an Affiliate of a Purchaser or (c) an entity or an Affiliate of an entity that administers or manages a Purchaser.

"Asset Disposition" means the disposition, whether by sale, lease, transfer, loss, damage, destruction, condemnation or otherwise, of any or all of the assets of any Note Party or any of its Subsidiaries, other than sales or other dispositions expressly permitted under Section 7.3(A).

"Assignment and Assumption Agreement" means an assignment and assumption Agreement in form acceptable to Agent.

"B. Riley" means BRF Finance Co., LLC and any Affiliate thereof as a Purchaser hereunder.

"Bankruptcy Code" means Title 11 of the United States Code, or any similar Federal or state law for the relief of debtors.

"Beneficial Ownership Regulation" means 31 C.F.R. §1010.230, as amended.

"Blocked Person" has the meaning assigned to that term in Section 4.11(B).

"Borrower" has the meaning assigned to that term in the introductory paragraph of this Agreement.

"BRF Finance Co. Letter of Credit" means that certain Irrevocable Standby Letter of Credit No. MV-0001, dated as of February 7, 2020, by and between BRF Finance Co., LLC as the issuer and the BRF Finance Co. Letter of Credit Beneficiary, not to exceed the BRF Finance Co. Letter of Credit Cap.

"BRF Finance Co. Letter of Credit Beneficiary" means Saks & Company LLC in its capacity as beneficiary under the BRF Finance Co. Letter of Credit.

"BRF Finance Co. Letter of Credit Cap" means $3,024,232.

"Business Day" means any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in any such state are closed.

"Capital Expenditures" means expenditures made or liabilities incurred for the acquisition of any fixed assets or improvements (or of any replacements or substitutions thereof or additions thereto) which, in accordance with GAAP, would be classified as capital expenditures.

"Capitalized Lease Obligation" means any Indebtedness of any Note Party represented by obligations under a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP.

"Certificate of Exemption" has the meaning assigned to that term in Section 2.7.

"Change in Control" means each occurrence of any of the following:

(a) the acquisition, directly or indirectly, by any person or group (within the meaning of Section 13(d)(3) of the Exchange Act) (other than by B. Riley) of beneficial ownership of more than 50% of the aggregate outstanding voting or economic power of the Equity Interests of the Borrower;

(b) the Borrower shall cease to have beneficial ownership (as defined in Rule 13d-3 under the Exchange Act) of 100% of the aggregate voting or economic power of the Equity Interests of each other Note Party (other than in connection with any transaction explicitly permitted hereunder), free and clear of all Liens; or

(c) a "Change in Control" (or any comparable term or provision) occurs under or with respect to (i) any of the Equity Interests of the Borrower or any of its Subsidiaries, (ii) any Subordinated Indebtedness Document, or (iii) any Indebtedness of the Borrower or any of its Subsidiaries having an aggregate principal amount outstanding in excess of $500,000.

"Charges" means all taxes, charges, fees, imposts, levies or other assessments, including, without limitation, all net income, gross income, gross receipts, sales, use, ad valorem, value added, transfer, franchise, profits, inventory, capital stock, license, withholding, payroll, employment, social security, unemployment, excise, severance, stamp, occupation and property taxes, custom duties, fees, assessments, liens, claims and charges of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amounts, imposed by any taxing or other Governmental Authority, domestic or foreign (including, without limitation, the PBGC or any environmental agency or superfund), upon the Collateral, the Note Parties or any of their Affiliates, except Excluded Taxes.

"Closing Date" means June 10, 2019.

"Collateral" means all property (whether real or personal, movable or immovable) with respect to which any security interests have been granted (or purported to be granted) pursuant to any Security Document.

"Common Stock" means the Borrower's common stock, $0.01 par value per share.

"Confirmation and Ratification Agreement" means each of (a) that certain Confirmation and Ratification of Ancillary Note Documents and Amendment to Pledge and Security Agreement dated as of the A&R Effective Date by and among the Borrower, each Guarantor, and the Agent (ii) that certain Confirmation and Ratification of Ancillary Note Documents dated as of the Second A&R Effective Date by and among the Borrower, each Guarantor, and the Agent and (iii) that certain Confirmation and Ratification of Ancillary Note Documents dated as of the Third A&R Effective Date by and among the Borrower, each Guarantor, and the Agent.

"Control Agreement" has the meaning assigned to that term in Section 4.9(A).

"Conversion Election" has the meaning assigned to that term in Section 2.4(D).

"Conversion Election Payment Date" has the meaning assigned to that term in Section 2.1(C)(1).

"Conversion Portion" means an amount equal to 28% of the aggregate cash proceeds raised by the Borrower from the issuance and sale of Series K Preferred Stock during the Series K Exception Period.

"Debt Payments" means for any period, in each case, all cash actually expended by any Note Party to make: (a) interest payments on the Notes, plus (b) principal payments on the Note, plus (c) payments for all fees, commissions and charges set forth herein, plus (d) payments on Capitalized Lease Obligations, plus (e) payments in cash with respect to any other Indebtedness for borrowed money permitted hereunder.

"Default" means a condition, act or event that, after notice or lapse of time or both, would constitute an Event of Default if that condition, act or event were not cured or removed within any applicable grace or cure period.

"Default Rate" means a rate of interest per annum equal to the rate of interest otherwise in effect from time to time pursuant to the terms of this Agreement plus 4.00%.

"Delayed Draw PIK Amounts" has the meaning provided in Section 2.1(C)(2).

"Delayed Draw Term Notes" means the notes purchased by the Delayed Draw Term Note Purchasers from the Borrower on any Delayed Draw Term Note Advance Date in an aggregate principal amount of up to Twelve Million Dollars ($12,000,000).

"Delayed Draw Term Note Advance Date" means a date each of the conditions in Section 3.1(B) are satisfied and the advances under the Delayed Draw Term Notes requested on such date are funded.

"Delayed Draw Term Note Option" means for any Delayed Draw Term Note Purchaser, such Delayed Draw Term Note Purchaser's option to purchase the Delayed Draw Term Notes hereunder up to the principal amount set forth in Schedule I as such amount shall be automatically reduced from time to time upon the (x) termination thereof by the Borrower, or (y) funding of Delayed Draw Term Notes. The aggregate Delayed Draw Term Notes Options on the Third A&R Effective Date are Two Million Seventy-One Thousand Nine Hundred and Ninety-Nine Dollars ($2,071,999).

"Delayed Draw Term Note Purchaser" shall mean each Person having a Delayed Draw Term Note Option or holding a portion of the outstanding Delayed Draw Term Notes.

"Delayed Draw Term Note Termination Date" has the meaning assigned to that term in Section 2.1(B).

"Delayed Draw Term Notes First Maturity Date" means, with respect to the Delayed Draw Term Notes issued on the Second A&R Effective Date plus the next $1,086,135 in aggregate principal amount of Delayed Draw Term Notes (including Delayed Draw PIK Amounts) issued after the Second A&R Effective Date, the earlier of (i) March 31, 2022; *provided* that such date shall be extended to December 31, 2022 in the event that the Specified Equity Issuance shall have been consummated, or (ii) the date that the Obligations have been accelerated pursuant to and in accordance with the terms of this Agreement.

"Delayed Draw Term Notes Second Maturity Date" means, with respect any portion of the Delayed Draw Term Notes that do not mature on the Delayed Draw Term Notes First Maturity Date, the earlier of (i) the Existing Notes Maturity Date or (ii) the date that the Obligations have been accelerated pursuant to and in accordance with the terms of this Agreement.

"EBITDA" shall mean for any period with respect to the Note Parties on a consolidated basis; the sum of (a) net income (or loss) for such period (excluding (x) extraordinary gains, (y) extraordinary non-recurring non-cash losses and extraordinary non-recurring charges and expenses, and (z) other items from time to time consented to in writing by Agent in its sole discretion), plus (b) all interest expense for such period, plus (c) tax expense based on income, profits or capital, including federal, state, local, excise franchise and similar taxes, plus (d) depreciation expenses for such period, plus (e) amortization expenses for such period.

"Employee Benefit Plan" means any "employee benefit plan" within the meaning of Section 3(3) of ERISA (other than a Multiemployer Plan) which is subject to ERISA and (a) which is maintained by the Borrower, any Subsidiary or any ERISA Affiliate, or (b) with respect to which the Borrower, any Subsidiary or any ERISA Affiliate contributes or has an obligation to contribute.

"Equity Interests" of any Person means any and all shares, rights to purchase, options, warrants, general, limited or limited liability partnership interests, member interests, participation, or other equivalents of or interest in (regardless of how designated) equity of such Person, whether voting or nonvoting, including common stock, preferred stock, convertible securities or any other "equity security" (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the SEC under the Exchange Act).

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor statute and all rules and regulations promulgated thereunder.

"ERISA Affiliate" means any Person, which together with the Borrower or a Subsidiary, would be deemed to be a "single employer" within the meaning of Section 414(b) or (c) of the IRC, or, solely for purposes of Section 302 of ERISA and Section 412 of the IRC, would be treated as a single employer under Section 414(m) or (o) of the IRC.

"Event of Default" has the meaning assigned to that term in Section 8.1.

"Excess Cash Flow" means, for any fiscal period, in each case for the Note Parties on a consolidated basis, EBITDA, minus each of the following, to the extent actually paid in cash during such fiscal period and without duplication: (a) Capital Expenditures, (b) tax expense based on income, profits or capital, including federal, state, local, excise franchise and similar taxes, (c) dividends and distributions permitted by this Agreement, and (d) Debt Payments; provided that, in no event shall Excess Cash Flow be less than zero ($0.00).

"Exchange Act" means the Securities Exchange Act of 1934.

"Excluded Account" means (a) payroll accounts, trust accounts, escrow accounts, accounts used exclusively, and within the ordinary course of business, for withholding tax, goods and services tax, sales tax or payroll tax and other fiduciary accounts and (b) zero balance disbursement accounts.

"Excluded Shares" has the meaning assigned to that term in Section 2.4(A)(2).

"Excluded Taxes" has the meaning assigned to that term in Section 2.7(A).

"Executive Order No. 13224" means the Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

"Existing Note Purchase Agreement" has the meaning assigned to that term in the Recitals hereto.

"Existing Notes" has the meaning assigned to that term in Section 2.1(A).

"Existing Notes Maturity Date" means the earlier of (i) December 31, 2022; *provided* that such date shall be extended to December 31, 2023 in the event that the Specified Equity Issuance shall have been consummated, or (ii) the date that the Obligations have been accelerated pursuant to and in accordance with the terms of this Agreement.

"FATCA" means Sections 1471 through 1474 of the IRC, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the IRC and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreements, treaty or convention among Governmental Authorities implementing such Sections of the IRC.

"Fee Letters" means, collectively, the Amended and Restated Fee Letter, the First Amendment Fee Letter and the Second Amended and Restated Fee Letter.

"First Amendment" means the First Amendment to Amended and Restated Note Purchase Agreement dated as of the First Amendment Effective Date, by and among the Borrower, the Guarantors, the Purchasers and the Agent.

"First Amendment Effective Date" means August 27, 2019.

"First Amendment Fee Letter" means that certain fee letter dated as of the First Amendment Effective Date between the Borrower and the Agent.

"First Amendment Notes" means the additional notes purchased by the Purchasers from the Borrower on the First Amendment Effective Date in the amounts set forth on Schedule I under the heading "First Amendment Notes".

"First Closing Date" means the first Closing Date (as defined in the Securities Purchase Agreement).

"Fiscal Month" means any of the monthly accounting periods of the Borrower ending on the last day of each calendar month.

"Fiscal Quarter" means, with respect to the Borrower and its Subsidiaries, each three month period ending on March 31st, June 30th, September 30th and December 31st.

"Fiscal Year" means, with respect to the Borrower and its Subsidiaries, each four (4) Fiscal Quarter period ending on December 31st in each year.

"Foreign Purchaser" has the meaning assigned to that term in Section 2.7(B).

"Fund" means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board that are applicable to the circumstances as of the date of determination.

"Governmental Authority" means (i) any international, foreign, federal, state, provincial, county or municipal government, or political subdivision thereof, (ii) any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body or (iii) any court or administrative tribunal of competent jurisdiction.

"Guarantor(s)" means, collectively, each Subsidiary Guarantor and any other Person which guarantees the Obligations.

"Guaranty" means any guaranty of the Obligations executed by a Guarantor in favor of Agent, for its benefit and for the ratable benefit of the Secured Parties, in form and substance satisfactory to Agent, including pursuant to Section 10.

"Hazardous Material" means all or any of the following: (a) substances that are defined or listed in, or otherwise classified pursuant to, any environmental laws or regulations as "hazardous substances", "hazardous materials", "hazardous wastes", "toxic substances" or any other formulation intended to define, list or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, or toxicity; (b) oil, petroleum or petroleum derived substances, natural gas, natural gas liquids or synthetic gas and drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal resources; (c) any flammable substances or explosives or any radioactive materials; and (d) asbestos in any form or electrical equipment which contains any oil or dielectric fluid containing polychlorinated biphenyls.

"Indebtedness", as applied to any Person, means without duplication: (a) all indebtedness for borrowed money; (b) obligations under leases which in accordance with GAAP constitute capital leases; (c) notes payable and drafts accepted representing extensions of credit whether or not representing obligations for borrowed money; (d) any obligation owed for all or any part of the deferred purchase price of property or services (other than (i) trade accounts and accrued expenses payable in the ordinary course of business and not outstanding for more than sixty (60) days after the date on which such trade account payable was created, and (ii) accruals for payroll and other liabilities accrued in the ordinary course of business); (e) all Indebtedness of another Person secured by any Lien on any property or asset owned or held by such Person regardless of whether the Indebtedness secured thereby shall have been assumed by such Person or is non-recourse to the credit of such Person (but excluding, for the avoidance of doubt, letters of credit and similar instruments) and only to the extent of the fair market value of such property or assets; (f) all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds and similar instruments; (g) all net obligations of such Person under interest rate protection agreement, foreign currency exchange agreement or other interest or currency exchange rate, interest rate swap, or other similar agreements, (h) any advances under any factoring arrangement; (i) the principal balance outstanding under any synthetic lease, off-balance sheet loan or similar off-balance sheet financing product; and (j) all guarantees by such Person of Indebtedness of others, to the extent of the liability of such Person under such guarantee.

"Indemnified Liabilities" has the meaning assigned to that term in Section 11.2.

"Indemnitees" has the meaning assigned to that term in Section 11.2.

"Intellectual Property" has the meaning assigned to that term in the Security Agreement.

"IRC" means the Internal Revenue Code of 1986, as amended from time to time, and any successor statute and all rules and regulations promulgated thereunder.

"IRS" means the United States of America Internal Revenue Service or any successor thereto.

"Liabilities" has the meaning given that term in accordance with GAAP and shall include, without limitation, Indebtedness.

"Letter of Credit Amount" has the meaning assigned to that term in Section 2.1(E).

"Letter of Credit Draw" has the meaning assigned to that term in Section 2.1(E).

"Lien" means any lien (statutory or otherwise), mortgage, deed of trust, pledge, security interest, charge or encumbrance of any kind, whether voluntary or involuntary (including any conditional sale or other title retention agreement, any lease in the nature thereof, any trust, and any agreement to give any security interest).

"Material Adverse Effect" means a material adverse effect on (a) the business, operations, properties, assets or financial condition of the Borrower and its Subsidiaries taken as a whole; (b) the ability of the Note Parties (taken as a whole) to perform their respective obligations under the Note Documents, (c) the ability of Agent or any Purchaser to enforce or collect on the Obligations (after giving effect to any consents, waivers, amendments or other modifications not prohibited hereunder); or (d) the rights, remedies and benefits available to, or conferred upon, Agent and the Purchasers under the Note Documents.

"MJ Acquisition" means the acquisition by The Arena Media Brands, LLC, a wholly-owned subsidiary of Borrower, of certain assets related to the Men's Journal and Adventure Sports Network businesses from Weider Publications, LLC and A360 Media, LLC, pursuant to the terms of the MJ Acquisition Documents.

"MJ Acquisition Agreement" means that certain Asset Purchase Agreement, dated as of December 7, 2022, among The Arena Media Brands, LLC, Weider Publications, LLC and A360 Media, LLC.

"MJ Acquisition Documents" means, collectively, (i) the MJ Acquisition Agreement, and (ii) all related agreements entered into in connection with the MJ Acquisition, in each case of the preceding clauses (i)-(ii), in form and substance satisfactory to the Agent and the Purchasers.

"Multiemployer Plan" means any "multiemployer plan" (as such term is defined in Section 4001(a)(3) of ERISA) which is subject to ERISA and to which the Borrower, any Subsidiary Guarantor or any ERISA Affiliate contributes or has an obligation to contribute.

"New York Lease" means that certain sublease entered into on January 14, 2020, which is expected to become effective on or about February 1, 2020, by and between Maven Coalition, Inc., as tenant, and Saks & Company LLC, as sublandlord.

"Note Documents" means this Agreement, the Security Documents, the Notes (if any), the BRF Finance Co. Letter of Credit, the Fee Letters, the Perfection Certificate, the SLR Intercreditor Agreement, any Subordination Agreements, the Side Letter, each Confirmation and Ratification Agreement, and all other agreements executed by or on behalf of any Note Party and delivered concurrently herewith or at any time hereafter to or for the Agent or any Purchaser in connection with the Notes, all as amended, restated, supplemented or modified from time to time.

"Note Party" means the Borrower and each Guarantor.

"Notes" means the Existing Notes, the Delayed Draw Term Notes and the Third A&R Notes.

"Obligations" means all obligations, liabilities and indebtedness of every nature of each Note Party from time to time owed to Agent, any Purchaser or any other Secured Party under the Note Documents (whether incurred before or after the Existing Notes Maturity Date, the Delayed Draw Term Notes First Maturity Date or the Delayed Draw Term Notes Second Maturity Date, as applicable).

"OFAC Sanctions Programs" means the laws, regulations and Executive Orders administered by OFAC, including but not limited to, Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, as it has been or shall thereafter be renewed, extended, amended, or replaced, and the list of Specially Designated Nationals and Blocked Persons administered by OFAC, as such list may be amended from time to time.

"Original Note Purchase Agreement" has the meaning assigned to that term in the Recitals hereto.

"Original Notes" means the notes purchased by the Purchasers from the Borrowers under the Original Note Purchase Agreement in the amounts set forth on Schedule I under the heading "Original Notes".

"PBGC" means the Pension Benefit Guaranty Corporation established pursuant to Title IV of ERISA, or any successor agency or other Governmental Authority succeeding to the functions thereof.

"Pension Benefit Plan" means any Employee Benefit Plan subject to the provisions of Title IV of ERISA or the minimum funding standards under Section 412 of the IRC.

"Perfection Certificate" means the Perfection Certificate and the responses thereto provided by Note Parties and delivered to Agent.

"Permitted Encumbrances" means the following types of Liens:

(a) Liens for Taxes not yet due and payable, or being Properly Contested;

(b) statutory Liens of landlords, carriers, warehousemen, mechanics, vendors, materialmen and other similar liens imposed by law, which are incurred in the ordinary course of business for sums not more than thirty (30) days delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings diligently prosecuted, which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto and for which adequate reserves in accordance with GAAP are being maintained;

(c) Liens (other than any Lien imposed by ERISA) incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, statutory obligations, surety and appeal bonds, bids, leases, government contracts, performance and return of money bonds, trade contracts and other similar obligations (exclusive of obligations for the payment of borrowed money); provided, that, for the avoidance of doubt, any grant of a security interest under the UCC in the Collateral shall not be permitted under this sub-clause (c);

(d) zoning restrictions, building codes, land use laws, easements, licenses, reservations, provisions, covenants, waivers, rights-of-way, restrictions, minor irregularities of title (and with respect to leasehold interests, mortgages, obligations, Liens and other encumbrances incurred, created, assumed or permitted to exist and arising by, through or under a landlord, ground lessor or owner of the leased property, with or without consent of the lessee) and other similar charges or encumbrances with respect to real property not interfering in any material respect with the ordinary conduct of the business of the Borrower or any of its Subsidiaries and which do not secure obligations for payment of money;

(e) Liens in favor of Agent, on behalf of itself and the other Secured Parties;

(f) Liens pursuant to the SLR Indebtedness Documents;

(g) subject to Section 5.8, Liens existing on the Third A&R Effective Date set forth on Schedule 7.3(B) including replacement Liens, provided, that (i) the property covered thereby is not changed, (ii) the amount secured or benefited thereby is not increased, (iii) the direct or any contingent obligor with respect thereto is not changed, and (iv) any renewal or extension of the obligations secured or benefited thereby is permitted by Section 7.1(B);

(h) precautionary financing statements filed in connection with operating leases;

(i) Liens consisting of judgment or judicial attachment liens with respect to judgments the existence of which do not constitute an Event of Default; provided, that, the holder of such judgment Lien has not commenced any enforcement action;

(j) licenses, sublicenses, leases or subleases (including any license of Intellectual Property) granted to third parties in the ordinary course of business or not materially interfering with the business of the Borrower or any of its Subsidiaries;

(k) Liens in favor of collecting banks arising under Section 4-210 of the UCC;

(l) Liens arising from customary rights of set-off, revocation, refund or chargeback in favor of a bank or other depositary institution where the Borrower or any of its Subsidiaries maintains deposits (other than deposits intended as cash collateral) in the ordinary course of business;

(m) Liens consisting of contractual obligations of the Borrower or any of its Subsidiaries to sell or otherwise dispose of assets solely to the extent such disposition is permitted hereunder; and

(n) Liens consisting of customary security deposits under operating leases entered into by the Borrower or a Subsidiary in the ordinary course of business.

"Person" means and includes natural persons, corporations, limited partnerships, general partnerships, limited liability companies, limited liability partnerships, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and governments and agencies and political subdivisions thereof.

"PIK Amounts" has the meaning provided in Section 2.1(C)(1).

"Projections" has the meaning assigned to that term in Section 5.1(D).

"Properly Contested" means, in the case of any Taxes of any Person that are not paid as and when due or payable by reason of such Person's bona fide dispute concerning its liability to pay the same or concerning the amount thereof: (a) such Taxes are being properly contested in good faith by appropriate proceedings promptly instituted and diligently conducted; (b) such Person has established appropriate reserves as shall be required in conformity with GAAP; (c) the non-payment of such Taxes will not have a Material Adverse Effect or will not result in the forfeiture of any assets of such Person; (d) no Lien is imposed upon any of such Person's assets with respect to such Taxes unless such Lien (x) is at all times junior and subordinate in priority to the Liens in favor of the Agent (except only with respect to property Taxes that have priority as a matter of Applicable Law) and (y) enforcement of such Lien is stayed during the period prior to the final resolution or disposition of such dispute.

"Public Offering Indebtedness" means Indebtedness consisting of unsecured notes to be sold pursuant to an underwritten public offering for whom B. Riley Securities, Inc. is acting as representative of the underwriters in the offering, which Indebtedness (a) shall have a maturity date that is at least 181 days later than the Existing Notes Maturity Date, and (b) shall have terms (including without limitation, payment terms, interest rating covenants, remedies, defaults and other material terms) reasonably satisfactory to the Agent and the Purchasers.

"Purchaser" or "Purchasers" means, either the purchasers of the Existing Notes or the Third A&R Notes or the Delayed Draw Term Note Purchasers, as the context may require, from time to time or at any time, and each assignee thereof that becomes party to this Agreement in accordance with its terms.

"Register" has the meaning assigned to that term in Section 11.12(C).

"Reportable Event" means a reportable event described in Section 4043(c) of ERISA or the regulations promulgated thereunder other than an event for which the requirement to provide notice to the PBGC has been waived.

"Requisite Purchasers" means, at any time, Purchasers holding more than fifty percent (50.00%) of the sum of (a) the principal amount outstanding under the Existing Notes and the Third A&R Notes, plus (b) the outstanding Delayed Draw Term Note Options at such time.

"Responsible Officer" means the president, any vice president, the chief financial officer, the director of finance or the controller of any Note Party or any other officer having substantially the same authority and responsibility.

"Restricted Junior Payment" means: (a) any dividend or other distribution, direct or indirect, on account of any Equity Interests of the Borrower or any of its Subsidiaries now or hereafter outstanding; (b) any payment or prepayment of principal of, premium, if any, or interest on, or any redemption, conversion, exchange, retirement, defeasance, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any Equity Interests of the Borrower or any of its Subsidiaries now or hereafter outstanding; (c) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any Equity Interests of the Borrower or any of its Subsidiaries now or hereafter outstanding; (d) any payment by any Note Party of any management, consulting or similar fees to any Affiliate of the Borrower or any of its Subsidiaries, whether pursuant to a management agreement or otherwise; (e) any voluntary prepayment of any Indebtedness of the Borrower or any of its Subsidiaries (other than the Obligations), or (f) any payment or prepayment of principal of, premium, if any, interest, fees, redemption, exchange, purchase, retirement, defeasance, sinking fund or similar payment with respect to any Subordinated Indebtedness or the Public Offering Indebtedness.

"SEC" means the United States Securities and Exchange Commission.

"Second A&R Closing" has the meaning has the meaning assigned to that term in Section 2.2(A).

"Second A&R Effective Date" means March 24, 2020.

"Second Amended and Restated Fee Letter" means that certain fee letter dated as of the Second A&R Effective Date between the Borrower and the Agent.

"Second Amended and Restated Note Purchase Agreement" has the meaning assigned to that term in the Recitals hereto.

"Secured Parties" means Agent, any Purchaser and any Indemnitees.

"Securities Act" means the Securities Act of 1933, as amended and together with all rules, regulations and interpretations thereunder or related thereto.

"Security Agreement" means that certain Pledge and Security Agreement dated as of the Closing Date by and among the Note Parties and Agent (as amended, modified, supplemented or restated from time to time).

"Security Documents" means the Security Agreement and all other agreements as shall from time to time secure or relate to the Obligations, or any part thereof (in each case, as amended, modified, supplemented or restated from time to time).

"Securities Purchase Agreement" means that certain Securities Purchase Agreement, dated as of May 19, 2021, by and among the Borrower and the purchasers identified on the signature pages thereto, as amended, restated, supplemented or otherwise modified from time to time.

"Series K Exception Period" has the meaning assigned to that term in Section 2.4(A)(2).

"Series K Preferred Stock" means the Borrower's Series K Convertible Preferred Stock, $0.01 par value per share.

"Side Letter" means that certain side letter dated as of the Closing Date by and among the Borrower and Agent (in each case, as amended, modified, supplemented or restated from time to time).

"SLR Indebtedness" means Indebtedness incurred in connection with the SLR Indebtedness Documents.

"SLR Indebtedness Documents" means that certain Financing and Security Agreement, dated as of February 6, 2020 (as amended, restated, supplemented or otherwise modified to date), by and among the Note Parties and SLR Digital Finance LLC, and all other agreements entered into in connection therewith.

"SLR Intercreditor Agreement" means that certain intercreditor agreement dated as of February 24, 2020 (as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms of this Agreement), by and among the Agent, SLR Digital Finance LLC and the Note Parties.

"Specified Equity Issuance" means the receipt by the Borrower of at least $20,000,000 in gross cash proceeds from the issuance and sale of the Excluded Shares on or prior to 5:00 pm New York City time on February 14, 2022 (or such later date as shall be agreed to by the Agent in its sole discretion).

