

**DRAFT 10/29/2009**

**ASSET PURCHASE AGREEMENT**

**AMONG**

**COYOTES HOCKEY, LLC,**

**ARENA MANAGEMENT GROUP, LLC,**

**COYOTES NEWCO, LLC**

**AND**

**ARENA NEWCO, LLC**

**Dated November \_\_, 2009**

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### **List of Exhibits**

Exhibit A-1	Team Form of Bill of Sale
Exhibit A-2	Arena Form of Bill of Sale
Exhibit B-1	Team Form of Assignment and Assumption Agreement
Exhibit B-2	Arena Form of Assignment and Assumption Agreement
Exhibit C-1	Form of Team Intellectual Property Assignment
Exhibit C-2	Form of Arena Intellectual Property Assignment
Exhibit D	Form of Sale Order
Exhibit E	Form of Partial Lease Assignment Agreement
Exhibit F	Form of Transition Services Agreement
Exhibit G	Form of Transfer of Purchasable Claim

## ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT is entered into as of November \_\_\_, 2009 by and among Coyotes Hockey, LLC, a Delaware limited liability company ("**Team Seller**"), Arena Management Group, LLC, a Delaware limited liability company ("**Arena Seller**" and with Team Seller, each a "**Seller**" and collectively, the "**Sellers**"), Coyotes Newco, LLC, a Delaware limited liability company ("**Team Buyer**"), and Arena Newco, LLC, a Delaware limited liability company ("**Arena Buyer**" and with Team Buyer, each a "**Buyer**" and collectively, the "**Buyers**").

### RECITALS

A. Team Seller is engaged in the operation of a National Hockey League team currently known as the "Phoenix Coyotes" (the "**Team**").

B. Pursuant to the terms of that certain Arena Use and Lease Agreement (the "**AMULA**"), dated as of November 29, 2001, among Team Seller, Arena Seller, Glendale-101 Development, LLC, Coyote Center Development, LLC and the City of Glendale, Arena Seller manages and operates, and Team Seller uses, the multi-purpose facility in Glendale, Arizona currently known as Jobing.com Arena (the "**Arena**"), which serves as the home venue for the Team and provides a venue for other recreational, cultural, entertainment and sports events.

C. Sellers are debtors-in-possession under Title 11 of the United States Code, 11 U.S.C. §§ 101—1330 (the "**Bankruptcy Code**"), and filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code on May 5, 2009, in the United States Bankruptcy Court for the District of Arizona (the "**Bankruptcy Court**") (Case Nos. 2:09-bk-09491-RTB and 2:09-bk-09495-RTB, which cases are being jointly administered with the Chapter 11 bankruptcy proceedings of Dewey Ranch Hockey, LLC (Case No. 2:09-bk-09488-RTBP) and Coyotes Holdings, LLC (Case No. 2:09-bk-09500-RTB) under Case No. 2:09-bk-09488-RTBP) (collectively, the "**Bankruptcy Case**").

D. The Buyers wish to purchase, acquire and assume from the Sellers, and the Sellers wish to sell, transfer and assign to the Buyers, pursuant to Sections 363 and 365 of the Bankruptcy Code, all of the Purchased Assets and Assumed Liabilities (each, as defined below), all in accordance with the terms and subject to the conditions of this Agreement.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements contained herein and intending to be legally bound, the parties hereby agree as follows:

### **ARTICLE I**

#### **DEFINITIONS**

1.1 **Definitions.** As used in this Agreement, the exhibits attached hereto and the Schedules delivered under this Agreement, the following terms and their grammatical variations and correlatives shall have the following meaning:

**"Action"** means any claim, action, cause of action, complaint, investigation, inquiry, suit or other proceeding before, or otherwise involving, any arbitrator, any Governmental Entity, any regulatory or self-regulatory body, the NHL or the AHL.

**"Added Contracts"** has the meaning set forth in Section 2.9(b).

**"Affiliate"** means a Person that, directly or indirectly, controls, is controlled by, or is under common control with, a specified Person. The term **"control"** (including, with correlative meaning, the terms **"controlling," "controlled by"** and **"under common control with"**) means the possession, directly or indirectly, of the power to direct or cause direction of the management and policies of a Person, whether through the ownership of voting Securities, by Contract, or otherwise.

**"Agreement"** means this Asset Purchase Agreement by and among Team Seller, Arena Seller, Team Buyer and Arena Buyer, as amended, restated or supplemented in accordance herewith from time to time, including all schedules and exhibits.