"Subsidiary" means, with respect to any Person, any corporation, association or other business entity of which more than fifty percent (50%) of the total voting power of Equity Interests (or equivalent ownership or controlling interest) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof. Unless the context otherwise clearly requires, any reference to a "Subsidiary" is a reference to a Subsidiary of the Borrower.

"Subsidiary Guarantor" means each direct or indirect Subsidiary of the Borrower, whether now existing or hereafter created or acquired.

"Subordinated Creditor" means any Person that shall have entered into a Subordination Agreement with the Agent, on behalf of the Secured Parties.

"Subordinated Debentures" means, collectively, 12% Senior Secured Subordinated Convertible Debenture of the Borrower due December 31, 2020, with B. Riley FBR, Inc. as Holder, issued December 12, 2018, 12% Senior Secured Subordinated Convertible Debenture of the Borrower due December 31, 2020, with BRC Partners Opportunity Fund, LP as Holder, issued December 12, 2018, 12% Senior Secured Subordinated Convertible Debenture of the Borrower due December 31, 2020, with Dialectic Antithesis Partners, LP, as Holder, issued December 12, 2018, 12% Senior Secured Subordinated Convertible Debenture of the Borrower due December 31, 2020, with B. Riley FBR, Inc. as Holder, issued March 18, 2019, 12% Senior Secured Subordinated Convertible Debenture of the Borrower due December 31, 2020, with John Fitchthorn as Holder, issued March 18, 2019, 12% Senior Secured Subordinated Convertible Debenture of the Borrower due December 31, 2020, with Strome Mezzanine Fund II, LP as Holder, issued March 18, 2019, 12% Senior Secured Subordinated Convertible Debenture of the Borrower due December 31, 2020, with B. Riley FBR, Inc. as Holder, issued March 27, 2019, 12% Senior Secured Subordinated Convertible Debenture of the Borrower due December 31, 2020, with SFS Growth Fund, LP as Holder, issued March 27, 2019, and 12% Senior Secured Subordinated Convertible Debenture of the Borrower due December 31, 2020, with Todd Sims, Inc. as Holder, issued April 8, 2019, issued pursuant to those certain Securities Purchase Agreements by and among the Borrower and the purchasers party thereto dated as of December 12, 2018, March 18, 2019, March 27, 2019, and April 8, 2019, respectively, in each case, as each Subordinated Debenture may be amended from time to time in a manner permitted by the Agent.

"Subordinated Indebtedness" means (a) the Subordinated Debentures and (c) other unsecured Indebtedness of any Note Party, in each case, which has a maturity date that is at least 181 days later than the Existing Notes Maturity Date and the terms of which (including, without limitation, payment terms, interest rates, covenants, remedies, defaults and other material terms) are reasonably satisfactory to the Agent and the Requisite Purchasers and which has been expressly subordinated in right of payment to all Indebtedness of such Note Party under the Note Documents (i) by the execution and delivery of a Subordination Agreement, or (ii) otherwise on terms and conditions reasonably satisfactory to the Agent and the Requisite Purchasers. For the avoidance of doubt, Public Offering Indebtedness shall not constitute Subordinated Indebtedness.

"Subordinated Indebtedness Documents" means all documents evidencing Subordinated Indebtedness, including, without limitation, each subordinated promissory note or agreement issued by a Note Party to a Subordinated Creditor, and each other promissory note, instrument and agreement executed in connection therewith, all on terms and conditions reasonably satisfactory to the Agent and the Requisite Purchasers.

"Subordination Agreement" means each subordination agreement by and among, as applicable, the Agent, the applicable Note Parties, the applicable Subsidiaries of the Note Parties and the applicable Subordinated Creditor, each in form and substance satisfactory to the Agent and the Requisite Purchasers and each evidencing and setting forth the senior priority of the Obligations over such Subordinated Indebtedness and to the extent applicable, Liens.

"Taxes" has the meaning assigned to that term in Section 2.7(A).

"Tax Liabilities" has the meaning assigned to that term in Section 2.7(A).

"Termination Event" means (i) a Reportable Event with respect to any Pension Benefit Plan; (ii) the withdrawal of any Note Party or any ERISA Affiliate from any Pension Benefit Plan during a plan year in which such entity was a "substantial employer" as defined in Section 4001(a)(2) of ERISA; (iii) the providing of notice of intent to terminate any Pension Benefit Plan in a distress termination described in Section 4041(c) of ERISA; (iv) the institution by the PBGC of proceedings to terminate any Pension Benefit Plan or Multiemployer Plan; (v) any event or condition which could reasonably be expected to (a) constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Benefit Plan, (b) result in the termination of a Multiemployer Plan pursuant to Section 4041A of ERISA or (c) result in the imposition of any Lien on the assets of any Note Party by operation of Section 4069 of ERISA; or (vi) the partial or complete withdrawal within the meaning of Sections 4203 and 4205 of ERISA of any Note Party or any ERISA Affiliate from a Multiemployer Plan resulting in withdrawal liability to any Note Party.

"TheStreet" means TheStreet, Inc., a Delaware corporation.

"Third A&R Effective Date" means December 15, 2022.

"Third A&R Notes" means the additional notes purchased by the Purchasers from the Borrower on the Third A&R Effective Date in the amounts set forth on Schedule I under the heading "Third A&R Notes".

"Transactions" means collectively, the transactions contemplated by the TS Acquisition Documents, the Note Documents (including with respect to the issuance of Notes on such date), and the financial accommodations contemplated herein and therein.

"TS Acquisition" means the merger, pursuant to the terms of the TS Acquisition Documents, of TheStreet and TST AcquisitionCo, with TheStreet continuing as the surviving corporation.

"TS Acquisition Agreement" means that certain Agreement and Plan of Merger, dated as of the Closing Date, among the Borrower, TST AcquisitionCo, and TheStreet.

"TS Acquisition Documents" means, collectively, (i) the TS Acquisition Agreement, (ii) the TS Escrow Agreement, and (iii) all related agreements entered into in connection with the TS Acquisition, in each case of the preceding clauses (i)-(iii), in form and substance satisfactory to the Agent and the Purchasers.

"TS Escrow Agreement" means that certain Escrow Agreement, dated as of the Closing Date, by and among the Borrower, TheStreet, and Citibank, N.A.

"TST AcquisitionCo" means TST ACQUISITION CO., INC., a Delaware corporation.

"UCC" means the Uniform Commercial Code as in effect from time to time in the State of New York; provided, however, to the extent the law of any other state or other jurisdiction applies to the attachment, perfection, priority or enforcement of any Lien granted to Agent in any of the Collateral, "UCC" means the Uniform Commercial Code as in effect in such other state or jurisdiction for purposes of the provisions hereof relating to such attachment, perfection, priority or enforcement of a Lien in such Collateral. To the extent this Agreement defines the term "Collateral" by reference to terms used in the UCC, each of such terms shall have the broadest meaning given to such terms under the UCC as in effect in any state or other jurisdiction.

"USA PATRIOT Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act of 2001 (Title III of Pub. L. 107-56, Oct. 26, 2001).

1.2. UCC Defined Terms. The following terms used in this Agreement shall have the respective meanings provided for in the UCC: "Accounts", "Account Debtor", "Chattel Paper", "Deposit Account", "Documents", "General Intangibles", and "Inventory".

1.3. Accounting Terms. For purposes of this Agreement, all accounting terms not otherwise defined herein shall have the meanings assigned to such terms in conformity with GAAP. Financial statements and other information furnished to Agent or any Purchaser shall be prepared in accordance with GAAP (as in effect at the time of such preparation) on a consistent basis. For all purposes hereunder, only those leases (assuming for purposes hereof that such leases were in existence on January 1, 2015) that would have constituted capital leases or financing leases in conformity with GAAP on January 1, 2015, shall be considered capital leases or financing leases hereunder, and all calculations and deliverables under this Agreement or any other Note Document shall be made or delivered, as applicable, in accordance therewith.

1.4. Other Definitional Provisions. References to "Sections" and "Schedules" shall be to Sections, and Schedules, respectively, of this Agreement unless otherwise specifically provided. Any of the terms defined in Section 1.1 or otherwise in this Agreement may, unless the context otherwise requires, be used in the singular or the plural depending on the reference. In this Agreement, words importing any gender include the other genders; the words "including," "includes" and "include" shall be deemed to be followed by the words "without limitation"; the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or"; references to agreements and other contractual instruments shall be deemed to include subsequent amendments, assignments, and other modifications thereto, but only to the extent such amendments, assignments and other modifications are not prohibited by the terms of this Agreement or any other Note Document; references to Persons include their respective permitted successors and assigns or, in the case of governmental Persons, Persons succeeding to the relevant functions of such Persons; and unless the context requires otherwise, all references to statutes and related regulations shall include any amendments of same and any successor statutes and regulations.

SECTION 2. NOTES; SUPPLEMENTAL NOTE ISSUANCES

2.1. Authorization of Notes.

(A) (1) Existing Notes. The Borrower sold to the Purchasers, and the Purchasers purchased from the Borrower, in reliance on the representations, warranties and covenants of the Borrower and the other Note Parties under the (i) Original Note Purchase Agreement, and (ii) the Existing Note Purchase Agreement, in each case upon the terms and subject to the conditions set forth therein, notes in the original principal amounts set forth after such Purchaser's name under the headings "Original Notes", "A&R Notes" and "First Amendment Notes", respectively, contained on Schedule I, and any additional Notes issued in respect of any Letter of Credit Draw after the Second A&R Effective Date (collectively, the "Existing Notes"). The aggregate outstanding principal amount of the Existing Notes as of the Third A&R Effective Date is $62,690,753. The Existing Notes remain in full force and effect as of the Third A&R Effective Date and are hereby ratified and reaffirmed in all respects.

(2) Third A&R Notes. Subject to and in reliance upon the representations, warranties, terms and conditions of this Agreement, each Purchaser agrees (severally and not jointly) to purchase from the Borrower on the Third A&R Effective Date, and Borrower agrees to sell to each Purchaser, the Third A&R Notes in the original principal amount set forth after such Purchaser's name under the heading "Third A&R Notes" contained on Schedule I. On the Third A&R Effective Date, the Borrower shall deliver to each Purchaser the Third A&R Notes reflecting the aggregate original principal amount of such Purchaser's notes as set forth after such Purchaser's name under the heading "Third A&R Notes" contained on Schedule I. The aggregate outstanding original principal amount of the Third A&R Notes as of the Third A&R Effective Date is $36,000,000.

(B) Delayed Draw Term Notes. Subject to and upon the terms and conditions contained herein including, without limitation, Section 3.1(B) of this Agreement, each Delayed Draw Term Purchaser severally (and not jointly) has the option in its sole discretion to fund its pro rata share of any advances under the Delayed Draw Term Notes not to exceed its Delayed Draw Term Note Option on the applicable Delayed Draw Note Advance Date. Any draw under the Delayed Draw Term Note Options will be made pro rata and must be in an amount not less than $2,000,000. The Delayed Draw Term Note Options will expire and be terminated upon the earliest of (x) the date the Borrower provides written notice to the Administrative Agent that it is terminating all and not less than all, of the Delayed Draw Term Note Options, (y) the Delayed Draw Term Notes First Maturity Date and (z) the Delayed Draw Term Notes Second Maturity Date (the earliest of clauses (x), (y) and (z) the "Delayed Draw Term Note Termination Date"). Once repaid, whether such payments are voluntary or required, the Delayed Draw Term Notes may not be reborrowed without the Agent's express written consent.

(1) At Borrowers' option, upon not less than five (5) Business Days' prior written notice to Agent by the Borrower, the Borrower may terminate all, but not less than all, of the Delayed Draw Term Note Options.

(2) Any payment of principal made on the Notes shall be applied to the Third A&R Notes until they are paid in full, then to the Delayed Draw Term Notes until they are paid in full and then to the Existing Notes.

(C) Interest Rate.

(1) Existing Notes. Interest on the Existing Notes is payable in cash quarterly in arrears on the last day of each Fiscal Quarter, and shall accrue for each calendar quarter on the outstanding principal amount of the Existing Notes at an aggregate rate of 10.00% per annum, provided that, after the occurrence and during the continuance of an Event of Default, the Existing Notes shall bear interest at the Default Rate, provided further, that in no event shall the amount paid or agreed to be paid by the Borrower as interest and premium on any Existing Note exceed the highest lawful rate permissible under the law applicable thereto, provided further, that, with respect to interest payable on (x) March 31, 2020, June 30, 2020 and September 30, 2020 and (y) on December 31, 2020, March 31, 2021, June 30, 2021, September 30, 2021 and December 31, 2021 (each such interest payment under this clause (y), a "Conversion Election Payment Date"), the Borrower will, in lieu of the payment in cash of all or any portion of the interest due on such dates pay any such amounts by adding such amounts to the principal amount of the Notes on such dates (such amounts, the "PIK Amounts"), which PIK Amounts shall capitalize and thereafter shall themselves accrue interest at the rate applicable to the Existing Notes, provided, however, that with respect to interest payable on a Conversion Election Payment Date, each Purchaser will have the option to take all or a portion of the interest due on such date in the form of an issuance of Equity Interests pursuant to a Conversion Election, and provided further that from and after January 23, 2022, interest on the Existing Notes shall be payable, at the Agent's sole discretion, either (a) in cash quarterly in arrears on the last day of each Fiscal Quarter or (b) by continuing to add such interest due on such payment dates the principal amount of the Existing Notes in accordance with this Section.

(2) Delayed Draw Term Notes. Interest on amounts outstanding under the Delayed Draw Term Notes is payable, at the Agent's sole discretion, either (a) in cash quarterly in arrears on the last day of each Fiscal Quarter or (b) in kind quarterly in arrears on the last day of each Fiscal Quarter, and shall accrue for each Fiscal Quarter on the principal amount outstanding under the Delayed Draw Term Notes at an aggregate rate of 10.00% per annum (such amounts, the "Delayed Draw PIK Amounts"), which Delayed Draw PIK Amounts shall capitalize and shall themselves accrue interest at the rate applicable to the Delayed Draw Term Notes, provided that, after the occurrence and during the continuance of an Event of Default, the Delayed Draw Term Notes shall bear interest at the Default Rate, provided further, that in no event shall the amount paid or agreed to be paid by the Borrower as interest and premium on any Delayed Draw Term Note exceed the highest lawful rate permissible under the law applicable thereto.

(3) Third A&R Notes. Interest on the Third A&R Notes is payable in cash quarterly in arrears on the last day of each Fiscal Quarter, and shall accrue for each calendar quarter on the outstanding principal amount of the Third A&R Notes at an aggregate rate of 12.00% per annum, provided that, on each of March 1, 2023, May 1, 2023 and July 1, 2023 the annual interest rate on the Third A&R Notes shall increase by 1.50% per annum, provided further, that after the occurrence and during the continuance of an Event of Default, the Third A&R Notes shall bear interest at the Default Rate, provided further, that in no event shall the amount paid or agreed to be paid by the Borrower as interest and premium on any Third A&R Note exceed the highest lawful rate permissible under the law applicable thereto.

(D) The obligations of the Borrower under the Note Documents shall be guaranteed by each of the Guarantors.

(E) In the event that, pursuant to the terms of the BRF Finance Co. Letter of Credit, the BRF Finance Co. Letter of Credit Beneficiary makes any full or partial draw on the BRF Finance Co. Letter of Credit (each such draw, a "Letter of Credit Draw") in any amount (each such amount, a "Letter of Credit Draw Amount"), such Letter of Credit Draw Amount shall automatically be added to the principal balance of the Notes hereunder as additional Existing Notes, and at all times thereafter shall be deemed to be part of the Obligations.

(F) In the event that the BRF Finance Co. Letter of Credit is renewed beyond one year from the date of its effectiveness, whether such renewal occurs by the terms of the BRF Finance Co. Letter of Credit or by mutual election by BRF Finance Co. and the BRF Finance Co. Letter of Credit Beneficiary, the Agent shall have the right to charge a fee in connection with such renewal, which renewal fee shall be determined in the Agent's sole discretion.

2.2. Sales; Third A&R Closing.

(A) On the Third A&R Effective Date, the Borrower will issue and sell to each Purchaser and, subject to the terms and conditions hereof and in reliance upon the representations and warranties of the Borrower and Guarantors contained herein and in the other Note Documents, each Purchaser, acting severally and not jointly, will purchase from the Borrower, at the Third A&R Closing, Third A&R Notes in an aggregate amount of $36,000,000, and in the amounts set forth for such Purchaser on Schedule I. The closing of the sale and purchase of the Third A&R Notes hereunder the ("Third A&R Closing") shall take place at the office of Choate, Hall & Stewart LLP, Two International Place, Boston, MA 02110 on the Third A&R Effective Date. The Third A&R Closing shall occur not later than 3:00 P.M. Boston, Massachusetts time on the Third A&R Effective Date.

(B) Delivery of the Third A&R Notes to be purchased by each Purchaser at the Third A&R Closing shall be made in the form of one or more Third A&R Notes. If at the Third A&R Closing, the Borrower shall fail to tender the Third A&R Notes to be delivered to each Purchaser as provided herein, each Purchaser shall, at its election, be relieved of all further obligations to purchase the Third A&R Notes under this Agreement, without thereby waiving any other rights it may have by reason of such failure or such non-fulfillment.

2.3. Computation of Interest and Fees. All computations of interest and fees hereunder shall be made on the basis of the actual number of days elapsed over a 360-day year. Each determination by the Purchasers of an interest amount or fee hereunder shall be made in good faith and, except for manifest error, shall be final, conclusive and binding for all purposes.

2.4. Prepayments and Repayments.

(A) Mandatory Prepayments.

(1) Prepayments from Proceeds of Asset Dispositions. Promptly, but in no event later than one (1) Business Day after receipt by the Borrower or any of its Subsidiaries of net cash proceeds of any Asset Disposition (including, without limitation, any insurance or condemnation proceeds), which net cash proceeds exceed $250,000 in the aggregate for any Fiscal Year after the A&R Effective Date, the Borrower shall prepay the Obligations in an amount equal to the net cash proceeds (i.e., gross proceeds less the reasonable costs of such sales or other dispositions, all of the costs and expenses (including the amount, if any, of all taxes paid by the Borrower or any of its Subsidiaries) as a result thereof after taking into account any available tax credits or deductions and any tax sharing arrangements) incurred in connection with the collection of such proceeds, award or other payments, and any amounts retained by or paid to parties having superior rights to such proceeds, awards or other payment) from such Asset Dispositions.

(2) Prepayments from Equity Issuances. Promptly, but in no event later than one (1) Business Day after receipt by the Borrower of cash proceeds from any issuance of Equity Interests, unless otherwise agreed to by the Agent and the Purchasers, the Borrower shall prepay the Obligations in an amount equal to such cash proceeds, net of underwriting discounts and commissions and other reasonable costs associated therewith. Notwithstanding the foregoing, this Section 2.4(A)(2) shall not apply to proceeds received from issuances of (i) Series K Preferred Stock during the ninety (90) day period commencing on October 23, 2020 (the "Series K Exception Period") or (ii) one or more issuances of Equity Interests of currently authorized shares of the Borrower's common stock, par value $0.001 per share, that are proposed to be sold pursuant to a firm commitment underwritten public offering for whom B. Riley Securities, Inc. is acting as representative of the underwriters in the offering (such shares, including any shares that are issued pursuant to the exercise of the underwriters' over-allotment option under the underwriting agreement relating to such offering, the "Excluded Shares"), for which a registration statement on Form S-1 was initially filed with the Securities and Exchange Commission on January 12, 2022.

(3) Prepayments from the Issuance of Indebtedness. Promptly, but in no event later than one (1) Business Day after receipt by the Borrower or any of its Subsidiaries of the proceeds of the sale, issuance or incurrence of any Indebtedness (other than Indebtedness permitted by Section 7.1 (other than the Public Offering Indebtedness)), unless otherwise agreed to by the Agent and the Purchasers, the Borrower shall prepay the Obligations in an amount equal to such proceeds, net of underwriting discounts and commissions and other reasonable costs associated therewith.

(4) Prepayments upon a Liquidation Plan. If the board of directors (or other applicable governing body) of the Borrower shall approve any plan for the liquidation or other disposition of all or substantially all of the Borrower's assets, then the Borrower shall promptly, but in no event later than one (1) Business Day after the approval of such plan (but prior to any such liquidation or disposition), prepay the outstanding amount of the Notes and all other Obligations hereunder.

(5) Prepayments upon a Change in Control. If any Change in Control is to occur, then not less than fifteen (15) days nor more than sixty (60) days prior to the occurrence of such Change in Control, the Borrowers will notify each holder of any Notes of such pending Change in Control and the date upon which it is scheduled to occur. Upon such Change in Control, the Borrowers will prepay all of the Notes and other Obligations of such holder or holders then outstanding. Each such prepayment shall occur on the date upon which the Change in Control occurs.

(6) Prepayments from Escrow Funds. If the Borrower or any of its Subsidiaries receives any of the Escrow Funds (as defined in the TS Escrow Agreement), the Borrower or such Subsidiary shall promptly (and in any event within one (1) Business Day after receipt thereof) prepay the Obligations in an amount equal to such Escrow Funds so received.

(7) Excess Cash Flow. No later than five (5) Business Days after the quarterly financial statements are required to be delivered pursuant to Section 5.1(B) hereof, commencing with the Fiscal Quarter ending September 30, 2019, the Borrower shall prepay the Obligations in an aggregate amount equal to the Applicable ECF Percentage of Excess Cash Flow for such Fiscal Quarter. Such payment shall be accompanied by a certificate signed by a Responsible Officer and in form and substance satisfactory to the Agent, calculating Excess Cash Flow for such Fiscal Quarter and the resulting mandatory prepayment due and payable hereunder.

(8) Pro-Rata Application. All prepayments pursuant to this Section 2.4(A) shall be applied first to the Third A&R Notes on a pro rata basis until they are paid in full, second to the Delayed Draw Term Notes maturing on the Delayed Draw Term Notes First Maturity Date on a pro rata basis until they are paid in full, third to the Delayed Draw Term Notes maturing on the Delayed Draw Term Notes Second Maturity Date on a pro rata basis until they are paid in full and finally to the Existing Notes on a pro-rata basis, and shall be subject to the terms of the Fee Letters. The immediately preceding sentence shall not apply to prepayments of the Delayed Draw Term Notes maturing on the Delayed Draw Term Notes First Maturity Date on the date of this Agreement.

(B) Optional Prepayments and Repayments. The Borrower may, at its option, prepay all or any part of the Notes at any time, and from time to time, without penalty or premium. In the case of each optional prepayment, the Borrower shall give at least two (2) days prior written notice thereof to each holder of any Notes. Each such notice shall set forth: (a) the date fixed for prepayment; (b) the aggregate principal amount of Notes to be prepaid on such date; and (c) the aggregate principal amount of Notes held by such holder to be prepaid on such date and the amount of accrued interest to be paid to such holder on such date; provided that any such notice delivered by the Borrower may state that such notice is conditioned upon the effectiveness and/or funding of any such other credit facilities or debt or equity offering, or the occurrence of any other event specified therein, in which case such notice may be revoked by the Borrower or the date fixed for prepayment delayed, in each case by notice to such holder on or prior to the date fixed for prepayment, if such condition has not been satisfied. All prepayments pursuant to this Section 2.4(B) shall be applied first to the Third A&R Notes on a pro rata basis until they are paid in full, second to the Delayed Draw Term Notes maturing on the Delayed Draw Term Notes First Maturity Date on a pro rata basis until they are paid in full, third to the Delayed Draw Term Notes maturing on the Delayed Draw Term Notes Second Maturity Date on a pro rata basis until they are paid in full and finally to the Existing Notes on a pro-rata basis, and shall be subject to the terms of the Fee Letters. Notwithstanding the foregoing or any other provision in this Agreement to the contrary, on the date of this Agreement, the Borrower will prepay in full the Delayed Draw Term Notes maturing on the Delayed Draw Term Notes First Maturity Date with a portion of the proceeds of the Third A&R Notes. By their execution of this Agreement, the Purchasers consent to the prepayment referenced in the immediately foregoing sentence and waive the notice requirements related to such prepayment.

(C) Maturity; Accrued Interest; Surrender, etc. of Notes. The Existing Notes and the Third A&R Notes shall mature and be due and payable in full on the Existing Notes Maturity Date. In the case of each prepayment of all or any part of any Note, the principal amount to be prepaid shall mature and become due and payable on the date fixed for such prepayment, together with interest on such principal amount accrued to such date. Any Note prepaid in full shall be surrendered to the Borrower at its principal place of business promptly following prepayment and cancelled and shall not be reissued, and no Note shall be issued in lieu of any prepaid principal amount of any Note.

(D) Conversion Election. Each Purchaser, at its sole option, may elect, in lieu of the receipt of PIK Amounts due on any Conversion Election Payment Date specified by such Purchaser, or in lieu of receiving cash payments up to the Conversion Portion of such amount of Delayed Draw Term Notes due and payable on the Delayed Draw Term Notes First Maturity Date, to receive shares of Series K Preferred Stock (or, in the event that Series K Preferred Stock has been converted into Common Stock, shares of Common Stock based upon the conversion rate specified in the Certificate of Designations of the Borrower establishing the Series K Preferred Stock), with an aggregate liquidation preference of the Series K Preferred Stock so issued for each $1,000 of the Obligations elected to be so converted pursuant to a written notice delivered by such Purchaser to the Borrower (such election, a "Conversion Election"), to be equal to the purchase price paid for $1,000 in liquidation preference of the Series K Preferred Stock during the Series K Exception Period. Written notice of a Conversion Election with respect to any PIK Amount due on a Conversion Election Payment Date, must be delivered to Borrower not less than two (2) Business Days prior to such Conversion Election Payment Date, and with respect to any other Conversion Election, at any time during the period commencing on the last day of the Series K Exception Period through and including the date that is not less than two (2) Business Days prior to the Delayed Draw Term Notes First Maturity Date. In connection with a Conversion Election, at the reasonable request of the Borrower, the Purchaser making such Conversion Election shall make customary representations and warranties that are consistent with the representations and warranties made by purchasers of Series K Preferred Stock pursuant to securities purchase agreements entered into by the Borrower and such purchasers.

2.5. Purchase of Notes. The Borrower will not, and will not permit any of its Affiliates to, directly or indirectly, purchase or otherwise acquire, or offer to purchase or otherwise acquire, any outstanding Notes except by way of payment or prepayment in accordance with the provisions of the Notes and this Agreement.

2.6. Payment on Non-Business Day. If any amount hereunder or under the Notes shall become due on a day which is not a Business Day, such payment shall be due on the next succeeding Business Day without including the additional day(s) elapsed in the computation of the interest payable on such next succeeding Business Day.

2.7. Taxes.

(A) No Deductions. Any and all payments or reimbursements made hereunder shall be made free and clear of and without deduction for any and all taxes, levies, imposts, deductions, charges or with the Borrower, and all liabilities with respect thereto (all such taxes, levies, imposts, deductions, charges or with the Borrower and all liabilities with respect thereto referred to herein as "Tax Liabilities"; excluding, however, (i) Taxes imposed on or measured by the net income (however denominated), franchise and branch profits Taxes of any Purchaser or Agent by the jurisdiction under the laws of which Agent or such Purchaser is organized or doing business or any political subdivision thereof, (ii) Taxes imposed on or measured by the net income (however denominated), franchise and branch profits Taxes of any Purchaser or Agent by the jurisdiction of such Purchaser's or Agent's applicable lending office (or relevant office for receiving payments from or on account of the Borrower or making funds available to or for the benefit of the Borrower) or any political subdivision, (iii) U.S. federal withholding Taxes that are (or would be) required to be withheld on amounts payable to or for the account of any Purchaser or Agent pursuant to a law in effect on the date on which (A) such Purchaser acquires an interest in the Notes or such Agent becomes Agent or (B) such Purchaser changes its office for receiving payments by or on account of the Borrower or making funds available to or for the benefit of the Borrower, except in each case to the extent that, pursuant to Section 2.7, amounts with respect to such Taxes were payable either to such Agent or Purchaser's predecessor immediately before such Purchaser or Agent became a party hereto or to such Agent or Purchaser immediately before it changed its office for receiving payments by or on account of the Borrower or making funds available to or for the benefit of the Borrower, (iv) Taxes attributable to such recipient's failure to comply with Section 2.7, (v) U.S. backup withholding Taxes, (vi) Taxes imposed under FATCA on any Purchaser or Agent, (vii) Taxes imposed by a jurisdiction as a result of any connection between the recipient and such jurisdiction other than any connection arising solely from (and that would not have existed but for) executing, delivering, being a party to, engaging in any transactions pursuant to, performing its obligations under or enforcing any Note Document, (viii) Taxes resulting from the gross negligence or willful misconduct of the Purchaser or Agent as determined by a court of competent jurisdiction in a final non-appealable judgment and (ix) penalties, interest and additions to Tax relating to any of the foregoing (all Taxes included in clauses (i) through (ix), the "Excluded Taxes", and together with the Tax Liabilities, the "Taxes")) unless the applicable withholding agent is compelled by law to make payment subject to such Tax Liabilities. If any applicable withholding agent shall be required by law to deduct any such Tax Liabilities from or in respect of any sum payable hereunder to Agent or any Purchaser, then the sum payable hereunder shall be increased as may be necessary so that, after making all required deductions, Agent or such Purchaser receives an amount equal to the sum it would have received had no such deductions been made.

(B) Status of Purchasers. Any Purchaser that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Note Document shall deliver to Borrower and Agent, at the time or times reasonably requested by Borrower or Agent, such properly completed and executed documentation reasonably requested by Borrower or Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Purchaser, if reasonably requested by Borrower or Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by Borrower or Agent as will enable Borrower or Agent to determine whether or not such Purchaser is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth below in this paragraph (B)) shall not be required if in the Purchaser's reasonable judgment such completion, execution or submission would subject such Purchaser to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Purchaser (it being understood that providing any information currently required by any U.S. federal income tax withholding form shall not be considered prejudicial to the position of a Purchaser).

Without limiting the generality of the preceding paragraph, each Purchaser organized under the laws of a jurisdiction outside the United States (a "Foreign Purchaser") as to which payments to be made under this Agreement are exempt from United States withholding tax or are subject to United States withholding tax at a reduced rate under an applicable statute or tax treaty shall provide to Borrower and Agent (1) a properly completed and executed IRS Form W-8BEN, W-8BEN-E or Form W-8ECI or other applicable form, certificate or document prescribed by the IRS or reasonably requested by Agent or Borrower, certifying as to such Foreign Purchaser's entitlement to such exemption or reduced rate of withholding with respect to payments to be made to such Foreign Purchaser under this Agreement, and, in the case of a Foreign Purchaser claiming the benefits of the exemption for portfolio interest under Section 881(c) of the IRC, a certificate, in a form reasonably acceptable to Borrower and Agent, showing such Foreign Purchaser is not a "bank" within the meaning of Section 881(c)(3)(A) of the IRC, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the IRC or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the IRC (a "Certificate of Exemption"). Prior to becoming a Purchaser under this Agreement and within fifteen (15) days after a reasonable written request of Borrower or Agent from time to time thereafter, each Foreign Purchaser that becomes a Purchaser under this Agreement shall provide a Certificate of Exemption to Borrower and Agent.

If a Foreign Purchaser is entitled to an exemption with respect to payments to be made to such Foreign Purchaser under this Agreement (or to a reduced rate of withholding) and does not provide the information in the preceding paragraph establishing its entitlement to such exemption to Borrower and Agent within the time periods set forth in the preceding paragraph, Note Parties shall withhold taxes from payments to such Foreign Purchaser at the applicable statutory rates and no Note Party shall be required to pay any additional amounts as a result of such withholding; provided, however, that all such withholding shall cease at such time that such Foreign Purchaser establishes its entitlement to such exemption to Borrower and Agent.

Each Purchaser that is a "U.S. Person" within the meaning of Section 7701(a)(30) of the IRC shall execute and deliver to the relevant Borrower and Agent, on or prior to the date on which such Purchaser becomes a Purchaser under this Agreement, and from time to time thereafter upon the request of Borrower or Agent, two properly completed and duly signed original copies of Form W-9 or any successor form that such Purchaser is entitled to provide at such time, establishing an exemption from United States backup withholding requirements; provided, however, that if a Purchaser is a disregarded entity for U.S. federal income tax purposes, it shall provide the appropriate withholding form of its owner (together with appropriate supporting documentation). The Borrower shall not be required to pay additional amounts in respect of Taxes to any Purchaser pursuant to this Section 2.7 to the extent that the obligation to pay such additional amounts would not have arisen but for the failure of such Purchaser to comply with this Section 2.7.

Each Purchaser shall, whenever a lapse in time or change in circumstances renders such documentation expired, obsolete or inaccurate in any material respect, deliver promptly to Borrower and Agent updated or other appropriate documentation (including any new documentation reasonably requested by the applicable withholding agent) or promptly notify Borrower and Agent of its inability to do so. Unless the applicable withholding agent has received forms or other documents satisfactory to it indicating that payments under any Note Document to or for a Purchaser are not subject to withholding tax or are subject to such tax at a rate reduced by an applicable tax treaty, Agent or other applicable withholding agent shall withhold amounts required to be withheld by Applicable Law from such payments at the applicable statutory rate.

Notwithstanding this Section 2.7, a Purchaser shall not be required to deliver any form pursuant to this Section 2.7 that such Purchaser is not legally able to deliver.

(C) Withholding Taxes under FATCA. If a payment made to a Purchaser under the Note Documents would be subject to withholding tax imposed by FATCA if such Purchaser fails to comply with the applicable requirements of FATCA (including the reporting requirements contained in Section 1471(b) or 1472(b) of the IRC), such Purchaser shall deliver to Borrower and Agent (i) a certification signed by the chief financial officer, principal accounting officer, treasurer or controller, and (ii) other documentation reasonably requested by Borrower and Agent sufficient for Agent and Borrower to comply with their obligations under FATCA and to determine that such Purchaser has complied with such applicable reporting requirements; provided that if such Purchaser fails to provide any documentation described in clause (i) or (ii) hereof, Borrower or Agent shall be entitled to withhold all amounts required to comply with FATCA, by setoff or otherwise. Each of Agent and Borrower shall provide notice to the other party in the event Agent or Borrower, as applicable, reasonably determines that a Purchaser (and/or any participant of such Purchaser) is not complying with the requirements of FATCA (including the reporting requirements contained in Section 1471(b) or 1472(b) of the IRC, as applicable); provided that failure to provide such notice shall not result in liability to either party. If, at any time, Agent or Borrower reasonably believe that a Purchaser and/or its participant is not complying with the requirements of FATCA (including the reporting requirements contained in Section 1471(b) or 1472(b) of the IRC, as applicable), Agent or Borrower may withhold all amounts required to comply with FATCA, by setoff or otherwise.

(D) Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any taxes as to which it has been indemnified pursuant to this Section 2.7 (including by the payment of additional amounts pursuant to this Section 2.7), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the taxes giving rise to such refund), net of all out-of-pocket expenses (including taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (D) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other person.

(E) Each party's obligations under this Section 2.7 shall survive the replacement of a Purchaser and the repayment, satisfaction or discharge of all Obligations.

2.8. Incremental Third A&R Notes.

(a) The Borrower may, from time to time after the Third A&R Effective Date, by written notice to the Agent, request additional Third A&R Notes (collectively, "Incremental Third A&R Notes"), from one or more Purchasers (in the sole discretion of such Purchasers), in an aggregate principal amount of up to $15,000,000 provided that at the time of the incurrence of such Incremental Third A&R Notes and immediately after giving effect thereto and to the use of the proceeds thereof (assuming the full utilization thereof), no Default or Event of Default shall have occurred and be continuing or would result therefrom. Such notice shall set forth (i) the amount of the Incremental Third A&R Notes being requested (which shall be in minimum increments of $1,000,000 and a minimum amount of $5,000,000), and (ii) the date on which such Incremental Third A&R Notes are requested to become effective (which shall not be less than 10 Business Days nor more than 60 calendar days after the date of such notice, unless otherwise agreed to by the Agent). There is no commitment by the Purchasers hereunder to purchase any Incremental Third A&R Notes and each of the Purchasers shall have the right to purchase any Incremental Third A&R Notes in their sole discretion.

(b) The Borrower and each Purchaser shall execute and deliver to the Agent such documentation as the Agent shall reasonably specify to evidence the Incremental Third A&R Notes of such Purchaser. Each of the parties hereto hereby agrees that, upon the effectiveness of the issuance of any Incremental Third A&R Notes, this Agreement shall be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of such Incremental Third A&R Notes. Any such deemed amendment may be memorialized in writing by the Agent with the Borrower's consent (not to be unreasonably withheld or delayed) and furnished to the other parties hereto.

(c) Any Incremental Third A&R Notes shall constitute Third A&R Notes for all purposes of this Agreement and the other Loan Documents as of the date of issuance.

(d) No Incremental Third A&R Notes shall become effective under this Section 2.8 unless, on the date of such effectiveness, (i) the conditions set forth in Section 3.1(B)(3) and (4) shall be satisfied as if it was a borrowing date and the Agent shall have received a certificate to that effect dated such date and executed by a Responsible Officer of the Borrower; and (ii) the Agent shall have received (with sufficient copies for each of the Purchasers) closing certificates, opinions of counsel and other customary documentation reasonably requested by the Agent.

SECTION 3. CONDITIONS TO PURCHASE OF NOTES

3.1. Any purchase of Notes pursuant to this Agreement shall be subject to the applicable provisions in this Section 3.1.

(A) Conditions to All Purchases. The effectiveness of this Agreement and the obligations of each Purchaser to purchase the Notes on and after the Third A&R Effective Date, are subject to satisfaction of all of the terms and conditions set forth below, except to the extent that any of the following items are permitted by the Agent in writing to be delivered by a date after the Third A&R Effective Date:

(1) Note Documents. Agent shall have received, in form and substance reasonably satisfactory to Agent and the Purchasers, this Agreement, the Confirmation and Ratification Agreement, and all other Note Documents, each duly executed by the applicable parties thereto.

(2) Security Interests. Agent shall have received satisfactory evidence that all security interests and liens on the Collateral granted to Agent for the benefit of Agent and the other Secured Parties pursuant to the Security Documents or the other Note Documents have been duly perfected to the extent such perfection is required hereunder or under any other Note Document.

(3) Representations and Warranties. The representations and warranties contained herein and in the other Note Documents shall be true and correct in all material respects (or in all respects with respect to any representation or warranty which by its terms is limited as to materiality, in each case, after giving effect to such qualification) on and as of the Third A&R Effective Date, except for such representations and warranties that are made as of a specified date, which shall be on and as of such specified date.

(4) Fees. The Borrower shall have paid all fees due to Agent, including all legal fees and expenses of the Agent, or any Purchaser and payable on the Third A&R Effective Date.

(5) SLR Consent. Agent shall have received all necessary consents, if any, from SLR Digital Finance LLC authorizing any such purchase of Notes on or prior to the Third A&R Effective Date, in form and substance satisfactory to Agent.

(6) No Default. No event shall have occurred and be continuing or would result from purchasing a Note that would constitute an Event of Default or a Default.

(7) Performance of Agreements. Each Note Party shall have performed in all material respects all agreements and satisfied all conditions which any Note Document provides shall be performed by it on or before the Third A&R Effective Date.

(8) No Prohibition. No order, judgment or decree of any court, arbitrator or Governmental Authority shall purport to enjoin or restrain Agent or any Purchaser from purchasing any Notes.

(9) Payment Direction Letter; Funds Flow Memorandum; Etc. Agent shall have received a letter of direction from the Borrower directing where the proceeds of the Notes are to be made and attaching a funds-flow memorandum setting forth the sources and uses of such proceeds.

(10) Corporate Documents. Agent and Purchasers shall have received on or prior to the Third A&R Effective Date customary corporate resolutions, certificates and similar documents as the Agent or any Purchasers shall reasonably require, which shall be, as applicable, certified by the applicable Governmental Authority or the Secretary of the applicable Note Parties as of a recent date.

(11) [Reserved].

(12) Other Documents. Agent and Purchasers shall have received such other documents as Agent, any Purchaser or their respective counsel may have reasonably requested.

(B) Conditions to Delayed Draw Term Notes. The option of each Delayed Draw Term Note Purchaser to make advances under the Delayed Draw Term Notes are subject to satisfaction of all of the terms and conditions set forth below:

(1) The Borrower has provided irrevocable written notice requesting an advance under the Delayed Draw Term Notes at least one (1) Business Day prior to the requested funding date (the "Delayed Draw Term Note Advance Date"), in increments of $100,000 (but in no event less than $2,000,000 or, if lesser, the entire amount of Delayed Draw Term Note Option then available), not to exceed the Delayed Draw Term Note Option;

(2) The Delayed Draw Term Note Options shall not have terminated;

(3) All representations and warranties contained in this Agreement and the other Note Documents or otherwise made in writing in connection herewith or therewith shall be true and correct in all material respects (except in the case of any representation and warranty qualified by materiality, in which case they shall be true and correct in all respects) with the same effect as if made on and as of such date, other than representations and warranties that relate solely to an earlier date; and

(4) Both before and after giving effect to any advance under the Delayed Draw Term Notes, no Default or Event of Default shall have occurred and be continuing.

The request by the Borrower for, and the acceptance by the Borrower of, an advance under Delayed Draw Term Notes shall be deemed to be a representation and warranty by the Borrower that the conditions specified in this Section 3.1(B) have been satisfied at that time. The conditions set forth in this Section 3.1(B) are for the sole benefit of the Agent and each other Delayed Draw Term Note Purchaser and may be waived by the Agent (with the consent of the Delayed Draw Term Note Purchasers), in whole or in part, without prejudice to the rights of the Agent or any other Delayed Draw Term Note Purchaser.

SECTION 4. REPRESENTATIONS, WARRANTIES AND CERTAIN COVENANTS

To induce Agent and each Purchaser to enter into the Note Documents and to purchase the Notes and make advances under the Delayed Draw Term Notes, each Note Party represents, warrants and covenants to Agent and each Purchaser that:

4.1. Organization, Powers, Capitalization.

(A) Organization and Powers. The Borrower and each of its Subsidiaries (i) is an entity duly organized, incorporated or established (as the case may be), validly existing and, to the extent applicable, in good standing under the laws of its jurisdiction of organization, incorporation or establishment (as the case may be), (ii) is qualified to do business in all states, provinces and other jurisdictions where such qualification is required except where failure to be so qualified could not reasonably be expected to have a Material Adverse Effect, and (iii) has all requisite power and authority to (x) own and operate its properties, to carry on its business as now conducted and proposed to be conducted and (y) to enter into each Note Document to which it is a party.

(B) Capitalization. The capitalization of the Borrower is as described in its most recently filed Quarterly Report on Form 10-Q, except for: stock option exercises, restricted stock unit delivery, issuances pursuant to equity incentive plans, exercises of warrants, issuances of warrants or conversions of preferred stock. Schedule 4.1(B) sets forth a list of all Subsidiaries of the Borrower and the percentage ownership of the Borrower therein. All issued and outstanding shares of capital stock or other Equity Interests of Borrower and each Subsidiary is duly authorized and validly issued, fully paid, non-assessable (if applicable), free and clear of all Liens other than Permitted Encumbrances, and such Equity Interests were issued in compliance with all applicable state, provincial, federal and foreign laws concerning the issuance of securities.

4.2. Authorization of Borrowing, No Conflict.

(A) Each Note Party has the power and authority to incur the Obligations and to grant security interests in the Collateral.

(B) On the Third A&R Effective Date, the execution, delivery and performance of the Note Documents by each Note Party signatory thereto will have been duly authorized by all necessary company and shareholder action.

(C) The execution, delivery and performance by each Note Party of each Note Document to which it is a party and the consummation of the transactions contemplated by the Note Documents by each Note Party (i) do not contravene any material Applicable Law or the corporate charter or bylaws or other organizational documents of any Note Party, (ii) will not result in or require the creation or imposition of any Lien of any nature whatsoever upon any properties or assets of the Borrower or any of its Subsidiaries, other than liens created by the Note Documents in favor of the Agent, and (iii) do not require any approval of the interest holders of any Note Party or any approval or consent of any Person under any material contractual obligation of any Note Party, other than consents or approvals that have been obtained and that are still in force and effect or that will be obtained after the date hereof to the extent set forth in Schedule 5.8, or the failure of which to obtain would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

(D) The Note Documents are the legally valid and binding obligations of the Note Parties party thereto, each enforceable against the Note Parties party thereto in accordance with their respective 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.

4.3. Solvency. After giving effect to this Agreement and the MJ Acquisition, (a) the fair value of the assets of the Borrower and its Subsidiaries, on a consolidated basis, exceeds, on a consolidated basis, their debts and liabilities (whether subordinated, contingent or otherwise), (b) the present fair saleable value of the property of the Borrower and its Subsidiaries, on a consolidated basis, is greater than the amount that will be required to pay their debts and other liabilities (whether subordinated, contingent or otherwise), on a consolidated basis, as such debts and other liabilities become absolute and matured, (c) the Borrower and its Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities (whether subordinated, contingent or otherwise), as such liabilities become absolute and matured, and (d) the Borrower and its Subsidiaries, on a consolidated basis, are not engaged in, and are not about to engage in, business for which they have unreasonably small capital.

4.4. Insurance. The Borrower and each of its Subsidiaries maintains and shall continue to maintain adequate insurance policies and shall provide Agent with evidence of such insurance coverage for liability, property damage, and business interruption with respect to its business and properties against loss or damage of the kinds customarily carried or maintained by corporations of established reputation engaged in similar businesses and on such terms and in such amounts reasonably acceptable to Agent. Each Note Party shall cause Agent at all times to be named as lender loss payee and additional insured, as applicable, on all insurance policies and shall insure that Agent receives notice of cancellation with respect to all such insurance policies, in each case pursuant to appropriate endorsements in form and substance reasonably satisfactory to Agent and shall collaterally assign to Agent, for itself and on behalf of the other Secured Parties, as security for the payment of the Obligations all business interruption insurance of each Note Party. No written notice of cancellation has been received with respect to such policies and each Note Party is in compliance with all conditions contained in such policies, in each case, except any such insurance policies that any Note Party is in the process of extending, replacing or renewing in the ordinary course of business, so long as there is no lapse in coverage during such period of extension, replacement or renewal. Any proceeds received from any policies of insurance relating to any Collateral shall be applied to the Obligations to the extent required by Section 2.4(A)(1). Each Note Party shall provide Agent evidence of the insurance coverage and of the assignments and endorsements required by this Agreement promptly upon request by Agent. If the Borrower or any of its Subsidiaries elects to change insurance carriers, policies or coverage amounts, the Borrower shall notify Agent and provide Agent with evidence of the updated insurance coverage and, in the case of a Note Party, of the assignments and endorsements required by this Agreement. In the event any Note Party fails to provide Agent with evidence of the insurance coverage required by this Agreement, Agent may, but is not required to, purchase insurance at the Note Parties' expense to protect Agent's and the Purchaser's interests in the Collateral, upon not less than five (5) Business Days' notice to Borrower. Agent will notify the Note Parties of such purchase within two (2) Business Days of such purchase. This insurance may, but need not, protect the Note Parties' interests. The coverage purchased by Agent may not pay any claim made by any Note Party or any claim that is made against such Note Party in connection with the Collateral. Note Parties may later cancel any insurance purchased by Agent, but only after providing Agent with evidence that each Note Party has obtained insurance as required by this Agreement. If Agent purchases insurance for the Collateral, Note Parties will be responsible for the costs of that insurance, including interest thereon and other charges imposed on Agent in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance, and such costs may be added to the Obligations. The costs of the insurance purchased by Agent may be more than the cost of insurance Note Parties are able to obtain on its own.

4.5. Compliance with Laws; Government Authorizations; Consents. Neither the Borrower nor any of its Subsidiaries is in violation of any law, ordinance, rule, regulation, order, policy, guideline or other requirement of (a) any Governmental Authority in all jurisdictions in which the Borrower or any of its Subsidiaries is now doing business, and (b) any Governmental Authority otherwise having jurisdiction over the conduct of the Borrower or any of its Subsidiaries or any of their respective businesses, or the ownership of any of their respective properties, in any case, which violation would subject the Borrower or any of its Subsidiaries, or any of their respective officers to criminal liability could reasonably be expected to result in a material liability to the Borrower and its Subsidiaries and no such violation has been alleged in writing. The Borrower and each of its Subsidiaries will comply with the requirements of all Applicable Laws, ordinances, rules, regulations, orders, policies, guidelines or other requirements of (a) any Governmental Authority as now in effect and which may be imposed in the future in all jurisdictions in which the Borrower or any of its Subsidiaries is now doing business or may hereafter be doing business, and (b) any government authority otherwise having jurisdiction over the conduct of the Borrower or any of its Subsidiaries or any of their respective businesses, or the ownership of any of its respective properties, except to the extent the noncompliance with which could reasonably be expected to result in a material liability to the Borrower and its Subsidiaries.

4.6. Governmental Regulation. Neither the Borrower nor any of its Subsidiaries is subject to regulation under the Federal Power Act or the Investment Company Act of 1940 or to any federal or state statute or regulation limiting its ability to incur indebtedness for borrowed money.

4.7. Access to Accountants and Management. The Borrower, on behalf of itself and each of its Subsidiaries, authorizes Agent and Purchasers to discuss the financial condition and financial statements of the Borrower and its Subsidiaries with Note Parties' accountants upon reasonable notice to Note Parties of its intention to do so, and authorizes Note Parties' accountants to respond to all of Agent's and any Purchaser's inquiries; provided however, Agent and/or the Purchasers shall submit such inquiries to Borrower prior to contacting any such representatives, and Borrower shall be present at all times during any such discussions. Agent and each Purchaser may, confer at reasonable times during normal business hours with the Borrower and its Subsidiaries' senior management and key employees directly regarding the Borrower and its Subsidiaries' business, operations and financial condition.

4.8. Inspection. Each Note Party shall, and the Borrower shall cause each of its Subsidiaries to, permit Agent and any authorized representatives designated by Agent to visit and inspect any of the properties of any Note Party or any Subsidiary, including their financial and accounting records, and, in conjunction with such inspection, to make copies and take extracts therefrom, and to discuss their affairs, finances and business with their officers and the Note Parties' accountants, at such reasonable times during normal business hours. If any of the properties, books or records of any Note Party or any Subsidiary are in the possession of a third party, each of the Borrower and such Subsidiary authorizes that third party to permit any Person designated by Agent in writing or any agents thereof to have access to perform inspections or audits and to respond to Agent's request for information concerning such property, books and records to the same extent as if such information was held by such Note Party or Subsidiary.

4.9. Control Agreements.

(A) Each Note Party shall cause each of its Deposit Accounts (other than Excluded Accounts), lockbox accounts and securities accounts to be subject to a "springing" account control agreement in form and substance reasonably satisfactory to Agent (a "Control Agreement"). No Note Party will open any new Deposit Accounts, lockbox account or securities account (other than "Excluded Accounts") unless a Control Agreement is entered into concurrently with the opening thereof.

(B) All account debtors or other payment obligors of such Note Party shall be directed to directly remit all payments on each Note Party's Accounts directly to a Deposit Account subject to a Control Agreement and each Note Party will immediately deposit in a Deposit Account subject to a Control Agreement all payments received from account debtors or other payments constituting proceeds of Collateral received by such Note Party in the identical form in which such payment was made, whether by cash or check.

(C) Agent agrees that it shall only be permitted to give instructions or directions under any Control Agreement after the occurrence and during the continuance of an Event of Default. In addition, if the Event of Default giving rise to such instructions is cured or waived, as applicable, and no other Event of Default exists at such time, Agent shall give notice to the applicable bank canceling instructions provided in accordance with this Section 4.9.

(D) Each Note Party hereby agrees that all payments made to any Deposit Account, securities account or otherwise received by Agent and whether on the Accounts or as proceeds of other Collateral or otherwise, in each case, to the extent constituting Collateral, will be subject to the Lien of Agent, for the benefit of itself and the other Secured Parties. If any Note Party, or any of their respective Affiliates, employees, agents or any other Persons acting for or in concert with such Note Party, shall receive any monies, checks, notes, drafts or any other payments relating to and/or proceeds of any Note Party's Accounts or other Collateral, such Note Party or such Person shall hold such instrument or funds in trust for Agent, and immediately upon receipt thereof, shall remit the same or cause the same to be remitted, in kind, to a Deposit Account subject to a Control Agreement and, if requested by Agent after the occurrence and during the continuance of an Event of Default, to Agent at its address set forth in Section 11.3 below.

4.10. Payment of Taxes by Agent. If any of the Collateral includes a charge for any Tax payable to any Governmental Authority, Agent is hereby authorized (but in no event obligated) in its reasonable discretion and upon reasonable prior notice to Borrower (so as to afford the Borrower the opportunity to pay or contest such Tax) to pay the amount thereof to the proper Governmental Authority for the account of any Note Party and to charge the Note Party's account therefore.

4.11. Anti-Terrorism Laws; OFAC; FCPA.

(A) Neither the Borrower nor any of its Subsidiaries is in violation of any Anti-Terrorism Law or engages in any transaction that evades or avoids or attempts to violate any of the Anti-Terrorism Laws.

(B) Neither the Borrower nor any of its Subsidiaries is any of the following (each a "Blocked Person"): (A) a Person that is prohibited pursuant to any of the OFAC Sanctions Programs, including a Person named on OFAC's list of Specially Designated Nationals and Blocked Persons; (B) a Person that is owned or controlled by, or that owns or controls any Person described in (A) above; or (C) a Person with which any Purchaser is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law.

(C) Neither the Borrower nor any of its Subsidiaries deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to any OFAC Sanctions Programs.

(D) No part of the proceeds of the Notes will be used, directly or, to the Borrower knowledge, indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

4.12. Security Documents. Except as otherwise contemplated hereby or under any other Note Document, the provisions of the Security Documents, together with such filings and other actions required to be taken hereby or by the applicable Security Documents, are effective to create in favor of the Agent, for the benefit of the Secured Parties, a legal, valid, enforceable and perfected Lien on all right, title and interest of the respective Note Parties in the Collateral described therein. The Borrower and each Guarantor hereby (i) ratifies and confirms all of the terms and conditions of, and all of the warranties and representations set forth in, the Note Documents and the Security Documents, (ii) acknowledges and agrees that the Note Documents and Security Documents remain in full force and effect, and (iii) acknowledges, confirms and agrees that the Security Documents and any and all Collateral previously pledged to the Agent, for the benefit of the Lenders, thereunder shall continue to secure all of the Obligations from time to time outstanding under this Agreement and the other Note Documents.