**"AHL"** means the American Hockey League, Inc.

**"AHL Collective Bargaining Agreement"** means the Collective Bargaining Agreement, effective September 1, 2000, between the AHL and the Professional Hockey Players' Association, and any successor to such agreement, and any and all Contracts in effect from time to time that govern the overall relationship between the AHL and its players.

**"Allowable Unsecured Claims"** means unsecured claims by creditors against the Sellers properly submitted to the Bankruptcy Court in connection with the Bankruptcy Case prior



to the applicable deadline for filing such proofs of claim. Notwithstanding anything to the contrary contained herein, except as set forth on Schedules 2.6(v) and 2.8(v) (other than those claims marked by an asterisk to indicate that the Buyers reserve the right to verify the amounts of such claims), the Buyers reserve the right in their sole discretion to challenge or contest whether any such unsecured claim submitted to the Bankruptcy Court constitutes an Allowable Unsecured Claim, including the amount of any such unsecured claim. The Buyers shall use their commercially reasonable efforts to promptly verify with the holders of such claims and the Creditors' Committee the amounts of those Allowable Unsecured Claims set forth on Schedules 2.6(v) and 2.8(v) that are marked by an asterisk (\*).

"**AMULA**" has the meaning specified in Recital B.

"**Arena**" has the meaning specified in Recital B.

"**Arena Buyer**" has the meaning specified in the preamble.

"**Arena Cure Costs**" has the meaning set forth in Section 2.8(a)(vi).

"**Arena Seller**" has the meaning specified in the preamble.

"**Assumed Arena Liabilities**" has the meaning set forth in Section 2.7(a).

"**Assumed Contracts**" means, subject to Section 2.9, all Contracts set forth on Schedule 1.1(a).

"**Assumed Liabilities**" means the Assumed Arena Liabilities and the Assumed Team Liabilities, collectively.

"**Assumed Plans**" means the Employee Benefits Plans referenced in Sections 2.1(xvi) and 2.3(xiii).

"**Assumed Team Liabilities**" has the meaning set forth in Section 2.5(a).

"**Bankruptcy Case**" has the meaning specified in Recital C.

"**Bankruptcy Code**" has the meaning specified in Recital C.

**"Bankruptcy Court"** has the meaning specified in Recital C.

**"Bid Procedures Order"** means the Amended Order Approving Bid Procedures for Auction/Sale of Phoenix Coyotes National Hockey League Team and Related Assets and the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, entered by the Bankruptcy Court on August 13, 2009 (Docket No. 638).

**"Business"** means the operation of the Team and the Arena by the Sellers in the territory of Glendale, Arizona in which the Sellers currently operate.

**"Business Day"** means any day except Saturday, Sunday or any other day on which banks in the State of Arizona are permitted to be closed.

**"Buyer"** has the meaning specified in the preamble.

**"City"** means the City of Glendale, as the lessor under the AMULA.

**"Closing"** has the meaning specified in Section 4.1.

**"Closing Date"** has the meaning specified in Section 4.1.

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

**"Collective Bargaining Agreements"** mean, collectively, the AHL Collective Bargaining Agreement, the NHL Collective Bargaining Agreement and each other collective bargaining agreement listed on Schedule 1.1(b).

**"Consent"** means any approval, consent, waiver or comparable form of authorization that is required to be obtained from, and any notice that must be given to, any Person, other than the Bankruptcy Court, any Governmental Entity or the NHL or under the NHL Rules, with respect to any Assumed Contract in order that the Buyers shall be entitled to enjoy the rights and benefits under such Assumed Contract following consummation of the transactions contemplated hereunder.

**"Contract"** means any agreement, arrangement, bond, commitment, contract, franchise, indemnity, indenture, lease, license, understanding or other instrument of any kind, whether oral or written, to which a Seller is a party or its respective assets or properties are

subject or to which Holdings is a party that affects or involves the Team, the Arena or any other assets of a Seller.

**"Creditors' Committee"** means the official committee of unsecured creditors appointed in the Bankruptcy Case.

**"Cure Costs"** means the Arena Cure Costs and the Team Cure Costs, collectively.

**"Employee Benefit Plan"** means (i) any employee benefit plan, program or arrangement within the meaning of Section 3(3) of ERISA maintained or contributed to, or required to be maintained or contributed to, by a Seller for the benefit of any current or former employees, agents, directors or independent contractors of the Seller, or with respect to which the Seller may have any liability or (ii) any similar employment, severance or other agreement, arrangement or policy (whether written or oral) maintained or contributed to, or required to be maintained or contributed to, by a Seller for the benefit of any current or former employees, agents, directors or independent contractors of the Seller providing for insurance coverage (including self-insured arrangements), workers' compensation, disability benefits, supplemental unemployment benefits, vacation benefits, fringe benefits, or retirement benefits, or for profit sharing, deferred compensation, bonuses, stock options, stock appreciation or other forms of incentive compensation or post-retirement insurance, compensation or benefits.