4.13. Offer of Notes. Assuming (i) the Notes are issued, sold and delivered under the circumstances contemplated by this Agreement and (ii) the accuracy of the representations and warranties of Purchasers set forth in Section 11.22(A) and their compliance with the agreements set forth herein and therein, it is not necessary in connection with the offer, sale and delivery of the Notes to Purchasers in the manner contemplated by this Agreement to register the Notes under the Securities Act. No Note Party has, directly or indirectly, offered, sold or solicited any offer to buy, and no Note Party will, directly or indirectly, offer, sell or solicit any offer to buy, any security of a type or in a manner which would be integrated with the sale of the Notes and require the Notes to be registered under the Securities Act. None of the Note Parties, their respective Affiliates or any Person acting on any of their behalf (other than Purchasers, as to whom the Note Parties make no representation or warranty) has engaged or will engage in any form of general solicitation or general advertising (within the meaning of Rule 502(c) under the Securities Act) in connection with the offering of the Notes.

4.14. Financial Condition.

(A) (A) All financial statements concerning the Borrower and its Subsidiaries furnished by or on behalf of the Borrower or its Subsidiaries to Agent or any Purchaser pursuant to this Agreement have been prepared in accordance with GAAP consistently applied throughout the periods involved (except as disclosed therein) and, present fairly in all material respects the financial condition of Persons covered thereby as at the dates thereof and the results of their operations for the periods then ended. The Projections represent the good faith estimate of Note Parties and their senior management, as of the date such Projections are delivered concerning the most probable course of their business as of the date such Projections are delivered, it being understood that actual results may vary from such forecasts and that such variations may be material.

(B) Since December 31, 2021, nothing has occurred that has had a Material Adverse Effect.

4.15. Litigation; Adverse Facts. There are no judgments outstanding against the Borrower or any of its Subsidiaries or affecting any property of the Borrower or any of its Subsidiaries nor is there any action, charge, claim, demand, suit, proceeding, petition, governmental investigation or arbitration now pending or, to the knowledge of any Responsible Officer, threatened in writing against or affecting the Borrower or any of its Subsidiaries or any property of the Borrower or any of its Subsidiaries which would reasonably be expected to result in any Material Adverse Effect.

4.16. Payment of Taxes. Except as set forth on Schedule 4.16, all material Tax returns and reports of the Borrower and its Subsidiaries required to be filed by any of them have been timely filed and are complete and accurate in all material respects. All material Taxes which are due and payable by the Borrower and its Subsidiaries have been paid when due; provided that no such Tax need be paid if the Borrower or such Subsidiary is contesting same in good faith by appropriate proceedings promptly instituted and diligently conducted and if the Borrower or such Subsidiary has established appropriate reserves as shall be required in conformity with GAAP. As of the Third A&R Effective Date, none of the income Tax returns of the Borrower or any of its Subsidiaries are under audit and the Borrower or such Subsidiary shall promptly notify Agent in the event that any of its or any of its Subsidiaries' tax returns become the subject of an audit. No Tax liens have been filed against the Borrower or any of its Subsidiaries other than Permitted Encumbrances. The charges, accruals and reserves on the books of the Borrower and its Subsidiaries in respect of any Taxes are in accordance with GAAP.

4.17. Disclosure. No representation or warranty of the Borrower, of any other Note Party or made by (or on behalf of) any Subsidiary contained in this Agreement, the financial statements, the other Note Documents, or any other document, certificate or written statement furnished to Agent or any Purchaser by or on behalf of any such Person for use in connection with the Note Documents contains any untrue statement of a material fact or omitted or omits to state a material fact necessary in order to make the statements contained herein or therein not materially misleading in light of the circumstances in which the same were made. There is no material fact known to any Note Party as of the Third A&R Effective Date that has had or could reasonably be expected to have a Material Adverse Effect and that has not been disclosed herein or in such other documents, certificates and statements furnished to Agent or any Purchaser for use in connection with the transactions contemplated hereby.

SECTION 5. REPORTING AND OTHER AFFIRMATIVE COVENANTS

Each Note Party covenants and agrees that so long as any of the Obligations remain outstanding (other than contingent indemnification obligations to the extent no claims giving rise thereto have been asserted by the Person entitled thereto), each Note Party shall perform all covenants in this Section 5.

5.1. Notices and Reports.

(A) Annual Financial Statements. The Borrower shall furnish Agent and the Purchasers within one hundred and twenty (120) days after the end of each Fiscal Year of the Borrower commencing with the Fiscal Year ending December 31, 2019 financial statements of the Borrower and its Subsidiaries on a consolidated basis, in each case, including, but not limited to, statements of income and stockholders' equity and cash flow from the beginning of the current Fiscal Year to the end of such Fiscal Year and the balance sheet as at the end of such Fiscal Year, all prepared in accordance with GAAP, and in reasonable detail and reported upon without qualification.

(B) Quarterly Financial Statements. The Borrower shall furnish Agent and the Purchasers within sixty (60) days after the end of each Fiscal Quarter commencing with the Fiscal Quarter ending September 30, 2019, an unaudited balance sheet and unaudited statements of stockholders' equity, income and of cash flow of the Borrower and its Subsidiaries on a consolidated and consolidating basis, in each case, reflecting results of operations from the beginning of the Fiscal Year to the end of such Fiscal Quarter and for such Fiscal Quarter, prepared on a basis consistent with prior practices and complete and correct in all material respects, subject to normal and recurring year-end adjustments that individually and in the aggregate are not material to the business of the Note Parties. Each such balance sheet, statements of income and cash flow shall set forth a comparison of the figures for the current fiscal period and the current year-to-date with, in either case, the figures for the same fiscal period and year-to-date period of the immediately preceding Fiscal Year.

(C) Monthly Financial Statements The Borrower shall furnish Agent and the Purchasers within thirty (30) days after the end of the each Fiscal Month commencing with the Fiscal Month ending June 30, 2019, an unaudited balance sheet and unaudited statements of and stockholders' equity, income and of cash flow of the Borrower and its Subsidiaries on a consolidated and consolidating basis, in each case, reflecting results of operations from the beginning of the Fiscal Year to the end of such Fiscal Month and for such Fiscal Month, prepared on a basis consistent with prior practices and complete and correct in all material respects, subject to normal and recurring year-end adjustments that individually and in the aggregate are not material to the business of the Note Parties. Each such balance sheet, statements of income and cash flow referred shall set forth a comparison of the figures for the current fiscal period and the current year-to-date with, in either case, the figures for the same fiscal period and year-to-date period of the immediately preceding Fiscal Year.

(D) Projected Operating Budget. The Borrower shall furnish Agent and the Purchasers, within forty-five (45) days (or such longer period as may be agreed by the Requisite Purchasers) after the beginning of each Fiscal Year of the Borrower commencing with the Fiscal Year ending December 31, 2020, a month by month projected operating budget and cash flow of the Borrower and its Subsidiaries on a consolidated and consolidating basis for such Fiscal Year (including an income statement for each Fiscal Month and a balance sheet as at the end of each Fiscal Month) (the "Projections"), such Projections to be accompanied by a certificate signed by the chief financial officer, director of finance, vice president of finance or other officer performing comparable functions of Borrower to the effect that such projections have been prepared on the basis of sound financial planning practice consistent with past budgets and financial statements and that such officer has no reason to question the reasonableness of any material assumptions on which such projections were prepared.

(E) Management Discussion and Analysis. Together with each delivery of financial statements pursuant to Section 5.1(A) and Section 5.1(B), a management discussion and analysis report, in reasonable detail, signed by a Responsible Officer of the Borrower, describing the operations and financial condition of the Note Parties and their Subsidiaries for such period and summarizing all material variances from budgets submitted by Note Parties pursuant to Section 5.1(D) hereof and a discussion and analysis by management with respect to such variances.

(F) Collateral Reports. If requested by Agent or the Purchasers, the Borrower shall furnish such Persons: (a) accounts receivable agings and (b) accounts payable agings.

(G) Disclosure of Material Matters. Immediately upon learning thereof, the Borrower shall report to Agent and the Purchasers all matters materially and adversely affecting the value, enforceability or collectability of any material portion of the Collateral.

(H) Government Accounts. The Borrower shall notify Agent immediately if greater than $250,000 of its Accounts arise out of contracts between any Note Party and the United States, any state, or any department, agency or instrumentality of any of them.

(I) TS Acquisition. Concurrently with delivery of any notices to any other party under the TS Acquisition Agreement, TS Escrow Agreement, or any other TS Acquisition Document, the Note Party shall deliver a copy thereof to the Agent. Promptly upon receipt of any notice from any other party under the TS Acquisition Agreement, TS Escrow Agreement, or any other TS Acquisition Document, the Note Party shall deliver a copy thereof to the Agent.

(J) ABG License. Concurrently with delivery of any notices to any other party under the ABG License, the Note Parties shall deliver a copy thereof to the Agent. Promptly upon receipt of any notice from any other party under the ABG License, the Note Parties shall deliver a copy thereof to the Agent. Concurrently with delivery, and promptly upon receipt, copies of any Reports (as defined in the ABG License) delivered by or received by, as applicable, any Note Party. Promptly after the Borrower knows that a material breach or default has occurred under the ABG License, the Note Parties shall deliver a notice thereof to the Agent, which notice shall include a description of such default or breach and the consequences thereof under the ABG License.

(K) Material Occurrences. The Borrower shall promptly notify Agent and Purchasers in writing upon the occurrence of (a) any Event of Default or Default with such notice stating that it is a "Notice of Default"; (b) any event, development or circumstance whereby any financial statements or other reports furnished to Agent fail in any material respect to present fairly, in accordance with GAAP consistently applied, the financial condition or operating results of the Borrower and its Subsidiaries or any Note Party as of the date of such statements; (c) each and every default by any Note Party or any Subsidiary which might result in the acceleration of the maturity of any Indebtedness having an outstanding principal amount in excess of $500,000 individually or $1,000,000 in the aggregate, including the names and addresses of the holders of such Indebtedness with respect to which there is a default existing or with respect to which the maturity has been or could be accelerated, and the amount of such Indebtedness; and (d) any other development in the business or affairs of any Note Party or any Subsidiary which could reasonably be expected to have a Material Adverse Effect; in each case describing the nature thereof and the action such Note Party or such Subsidiary propose to take with respect thereto.

(L) Litigation. The Borrower shall promptly notify Agent and the Purchasers in writing of any litigation, suit or administrative proceeding affecting the Borrower or any of its Subsidiaries, whether or not the claim is covered by insurance, and of any suit or administrative proceeding, (i) in which the amount of damages claimed is in excess of $500,000 individually or $1,000,000 in the aggregate, (ii) in which injunctive or similar relief is sought and which, if adversely determined, could reasonably be expected to have a Material Adverse Effect, or (iii) in which the relief sought is an injunction or other stay of the performance of this Agreement or any other Note Document.

(M) Default Notices. The Borrower shall promptly notify the Agent and the Purchasers in writing of any "default" or "event of default" under any of the documents governing the SLR Indebtedness, any Public Offering Indebtedness, any Subordinated Indebtedness or the New York Lease.

(N) Other Reports. The Borrower shall furnish the Agent and the Purchasers as soon as available, but in any event within five (5) days after the issuance thereof, with (i) copies of all material notices sent to or from the holders of the SLR Indebtedness, the Subordinated Debentures or any other holders of Indebtedness, (ii) copies of all reports as the Borrower or any of its Subsidiaries shall send to its board of directors or any committees thereof and (iii) copies of all reports and material returns as the Borrower or any of its Subsidiaries shall send to its members or stockholders.

(O) Additional Information. The Borrower shall furnish Agent and Purchases with such additional information as Agent or any Purchaser shall reasonably request in order to enable Agent to determine whether the terms, covenants, provisions and conditions of this Agreement have been complied with by the Borrower and its Subsidiaries.

(P) SEC Filings. Promptly upon transmission thereof, the Borrower shall furnish to Agent copies of all registration statements (without exhibits) and all reports, if any, which it files with the SEC (or any Governmental Authority or agency succeeding to the functions of the SEC).

(Q) Notice of Suits, Adverse Events. The Borrower shall furnish Agent with prompt notice of (i) any lapse or other termination of any consent issued to the Borrower or any of its Subsidiaries by any Governmental Authority or any other Person that is material to the operation of the Borrower or any of its Subsidiaries' business; (ii) any refusal by any Governmental Authority or any other Person to renew or extend any such consent; (iii) copies of any periodic or special reports filed by the Borrower or any of its Subsidiaries with any Governmental Authority or Person, if such reports indicate any material change in the business, operations, affairs or condition of the Borrower or any of its Subsidiaries, or if copies thereof are requested by Agent or any Purchaser, and (iv) copies of any material notices and other communications from any Governmental Authority or Person which specifically relate to the Borrower or any of its Subsidiaries, in each case, unless such lapse, termination, refusal, report or communication could not reasonably be expected to have a Material Adverse Effect.

(R) ERISA Notices and Requests. The Borrower shall furnish Agent with prompt written notice in the event of any of the following, in each case, if a Responsible Officer knows that the event has occurred and the event would have a Material Adverse Effect on the Borrower and its Subsidiaries: (i) a Termination Event has occurred, together with a written statement describing such Termination Event and the action, if any, which the Borrower, a Subsidiary Guarantor or any ERISA Affiliate has taken, is taking, or proposes to take with respect thereto and, when known by a Responsible Officer, any action taken or threatened by the IRS, Department of Labor or PBGC with respect thereto; (ii) a non-exempt prohibited transaction (as defined in Sections 406 of ERISA and 4975 of the IRC) has occurred with respect to an Employee Benefit Plan, together with a written statement describing such transaction and the action which the Borrower, such Subsidiary Guarantor or any ERISA Affiliate has taken, is taking or proposes to take with respect thereto; (iii) a funding waiver request has been filed with respect to any Pension Benefit Plan, together with all communications received by the Borrower, any Subsidiary Guarantor or any ERISA Affiliate with respect to such request; (iv) the Borrower or any Subsidiary Guarantor shall receive from the PBGC a notice of intention to terminate a Pension Benefit Plan or to have a trustee appointed to administer a Pension Benefit Plan, together with copies of each such notice; (v) the Borrower or any of its Subsidiaries has received a notice imposing withdrawal liability on the Borrower or any of its Subsidiaries, together with copies of each such notice; (vi) the Borrower, any Subsidiary Guarantor or any ERISA Affiliate has failed to make a required installment or any other required payment under Section 412 of the IRC on or before the due date for such installment or payment; or (vii) (a) a Multiemployer Plan has been terminated, or (b) the PBGC has instituted proceedings under Section 4042 of ERISA to terminate a Multiemployer Plan.

(S) Additional Documents. The Borrower shall execute and deliver to Agent, upon request, such documents and agreements as Agent may, from time to time, reasonably request to carry out the purposes, terms or conditions of this Agreement.

(T) Insurance Report. As soon as practicable and in any event within thirty (30) days (or such longer period as Agent may agree) of the last day of each Fiscal Year, the Borrower shall furnish Agent a report in form and substance reasonably satisfactory to Agent outlining all material insurance coverage maintained as of the date of such report by Note Parties and all material insurance coverage planned to be maintained by Note Parties in the immediately succeeding Fiscal Year.

(U) Accountants. Promptly upon receipt thereof, the Borrower shall furnish to Agent a copy of each other report submitted to the Borrower or any Subsidiary by independent accountants in connection with any annual, interim or special audit made by them of the books of the Borrower or any Subsidiary.

(V) Renewal of the BRF Finance Co. Letter of Credit. At least one hundred and five (105) days prior to each expiration of the BRF Finance Co. Letter of Credit, the Borrower shall provide the Agent with a written request for the renewal thereof.

(W) MJ Acquisition. Concurrently with delivery of any notices to any other party under the MJ Acquisition Agreement or any other MJ Acquisition Document, the Note Party shall deliver a copy thereof to the Agent. Promptly upon receipt of any notice from any other party under the MJ Acquisition Agreement or any other MJ Acquisition Document, the Note Party shall deliver a copy thereof to the Agent.

Notwithstanding anything herein to the contrary, at any time the Agent so directs the Note Parties, no Note Party shall deliver to the Agent or any Purchaser the annual financial statements, quarterly financial statements, monthly financial statements, any other statements or reports, and/or other material non-public information required to be delivered hereunder.

5.2. Beneficial Ownership. At any time or from time to time upon the request of Agent, each Note Party will, at its expense, promptly provide Purchasers with any information and documentation reasonably requested for purposes of compliance with the Beneficial Ownership Regulation or other applicable anti-money laundering laws under 31 U.S.C. 5318(h) and its implementing regulations.

5.3. Real Estate Mortgages and Filings. Within 90 days (or such longer period as Agent may agree) after the acquisition by any Note Party of any fee-owned property (together with fixtures thereon) located in the United States of America that is owned by any Note Party with a fair market value (as reasonably determined by Borrower) that exceeds $500,000, the Note Parties will deliver such documents as the Agent may reasonably request to perfect the Agent's security interest in such real property and other documents reasonably related thereto, including, without limitation, mortgages, title insurance, surveys, legal opinions, and fixture filings.

5.4. Use of Proceeds and Margin Security.

(A) The Borrower will only use the proceeds of the Original Notes as follows: (i) $16,500,000 of such proceeds will be deposited with Citibank, N.A. pursuant to the TS Escrow Agreement to be used as the consideration for the TS Acquisition, (ii) $1,135,000 of such proceeds will be used to pay fees and expenses associated with the Transactions, and (iii) the remainder will be used for general corporate purposes of the Borrower. The Borrower shall use the proceeds of all Original Notes for proper business purposes consistent with all Applicable Laws, statutes, rules and regulations.

(B) The Borrower will only use the proceeds of the A&R Notes as follows: (i) $45,000,000 of such proceeds will be used to finance the license fee under the ABG License, and (ii) the remainder will be used to pay fees and expenses associated with the ABG License and related transactions and for general corporate purposes of the Borrower. The Borrower shall use the proceeds of all A&R Notes for proper business purposes consistent with all Applicable Laws, statutes, rules and regulations.

(C) No portion of the proceeds of any Note shall be used for the purpose of purchasing or carrying margin stock within the meaning of Regulation U, or in any manner that might cause the borrowing or the application of such proceeds to violate Regulation T or Regulation X or any other regulation of the Board of Governors of the Federal Reserve System or to violate the Exchange Act.

(D) The Borrower will only use the proceeds of the First Amendment Notes as follows: $3,000,000 will be used to pay fees and expenses associated with the First Amendment and for general corporate purposes of the Borrower. The Borrower shall use the proceeds of all First Amendment Notes for proper business purposes consistent with all Applicable Laws, statutes, rules and regulations.

(E) The Borrower will use the proceeds of the Delayed Draw Term Notes to pay fees and expenses associated with the Second A&R Closing and for general corporate purposes of the Borrower. The Borrower shall use the proceeds of all Delayed Draw Term Notes for proper business purposes consistent with all Applicable Laws, statutes, rules and regulations.

(F) The Borrower will use the proceeds of the Third A&R Notes to pay consideration for the MJ Acquisition, to pay fees and expenses associated with the MJ Acquisition, to prepay all of the Delayed Draw Term Notes maturing on the Delayed Draw Term Notes First Maturity Date and to pay fees and expenses associated with the Third A&R Closing. The Borrower shall use the proceeds of all Third A&R Notes for proper business purposes consistent with all Applicable Laws, statutes, rules and regulations.

5.5. Maintenance of Properties and Existence. The Note Parties shall, and shall cause their respective Subsidiaries to, maintain and preserve all of their respective material properties (including as relates to Intellectual Property) which are necessary or useful in the proper conduct of their business in good working order and condition, ordinary wear and tear excepted and make or cause to be made all appropriate repairs, renewals and replacements thereof, and comply at all times with the provisions of all material leases to which it is a party as lessee, so as to prevent any loss or forfeiture thereof or thereunder. Each Note Party will and shall cause each of its Subsidiaries to (i) maintain and preserve and maintain in full force and effect its organizational existence and good standing under the laws of its jurisdiction of incorporation, organization or formation, and (ii) maintain rights, privileges, permits, licenses, authorizations and approvals, and become or remain duly qualified and in good standing in each jurisdiction in which the character of the properties owned or leased by such Note Party or in which the transaction of its business makes such qualification necessary, in each case under this clause (ii), except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

5.6. Additional Guarantors; Collateral; Further Assurances.

(A) The Borrower shall promptly notify the Agent when, and provide evidence satisfactory to the Agent that, the conditions to the consummation of the TS Acquisition (including the requisite stockholder consent) have been satisfied. Substantially concurrently with the consummation of the TS Acquisition, the Borrower shall cause TheStreet (as the surviving entity in such merger) to become a Guarantor hereunder and cause TheStreet to execute and deliver (x) a joinder agreement in form and substance satisfactory to Agent, (y) each document that would have been required by Section 3.1 to be delivered to Agent with respect to such Subsidiary had such Subsidiary been a Guarantor on the Second A&R Effective Date, and (z) such other documents as Agent may reasonably request, all such documents to be in form and substance reasonably satisfactory to Agent and the Requisite Purchasers. The Borrower shall promptly notify the Agent when, and provide evidence satisfactory to the Agent that, the conditions to the consummation of the MJ Acquisition have been satisfied.

(B) Without limiting the foregoing clause (A), it is the intent of the parties that Maven Media Brands, LLC, a Delaware limited liability company, and any other Subsidiary that is established, created or acquired by the Borrower or any other Note Party after the Second A&R Effective Date become a Guarantor hereunder. Note Parties shall cause any such Subsidiary to become a Guarantor hereunder concurrently with the creation or acquisition thereof and shall cause such Subsidiary to execute and deliver (x) a joinder agreement in form and substance satisfactory to Agent, (y) each document that would have been required by Section 3.1 to be delivered to Agent with respect to such Subsidiary had such wholly-owned Subsidiary been a Guarantor on the Second A&R Effective Date, and (z) such other documents as Agent may reasonably request, including opinions of counsel, all such documents to be in form and substance reasonably satisfactory to Agent and the Requisite Purchasers.

(C) The Note Parties acknowledge that it is their intention to provide Agent with a Lien on all of the Collateral, subject only to Liens permitted hereunder. The Note Parties shall from time to time promptly notify Agent of the acquisition by any Note Party of any material property constituting Collateral in which Agent does not then hold a perfected Lien, or the creation or existence of any such property constituting Collateral, and such Person shall, upon request by Agent, promptly, and in any event within five (5) days of such request, execute and deliver to Agent or cause to be executed and delivered to Agent pledge agreements, security agreements, or other like agreements with respect to such property, together with such other documents, certificates, opinions of counsel and the like as Agent shall reasonably request in connection therewith, in form and substance reasonably satisfactory to Agent, such that Agent shall receive valid and perfected Liens with respect to Collateral on all such property constituting Collateral. In addition, in the event that any Note Party files or acquires any ownership interest in any Trademarks, Copyrights, or Patents (each as defined in the applicable Security Document) filed or registered with the U.S. Patent and Trademark Office or U.S. Copyright Office, in each case that is material to the business of the Note Parties, then such Note Party shall notify Agent promptly in writing within thirty (30) days of such notice (or such longer period as Agent may agree) and shall execute, or cause the execution of a security agreement and other documents with respect thereto in form and substance reasonably satisfactory to Agent.

(D) Without limiting the foregoing, the Note Parties shall (and, subject to the extent applicable hereinafter set forth, shall cause each of their Subsidiaries to) take such additional actions and execute such documents as the Agent or Requisite Purchasers may reasonably require from time to time in order to carry out more effectively the purposes of this Agreement or any other Note Document.

5.7. Investment Banker. The Borrower agrees that the Borrower shall retain B. Riley as the Borrower's exclusive investment banker in connection with any effort by the Borrower to issue Equity Interests or borrow money or to enter into any merger, sale or acquisition transaction so long as such engagement is on commercial terms substantially consistent with those in the investment banking industry required by firms of similar scope of operations in the United States.

5.8. **Post-**Closing **Obligations**. The Borrower shall deliver, or cause to be delivered, the agreements, instruments and other documents set forth on Schedule 5.8 within the applicable time periods specified therein or in each case, such later date as may be agreed by the Agent in its sole discretion.

SECTION 6. [RESERVED]

SECTION 7. NEGATIVE COVENANTS

Each Note Party covenants and agrees that so long as any of the Obligations remain outstanding (other than contingent indemnification obligations to the extent no claims giving rise thereto have been asserted by the Person entitled thereto), such Note Party shall not, and will not permit any of its Subsidiaries to, violate any of the covenants set forth in this Section 7.

7.1. Indebtedness and Liabilities. No Note Party will, or will permit any Subsidiary to, directly or indirectly create, incur, assume, guaranty, or otherwise become or remain directly or indirectly liable, on a fixed or contingent basis, with respect to any Indebtedness except:

(A) the Obligations;

(B) Indebtedness existing on the Third A&R Effective Date and identified on Schedule 7.1, but not any extensions, renewals or replacements of such Indebtedness except (i) renewals and extensions expressly provided for in the agreements evidencing any such Indebtedness as the same are in effect on the date of this Agreement, and (ii) refinancings and extensions of any such Indebtedness if the terms and conditions thereof, taken as a whole, are not less favorable to the obligor thereon than the Indebtedness being refinanced or extended, and the weighted average life to maturity thereof is greater than or equal to that of the Indebtedness being refinanced or extended; provided, such Indebtedness permitted under the immediately preceding clause (i) or (ii) above shall not (x) include Indebtedness of an obligor that was not an obligor with respect to the Indebtedness being extended, renewed or refinanced, or (y) exceed in a principal amount the Indebtedness being renewed, extended or refinanced (plus an amount equal to any unpaid accrued interest and premiums thereunder and other fees and expenses incurred in connection with such refinancing or extension);

(C) Indebtedness in the form of guarantees permitted by Section 7.2;

(D) Indebtedness consisting of customer deposits received by a Note Party or any Subsidiary in the ordinary course of business;

(E) Indebtedness consisting of intercompany loans permitted by Section 7.4;

(F) Indebtedness of the Note Parties arising under the SLR Indebtedness Documents in an aggregate principal amount not to exceed $40,000,000;

(G) subject to Section 5.8, Indebtedness of the Borrower arising under the Subordinated Debentures in an aggregate principal amount of $15,205,528, *less* any principal payments of such Indebtedness made on or after the date hereof;

(H) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business, provided that such Indebtedness is extinguished within ten (10) Business Days after its incurrence;

(I) Public Offering Indebtedness; and

(J) Subordinated Indebtedness (other than the Subordinated Debentures).

7.2. Guarantees. Neither any Note Party nor any of its Subsidiaries will guaranty, endorse, or otherwise in any way become or be responsible for any obligations of any other Person, whether directly or indirectly by agreement to purchase the indebtedness of any other Person or through the purchase of goods, supplies or services, or maintenance of working capital or other balance sheet covenants or conditions, or by way of stock purchase, capital contribution, advance or loan for the purpose of paying or discharging any indebtedness or obligation of such other Person or otherwise, except:

(A) as provided under the Note Documents;

(B) for endorsements of instruments or items of payment for collection in the ordinary course of business;

(C) guarantees by Note Parties of the obligations of other Note Parties;

(D) guarantees existing as of the Third A&R Effective Date and listed in Schedule 7.2(D), including extension and renewals thereof which do not increase the amount of such guarantees as of the date of such extension or renewal (plus an amount equal to any unpaid accrued interest and premiums thereunder and other fees and expenses incurred in connection with such refinancing or extension);

(E) guarantees incurred in the ordinary course of business with respect to leases and other obligations not constituting Indebtedness; and

(F) guarantees arising with respect to customary indemnification obligations in favor of (i) sellers in connection with acquisitions permitted hereunder and (ii) purchasers in connection with dispositions permitted hereunder.

7.3. Transfers, Liens and Related Matters.

(A) Transfers. No Note Party will, or will permit any of its Subsidiaries to, sell, assign (by operation of law or otherwise) or otherwise dispose of, or grant any option with respect to any of the Collateral or the assets of any Note Party or any of its Subsidiaries, except:

(1) dispositions of Inventory in the ordinary course of business;

(2) dispositions of cash in the ordinary course of business;

(3) dispositions of (i) obsolete or worn out property and assets in the ordinary course of business, or (ii) property or assets no longer used or useful in the conduct of the business of the Borrower or its Subsidiaries;

(4) licenses, sublicenses, leases or subleases (excluding Intellectual Property license) granted to third parties in the ordinary course of business and not materially interfering with the business of the Borrower and any of its Subsidiaries;

(5) licensing or sublicensing on a non-exclusive basis of Intellectual Property in the ordinary course of business;

(6) the factoring and sale of receivables in the ordinary course of business consistent with past practice; and

(7) dispositions from any Note Party to any other Note Party;

provided however, no dispositions of Intellectual Property made to any Person (other than a Note Party) shall constitute a disposition permitted hereunder unless such disposition is subject to a non-exclusive royalty-free license of such Intellectual Property in favor of the Agent for use in connection with the exercise of rights and remedies of the Secured Parties under the Note Documents in respect of the Collateral, which license shall be substantially similar to the license described in Section 7.5(c) of the Security Agreement (or otherwise reasonably satisfactory to the Agent and the Requisite Purchasers).

(B) Liens. Except for Permitted Encumbrances, no Note Party will, or will permit any of its Subsidiaries to, directly or indirectly create, incur, assume or permit to exist any Lien on or with respect to any of the Collateral or any other assets or any proceeds, income or profits therefrom.

(C) No Negative Pledges. No Note Party will, or will permit any of its Subsidiaries to enter into or assume any agreement (other than (i) the Note Documents, (ii) the SLR Indebtedness Documents, (iii) the Subordinated Debentures, and (iv) any instrument or other document evidencing a Permitted Encumbrance (or the Indebtedness secured thereby) restricting on customary terms the transfer of any property or assets subject to such Permitted Encumbrance) prohibiting the creation or assumption of any Lien upon its properties or assets, whether now owned or hereafter acquired.

(D) No Restrictions on Subsidiary Distributions to Note Parties. No Note Party will, or will permit any of its Subsidiaries to, directly or indirectly create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any such Subsidiary to directly or indirectly: (i) pay dividends or make any other distribution on any of such Subsidiary's Equity Interests owned by a Note Party; (ii) pay any indebtedness owed to a Note Party; (iii) make loans or advances to a Note Party; or (iv) transfer any of its property or assets to a Note Party; provided that the foregoing shall not apply to:

(1) restrictions and conditions imposed by Applicable Law;

(2) restrictions and conditions under the Note Documents;

(3) restrictions and conditions existing on the Third A&R Effective Date and listed on Schedule 7.3(D) and any extensions, renewals, refinancings, replacements, refundings, or modifications thereon (so long as any such extensions, renewals, refinancings, replacements, refundings, or modifications do not make any restriction or condition less favorable to the Borrower or any of its Subsidiaries in any material respect);

(4) restrictions and conditions imposed by organizational documents as of the Third A&R Effective Date;

(5) customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary pending such sale and pertaining only to such Subsidiary; provided that such sale is permitted hereunder;

(6) customary restrictions and conditions contained in agreements relating to a disposition of assets permitted by this agreement;

(7) restrictions and conditions that were binding on a Subsidiary or assets at the time such Subsidiary or assets were acquired, so long as such restrictions and conditions were not entered into in contemplation of this provision;

(8) customary restrictions or conditions imposed by an agreement governing Indebtedness permitted hereunder; and

(9) customary provisions in leases, licenses and other agreements restricting subletting, sublicensing or assignments, including the granting of a Lien.

7.4. Investments and Loans. No Note Party will, or will permit any of its Subsidiaries to, make or permit to exist investments in or loans to any other Person, except:

(A) loans and advances to employees for moving, entertainment, travel and other similar expenses in the ordinary course of business in an aggregate outstanding amount not in excess of $50,000 at any time;

(B) loans and investments by a Note Party to or in another Note Party;

(C) loans and investments by Subsidiaries that are not Note Parties to or in other Subsidiaries that are not Note Parties;

(D) Restricted Junior Payments permitted under Section 7.5 that constitute investments;

(E) loans and investments existing on the Third A&R Effective Date and set forth on Schedule 7.4(E);

(F) the TS Acquisition and the MJ Acquisition;

(G) the creation of wholly-owned Subsidiaries, subject to compliance with the terms of Sections 5.6;

(H) asset purchases to be consummated by a Note Party on or prior to March 31, 2023 with an aggregate purchase price not to exceed $5,000,000; and

(I) other investments in an outstanding amount not to exceed $100,000 in the aggregate at any time.

provided however, with respect to any investment consisting of Intellectual Property, such investment of Intellectual Property in any Person (other than a Note Party) shall not constitute an investment permitted hereunder unless such investment is subject to a non-exclusive royalty-free license of such Intellectual Property in favor of the Agent for use in connection with the exercise of rights and remedies of the Secured Parties under the Note Documents in respect of the Collateral, which license shall be substantially similar to the license described in Section 7.5(c) of the Security Agreement (or otherwise reasonably satisfactory to the Agent and the Requisite Purchasers).

7.5. Restricted Junior Payments. No Note Party will directly or indirectly declare, order, pay, make or set apart any sum for any Restricted Junior Payment, except that:

(A) Note Parties and their Subsidiaries may make distributions to Note Parties;

(B) The Borrower may, and the other Note Parties and their Subsidiaries may make distributions to the Borrower to allow the Borrower to, repurchase its (or its direct or indirect parent) Equity Interests from directors, executive officers, members of management or employees of the Borrower and its Subsidiaries upon the death, disability, retirement or termination of such directors, executive officers, members of management or employees, so long as no Default or Event of Default is then existing or would be created thereby and the aggregate amount of cash expended by the Borrower does not exceed $10,000 in the aggregate after the A&R Effective Date;

(C) Note Parties and their Subsidiaries may make payments of interest and principal with respect to intercompany indebtedness incurred from a Note Party;

(D) Subsidiaries that are not Note Parties may make payments of interest and principal with respect to intercompany indebtedness incurred from another Subsidiary that is not a Note Party;

(E) Note Parties and their Subsidiaries may make payments permitted by Section 7.8(B);

(F) Note Parties may make payments of principal, interest and other amounts with respect to Subordinated Indebtedness that is subject to a Subordination Agreement to the extent expressly permitted under the terms of the applicable Subordination Agreement; and

(G) So long as no Default or Event of Default has occurred and is outstanding, the Note Parties may make regularly scheduled payments of interest with respect to Public Offering Indebtedness.

7.6. Restriction on Fundamental Changes. No Note Party will, or will permit any of its Subsidiaries to:

(A) enter into any transaction of merger or consolidation;

(B) liquidate, wind-up or dissolve itself (or suffer any liquidation or dissolution); and

(C) except as permitted by Section 7.3, convey, sell, lease, sublease, transfer or otherwise dispose of, in one transaction or a series of transactions, all or any substantial part of its business or assets, or the Equity Interests of any of its Subsidiaries, whether now owned or hereafter acquired,

provided, however, with respect to each of the foregoing clauses (A), (B) and (C):

(x) (i) Note Parties may merge with and into each other and/or into the Borrower, so long as, in the case of a merger with the Borrower, Borrower is the surviving entity, or (ii) Note Parties (other than the Borrower) may convey all or substantially all of their assets to each other or to the Borrower, or (iii) Note Parties (other than the Borrower) may liquidate, wind-up or dissolve, so long as any assets of such Note Party are transferred to another Note Party; and

(y) TST AcquisitionCo may merge with TheStreet in connection with the TS Acquisition, subject to compliance with Section 5.6(A).

7.7. Division. Notwithstanding anything herein or any other Note Document to the contrary, no Note Party that is a limited liability company may divide itself into two or more limited liability companies or series thereof (pursuant to a "plan of division" as contemplated under the Delaware Limited Liability Company Act or otherwise) without the prior written consent of the Agent.

7.8. Transactions with Affiliates. Except as expressly permitted by Section 7.5, no Note Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of the Borrower; provided, however, that the Note Parties and their Subsidiaries may enter into or permit to exist any such transaction if the terms of such transaction are not less favorable to such Note Party or that Subsidiary, as the case may be, than those that might be obtained at the time from a Person who is not an Affiliate; provided further that the foregoing restrictions shall not apply to:

(A) any transaction among any two or more Note Parties;

(B) reasonable and customary fees paid to members of the board of directors (or similar governing body) of the Note Parties and their Subsidiaries that are not employees of any of the Note Parties or their Subsidiaries; and

(C) transactions described in Schedule 7.8.

7.9. Conduct of Business. From and after the Third A&R Effective Date, the Borrower will not, and will not permit any of its Subsidiaries to, engage in any business other than businesses of the type engaged in by the Borrower and its Subsidiaries on the Third A&R Effective Date, other businesses reasonably related thereto.

7.10. Tax Consolidations. No Note Party will file or consent to the filing of any consolidated income tax return with any Person other than the Borrower, the Note Parties and their Subsidiaries unless required by Applicable Law.

7.11. TS Acquisition Documents. No Note Party will amend, modify or change the terms of any TS Acquisition Document without the prior written consent of the Agent. No Note Party will deliver any Joint Release Instruction under (and as defined in) the TS Escrow Agreement without the prior written consent of the Agent; provided however, in the event that such Joint Release Instructions are being delivered to release the escrowed funds solely to pay the consideration under the TS Acquisition Agreement after the occurrence of the Effective Time pursuant to (and as defined in) the TS Acquisition Agreement, (i) the prior written consent of the Agent shall not be required to deliver such Joint Release Escrow Instructions and (ii) the Borrower shall promptly deliver a copy of such Joint Release Escrow Instructions to the Agent.

7.12. Changes to Indebtedness Documents. No Note Party will amend, modify or change the terms of any Subordinated Indebtedness Document, the SLR Indebtedness Documents or any documents related to the Public Offering Indebtedness without the prior written consent of the Agent.

7.13. Sales and Lease-Backs. No Note Party shall, directly or indirectly, become or remain liable as lessee or as a guarantor or other surety with respect to any lease of any property (whether real, personal or mixed), whether now owned or hereafter acquired, which such Note Party (a) has sold or transferred or is to sell or to transfer to any other Person (other than the Borrower or any of its Subsidiaries), or (b) intends to use for substantially the same purpose as any other property which has been or is to be sold or transferred by such Note Party (other than the Borrower or any of its Subsidiaries) in connection with such lease.

7.14. Anti-Terrorism Laws. No Note Party shall, nor shall any Note Party permit any Subsidiary or any Person that, directly or indirectly, is in control of a Note Party to:

(A) conduct any business or engage in any transaction or dealing with any Blocked Person, including the making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person;

(B) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order No. 13224;

(C) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Executive Order No. 13224, the USA PATRIOT Act, or any other Anti-Terrorism Law. The Note Parties shall deliver to the Purchasers any certification or other evidence requested from time to time by any Purchaser in its sole discretion, confirming such Note Party's compliance with this Section; or

(D) become (including by virtue of being owned or controlled by a Blocked Person), own or control a Blocked Person or any Person that is the target of sanctions imposed by the United Nations or the European Union including the making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person.

7.15. Trading with the Enemy Act. No Note Party shall, nor shall any Note Party permit any Subsidiary or any Person that, directly or indirectly, is in control of a Note Party to engage in any business or activity in violation of the Trading with the Enemy Act.

7.16. Fiscal Year. No Note Party will change its Fiscal Year, unless approved in writing by Agent.

7.17. ABG License. No Note Party will amend, modify or change the terms of the ABG License or the other documents related thereto in any material respect without the prior written consent of the Agent.

7.18. MJ Acquisition Documents. No Note Party will amend, modify or change the terms of any MJ Acquisition Document without the prior written consent of the Agent.

SECTION 8. DEFAULT, RIGHTS AND REMEDIES

8.1. Event of Default. "Event of Default" means the occurrence or existence of any one or more of the following:

(A) Payment. Failure to pay any amount of principal, interest, fees, or any other amount payable hereunder or pursuant to any other Note Document after the same shall become due; or

(B) Breach of Warranty. Any representation, warranty, certification or other statement made by any Note Party in any Note Document or in any statement or certificate at any time given by such Person in writing pursuant or in connection with any Note Document is false in any material respect on the date made (without duplication of other materiality qualifiers contained therein); or

(C) Breach of Certain Provisions. Failure of any Note Party to perform or comply with any term or condition contained in Section 5.1, Section 5.4, Section 5.5 (with respect to each Note Party's corporate existence only), Section 5.6, Section 5.7, Section 5.8, or Section 7; or

(D) Other Defaults Under Note Documents. The Borrower or any of its Subsidiaries defaults in the performance of or compliance with any term contained in this Agreement other than those otherwise set forth in this Section 8.1, or defaults in the performance of or compliance with any term contained in any other Note Document and such default, in any such case, is not remedied within ten (10) days; or

(E) Default in Other Agreements. (1) Failure of any Note Party to pay when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) any principal or interest on any Indebtedness (other than the Obligations) having a principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) in excess of $500,000 individually or $1,000,000 in the aggregate for all such Indebtedness and such failure continues after the applicable grace or notice period, if any, specified in the document relating thereto on the date of such failure, (2) any breach or default with respect to any Indebtedness of any Note Party (other than the Obligations) having a principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) in excess of $500,000 individually or $1,000,000 in the aggregate for all such Indebtedness and such breach or default continues beyond any applicable grace period, if such breach or default entitles the holder of such Indebtedness to cause such Indebtedness to become or be declared due prior to its stated maturity (without regard to any subordination terms with respect thereto); (3) a breach or default occurs under the ABG License, which breach or default has a material adverse effect on the Borrower's rights thereunder; (4) an amendment, breach or default occurs under the ABG-SI License, which amendment, breach or default has a material adverse effect on the Borrower's rights under the ABG License; (5) a breach or default occurs under the New York Lease, which breach or default has a material adverse effect on the applicable Note Party's rights thereunder; (6) a breach or default occurs under any SLR Indebtedness Document and such breach or default continues beyond any applicable grace period, if such breach or default entitles SLR Digital Finance LLC (or its successors or assigns as lender under the SLR Indebtedness Documents) to cause such Indebtedness to become or be declared due prior to its stated maturity (without regard to any subordination terms with respect thereto); or (7) a breach or default occurs under any Subordinated Debenture; or

(F) Change in Control. A Change In Control occurs; or

(G) Involuntary Bankruptcy; Appointment of Receiver, etc. (1) A court enters a decree or order for relief with respect to any Note Party in an involuntary case under any applicable bankruptcy, winding-up, insolvency or other similar law now or hereafter in effect, which decree or order is not stayed or other similar relief is not granted under any applicable federal, provincial or state law; or (2) the continuance of any of the following events for thirty (30) days unless dismissed, bonded or discharged: (a) an involuntary case is commenced against any Note Party, under any applicable bankruptcy, insolvency winding-up, or other similar law now or hereafter in effect; or (b) a receiver, liquidator, sequestrator, trustee, custodian or other fiduciary having similar powers over any Note Party, or over all or a substantial part of their respective property, is appointed; or

(H) Voluntary Bankruptcy; Appointment of Receiver, etc. (1) Any Note Party commences a voluntary case under any applicable bankruptcy, winding-up, insolvency or other similar law now or hereafter in effect, or consents to the entry of an order for relief in an involuntary case or to the conversion of an involuntary case to a voluntary case under any such law or consents to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property; or (2) any Note Party makes any assignment for the benefit of creditors; or (3) any Note Party voluntarily ceases to conduct its business in the ordinary course; or (4) the board of directors (or similar governing body) of any Note Party adopts any resolution or otherwise authorizes action to approve any of the actions referred to in this Section 8.1(H); or

(I) ERISA. A Termination Event shall have occurred that has resulted in liability to the Borrower and its Subsidiaries in an aggregate amount in excess of $500,000 individually or $1,000,000 in the aggregate with respect to all Termination Events and such liability remains unpaid for a period of two (2) Business Days; provided, that, no Lien is imposed on the Borrower, any of its Subsidiaries or their respective assets with respect to such liability; or

(J) Judgment, Attachments and Litigation. Any (i) money judgment, writ or warrant of attachment, or similar process involving an amount in any individual case in excess of $500,000 individually or $1,000,000 in the aggregate for all judgments (in any case not adequately covered by insurance as to which the insurance company has acknowledged coverage) is entered or filed against any Note Party or any of its respective assets and remains undischarged, unvacated, unbonded or unstayed for a period of thirty (30) days; or (ii) non-monetary judgment which could reasonably be expected to have a Material Adverse Effect is entered or filed against any Note Party or any of its respective assets and remains undischarged, unvacated, unbonded or unstayed for a period of thirty (30) days; or

(K) Invalidity of Subordination Provisions. The subordination and/or intercreditor provisions (if any) of any agreement or instrument governing the Subordinated Indebtedness or the SLR Indebtedness (if any) shall for any reason be revoked or invalidated, or otherwise cease to be in full force and effect (other than in accordance with its terms), or any Note Party shall contest in any manner the validity or enforceability thereof or deny that it has any further liability or obligation thereunder, or the Obligations, for any reason shall not have the priority contemplated by this Agreement or such subordination and/or intercreditor provisions; or

(L) Solvency. Any Note Party admits in writing its present or prospective inability to pay its debts as they become due; or

(M) Injunction. Any Note Party is enjoined, restrained or in any way prevented by the order of any court or any administrative or regulatory agency from conducting all or any material part of its business and such order continues for thirty (30) days or more and such order could reasonably be expected to have a Material Adverse Effect; or

(N) Invalidity of Note Documents. Any material provision of any of the Note Documents for any reason, other than a partial or full release in accordance with the terms thereof, ceases to be in full force and effect or is declared to be null and void, or any Note Party denies that it has any further liability under any Note Documents to which it is party, or gives notice to such effect; or

(O) Failure of Security. Agent, on behalf of itself and the other Secured Parties, does not have or ceases to have a valid, perfected security interest in any material portion of the Collateral (after giving effect to any releases permitted hereunder), in each case, for any reason other than (x) the failure of Agent or any other Secured Party to take any action within its control, or (y) as expressly contemplated by the Note Documents; or

(P) Damage, Strike, Casualty. Any material damage to, or loss, theft or destruction of, any Collateral, whether or not insured, or any strike, lockout, labor dispute, embargo, condemnation, act of God or public enemy, or other casualty which causes, for more than fifteen (15) consecutive days beyond the coverage period of any applicable business interruption insurance, the cessation or substantial curtailment of revenue producing activities at any facility of the Borrower or any of its Subsidiaries if any such event or circumstance could reasonably be expected to have a Material Adverse Effect; or

(Q) Licenses and Permits. The loss, termination, suspension or revocation of, or failure to renew, (i) the ABG License or (ii) any other license or permit now held or hereafter acquired by any Note Party or any of their respective Subsidiaries, if such loss, suspension, revocation or failure to renew could reasonably be expected to have a Material Adverse Effect; or

(R) Material Adverse Effect. A Material Adverse Effect shall occur; or

(S) Forfeiture. There is filed against any Note Party or any of its Subsidiaries any civil or criminal action, suit or proceeding under any federal, state or foreign racketeering statute (including, without limitation, the Racketeer Influenced and Corrupt Organization Act of 1970), which action, suit or proceeding (1) is not dismissed within one hundred twenty (120) days; and (2) could reasonably be expected to result in the confiscation or forfeiture of any material portion of the Collateral.

8.2. Acceleration. Upon the occurrence of any Event of Default described in the foregoing Sections 8.1(G) or 8.1(H), all Obligations shall automatically become immediately due and payable, without presentment, demand, protest or other requirements of any kind, all of which are hereby expressly waived by each Note Party. Upon the occurrence and during the continuance of any other Event of Default, Agent may, and upon demand by Requisite Purchasers shall, by written notice to Borrower, declare all or any portion of the Obligations to be, and the same shall forthwith become, immediately due and payable.

8.3. Remedies. If any Event of Default shall have occurred and be continuing, in addition to and not in limitation of any other rights or remedies available to Agent and the other Secured Parties at law or in equity, Agent may, and shall upon the request of Requisite Purchasers, exercise in respect of the Collateral, in addition to all other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the UCC (whether or not the UCC applies to the affected Collateral) and other Applicable Law and may also (a) require Note Parties to, and each Note Party hereby agrees that it will, at its expense and upon request of Agent forthwith, assemble all or part of the Collateral as directed by Agent and make it available to Agent at a place to be designated by Agent which is reasonably convenient to both parties; (b) withdraw all cash in any Deposit Account subject to a Control Agreement and apply such monies in payment of the Obligations in the manner provided in Section 8.6; and (c) without notice or demand or legal process, enter upon any premises of any Note Party and take possession of the Collateral. Each Note Party agrees that, to the extent notice of sale of the Collateral or any part thereof shall be required by law, at least ten (10) days' notice to Borrower of the time and place of any public disposition or the time after which any private disposition (which notice shall include any other information required by law) is to be made shall constitute reasonable notification. At any disposition of the Collateral (whether public or private), if permitted by law, Agent (at the direction of the Requisite Purchasers) may bid (which bid may be, in whole or in part, in the form of cancellation of indebtedness, credit bid or set-off) for the purchase, lease, or licensing of the Collateral or any portion thereof for the account of the Secured Parties. Agent shall not be obligated to make any disposition of Collateral regardless of notice of disposition having been given. Each Note Party shall remain liable for any deficiency. Agent may adjourn any public or private disposition from time to time by announcement at the time and place fixed therefor, and such disposition may, without further notice, be made at the time and place to which it was so adjourned. Agent is not obligated to make any representations or warranties in connection with any disposition of the Collateral. To the extent permitted by law, each Note Party hereby specifically waives all rights of redemption, stay or appraisal, which it has or may have under any law now existing or hereafter, enacted. Agent shall not be required to proceed against any Collateral and may proceed against one or more Note Parties directly.

8.4. Appointment of Attorney-in-Fact. Each Note Party hereby constitutes and appoints Agent as such Note Party's attorney-in-fact with full authority in the place and stead of such Note Party and in the name of such Note Party, Agent or otherwise, from time to time in Agent's discretion while an Event of Default is continuing to take any action and to execute any instrument that Agent may deem necessary or advisable to accomplish the purposes of this Agreement, including: (a) to ask, demand, collect, sue for, recover, compound, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Collateral; (b) to enforce the obligations of any Account Debtor or other Person obligated on the Collateral and enforce the rights of any Note Party with respect to such obligations and to any property that secures such obligations; (c) to file any claims or take any action or institute any proceedings that Agent may deem necessary or desirable for the collection of or to preserve the value of any of the Collateral or otherwise to enforce the rights of Agent and the other Secured Parties with respect to any of the Collateral; (d) to pay or discharge taxes or Liens levied or placed upon or threatened against the Collateral, the legality or validity thereof and the amounts necessary to discharge the same to be determined by Agent in its sole discretion, and such payments made by Agent to become Obligations, due and payable immediately without demand; (e) to sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, assignments, verifications and notices in connection with Accounts, Chattel Paper or General Intangibles and other Documents relating to the Collateral; and (f) generally to take any act required of any Note Party under Section 4 or Section 5 of this Agreement or any Security Document, and to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though Agent were the absolute owner thereof for all purposes, and to do, at Agent's option and Note Parties' expense, at any time or from time to time, all acts and things that Agent deems necessary to protect, preserve or realize upon the Collateral. Each Note Party hereby ratifies and approves all acts of Agent made or taken pursuant to this Section 8.4. The appointment of Agent as each Note Party's attorney and Agent's rights and powers are coupled with an interest and are irrevocable until payment in full, in cash, of all Obligations (other than contingent indemnification obligations to the extent no claims giving rise thereto have been asserted by the Person entitled thereto).

8.5. Limitation on Duty of Agent and Purchasers with Respect to Collateral. Beyond the safe custody thereof, Agent and each other Secured Party shall have no duty with respect to any Collateral in its possession (or in the possession of any agent or bailee) or with respect to any income thereon or the preservation of rights against prior parties or any other rights pertaining thereto. Agent shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which Agent accords its own property. Neither Agent nor any other Secured Party shall be liable or responsible for any loss or damage to any of the Collateral, or for any diminution in the value thereof, by reason of the act or omission of any warehouse, carrier, forwarding agency, consignee, broker or other agent or bailee selected by Note Parties or selected by Agent in good faith.

8.6. Application of Proceeds. Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence and during the continuance of an Event of Default, (a) each Note Party irrevocably waives the right to direct the application of any and all payments at any time or times thereafter received by Agent from or on behalf of any Note Party, and Agent shall have the continuing and exclusive right to apply and to reapply any and all payments received at any time or times after the occurrence and during the continuance of an Event of Default against the Obligations in such manner as Agent may deem advisable notwithstanding any previous application by Agent, but in all events subject to Section 8.6(b), and (b) after the occurrence and during the continuance of an Event of Default, Agent may, and upon the direction of the Requisite Purchasers shall, apply all proceeds of the Collateral, and in any event Agent shall apply any proceeds of Collateral with respect to any sale of, collection from or other realization upon all or any part of the Collateral pursuant to the exercise in accordance with the terms of the Note Documents by Agent of its rights or remedies during an Event of Default or received in connection with an insolvency proceeding with respect to any Note Party, subject to the provisions of this Agreement, as follows: (i) first, ratably to pay the Obligations in respect of any fees, expense reimbursements, indemnities and other amounts then due and payable to Agent until paid in full; (ii) second, ratably to pay the Obligations in respect of any fees, expense reimbursements and indemnities then due and payable to the Purchasers until paid in full; (iii) third, ratably to pay interest then due and payable in respect of the Third A&R Notes until paid in full; (iv) fourth, ratably to pay principal then due and payable in respect of the Third A&R Notes until paid in full; (v) fifth, ratably to pay interest then due and payable in respect of the Delayed Draw Term Notes maturing on the Delayed Draw Term Notes First Maturity Date until paid in full; (vi) sixth, ratably to pay principal then due and payable in respect of the Delayed Draw Term Notes maturing on the Delayed Draw Term Notes First Maturity Date until paid in full; (vii) seventh, ratably to pay interest then due and payable in respect of the Delayed Draw Term Notes maturing on the Delayed Draw Term Notes Second Maturity Date until paid in full; (viii) eighth, ratably to pay principal then due and payable in respect of the Delayed Draw Term Notes maturing on the Delayed Draw Term Notes Second Maturity Date until paid in full; (ix) ninth, ratably to pay interest then due and payable in respect of the Existing Notes until paid in full; (x) tenth, ratably to pay principal of the Existing Notes (or, to the extent such Obligations are contingent, to provide cash collateral in respect of such Obligations in accordance with this Agreement) until paid in full; (xi) eleventh, to the ratable payment of all other Obligations then due and payable; and (xii) last, any balance remaining shall be delivered to the Borrower or to whomever may be lawfully entitled to receive such balance or as a court of competent jurisdiction may direct. All amounts allocated pursuant to the foregoing clauses (ii) through (x) to the Purchasers shall be allocated among and distributed to the Purchasers pro rata based on each Purchaser's share of the Obligations outstanding under the Third A&R Notes, Delayed Draw Term Notes or Existing Notes, as applicable.