**"Employment and Independent Contractor Contracts"** means all NHL Standard Player's Contracts and all other employment or independent contractor Contracts, including such Contracts with front office executives, coaches, players, general managers, scouts, trainers and announcers.

**"Encumbrance"** means any mortgage, deed of trust, deemed trust, security interest, pledge, hypothecation, lien, charge, encumbrance, encroachment, easement, adverse claim, title defect, restrictive covenant or other document of record, or comparable restriction of any kind.

**"Environment"** means the waters of the United States, the waters of any state, the waters of the contiguous zone and the ocean waters, and any other surface water, groundwater, drinking water, water supply, land surface, subsurface, subsurface strata, soil or air or atmosphere within the United States or under the jurisdiction of the United States, any Governmental Entity, or within the jurisdiction of Environmental Laws.

**"Environmental Contamination"** means the presence of one or more Hazardous Materials in the Environment at greater concentrations than is allowed by Environmental Laws.

**"Environmental, Health or Safety Liabilities"** means any cost, damages, expense, Liability, or other responsibility arising from or under any Environmental Laws or Occupational Health and Safety Law.

**"Environmental Laws"** means any federal, state, or local law, statute, ordinance, or regulation pertaining to health, industrial hygiene, or environmental conditions, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601, et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§6901, et seq.; the Toxic Substances Control Act of 1976, 15 U.S.C. §§ 2601, et seq.; the Superfund Amendments and Reauthorization Act of 1986, Title III, 42 U.S.C. § 11001, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801, et seq.; the Clean Air Act, 42 U.S.C. §§ 7401, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251, et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f, et seq.; the Solid Waste Disposal Act, 42 U.S.C. §§ 3251, et seq.; and any other federal, state, and local laws and regulations relating to pollution or the environment (including ambient air, surface water, groundwater, land surface, or sub-surface strata), including laws and regulations relating to emissions, discharges, releases, or threatened releases of Hazardous Materials, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of Hazardous Materials. Any reference in this definition of the Environmental Laws to statutory or regulatory sections shall be deemed to include any amendments thereto and any successor sections.

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

**"Excluded Arena Assets"** has the meaning specified in Section 2.4.

**"Excluded Arena Liabilities"** has the meaning specified in Section 2.8.

**"Excluded Assets"** means the Excluded Arena Assets and the Excluded Team Assets, collectively.

**"Excluded Team Assets"** has the meaning specified in Section 2.2.

**"Excluded Team Liabilities"** has the meaning specified in Section 2.6.

**"Existing Consent Agreement"** means the Consent Agreement, dated September 27, 2006, by and among the National Hockey League, Arizona Hockey Management, Inc., Arena Management Group, LLC, Arena Management Holdings, LLC, Arena Development, LLC, Center Ice Holdings, LLC, Coyote Center Development, LLC, Coyotes Hockey, LLC, Coyotes Holdings, LLC, E-Arena Holdings, LLC, Ellman Holdings, Inc., Glendale-101 Development, LLC, Jerry Moyes, Vicki Moyes, Coyotes Holdings MemberCo, LLC, 101 Holdings, LLC,

Steven M. Ellman, SUB Investment, LLC, The Jerry and Vickie Moyes Family Trust, dated December 11, 1987, Westgate Investments, Westgate Signage, LLC, Wayne Gretzky, James Wikert, John A. Breslow, John A Breslow Rollover IRA, Lake Street Leasing Corp., Barry Handwerker and Garry Handwerker.

**"Final Order"** means a Sale Order or other Order of the Bankruptcy Court, in each case in form and substance acceptable to the Buyers in their sole discretion, as to which the time to file an appeal, a motion for rehearing or reconsideration or a petition for writ of certiorari has expired and no such appeal, motion or petition is pending.

**"Glendale Contracts"** has the meaning specified in Section 2.14(a).

**"Glendale Team Sale"** means any Team Sale in which the purchaser commits for a period of time to operate the Team in Glendale, Arizona and having such other terms and conditions as the Buyers, in their sole discretion, may agree, including, without limitation, a purchase price that does not result in a Net Profit.