8.7. Waivers; Non-Exclusive Remedies. No failure on the part of Agent or any other Secured Party to exercise, and no delay in exercising and no course of dealing with respect to, any right under this Agreement or the other Note Documents shall operate as a waiver thereof; nor shall any single or partial exercise by Agent or any other Secured Party of any right under this Agreement or any other Note Document preclude any other or further exercise thereof or the exercise of any other right. The rights in this Agreement and the other Note Documents are cumulative and shall in no way limit any other remedies provided by law.

SECTION 9. AGENT

9.1. Agent.

(A) Appointment. Each Purchaser hereto and, upon obtaining an interest in any Note, any participant, transferee or other assignee of any Purchaser irrevocably appoints, designates and authorizes BRF Finance Co., LLC as Agent to take such actions or refrain from taking such action as its agent on its behalf and to exercise such powers hereunder and under the other Note Documents as are delegated by the terms hereof and thereof, together with such powers as are reasonably incidental thereto. Neither Agent nor any of its directors, officers, employees or agents shall be liable for any action so taken. The provisions of this Section 9.1 are solely for the benefit of Agent and Purchasers and neither the Borrower nor any other Note Party shall have any rights as a third party beneficiary of any of the provisions hereof (other than as set forth in Sections 9.1(G), (H) and (K)). In performing its functions and duties under this Agreement and the other Note Documents, Agent shall act solely as agent of Purchasers and does not assume and shall not be deemed to have assumed any obligation toward or relationship of agency or trust with or for the Borrower or any other Note Party. Agent may perform any of its duties hereunder, or under the Note Documents, by or through its agents or employees.

(B) Nature of Duties. Agent shall have no duties, obligations or responsibilities except those expressly set forth in this Agreement or in the other Note Documents. Agent shall not have by reason of this Agreement a fiduciary, trust or agency relationship with or in respect of any Purchaser, the Borrower or any other Note Party. Each Purchaser shall make its own appraisal of the credit worthiness of each Note Party, and shall have independently taken whatever steps it considers necessary to evaluate the financial condition and affairs of Note Parties, and Agent shall have no duty or responsibility, either initially or on a continuing basis, to provide any Purchaser with any credit or other information with respect thereto (other than as expressly required herein), whether coming into its possession before the Closing Date or at any time or times thereafter.

(C) Rights, Exculpation, Etc. Neither Agent nor any of its officers, directors, employees or agents shall be liable to any Purchaser for any action taken or omitted by them hereunder or under any of the Note Documents, or in connection herewith or therewith, except that Agent shall be liable to the extent of its own gross negligence or willful misconduct as determined by a final non-appealable judgment by a court of competent jurisdiction. Agent shall not be liable for any apportionment or distribution of payments made by it in good faith and if any such apportionment or distribution is subsequently determined to have been made in error, the sole recourse of any Purchaser to whom payment was due but not made, shall be to recover from other Purchasers any payment in excess of the amount to which they are determined to be entitled (and such other Purchasers hereby agree to return to such Purchaser any such erroneous payments received by them). Neither Agent nor any of its agents or representatives shall be responsible to any Purchaser for any recitals, statements, representations or warranties herein or for the execution, effectiveness, genuineness, validity, enforceability, collectability, or sufficiency of this Agreement or any of the other Note Documents or the transactions contemplated thereby, or for the financial condition of any Note Party. Agent shall not be responsible for or be required to make any inquiry concerning (i) the performance or observance of any of the terms, provisions or conditions of this Agreement or any of the other Note Documents, (ii) the financial condition of any Note Party, (iii) the contents of any certificate, report or other document delivered hereunder or any other Note Document or in connection herewith or therewith, (iv) the existence or possible existence of any Default or Event of Default or (v) the satisfaction of any condition set forth in Section 3 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to Agent. Agent may at any time request instructions from Purchasers with respect to any actions or approvals which by the terms of this Agreement or of any of the other Note Documents Agent is permitted or required to take or to grant, and if such instructions are promptly requested, Agent shall be absolutely entitled to refrain from taking any action or to withhold any approval and shall not be under any liability whatsoever to any Person for refraining from any action or withholding any approval under any of the Note Documents until it shall have received such instructions from Requisite Purchasers or all or such other portion of the Purchasers as shall be prescribed by this Agreement. Without limiting the foregoing, no Purchaser shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting under this Agreement or any of the other Note Documents in accordance with the instructions of Requisite Purchasers in the absence of an express requirement for a greater percentage of Purchaser approval hereunder for such action.

(D) Reliance. Agent shall be under no duty to examine, inquire into, or pass upon the validity, effectiveness or genuineness of this Agreement, any other Note Document, or any instrument, document or communication furnished pursuant hereto or in connection herewith. Agent shall be entitled to rely, and shall be fully protected in relying, upon any written or oral notices, statements, certificates, orders or other documents or any telephone message or other communication (including any writing or fax) believed by it in good faith to be genuine and correct and to have been signed, sent or made by the proper Person. With respect to all matters pertaining to this Agreement or any of the other Note Documents and its duties hereunder or thereunder, Agent shall be entitled to rely upon the advice of legal counsel, independent accountants, and other experts selected by Agent in its sole discretion.

(E) Indemnification. Purchasers will reimburse and indemnify Agent for and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including, without limitation, reasonable attorneys' fees and expenses), advances or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against Agent in any way relating to or arising out of this Agreement or any of the other Note Documents or any action taken or omitted by Agent under this Agreement or any of the other Note Documents, in proportion to each Purchaser's pro rata share of the Obligations, but only to the extent that any of the foregoing is not promptly reimbursed by Note Parties; provided, however, no Purchaser shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, advances or disbursements resulting from Agent's gross negligence or willful misconduct as determined by a final non-appealable judgment by a court of competent jurisdiction. If any indemnity furnished to Agent for any purpose shall, in the opinion of Agent, be insufficient or become impaired, Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against, even if so directed by Purchasers or Requisite Purchasers, until such additional indemnity is furnished. The obligations of Purchasers under this Section 9.1(E) shall survive the payment in full of the Obligations and the termination of this Agreement.

(F) B. Riley Individually. With respect to the Notes purchased by it as a Purchaser, B. Riley shall have and may exercise the same rights and powers hereunder and is subject to the same obligations and liabilities as and to the extent set forth herein for any other Purchaser. The terms "Purchasers" or "Requisite Purchasers" or any similar terms shall, unless the context clearly otherwise indicates, include B. Riley in its individual capacity as a Purchaser or one of the Requisite Purchasers. B. Riley, either directly or through strategic affiliations, may lend money to, acquire equity or other ownership interests in, provide advisory services to and generally engage in any kind of banking, trust or other business with any Note Party as if it were not acting as Agent pursuant hereto and without any duty to account therefor to Purchasers. B. Riley, either directly or through strategic affiliations, may accept fees and other consideration from any Note Party for services in connection with this Agreement or otherwise without having to account for the same to Purchasers.

(G) Successor Agent.

(1) Resignation. Agent may resign from the performance of all its agency functions and duties hereunder at any time by giving at least five (5) Business Days' prior written notice to Borrower and the Purchasers. Such resignation shall take effect upon the acceptance by a successor Agent of appointment as provided below.

(2) Appointment of Successor. Upon any such notice of resignation pursuant to Section 9.1(G)(1) above, Requisite Purchasers shall appoint a successor Agent. If a successor Agent shall not have been so appointed within said thirty (30) Business Day period, the retiring Agent, upon notice to Borrower, may then appoint a successor Agent who shall serve as Agent until such time, if any, as Requisite Purchasers appoint a successor Agent as provided above.

(3) Successor Agent. Upon the acceptance of any appointment as Agent under the Note Documents by a successor Agent, such successor Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations under the Note Documents. After any retiring Agent's resignation as Agent, the provisions of this Section 9, Section 11.1 and Section 11.2 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent.

(H) Collateral and Guaranty Matters.

(1) Release of Collateral. Purchasers hereby irrevocably authorize and direct Agent to release (or, in the case of sub-clause (c) below, release or subordinate) any Lien granted to or held by Agent upon any Collateral (a) upon payment and satisfaction of all Obligations (other than contingent indemnification obligations to the extent no claims giving rise thereto have been asserted by the Person entitled thereto) or (b) constituting property being sold or disposed of, if the applicable Note Party certifies to Agent that the sale, disposition or lien is made or granted in compliance with the provisions of this Agreement (and Agent may rely in good faith conclusively on any such certificate, without further inquiry); or (c) of any Subsidiary Guarantor being released pursuant to Section 9.1(H)(2).

(2) Release of Guaranty. Purchasers hereby irrevocably authorize and direct Agent to release any Subsidiary Guarantor from its obligations under its Guaranty and under the other Note Documents to which it is a party if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder.

(3) Confirmation of Authority; Execution of Releases. Without in any manner limiting Agent's authority to act without any specific or further authorization or consent by Purchasers (as set forth in Sections 9.1(H)(1) and 9.1(H)(2) above), each Purchaser agrees to confirm in writing, upon request by Agent or Borrower, the authority to release any (i) Collateral conferred upon Agent under Section 9.1(H)(1) and (ii) to release any Subsidiary Guarantor under Section 9.1(H)(2). To the extent any Note Party requests that Agent release (or subordinate) any Lien granted to or held by Agent as authorized under Section 9.1(H)(1) or release any Subsidiary Guarantor under Section 9.1(H)(2), (a) Agent shall, and is hereby irrevocably authorized by Purchasers to, execute such documents as may be necessary to evidence (I) the release of the Liens granted to Agent, for the benefit of Agent and Purchasers, upon such Collateral and (II) the release of such Subsidiary Guarantor; provided, however, that Agent shall not be required to execute any such document on terms which, in Agent's opinion, would expose Agent to liability or create upon Agent any obligation or entail any consequence other than the release of such Liens or the release of such Subsidiary Guarantor without recourse or warranty, and (b) Note Parties shall provide at least ten (10) Business Days (or such shorter period as agreed to by Agent in its reasonable discretion) prior written notice of any request for any document evidencing such release (or subordination) of the Liens or such release of the Subsidiary Guarantor and Note Parties agree that any such release (or subordination) shall not in any manner discharge, affect or impair the Obligations or any Liens or any Liens granted to Agent on behalf of Agent and Purchasers upon (or obligations of any Note Party, in respect of) all interests retained by any Note Party, including, without limitation, the proceeds of any sale, all of which shall continue to constitute part of the property covered by this Agreement or the Note Documents.

(4) Absence of Duty. Agent shall have no obligation whatsoever to any Purchaser or any other Person to assure that the property covered by this Agreement or the Note Documents exists or is owned by any Note Party or is cared for, protected or insured or has been encumbered or that the Liens granted to Agent on behalf of Agent and Purchasers herein or pursuant hereto have been properly or sufficiently or lawfully created, perfected, protected or enforced or are entitled to any particular priority, or to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to Agent in this Agreement or in any of the other Note Documents.

(I) Agency for Perfection. Agent and each Purchaser hereby appoint each other Purchaser as agent for the purpose of perfecting Agent's security interest in assets which, in accordance with the Uniform Commercial Code in any applicable jurisdiction, can be perfected by possession or control. Should any Purchaser (other than Agent) obtain possession of any such assets, such Purchaser shall notify Agent thereof, and, promptly upon Agent's request therefor, shall deliver such assets to Agent or in accordance with Agent's instructions. Agent may file such proofs of claim or documents as may be necessary or advisable in order to have the claims of Agent and the Purchasers (including any claim for the reasonable compensation, expenses, disbursements and advances of Agent and the Purchasers, their respective agents, financial advisors and counsel), allowed in any judicial proceedings relative to any Note Party and/or its Subsidiaries, or any of their respective creditors or property, and shall be entitled and empowered to collect, receive and distribute any monies, securities or other property payable or deliverable on any such claims. Any custodian in any judicial proceedings relative to any Note Party and/or its Subsidiaries is hereby authorized by each Purchaser to make payments to Agent and, in the event that Agent shall consent to the making of such payments directly to the Purchasers, to pay to Agent any amount due for the reasonable compensation, expenses, disbursements and advances of Agent, its agents, financial advisors and counsel, and any other amounts due Agent. Nothing contained in this Agreement or the other Note Documents shall be deemed to authorize Agent to authorize or consent to or accept or adopt on behalf of any Purchaser any plan of reorganization, arrangement, adjustment or composition affecting the Notes, or the rights of any holder thereof, or to authorize Agent to vote in respect of the claim of any Purchaser in any such proceeding, except as specifically permitted herein.

(J) Exercise of Remedies. Each Purchaser agrees that it will not have any right individually to enforce or seek to enforce this Agreement or any other Note Document or to realize upon any collateral security for the Obligations, unless instructed to do so by Agent, it being understood and agreed that such rights and remedies may be exercised only by Agent. Without limiting the generality of the foregoing, neither Agent nor Purchasers may exercise any right that it might otherwise have under Applicable Law to credit bid at foreclosure sales, uniform commercial code sales or other similar sales or dispositions of any of the Collateral except as authorized by the Requisite Purchasers.

9.2. Notice of Default. Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default except with respect to defaults in the payment of principal, interest and fees required to be paid to Agent for the account of Purchasers, unless Agent shall have received written notice from a Purchaser or Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". Agent will notify each Purchaser of its receipt of any such notice.

9.3. Action by Agent. Agent shall take such action with respect to any Default or Event of Default as may be requested by Requisite Purchasers in accordance with Section 8. Unless and until Agent has received any such request, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to any Default or Event of Default as it shall deem advisable or in the best interests of Purchasers.

9.4. Amendments, Waivers and Consents.

(A) Percentage of Purchasers Required. Except as otherwise provided herein or in any of the other Note Documents, no amendment, modification, termination or waiver of any provision of this Agreement or any other Note Document, or consent to any departure by any Note Party therefrom, shall in any event be effective unless the same shall be in writing and signed by the Requisite Purchasers (or, Agent, if expressly set forth herein or in any of the other Note Documents) and the applicable Note Party; provided however, no amendment, modification, termination, waiver or consent shall:

(1) subject any Purchaser to any additional obligation or reduce the principal of or the rate of interest on any Note (other than as a result of any waiver of the applicability of any post-default increase) or reduce the fees payable with respect to any Note or postpone or extend any scheduled date fixed for any payment of principal of, or interest, fees, or premium on, the Notes payable to any Purchaser, in each case, without the consent of each Purchaser directly and adversely affected thereby;

(2) amend the definition of Requisite Purchasers without the consent of each Purchaser directly and adversely affected thereby;

(3) amend, modify or waive any provision of this Section 9.4 without the consent of each Purchaser directly and adversely affected thereby;

(4) release all or substantially all of the Collateral or all or substantially all of the value of the Guaranties (except as expressly provided in the Note Documents), without the consent of each Purchaser;

(5) consent to the assignment, delegation or other transfer by any Note Party of any of its rights and obligations under any Note Document, without the consent of each Purchaser;

(6) without the consent of Agent, amend, modify or waive any provision of this Agreement or any other Note Document as same applies to Agent or as same relates to the rights or obligations of such Agent;

(7) amend, modify or waive any provision hereof in any manner that would alter the order of treatment or the pro rata sharing of payments required thereby without the consent of each Purchaser directly and adversely affected thereby; or

(8) subordinate (x) all or substantially all of the Liens granted pursuant to the Note Documents or (y) the Obligations, in each case other than as otherwise expressly permitted hereunder.

Any amendment, modification, termination, waiver or consent effected in accordance with this Section 9 shall be binding upon each Purchaser or future Purchaser and, if signed by a Note Party, on such Note Party.

(B) Specific Purpose or Intent. Each amendment, modification, termination, waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No amendment, modification, termination, waiver or consent shall be required for Agent to take additional Collateral.

Notwithstanding anything in this Section 9.4, Agent and the Borrower, without the consent of either Requisite Purchasers or all Purchasers, may execute amendments to this Agreement and the other Note Documents, to (1) cure any ambiguity, omission, defect or inconsistency therein, or (2) grant a new Lien for the benefit of the Secured Parties, extend an existing Lien over additional property for the benefit of the Secured Parties or join additional Persons as Note Parties.

9.5. Set-Off and Sharing of Payments.

(A) In addition to any rights now or hereafter granted under Applicable Law and not by way of limitation of any such rights, upon the occurrence and during the continuance of any Event of Default, each Purchaser is hereby authorized by each Note Party at any time or from time to time, without notice or demand (each of which is hereby waived by each Note Party) to set-off and to appropriate and to apply any and all (a) balances held by such Purchaser at any of its offices for the account of Note Parties (regardless of whether such balances are then due to Note Parties), and (b) other property at any time held or owing by such Purchaser to or for the credit or for the account of Note Parties, against and on account of any of the Obligations; except that no Purchaser shall exercise any such right without the prior written consent of Agent.

(B) If any Purchaser shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Notes or other obligations hereunder resulting in such Purchaser receiving a payment or payment of a proportion of the aggregate amount of its Notes and accrued interest thereon or other such obligations greater than what it was entitled to received or its pro rata share thereof as provided herein, then the Purchaser receiving such payment or greater proportion shall (a) notify Agent of such fact, and (b) purchase (for cash at face value) participations in the Notes and such other obligations of the other Purchasers, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be applied in accordance with the terms of this Agreement; provided that:

(1) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(2) the provisions of this paragraph shall not be construed to apply to (x) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement, or (y) any payment obtained by a Purchaser as consideration for the assignment of any of its Notes to any assignee, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this paragraph shall apply).

(C) Each Note Party consents to the foregoing and agrees, to the extent it may effectively do so under Applicable Law, that any Purchaser acquiring a participation pursuant to the foregoing arrangements may exercise against each Note Party rights of setoff and counterclaim with respect to such participation as fully as if such Purchaser were a direct creditor of each Note Party in the amount of such participation.

9.6. Intercreditor and Subordination Agreements. Each Purchaser and each other holder of Obligations irrevocably (a) authorizes and directs the Agent to execute and deliver the SLR Intercreditor Agreement and each Subordination Agreement on behalf of such Purchaser or such holder and to take all actions (and execute all documents) required (or deemed advisable) by it in accordance with the terms of such agreements, in each case without any further consent, authorization or other action by such Purchaser or holder, (b) agrees that, upon the execution and delivery thereof, such Purchaser and holder will be bound by the provisions of the SLR Intercreditor Agreement and each Subordination Agreement as if it were a signatory thereto and will take no actions contrary to the provisions of the Intercreditor Agreement, and (c) agrees that no such Purchaser or holder shall have any right of action whatsoever against the Agent as a result of any action taken by Agent pursuant to this Section or in accordance with the terms of the SLR Intercreditor Agreement and each Subordination Agreement.

SECTION 10. GUARANTY.

10.1. Unconditional Guaranty. Each Guarantor hereby unconditionally guarantees, as a primary obligor and not merely as a surety, jointly and severally with each other Guarantor when and as due, whether at maturity, by acceleration, by notice of prepayment or otherwise, the due and punctual performance of all Obligations. Without limiting the generality of the foregoing, each Guarantor's liability shall extend to all amounts that constitute part of the Obligations and would be owed by any Note Party to Agent or the other Secured Parties under any Note Document but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving any Note Party. Each payment made by any Guarantor pursuant to the guaranty contained in this Section 10 (the "Guaranty") shall be made in lawful money of the United States in immediately available funds, (a) without set-off or counterclaim and (b) free and clear of and without deduction or withholding for or on account of any present and future Charges and any conditions or restrictions resulting in Charges unless Guarantor is compelled by law to make payment subject to such Charges.

10.2. Charges. All Charges in respect of the Guaranty or any amounts payable or paid under the Guaranty shall be paid by Guarantors when due and in any event prior to the date on which penalties attach thereto. Each Guarantor will indemnify Agent and each of the other Secured Parties against and in respect of all such Charges. Without limiting the generality of the foregoing, if any Charges or amounts in respect thereof must be deducted or withheld from any amounts payable or paid by any Guarantor hereunder, such Guarantor shall pay such additional amounts as may be necessary to ensure that Agent and each of the other Secured Parties receives a net amount equal to the full amount which it would have received had payment (including any additional amounts payable under this Section 10.2) not been made subject to such Charges. Within thirty (30) days of each payment by any Guarantor of Charges or in respect of Charges, such Guarantor shall deliver to Agent satisfactory evidence (including originals, or certified copies, of all relevant receipts) that such Charges have been duly remitted to the appropriate authority or authorities.

10.3. Waivers of Notice, Demand, etc. Each Guarantor hereby absolutely, unconditionally and irrevocably waives (a) promptness, diligence, notice of acceptance, notice of presentment of payment and any other notice hereunder, (b) demand of payment, protest, notice of dishonor or nonpayment, notice of the present and future amount of the Obligations and any other notice with respect to the Obligations, (c) any requirement that Agent or any other Secured Party protect, secure, perfect or insure any security interest or Lien or any property subject thereto or exhaust any right or take any action against any other Note Party, or any Person or any Collateral, (d) any other action, event or precondition to the enforcement hereof or the performance by each such Guarantor of the Obligations, and (e) any defense arising by any lack of capacity or authority or any other defense of any Note Party or any notice, demand or defense by reason of cessation from any cause of Obligations (other than payment and performance in full in cash of the Obligations by the Note Parties) and any defense that any other guarantee or security was or was to be obtained by Agent.

10.4. No Invalidity, Irregularity, etc. No invalidity, irregularity, voidableness, voidness or unenforceability of this Agreement or any other Note Document or any other agreement or instrument relating thereto, or of all or any part of the Obligations or of any collateral security therefor shall affect, impair or be a defense hereunder.

10.5. Independent Liability. The Guaranty is one of payment and performance, not collection, and the obligations of each Guarantor under this Guaranty are independent of the Obligations of the other Note Parties, and a separate action or actions may be brought and prosecuted against any Guarantor to enforce the terms and conditions of this Section 10, irrespective of whether any action is brought against any other Note Party or other Persons or whether any other Note Party or other Persons are joined in any such action or actions. Each Guarantor waives any right to require that any resort be had by Agent or any other Secured Party to any security held for payment of the Obligations or to any balance of any deposit account or credit on the books of any Agent or any other Secured Party in favor of any Note Party or any other Person. No election to proceed in one form of action or proceedings, or against any Person, or on any Obligations, shall constitute a waiver of Agent's right to proceed in any other form of action or proceeding or against any other Person unless Agent has expressed any such waiver in writing. Without limiting the generality of the foregoing, no action or proceeding by Agent against any Note Party under any document evidencing or securing indebtedness of any Note Party to Agent shall diminish the liability of any Guarantor hereunder, except to the extent Agent receives actual payment on account of Obligations by such action or proceeding, notwithstanding the effect of any such election, action or proceeding upon the right of subrogation of any Guarantor in respect of any Note Party.

10.6. Liability Absolute. The liability of each Guarantor under the Guaranty shall be absolute, unlimited and unconditional and shall not be subject to any reduction, limitation, impairment, discharge or termination for any reason, including, without limitation, any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any claim, defense or set-off, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of any other Obligation or otherwise. Without limiting the generality of the foregoing, the obligations of each Guarantor shall not be discharged or impaired, released, limited or otherwise affected by:

(i) any change in the manner, place or terms of payment or performance, and/or any change or extension of the time of payment or performance of, release, renewal or alteration of, or any new agreements relating to any Obligation, any security therefor, or any liability incurred directly or indirectly in respect thereof, or any rescission of, or amendment, waiver or other modification of, or any consent to departure from, this Agreement or any other Note Document, including any increase in the Obligations resulting from the extension of additional credit to the Borrower or otherwise;

(ii) any sale, exchange, release, surrender, loss, abandonment, realization upon any property by whomsoever at any time pledged or mortgaged to secure, or howsoever securing, all or any of the Obligations, and/or any offset there against, or failure to perfect, or continue the perfection of, any Lien in any such property, or delay in the perfection of any such Lien, or any amendment or waiver of or consent to departure from any other guaranty for all or any of the Obligations;

(iii) the failure of Agent or any other Secured Party to assert any claim or demand or to enforce any right or remedy against the Borrower or any other Note Party or any other Person under the provisions of this Agreement or any Note Document or any other document or instrument executed and delivered in connection herewith or therewith;

(iv) any settlement or compromise of any Obligation, any security therefor or any liability (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and any subordination of the payment of all or any part thereof to the payment of any obligation (whether due or not) of any Note Party to creditors of any Note Party other than any other Note Party;

(v) any manner of application of Collateral, or proceeds thereof, to all or any of the Obligations, or any manner of sale or other disposition of any Collateral for all or any of the Obligations or any other assets of any Note Party; and

(vi) other than payment and performance in full in cash of the Obligations by the Note Parties, any other agreements or circumstance (including any statute of limitations) of any nature whatsoever that may or might in any manner or to any extent vary the risk of any Guarantor, or that might otherwise at law or in equity constitute a defense available to, or a discharge of, the Guaranty and/or the obligations of any Guarantor, or a defense to, or discharge of, any Note Party or any other Person or party hereto or the Obligations or otherwise with respect to the Notes or other financial accommodations to the Borrower pursuant to this Agreement and/or the Note Documents.

10.7. Action by Agent Without Notice. Agent shall have the right to take any action set forth in Section 8.3 or any other Security Document without notice to or the consent of any Guarantor and each Guarantor expressly waives any right to notice of, consent to, knowledge of and participation in any agreements relating to any of the above or any other present or future event relating to Obligations whether under this Agreement or otherwise or any right to challenge or question any of the above and waives any defenses of such Guarantor which might arise as a result of such actions.

10.8. Application of Proceeds. Agent may at any time and from time to time (whether prior to or after the revocation or termination of this Agreement) without the consent of, or notice to, any Guarantor, and without incurring responsibility to any Guarantor or impairing or releasing the Obligations, apply any sums by whomsoever paid or howsoever realized to any Obligations regardless of what Obligations remain unpaid.

10.9. Continuing Effectiveness.

(A) Reinstatement. The Guaranty provisions herein contained shall continue to be effective or be reinstated, as the case may be, if claim is ever made upon Agent or any other Secured Party for repayment or recovery of any amount or amounts received by such Person in payment or on account of any of the Obligations and such Person repays all or part of said amount for any reason whatsoever, including, without limitation, by reason of any judgment, decree or order of any court or administrative body having jurisdiction over such Person or the respective property of each, or any settlement or compromise of any claim effected by such Person with any such claimant (including any Note Party); and in such event each Guarantor hereby agrees that any such judgment, decree, order, settlement or compromise or other circumstances shall be binding upon such Guarantor, notwithstanding any revocation hereof or the cancellation of any note or other instrument evidencing any Obligation, and each Guarantor shall be and remain liable to Agent and/or the other Secured Parties for the amount so repaid or recovered to the same extent as if such amount had never originally been received by such Person(s).

(B) No Marshalling. Agent shall not be required to marshal any assets in favor of any Guarantor, or against or in payment of Obligations.

(C) Priority of Claims. No Guarantor shall be entitled to claim against any present or future security held by Agent from any Person for Obligations in priority to or equally with any claim of Agent, or assert any claim for any liability of any Note Party to any Guarantor in priority to or equally with claims of Agent for Obligations, and no Guarantor shall be entitled to compete with Agent with respect to, or to advance any equal or prior claim to any security held by Agent for Obligations.

(D) Invalidated Payments. If any Note Party makes any payment to Agent, which payment is wholly or partly subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to any Person under any federal or provincial statute or at common law or under equitable principles, then to the extent of such payment, the Obligation intended to be paid shall be revived and continued in full force and effect as if the payment had not been made, and the resulting revived Obligation shall continue to be guaranteed, uninterrupted, by each Guarantor hereunder.

(E) Assignment and Waiver. All present and future monies payable by any Note Party to any Guarantor, whether arising out of a right of subrogation or otherwise, are assigned to Agent for its benefit and for the ratable benefit of the other Secured Parties as security for such Guarantor's liability to Agent and the other Secured Parties hereunder and, after the occurrence and during the continuance of any Event of Default, each Guarantor waives any right to demand any and all present and future monies payable by any Note Party to such Guarantor, whether arising out of a right of subrogation or otherwise. This assignment and waiver shall only terminate upon payment in full in cash of the Obligations (other than contingent indemnification obligations to the extent no claims giving rise thereto have been asserted by the Person entitled thereto).

(F) Payments to Guarantors. Each Note Party acknowledges the assignment and waiver contained in sub-clause (E) above, and agrees to make no payments to any Guarantor after the occurrence and during the continuance of an Event of Default without the prior written consent of Agent. Each Note Party agrees to give full effect to the provisions hereof.

(G) Limitation of Liability. Agent, other Secured Parties, and each Guarantor hereby confirm that it is the intention of all such Persons that the Guaranty and the obligations of each Guarantor thereunder not constitute a fraudulent transfer or conveyance under any federal, state, provincial or foreign bankruptcy, insolvency, receivership or similar law to the extent applicable to the Guaranty and the obligations of each Guarantor thereunder. To effectuate the foregoing intention, Agent, other Secured Parties and each Guarantor hereby irrevocably agree that the obligations of each Guarantor under the Guaranty at any time shall be limited to the maximum amount as will result in the obligations of such Guarantor under the Guaranty not constituting a fraudulent transfer or conveyance.

(H) Right of Contribution. Each Subsidiary Guarantor hereby agrees that to the extent that a Subsidiary Guarantor shall have paid more than its proportionate share of any payment made hereunder in respect of the Obligations of such Guarantor under the Guaranty contained in this Section 10, such Subsidiary Guarantor shall be entitled to seek and receive contribution from and against any other applicable Subsidiary Guarantor hereunder which has not paid its proportionate share of such payment in respect of the Obligations of such Guarantor under the Guaranty contained in this Section 10. Each Subsidiary Guarantor's right of contribution shall be subject to the terms and conditions of Section 10.9(E). The provisions of this Section 10.9 shall in no respect limit the obligations and liabilities of any Subsidiary Guarantor to the Secured Parties, and each Subsidiary Guarantor shall remain liable to the Secured Parties, for the full amount guaranteed by such Subsidiary Guarantor hereunder.

10.10. Enforcement. Upon the occurrence and during the continuance of any Event of Default, Agent may, and upon written request of the Requisite Purchasers shall, without notice to or demand upon any Note Party or any other Person, declare any obligations of such Guarantor hereunder immediately due and payable, and shall be entitled to enforce the obligations of each Guarantor. Upon such declaration by Agent, and subject to Section 9.5, Agent and the other Secured Parties are hereby authorized at any time and from time to time to set-off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by Agent or the other Secured Parties to or for the credit or the account of any Guarantor against any and all of the obligations of each Guarantor now or hereafter existing hereunder, whether or not Agent or the other Secured Parties shall have made any demand hereunder against any other Note Party and although such obligations may be contingent and unmatured. The rights of Agent and the other Secured Parties hereunder are in addition to other rights and remedies (including other rights of set-off) which Agent and the other Secured Parties may have. Upon such declaration by Agent, with respect to any claims (other than those claims referred to in the immediately preceding paragraph) of any Guarantor against any Note Party (the "Claims"), Agent shall have the full right on the part of Agent in its own name or in the name of such Guarantor to collect and enforce such Claims by legal action, proof of debt in bankruptcy or other liquidation proceedings, vote in any proceeding for the arrangement of debts at any time proposed, or otherwise, Agent and each of its officers being hereby irrevocably constituted attorneys-in-fact for each Guarantor for the purpose of such enforcement and for the purpose of endorsing in the name of each Guarantor any instrument for the payment of money. Upon such declaration by Agent, each Guarantor will receive as trustee for Agent and will pay to Agent forthwith upon receipt thereof any amounts which such Guarantor may receive from any Note Party on account of the Claims. Each Guarantor agrees that no payment on account of the Claims or any security interest therein shall be created, received, accepted or retained during the continuance of any Event of Default nor shall any financing statement be filed with respect thereto by any Guarantor.

10.11. Statute of Limitations. Any acknowledgment or new promise, whether by payment of principal or interest or otherwise and whether by any Note Party or others with respect to any of the Obligations shall, if the statute of limitations in favor of any Guarantor against Agent or the Purchasers shall have commenced to run, toll the running of such statute of limitations and, if the period of such statute of limitations shall have expired, prevent the operation of such statute of limitations.

10.12. Interest. All amounts due, owing and unpaid from time to time by any Guarantor hereunder shall bear interest at the interest rate per annum then chargeable with respect to the Notes.

10.13. Acknowledgement. Each Guarantor acknowledges receipt of a copy of each of this Agreement and the other Note Documents. Each Guarantor has made an independent investigation of the Note Parties and of the financial condition of the Note Parties. Neither Agent nor any other Secured Party has made and neither Agent nor any other Secured Party does make any representations or warranties as to the income, expense, operation, finances or any other matter or thing affecting any Note Party nor has Agent or any other Secured Party made any representations or warranties as to the amount or nature of the Obligations of any Note Party to which this Section 10 applies as specifically herein set forth, nor has Agent or any other Secured Party or any officer, agent or employee of Agent or any other Secured Party or any representative thereof, made any other oral representations, agreements or commitments of any kind or nature, and each Guarantor hereby expressly acknowledges that no such representations or warranties have been made and such Guarantor expressly disclaims reliance on any such representations or warranties.

10.14. Continuing Effectiveness. The provisions of this Section 10 shall remain in effect until the payment in full in cash of all Obligations (other than contingent indemnification obligations to the extent no claims giving rise thereto have been asserted by the Person entitled thereto) and shall be subject to reinstatement as set forth in Section 10.9. Payments received from Guarantors pursuant to this Section 10 shall be applied in accordance with Section 8.7.

SECTION 11. MISCELLANEOUS

11.1. Expenses and Attorneys' Fees. Whether or not the transactions contemplated hereby shall be consummated, each Note Party agrees to promptly pay all reasonable and documented: (a) fees, costs and expenses incurred by Agent and the Purchasers (including reasonable attorneys' fees and expenses) in connection with the examination, review, due diligence investigation, documentation and closing of the financing arrangements evidenced by the Note Documents; (b) fees, costs and expenses incurred by Agent and the Purchasers (including reasonable attorneys' fees and expenses) incurred in connection with the review, negotiation, preparation, documentation, execution and administration of the Note Documents, the Notes, and any amendments, waivers, consents, forbearances and other modifications relating thereto or any subordination or intercreditor agreements, including reasonable documentation charges assessed by Agent and the Purchasers for amendments, waivers, consents and any other related documentation; (c) fees, costs and expenses (including reasonable attorneys' fees and expenses) incurred by Agent and any Purchaser in creating, perfecting and maintaining perfection of Liens in favor of Agent, on behalf of Agent and Secured Parties; (d) fees, costs and expenses incurred by Agent in connection with forwarding to the Borrower the proceeds of the Notes including Agent's or any Purchasers' standard wire transfer fee; (e) fees, costs, expenses and bank charges, including bank charges for returned checks, incurred by Agent and any Purchaser in establishing, maintaining and handling lock box accounts, blocked accounts or other accounts for collection of the Collateral; and (f) fees, costs, expenses (including reasonable attorneys' fees and expenses) of Agent and any Purchaser and costs of settlement incurred in collecting upon or enforcing rights against the Collateral or incurred in any action to enforce this Agreement or the other Note Documents or to collect any payments due from the Borrower or any other Note Party under this Agreement or any other Note Document or incurred in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement, whether in the nature of a "workout" or in connection with any insolvency or bankruptcy proceedings or otherwise. All such fees, costs and expenses shall be part of the Obligations, payable on demand and secured by the Collateral.

11.2. Indemnity. In addition to the payment of expenses pursuant to Section 11.1, whether or not the transactions contemplated hereby shall be consummated, each Note Party agrees to indemnify, pay and hold Agent, each Purchaser, and the officers, directors, employees, agents, consultants, auditors, persons engaged by Agent or any Purchaser, to evaluate or monitor the Collateral, Affiliates and attorneys of Agent, each Purchaser and such holders (collectively called the "Indemnitees") harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnitee shall be designated a party thereto) that may be imposed on, incurred by, or asserted against that Indemnitee, in any manner relating to or arising out of this Agreement or the other Note Documents, the consummation of the transactions contemplated by this Agreement, the statements contained in the commitment letters, if any, delivered by Agent or any Purchaser, Agent's and each Purchaser's agreement to purchase the Notes hereunder, the use or intended use of the proceeds of any of the Notes or the exercise of any right or remedy hereunder or under the other Note Documents, including, without limitation any actual or alleged presence or release of Hazardous Materials on or from any property owned, occupied or operated by the Borrower or any of its Subsidiaries, or any environmental liability related in any way to the Borrower or any of its Subsidiaries or any of their respective properties (the "Indemnified Liabilities"); provided that no Note Party shall have any obligation to any Indemnitee hereunder with respect to Indemnified Liabilities arising from the gross negligence or willful misconduct of that Indemnitee as determined by a final non-appealable judgment by a court of competent jurisdiction. For the avoidance of doubt, this Section 11.2 shall not apply with respect to Charges (which, solely for the purpose of this Section 11.2, shall include Excluded Taxes) other than Charges that represent losses, liabilities, damages, etc. with respect to indemnity payments on a non-Charge claim**.** Payments under this Section 11.2 shall be made by the Borrower to the Agent for the benefit of the relevant Indemnitee.

11.3. Notices. Unless otherwise specifically provided herein, all notices shall be in writing addressed to the respective party as set forth on Schedule 11.3 (or (i) with any respect to any Purchaser not party hereto on the Third A&R Effective Date, in an Assignment and Assumption Agreement or in a notice to Agent and Borrower or (ii) to such other address as the party addressed shall have previously designated by written notice to the serving party, given in accordance with this Section 11.3) and may be personally served, faxed, sent by overnight courier service or United States mail, or, to the extent acceptable to the Agent, e-mail; and notices shall be deemed to have been given: (a) if delivered in person, when delivered; (b) if delivered by fax, upon sender's receipt of confirmation of proper transmission on the date of transmission if transmitted on a Business Day before 4:00 p.m. New York City time or, if not, on the next succeeding Business Day; (c) if delivered by overnight courier, two (2) days after delivery to such courier properly addressed; (d) if delivered by U.S. Mail, four (4) Business Days after depositing in the United States mail, with postage prepaid and properly addressed; or (e) if delivered by e-mail, upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement).

11.4. Survival of Representations and Warranties and Certain Agreements. All agreements, representations and warranties made herein shall survive the execution and delivery of this Agreement and the purchase of the Notes hereunder. Notwithstanding anything in this Agreement or implied by law to the contrary, the agreements of each Note Party, Agent, and Purchasers set forth in Sections 2.7, 9.1(E), 10.9(A), 10.9(D), 11.1, 11.2, 11.6, 11.13, 11.14, and 11.15 shall survive the payment of the Notes and the termination of this Agreement.

11.5. Indulgence Not Waiver. No failure or delay on the part of Agent, any Purchaser or any holder of any Note in the exercise of any power, right or privilege hereunder or under any Note shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege.

11.6. Marshaling; Payments Set Aside. Neither Agent nor any Purchaser shall be under any obligation to marshal any assets in favor of any Note Party or any other party or against or in payment of any or all of the Obligations. To the extent that any Note Party makes a payment or payments to Agent and/or any Purchaser or Agent and/or any Purchaser enforces its security interests or exercises its rights of set-off, and such payment or payments or the proceeds of such enforcement or set-off or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state, provincial or federal law, common law or equitable cause, then to the extent of such recovery, the Obligations or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or set-off had not occurred.

11.7. Entire Agreement. This Agreement and the other Note Documents embody the entire agreement among the parties hereto and supersede all prior commitments, agreements, representations, and understandings, whether written or oral, relating to the subject matter hereof, and may not be contradicted or varied by evidence of prior, contemporaneous, or subsequent oral agreements or discussions of the parties hereto.

11.8. Severability. The invalidity, illegality or unenforceability in any jurisdiction of any provision in or obligation under this Agreement or the other Note Documents shall not affect or impair the validity, legality or enforceability of the remaining provisions or obligations under this Agreement or the other Note Documents. In the event of any such invalidity, illegality, or unenforceability, the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

11.9. Purchasers' Obligations Several; Independent Nature of Purchasers' Rights. The obligation of each Purchaser hereunder is several and not joint and neither Agent nor any Purchaser shall be responsible for the obligation of any other Purchaser hereunder. Nothing contained in any Note Document and no action taken by Agent or any Purchaser pursuant hereto or thereto shall be deemed to constitute Purchasers to be a partnership, an association, a joint venture or any other kind of entity.

11.10. Headings. Section and subsection headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect.

11.11. APPLICABLE LAW. THIS AGREEMENT AND THE OTHER NOTE DOCUMENTS SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK, EXCEPT TO THE EXTENT ANY SUCH OTHER NOTE DOCUMENT EXPRESSLY SELECTS THE LAW OF ANOTHER JURISDICTION AS GOVERNING LAW THEREOF, IN WHICH CASE THE LAW OF SUCH OTHER JURISDICTION SHALL GOVERN.

11.12. Successors and Assigns.

(A) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither the Borrower nor any other Note Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of Agent and each Purchaser. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, the Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(B) Assignments by Purchasers. Any Purchaser may at any time assign to one or more Persons all or a portion of its rights and obligations under this Agreement (including all or a portion of its Notes at the time owing to it) with the prior written consent of B. Riley. The parties to each assignment shall execute and deliver to Agent an Assignment and Assumption Agreement. The assignment shall have been recorded in the Register in accordance with paragraph (C) of this subsection.

Subject to acceptance and recording thereof by Agent pursuant to paragraph (C) of this subsection, from and after the effective date specified in each Assignment and Assumption Agreement, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption Agreement, have the rights and obligations of a Purchaser under this Agreement, and the assigning Purchaser thereunder shall, to the extent of the interest assigned by such Assignment and Assumption Agreement, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption Agreement covering all of the assigning Purchaser's rights and obligations under this Agreement, such Purchaser shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 11.1 and 11.2 with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by a Purchaser of rights or obligations under this Agreement that does not comply with this paragraph shall be null and void.

(C) Register. Agent, acting solely for this purpose as an agent of the Borrower, shall maintain a copy of each Assignment and Assumption Agreement delivered to it and a register for the recordation of the names and addresses of the Purchasers and principal amounts (and related interest amounts) of the Notes owing to, each Purchaser pursuant to the terms hereof from time to time (the "Register"). Notwithstanding anything to the contrary herein or in the Note Documents, the entries in the Register shall be conclusive absent manifest error, and each Note Party, Agent and the Purchasers shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Purchaser and the owner of the amounts owing to it under the Note Documents as reflected in the Register for all purposes of the Note Documents. The Register shall be available for inspection by the Borrower and any Purchaser, at any reasonable time and from time to time upon reasonable prior notice. This Section 11.12 shall be construed so that the Notes are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2), and 881(c)(2) of the IRC.

(D) Security Interests. Notwithstanding any other provision set forth in this Agreement, any Purchaser may at any time following written notice to Agent pledge the Obligations held by it or create a security interest in all or any portion of its rights under this Agreement or the other Note Documents in favor of any Person; provided, however (a) no such pledge or grant of security interest to any Person shall release such Purchaser from its obligations hereunder or under any other Note Document and (b) the acquisition of title to such Purchaser's Obligations pursuant to any foreclosure or other exercise of remedies by such Person shall be subject to the provisions of this Agreement and the other Note Documents in all respects including, without limitation, any consent required by this Section 11.12.

11.13. No Fiduciary Relationship; No Duty; Limitation of Liabilities.

(A) No Fiduciary Relationship. No provision in this Agreement or in any of the other Note Documents and no course of dealing between the parties shall be deemed to create any fiduciary duty by Agent or any Purchaser to any Note Party.

(B) No Duty. All attorneys, accountants, appraisers, and other professional Persons and consultants retained by Agent or any Purchaser shall have the right to act exclusively in the interest of Agent or such Purchaser and shall have no duty of disclosure, duty of loyalty, duty of care, or other duty or obligation of any type or nature whatsoever to any Note Party or any of any Note Party's shareholders or any other Person.

(C) Limitation of Liabilities. Neither Agent nor any Purchaser, nor any Affiliate, officer, director, shareholder, employee, attorney, or agent of Agent or any Purchaser shall have any liability with respect to, and each Note Party hereby waives, releases, and agrees not to sue any of them upon, any claim for any special, indirect, incidental, or consequential damages suffered or incurred by each Note Party in connection with, arising out of, or in any way related to, this Agreement or any of the other Note Documents, or any of the transactions contemplated by this Agreement or any of the other Note Documents. Each Note Party hereby waives, releases, and agrees not to sue Agent or any Purchaser or any of Agent's or any Purchaser's Affiliates, officers, directors, employees, attorneys, or agents for punitive damages in respect of any claim in connection with, arising out of, or in any way related to, this Agreement or any of the other Note Documents, or any of the transactions contemplated by this Agreement or any of the transactions contemplated hereby.

11.14. CONSENT TO JURISDICTION. EACH NOTE PARTY, AGENT AND EACH PURCHASER HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN THE COUNTY OF NEW YORK, STATE OF NEW YORK AND IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE OTHER NOTE DOCUMENTS SHALL BE LITIGATED IN SUCH COURTS; PROVIDED THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT AGENT'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. EACH NOTE PARTY, AGENT AND EACH PURCHASER EXPRESSLY SUBMITS AND CONSENTS TO THE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS. EACH NOTE PARTY, AGENT AND EACH PURCHASER HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE UPON SUCH PERSON BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO SUCH PERSON, AT THE ADDRESS SET FORTH IN THIS AGREEMENT AND SERVICE SO MADE SHALL BE COMPLETE TEN (10) DAYS AFTER THE SAME HAS BEEN POSTED.

11.15. WAIVER OF JURY TRIAL. EACH NOTE PARTY, AGENT AND EACH PURCHASER HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT AND THE OTHER NOTE DOCUMENTS. EACH NOTE PARTY, AGENT AND EACH PURCHASER ACKNOWLEDGE THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS RELIED ON THE WAIVER IN ENTERING INTO THIS AGREEMENT AND THE OTHER NOTE DOCUMENTS AND THAT EACH WILL CONTINUE TO RELY ON THE WAIVER IN THEIR RELATED FUTURE DEALINGS. EACH NOTE PARTY, AGENT AND EACH PURCHASER WARRANT AND REPRESENT THAT EACH HAS HAD THE OPPORTUNITY OF REVIEWING THIS JURY WAIVER WITH LEGAL COUNSEL, AND THAT EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS.

11.16. Construction. Each Note Party, Agent and each Purchaser each acknowledge that it has had the benefit of legal counsel of its own choice and has been afforded an opportunity to review this Agreement and the other Note Documents with its legal counsel. This Agreement and the other Note Documents shall be construed as if jointly drafted by Note Parties, Agent and each Purchaser.

11.17. Counterparts; Effectiveness. This Agreement and any amendments, waivers, consents, or supplements may be executed via facsimile or other electronic method of transmission in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all of which counterparts together shall constitute one and the same instrument. This Agreement shall become effective upon the execution of a counterpart hereof by each of the parties hereto.

11.18. Confidentiality. Agent and each Purchaser agree to use commercially reasonable efforts to keep confidential any non-public information delivered pursuant to the Note Documents and identified as such by Note Parties and not to disclose such information to Persons other than to: its respective Affiliates, officers, directors and employees; or its potential assignees or financing sources (subject to an agreement containing provisions substantially the same as those of this Section 11.18); or Persons employed by or engaged by Agent, a Purchaser or a Purchaser's assignees, financing sources including, without limitation, attorneys, auditors, professional consultants, rating agencies, and portfolio management services (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such information and instructed to keep such information confidential). The confidentiality provisions contained in this subsection shall not apply to disclosures (a) required to be made by Agent or any Purchaser to, or requested to be made by, any regulatory or governmental agency or pursuant to legal process, (b) to effect compliance with any law, rule, regulation or order applicable to the Agent or such Purchaser, (c) consisting of general portfolio information that does not identify any Note Party, (d) with the Borrower's prior written consent, (e) to the extent such information presently is or hereafter becomes (i) publicly available other than as a result of a breach of this Section 11.18 or (ii) available to Agent, Purchaser, or any of their respective Affiliates, officers, or directors, as the case may be, from a source (other than any Note Party) not known by them to be subject to disclosure restrictions, (f) to any other party hereto, and (g) in connection with the exercise or enforcement of any right or remedy under any Note Document, in connection with any litigation or other proceeding to which such Agent or Purchaser is a party or bound, or to the extent necessary to respond to public statements or disclosures by the Note Parties referring to Agent, a Purchaser, or any of their Affiliates, officers, or directors. The obligations of Agent and Purchasers under this Section 11.18 shall supersede and replace the obligations of Agent and Purchasers under any confidentiality agreement in respect of this financing executed and delivered by Agent or any Purchaser prior to the date hereof. In no event shall Agent or any Purchaser be obligated or required to return any materials furnished by Note Parties; provided, however, each potential assignee shall be required to agree that if it does not become an assignee it shall return all materials furnished to it by Note Parties in connection herewith.

Notwithstanding the foregoing, and notwithstanding any other express or implied agreement or understanding to the contrary, each of the parties hereto and their respective employees, representatives, and other agents are authorized to disclose the tax treatment and tax structure of these transactions to any and all persons, without limitation of any kind. Each of the parties hereto may disclose all materials of any kind (including opinions or other tax analyses) insofar as they relate to the tax treatment and tax structure of the transactions contemplated by the Note Documents. This authorization does not extend to disclosure of any other information including (without limitation) (a) the identities of participants or potential participants in the transactions; (b) the existence or status of any negotiations; (c) any pricing or other financial information; or (d) any other term or detail not related to the tax treatment and tax structure of the transactions contemplated by the Note Documents.

11.19. Publication. Each Note Party consents to the publication by Agent of a tombstone or similar advertising material relating to the financing transactions contemplated by this Agreement. Agent and Purchasers reserve the right to provide industry trade organizations information necessary and customary for inclusion in league table measurements.

11.20. USA PATRIOT Act Notice. Each Purchaser and Agent (for itself and not on behalf of any Purchaser) hereby notifies each Note Party that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Note Party and each of its Subsidiaries, which information includes the names and addresses of each Note Party and each of its Subsidiaries and other information that will allow such Purchaser or Agent, as applicable, to identify each Note Party and each of its Subsidiaries in accordance with the USA PATRIOT Act.

11.21. Agent for Service of Process. Each Note Party hereby appoints Borrower (the "Process Agent") as its agent to receive and forward on its behalf, and in respect of its property, service of any and all legal process, summons, notices and documents which may be served in any action or proceeding in the state courts sitting in the city of New York, New York, United States of America or the United States District Court for the Southern District of New York and agrees that (x) service in such manner shall, to the fullest extent permitted by law, be deemed effective service of process upon it in any such suit, action or proceeding and (y) the failure of the Process Agent to give any notice of any such service of process to it shall not impair or affect the validity of such service or, to the extent permitted by applicable law, the enforcement of any judgment based thereon. If for any reason such Process Agent shall cease to be available to act as such, each Note Party agrees to designate a new Process Agent in the city of New York (and notify the Agent of such designation), on the terms and for the purposes of this provision, provided, however, that the new Process Agent shall have accepted such designation in writing before the termination of the appointment of the prior Process Agent. Each Note Party further consents to the service of process or summons by certified or registered mail, postage prepaid, return receipt requested, directed to it at its address specified in Section 11.3 hereof. Nothing herein shall in any way be deemed to limit the ability of the Agent to serve legal process in any other manner permitted by applicable law or to obtain jurisdiction over any other Person in such other jurisdictions, and in such manner, as may be permitted by applicable law.

11.22. Purchase for Investment; ERISA.

(A) Each Purchaser, severally and not jointly, represents and warrants (i) that it has received all information necessary or appropriate to decide whether to acquire the Notes to be issued to it pursuant hereto, (ii) that it will acquire such Notes for its own account for investment and not for resale or distribution in any manner that would violate applicable securities laws, but without prejudice to its rights to dispose of such Notes or a portion thereof to a transferee or transferees, in accordance with such laws and Section 11.12 if at some future time it deems it advisable to do so, (iii) that it is an "accredited investor" as such term is defined in Regulation D of the Commission under the Securities Act and has such knowledge, skill and experience in business and financial matters, based on actual participation, that it is capable of evaluating the merits and risks of an investment in the Notes and the suitability thereof as an investment for such Purchaser, and can bear the economic risk of its investment in the Notes, and (iv) neither it nor anyone authorized by it to do so on its behalf (A) has directly or indirectly offered any beneficial interest or security (as defined in Section 2(a)(1) of the Securities Act) relating to the Notes for sale to, or solicited any offer to acquire any such interest or security from, or has sold any such interest or security to, any Person in violation of the registration provisions of the Securities Act, (B) has taken any action that would subject any such interest or security to the registration requirements of Section 5 thereof, or the registration or qualification provisions of any applicable blue sky or other securities law, and (C) will directly or indirectly make any such offer, solicitation or sale in violation of such registration provisions of the Securities Act, or the registration or qualification provisions of any applicable blue sky or other securities law. The acquisition of such Notes by each Purchaser at each purchase of notes hereunder shall constitute its confirmation of the foregoing representations and warranties. Each Purchaser understands that such Notes are being sold to it in a transaction which is exempt from the registration requirements of the Securities Act, and that, in making the representations and warranties contained in Section 4.13, the Borrower is relying, to the extent applicable, upon such Purchaser's representations and warranties contained herein.

(B) Each Purchaser represents that at least one of the following statements is an accurate representation as to each source of funds (a "Source") used by such Purchaser to pay the purchase price of the Notes purchased by such Purchaser hereunder:

(1) the Source is an "insurance company general account" as defined in Section V(e) of Prohibited Transaction Exemption ("PTE") 95-60 (issued July 12, 1995) and, except as such Purchaser has disclosed to the Borrower in writing pursuant to this subsection (1), the amount of reserves and liabilities for the general account contract(s) held by or on behalf of any employee benefit plan or group of plans maintained by the same employer or employee organization do not exceed 10% of the total reserves and liabilities of the general account (exclusive of separate account liabilities) plus surplus as set forth in the NAIC Annual Statement filed with the state of domicile of the insurer; or

(2) the Source is a separate account of an insurance company maintained by such Purchaser in which an employee benefit plan (or its related trust) has an interest, which separate account is maintained solely in connection with its fixed contractual obligations under which the amounts payable, or credited, to such plan and to any participant or beneficiary of such plan (including any annuitant) are not affected in any manner by the investment performance of the separate account; or

(3) the Source is either (A) an insurance company pooled separate account, within the meaning of PTE 90-1 (issued January 29, 1990), or (B) a bank collective investment fund, within the meaning of the PTE 91-38 (issued July 12, 1991) and, except as such Purchaser has disclosed to the Borrower in writing pursuant to this subsection (3), no employee benefit plan or group of plans maintained by the same employer or employee organization beneficially owns more than 10% of all assets allocated to such pooled separate account or collective investment fund; or

(4) the Source constitutes assets of an "investment fund" (within the meaning of Part VI of PTE 84-14 (the "QPAM Exemption")) managed by a "qualified professional asset manager" or "QPAM" (within the meaning of Part VI of the QPAM Exemption), no employee benefit plan's assets that are managed by the QPAM in such investment fund, when combined with the assets of all other employee benefit plans established or maintained by the same employer or by an affiliate (within the meaning of Part VI(c)(1) of the QPAM Exemption) of such employer or by the same employee organization and managed by such QPAM, represent more than 20% of the total client assets managed by such QPAM, the conditions of Part I(c) and (g) of the QPAM Exemption are satisfied, neither the QPAM nor a person controlling or controlled by the QPAM maintains an ownership interest in the Borrower that would cause the QPAM and such Borrower to be "related" within the meaning of Part VI(h) of the QPAM Exemption and (i) the identity of such QPAM and (ii) the names of any employee benefit plans whose assets in the investment fund, when combined with the assets of all other employee benefit plans established or maintained by the same employer or by an affiliate (within the meaning of Part VI(c)(1) of the QPAM Exemption) of such employer or by the same employee organization, represent 10% or more of the assets of such investment fund, have been disclosed to the Borrower in writing pursuant to this clause (4); or

(5) the Source constitutes assets of a "plans(s) (within the meaning of Part IV(h) of PTE 96-23 (the "INHAM Exemption") managed by an "in-house asset manager" or "INHAM" (within the meaning of Part IV(a) of the INHAM Exemption), the conditions of Part I(a), (g) and (h) of the INHAM Exemption are satisfied, neither the INHAM nor a person controlling or controlled by the INHAM (applying the definition of "control" in Part IV(d)(3) of the INHAM Exemption) owns a 10% or more interest in the Companies and (A) the identity of such INHAM and (B) the name(s) of the employee benefit plan(s) whose assets constitute the Source have been disclosed to the Companies in writing pursuant to this Section 11.25(B)(5); or

(6) the Source is a governmental plan; or

(7) the Source is one or more employee benefit plans, or a separate account or trust fund comprised of one or more employee benefit plans, each of which has been identified to the Borrower in writing pursuant to this Section 11.25(B)(7); or

(8) the Source does not include assets of any employee benefit plan, other than a plan exempt from the coverage of ERISA.

As used in this Section 11.22, the terms "employee benefit plan", "governmental plan" and "separate account" shall have the respective meanings assigned to such terms in Section 3 of ERISA, and the term "QPAM Exemption" means PTE 84-14 (issued March 13, 1984, as amended).

11.23. Amendment and Restatement. Effective immediately upon the Third A&R Effective Date, the terms and conditions of the Existing Note Purchase Agreement shall be amended and restated as set forth herein and the Existing Note Purchase Agreement shall be superseded by this Agreement. On the Third A&R Effective Date, the rights and obligations of the parties evidenced by the Existing Note Purchase Agreement shall be evidenced by this Agreement and the other Note Documents and the grant of security interests and Liens in the Collateral under the Existing Note Purchase Agreement and the other "Note Documents" (as defined in the Existing Note Purchase Agreement) by the Borrower and the Guarantors party thereto shall continue under this Agreement and the other Note Documents, and shall not in any event be terminated, extinguished or annulled but shall hereafter continue to be in full force and effect and be governed by this Agreement and the other Note Documents. All Obligations (as defined in the Existing Note Purchase Agreement) under the Existing Note Purchase Agreement and the other "Note Documents" (as defined in the Existing Note Purchase Agreement) shall continue to be outstanding except as expressly modified by this Agreement and shall be governed in all respects by this Agreement and the other Note Documents, it being agreed and understood that this Agreement does not constitute a novation, satisfaction, payment or reborrowing of any Obligation (as defined in the Existing Note Purchase Agreement) under the Existing Note Purchase Agreement or any other "Note Document" (as defined in the Existing Note Purchase Agreement), nor does it operate as a waiver of any right, power or remedy of any Purchaser under any "Note Document" (as defined in the Existing Note Purchase Agreement). All references to the Existing Note Purchase Agreement in any Loan Document or other document or instrument delivered in connection therewith shall be deemed to refer to this Agreement and the provisions hereof.

[*Signature pages follow*]

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

NOTE PARTIES:

The Arena Group Holdings, Inc., formerly known as TheMaven, Inc., as the Borrower

By: */s/ Douglas B. Smith*
Name: Douglas B. Smith
Title: Chief Financial Officer

The Arena Platform, Inc., formerly known as Maven Coalition, Inc., as a Guarantor

By: */s/ Douglas B. Smith*
Name: Douglas B. Smith
Title: Secretary and Treasurer

THESTREET, INC. (as successor by merger to TST ACQUISITION CO, INC.), as a Guarantor

By: */s/ Douglas B. Smith*
Name: Douglas B. Smith
Title: Chief Financial Officer, Secretary and Treasurer

THE ARENA MEDIA BRANDS, LLC, formerly known as Maven Media Brands, LLC, as a Guarantor

By: */s/ Douglas B. Smith*
Name: Douglas B. Smith
Title: Secretary and Treasurer

COLLEGE SPUN MEDIA INCORPORATED, as a Guarantor

By: */s/ Douglas B. Smith*
Name: Douglas B. Smith
Title: Chief Financial Officer, Treasurer and Secretary

ATHLON HOLDINGS, INC., as a Guarantor

By: */s/ Douglas B. Smith*
Name: Douglas B. Smith
Title: Chief Financial Officer, Treasurer and Secretary

ATHLON SPORTS COMMUNICATIONS, INC., as a Guarantor

By: */s/ Douglas B. Smith*
Name: Douglas B. Smith
Title: Chief Financial Officer, Treasurer and Secretary

AGENT AND PURCHASERS:

BRF Finance Co., LLC,
as Agent and a Purchaser

By: */s/ Bryant R. Riley*
Name: Bryant R. Riley
Title: Chief Executive Officer

Schedule I

Purchaser	Original Principal Amount of Original Notes	Original Principal Amount of A&R Notes	Original Principal Amount of First Amendment Notes	Aggregate Outstanding Principal Amount of Existing Notes	BR Finance Co. Letter of Credit Commitment	Delayed Draw Term Note Option	Aggregate Principal Amount of Delayed Draw Term Notes on the Third A&R Effective Date	Original Principal Amount of Third A&R Notes
BRF Finance Co., LLC 299 Park Avenue 21st Floor New York, NY 10171	$2,692,634.91	$48,000,000	$ 3,000,000	$ 62,690,753	$ 3,024,232	$12,000,000	$9,928,001	$36,000,000

Exhibit 10.2

SIXTH AMENDMENT TO FINANCING AND SECURITY AGREEMENT

This **SIXTH AMENDMENT TO FINANCING AND SECURITY AGREEMENT** (this "Amendment") is made and entered into as of December 15, 2022, by and among THE ARENA PLATFORM, INC., a Delaware corporation, formerly known as Maven Coalition, Inc. ("Platform"), THE ARENA GROUP HOLDINGS, INC., a Delaware corporation, formerly known as TheMaven, Inc. ("Holdings"), THE ARENA MEDIA BRANDS, LLC, a Delaware limited liability company, formerly known as Maven Media Brands, LLC ("Brands"), THESTREET, INC., a Delaware corporation ("TSI"), COLLEGE SPUN MEDIA INCORPORATED, a New Jersey corporation ("Spun"), ATHLON HOLDINGS, INC., a Tennessee corporation ("AHI"), and ATHLON SPORTS COMMUNICATIONS, INC., a Tennessee corporation ("ASC" and together with Platform, Holdings, Brands, TSI, Spun, and AHI, collectively, jointly and severally, "Borrowers" and each a "Borrower"), and SLR DIGITAL FINANCE LLC, formerly known as Fast Pay Partners LLC ("Lender").

WHEREAS, pursuant to that certain Financing and Security Agreement, made and entered into on February 6, 2020, by and among Initial Borrowers and FPP Finance LLC (as amended, restated, supplemented or otherwise modified from time to time, the "FSA"); capitalized terms used herein without definition shall have the respective meanings assigned to such terms in the FSA;

WHEREAS, on or about April 30, 2021, FPP Finance LLC assigned all of its rights, interests and obligations in the FSA and related documents to Lender (the "Loan Assignment");

WHEREAS, pursuant to the FSA, Lender has extended credit to Borrowers upon the terms and subject to the conditions set forth therein; and

WHEREAS, Borrowers have requested that Lender amend the FSA in accordance with the terms of this Amendment.

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

1. All capitalized terms not otherwise defined herein shall have their respective meanings as set forth in the FSA. This Amendment and the terms and provisions hereof, are incorporated in their entirety into the FSA by reference. In the event of any conflict between this Amendment and the FSA, the terms of this Amendment shall prevail.

2. Amendments to the Financing Agreement.

a. The *General Rates and Fees* box on the first page of the FSA is hereby amended by deleting such box in its entirety and replacing it with the following:

GENERAL RATES AND FEES

The items referenced below are subject to and defined within the provisions of this Agreement:

(a) Maximum Line Amount: Forty Million Dollars ($40,000,000)
(b) Advance Rate: 85% of gross value of Invoices
(c) Minimum Invoice Size: Five thousand dollars ($5,000)
(d) Initial Financing Fee: A flat fee equal to 1/12 multiplied by the Facility Rate, based on the net amount Advanced with respect to any Invoice for a Financed Account (or the net amount Advanced for Advances not tied to any Invoice), for the initial 30-day period
(e) Additional Financing Fee: A monthly rate equivalent to 1/12 multiplied by the Facility Rate, prorated daily on the net amount Advanced outstanding with respect to any Invoice for a Financed Account (or the net amount Advanced outstanding for Advances not tied to any Invoice), commencing on day 31. For the purposes of this Agreement, "**Facility Rate**" means the sum of: (x) the **Prime Rate** plus (y) **4.00%** per annum.
(f) Misdirected Payment Fee: Repayment of all Advances must be paid by the Account Debtor directly to Lender. In the event an Account Debtor fails to pay Lender directly, Lender will provide Borrower a grace period of five (5) business days to notify Lender of any Misdirected Payment and to forward the full amount of the Misdirected Payment to Lender otherwise Borrower may be assessed a Misdirected Payment Fee equaling 20% of the amount of such payment.
(g) Concentration Limit: The percentage of any debt from a single Account Debtor over the total amount outstanding from Borrower's Financed Accounts must remain below 25%. In the event the percentage exceeds the foregoing limit, Lender may exercise its right not to finance more Accounts of said Account Debtor.
(h) Diligence Fee: $50,000. Lender acknowledges prior receipt of such Diligence Fee.
(i) Wire Fee: An amount equal to Thirty-Five Dollars ($35.00) to cover fees and costs associated with incoming and outgoing wire transfers to/from the Lockbox or as between Lender/Borrower.
(j) Termination: Subject to a fee equal to 2.25% of the Maximum Line Amount (the "Early Termination Fee") with respect to any termination of this Agreement prior to December 31, 2024 (inclusive of any termination after an Event of Default and acceleration of the Obligations), Borrower may terminate this Agreement at any time upon 60 days prior written notice to Lender whereupon this Agreement shall terminate upon successful repayment of all outstanding Obligations inclusive of the Early Termination Fee and any amounts due under clauses (k) and (m) below for any period prior to the payment in full of the Obligations.
(k) Minimum Utilization: Borrower shall at all times utilize at least 10% of the Maximum Line Amount. The Financing Fees otherwise set forth herein shall be adjusted to reflect such minimum utilization.
(l) Maturity Date: All Obligations hereunder shall be immediately due and payable on December 31, 2024 (the "Maturity Date"), provided however, that notwithstanding the foregoing, if Borrower fails to achieve the Performance Milestone on or before August 31, 2023, then the Maturity Date will be December 31, 2023 and all references to "Maturity Date" on and after August 30, 2023 shall be deemed to reference December 31, 2023.
(m) Facility Fee: In consideration of Lender's entering into this Agreement, Borrower shall pay to Lender an annual facility fee (the "Facility Fee") of (a) 0.50% (fifty basis points) of the Maximum Line Amount simultaneously with the execution of this Agreement (the "Initial Facility Fee"), and (b) 0.50% (fifty basis points) of the Maximum Line Amount on each anniversary of the date hereof (each, an "Annual Facility Fee"); provided, however, as an accommodation to Borrower, (i) the Initial Facility Fee shall be due and payable in twelve (12) equal monthly installments, commencing on the date hereof and on each subsequent one-month anniversary of the date hereof until paid in full and (b) each Annual Facility Fee shall be due and payable in twelve (12) equal monthly installments, commencing on the first business day of the month immediately following the last installment payment of the Initial Facility Fee and, continuing thereafter, on the first business day of each subsequent month. Notwithstanding the foregoing, the unpaid balance of the Facility Fee shall be payable in full on the earlier of (a) the termination of this Agreement, (b) the Maturity Date, and (c) at Lender's option, upon Lender's declaration of an Event of Default. The entirety of the Facility Fee of 1.00% for the Term is deemed to be fully earned upon the execution of this Agreement.
(n) Performance Fee: If on or before June 30, 2023 Borrower fails to achieve the Performance Milestone, then Borrower shall pay to Lender a performance fee (the "Performance Fee") in the amount of $20,000 which Performance Fee shall be fully earned, due and payable on July 1, 2023.

a. Section 5. Section 5 of the Financing and Security Agreement is hereby amended by adding the following new Sections 5.4 and 5.5:

"5.4. Facility Fees. The Facility Fee, the Annual Facility Fee, and the Initial Facility Fee shall be fully earned and due and payable as set forth in the General Rates and Fees.

5.5. Performance Fee. The Performance shall be fully earned and due and payable as set forth in the General Rates and Fees."

b. Section 8. Section 8 of the Financing and Security Agreement is hereby amended to read as follows:

"8. Clearance Days. The receipt of any item of payment by Lender for the sole purpose of determining availability for borrowing hereunder, subject to final payment of such item, shall be provisionally applied to reduce the Obligations on the date of receipt of such item of payment by Lender; provided however, the receipt of such item of payment by Lender for the calculation of Initial Financing Fee and Additional Financing Fee on the Obligations, shall not be deemed to have been paid to Lender until three (3) business days after the date of Lender's actual receipt of such item of payment. Notwithstanding anything to the contrary contained herein, payments received by Lender after 3:00 p.m. Pacific time shall be deemed to have been received by Lender as of the opening of business on the immediately following business day."

c. Section 12.5. Section 12.5 of the Financing and Security Agreement is hereby amended to read as follows:

12.5. Borrower shall not: (a) create, incur, assume or permit to exist, any lien upon or with respect to any assets in which Lender now or hereafter holds as a security interest; or (b) incur any indebtedness for borrowed money (provided that the payment of interest by the non-cash capitalization thereof or the accretion of principal in lieu of the payment of cash interest shall not be deemed to constitute the incurrence of indebtedness for purposes of this Section 12.5), in the case of clause (a) or clause (b), other than as set forth on Schedule 12.5 attached hereto. With respect to indebtedness not otherwise prohibited by the above-referenced clause (b), Borrower may enter into a Permitted Refinancing.

d. Section 12.11. Section 12.11 of the Financing and Security Agreement is hereby amended by adding the following new clause (e) at the end of such section:

"(e) In the event Borrower is to make any payment in respect of the BRF Indebtedness, Borrower will provide to Lender on or before the date of such payment, a certificate signed by Administrative Borrower's Chief Financial Officer, certifying the amount of such payment, the effective date of such payment and demonstrating compliance with Section 2.02(d) of the Intercreditor Agreement."

e. Section 17. Section 17.1 of the Financing and Security Agreement is hereby amended by deleting the "or" after clause (i) and the "." after clause (j), and adding the following new clause (k) after clause (j):

", or (k) if on or before September 30, 2023 Borrower fails to achieve the Performance Milestone."

f. Section 36. The definitions of "Clearance Days" and "LIBOR Rate" set forth in Section 36 of the Financing and Security Agreement are hereby deleted.

g. Section 36. The definition of "BRF Loan Agreement" in Section 36 of the Financing and Security Agreement is amended by replacing such definition is its entirety with the following:

(f) "BRF Loan Agreement" means that certain Third Amended and Restated Note Purchase Agreement, dated as of December 15, 2022, by and among Parent, the guarantors from time to time party thereto, each of the purchasers from time to time party thereto, and BRF Agent, on behalf of itself and such purchasers, as may be amended, restated, supplemented or otherwise modified from time to time.

h. Section 36. Section 36 of the Financing and Security Agreement is hereby amended by adding the following definitions in the appropriate alphabetical order:

""Annual Facility Fee" – As stated within the General Rates and Fees.

"BRF Obligations" means the "Obligations" as such term is defined in the BRF Loan Agreement as in effect of the Sixth Amendment Effective Date.

"Facility Fee" – As stated within the General Rates and Fees.

"Initial Facility Fee" – As stated within the General Rates and Fees.

"Performance Fee" – As stated within the General Rates and Fees.

"Performance Milestone" means Borrower has achieved (or has caused the achievement of) any of the following: (x) the extension of the maturity date of the Notes (as defined in the BRF Loan Agreement as in effect of the Sixth Amendment Effective Date) to a date no earlier than March 31, 2025, (y) the Permitted Refinancing of the BRF Obligations or (z) the repayment in full of the BRF Obligations.

"Permitted Refinancing" – means a refinancing or renewal of the indebtedness described in Schedule 12.5 so long as:

(a) such refinancing or renewal does not result in an increase in the principal amount of such indebtedness so refinanced, renewed, or extended, other than by the amount of premiums paid thereon and the fees and expenses incurred in connection therewith and by the amount of unfunded commitments with respect thereto,

(b) such refinancing or renewal does not result in a shortening of the final stated maturity of such indebtedness so refinanced or renewed (and in respect of the refinancing or renewal of the BRF Obligations, the final maturity date thereunder may be no earlier than March 31, 2025), nor is such refinancing on terms or conditions that, taken as a whole, are or could reasonably be expected to be materially adverse to the interests of the Lender,

(c) if such indebtedness that is refinanced or renewed was subordinated in right of payment to the Obligations, then the terms and conditions of the refinancing or renewal must include subordination terms and conditions that are satisfactory to Lender,

(d) if such indebtedness that is refinanced or renewed was the subject of an intercreditor agreement, then, to the extent the refinancing or renewal is in the form of secured debt, the terms and conditions of the refinancing or renewal must include an intercreditor agreement in form and substance satisfactory to Lender,

(e) if the subject indebtedness that is refinanced or renewed was unsecured, such refinancing, renewal or extension shall be unsecured,

(f) if such indebtedness that is refinanced or renewed was secured (i) such refinancing or renewal shall be secured by substantially the same or less collateral as secured such refinanced or renewed indebtedness on terms no less favorable to Lender and (ii) the Liens securing such refinancing or renewal shall not have a priority more senior than the Liens securing such indebtedness that is refinanced, renewed or extended, and

(g) such refinancing or renewal is otherwise satisfactory to Lender.

"Prime Rate" means the greater of: (a) six and one quarter percent (6.25%) and (b) the highest rate published from time to time by the Wall Street Journal as the Prime Rate for such day, or, in the event the Wall Street Journal ceases to publish the Prime Rate, the base, reference or other rate then designated by Wells Fargo Bank for general commercial loan reference purposes, it being understood that such rate is a reference rate, not necessarily the lowest, established from time to time, which serves as the basis upon which effective interest rates are calculated for loans making reference thereto (and, if any such announced rate is below zero, then the rate determined pursuant to this clause (b) shall be deemed to be zero). The effective interest rate applicable to undersigned's loans shall change on the date of each change in the Wall Street Journal Prime Rate.

"Sixth Amendment Effective Date" means December 15, 2022."

i. Schedule 12.5. Schedule 12.5 of the Financing and Security Agreement is hereby amended by deleting all columns in respect of: (i) the first loan document described (Amended and Restated Note Purchase Agreement, dated as of June 14, 2020) and (ii) the loan document captioned "Second A&R Note Purchase Agreement, and by adding the following at the end of the first row to said schedule as follows:

Name of Loan Document	Date of Issuance/Document	Holder of Permitted Indebtedness	Maximum Principal Amount May Not Exceed
Third Amended and Restated Note Purchase Agreement, dated as of December 15, 2022.	December 15, 2022; one or more additional borrowings may be incurred from time to time thereafter	BRF Finance Co., LLC and each person who becomes a purchaser under the BRF Loan Agreement	$123,618,754 in principal Amount.

3. CONDITIONS TO EFFECTIVENESS:

This Amendment shall become effective as of the first date upon which each of the following conditions is satisfied (the "Amendment Effective Date"):

a. Documents. Borrowers shall have delivered or caused to be delivered the following documents in form and substance reasonably satisfactory to Lender (and, as applicable, duly executed and dated the Amendment Effective Date or an earlier date satisfactory to Lender):

i. Amendment. A fully executed original of this Amendment.

ii. Payment of Amendment Fee. Payment of an amendment fee in the amount of $10,000, which was fully earned and due and payable on the date Lender charged the same to the Reserve Account.

iii. Third Amended and Restated Note Purchase Agreement. A fully executed copy of the BRF Loan Agreement.

iv. Amendment to Intercreditor Agreement. A fully executed copy of Amendment No. 2 to the Intercreditor Agreement.

v. Payment of Legal Fees. Payment of all legal fees incurred by Lender in connection with this Amendment, which shall be charged by Lender to the Reserve Account.

b. Representations and Warranties. The representations and warranties of each Borrower set forth in the FSA and the other Loan Documents to which such Borrower is a party shall be true and correct in all material respects (or in all respects with respect to any representation or warranty which by its terms is limited as to materiality, in each case, after giving effect to such qualification) on and as of Amendment Effective Date.

c. No Default. Both before and after giving effect to this Amendment and the transactions contemplated thereby, no event shall have occurred or be continuing or would result from the amendments contemplated hereby that would constitute an Event of Default or a default under the FSA or the other Loan Documents.

d. Fees and Expenses. Borrowers shall have paid all documented or invoiced fees, costs and expenses due and payable by Borrowers on or prior to the Amendment Effective Date under the FSA and the other Loan Documents.

4. CONDITION SUBSEQUENT. On or before the date that is 90 days after the Sixth Amendment Effective Date, Borrower shall have delivered to Lender fully executed deposit account control agreements in respect of the deposit accounts maintained by Borrower at JPMorgan Chase Bank with account number ending on 9355 and Wells Fargo Bank, N.A. with account numbers ending on 7030 and 0435, in form and substance satisfactory to Lender. Failure to comply with the foregoing condition subsequent will constitute an immediate Event of Default under the Credit Agreement.

5. MISCELLANEOUS:

a. Ratification, Etc. Except as expressly amended hereby, the FSA and the other Loan Documents are hereby ratified and confirmed in all respects and shall continue in full force and effect. This Amendment and the FSA shall hereafter be read and construed together as a single document, and all references in the FSA or any other Loan Document shall hereafter refer to the FSA as amended by this Amendment.

b. Reaffirmation. Each Borrower hereby (a) ratifies and reaffirms all of its payment and performance obligations, contingent or otherwise, under FSA and any other Loan Document to which it is a party and (b) ratifies and reaffirms its grant of security interests and liens and confirms and agrees that such security interests and liens shall continue in full force and effect and ranks as continuing security for the payment and discharge of the obligations secured thereunder, including, without limitation, all of the Obligations.

c. No Waiver. Nothing contained in this Amendment shall be deemed to (a) constitute a waiver of any default or Event of Default that may hereafter occur or heretofore have occurred and be continuing, (b) except as a result of the amendments expressly set forth in Section I of this Amendment, otherwise modify any provision of the FSA or any other Loan Document, or (c) give rise to any defenses or counterclaims to Lender's right to compel payment of the Obligations when due or to otherwise enforce its rights and remedies under the FSA and the other Loan Documents.

d. Governing Law. THIS AMENDMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF CALIFORNIA.

e. Counterparts; Effectiveness. This Amendment may be executed via facsimile or other electronic method of transmission in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all of which counterparts together shall constitute one and the same instrument.

[Signature Pages Follow]

IN WITNESS WHEREOF, each of the undersigned has duly executed this Sixth Amendment to Financing and Security Agreement as of the date first above written.

BORROWERS:

THE ARENA PLATFORM, INC.,
a Delaware corporation

By: */s/ Douglas B. Smith*
Name: Douglas B. Smith
Title: Secretary and Treasurer

THE ARENA GROUP HOLDINGS, INC.,
a Delaware corporation

By: */s/ Douglas B. Smith*
Name: Douglas B. Smith
Title: Chief Financial Officer

THE ARENA MEDIA BRANDS, LLC,
a Delaware limited liability company

By: */s/ Douglas B. Smith*
Name: Douglas B. Smith
Title: Secretary and Treasurer

THESTREET, INC.

By: */s/ Douglas B. Smith*
Name: Douglas B. Smith
Title: Chief Financial Officer, Secretary and Treasurer

COLLEGE SPUN MEDIA INCORPORATED

By: */s/ Douglas B. Smith*
Name: Douglas B. Smith
Title: Chief Financial Officer, Secretary and Treasurer

ATHLON HOLDINGS, INC.,
a Tennessee corporation

By: */s/ Douglas B. Smith*
Name: Douglas B. Smith
Title: Chief Financial Officer, Treasurer and Secretary

ATHLON SPORTS COMMUNICATIONS, INC., a Tennessee corporation

By: */s/ Douglas B. Smith*
Name: Douglas B. Smith
Title: Chief Financial Officer, Treasurer and Secretary

LENDER:

SLR DIGITAL FINANCE LLC,

By: */s/ Danielle Baldaro*
Name: Danielle Baldaro
Title: SVP, DF Portfolio Manager