**"Governmental Entity"** means any United States, Canadian or other foreign government, or any agency, bureau, commission, court, department, official, political subdivision, tribunal or other instrumentality of any government, whether federal, state or local, domestic or foreign.

**"Hart-Scott-Rodino Act"** means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the related regulations and published interpretations.

**"Hazardous Activity"** means the distribution, generation, handling, importing, management, manufacturing, processing, production, refinement, Release, storage, transfer, transportation, treatment or use (including any withdrawal or other use of groundwater) of Hazardous Material into the Environment and any other act, business, operation or thing that constitutes a threat of Release, or poses an unreasonable risk of harm to any Person or property or the Environment.

**"Hazardous Materials"** means substances that are defined or listed in, or otherwise classified under, any applicable Laws as "hazardous substances," "hazardous materials," "hazardous wastes," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "contaminants" or "pollutants," or any other formulation intended to define, list or classify substances by reason of deleterious properties such as ignitibility, corrosivity, reactivity, carcinogenicity, reproductive toxicity or "EP toxicity," and petroleum and drilling fluids, radioactive materials, asbestos-containing materials, urea formaldehyde foam insulation, transformers or other equipment that contain polychlorinated

biphenyls and radon gas, produced waters and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.

**"Holdings"** means Coyotes Holdings, LLC, a Delaware limited liability company that owns 100% of the outstanding membership interests in Arena Seller and 91.79% of the outstanding membership interests in Team Seller.

**"Home Game"** shall mean each pre-season, regular season and playoff game of the Team and any NHL All-Star game held at the Team's home arena, which is currently the Arena.

**"Indebtedness"** means indebtedness for borrowed money, including obligations evidenced by notes, bonds, debentures or similar instruments and any interest thereon and any fees or costs associated therewith.

**"Intellectual Property"** means any ownership or licensed rights in, to and under any (i) United States or foreign patents, (ii) technology or software (including data and related documentation), (iii) trademarks, service marks, trade names, trade dress, trade secrets, logos, symbols, emblems, corporate names, domain names and all goodwill associated with any of the foregoing (including the names "Phoenix Coyotes" and "Jobing.com Arena"), (iv) registered or unregistered copyrights, (v) any rights of publicity and/or (vi) other comparable intellectual property rights, including, in each case, any registrations, renewals or applications with any Governmental Entities pertaining thereto.

**"IRS"** means the United States Internal Revenue Service or any successor entity.

**"Knowledge"** of any matter or fact means an individual's actual awareness of that matter or fact, and the "Knowledge of the Sellers" and similar expressions shall mean the Knowledge of Earl Scudder and any person who has been a senior officer of either Seller from September 1, 2008 to the Closing, including without limitation Jerry Moyes, Doug Moss, Michael Nealy, Wayne Gretzky, Michael Bucek, Steve Weinreich, Jim Foss and each Seller's president, vice president, controller, general counsel and general manager.

**"Law"** means any law, code, statute, common law, rule, regulation, order, ordinance, judgment, decree, writ, injunction or directive of, or binding settlement with, any Governmental Entity.

**"League Contracts"** means Contracts entered into by the NHL on behalf of or that bind all Member Clubs.

**"Liability"** means any debt, liability or obligation (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, or due or to become due).

**"Material Adverse Effect"** means any fact, event, circumstance or condition that has, or would have, a material adverse effect on (A) the Purchased Assets, the Assumed Liabilities, or the business, operations, financial condition or prospects of a Seller or (B) the ability of a Seller to consummate the transactions, and perform its obligations, hereunder.

**"Material Contract"** means any Contract that:

(i) imposes or will impose an obligation on a Seller to pay or repay, or entitles a Seller to receive, an amount in cash, goods, services or materials of \$50,000 or more in the aggregate;

(ii) has a term beyond June 30, 2010 and is not terminable at will by a Seller;

(iii) materially restricts the ability of a Seller to conduct its business;

(iv) provides for the extension of credit to a Seller or for a bond, guaranty or indemnity by or to a Seller other than in the ordinary course of business, or pursuant to which a Seller is required to be a secondary-obligor (or surety) or otherwise be responsible or liable (whether primarily, jointly or secondarily) for the obligations or debts of any other Person other than as entered into in the ordinary course of business;

(v) relates to a joint venture or partnership in which a Seller is participating as partner or joint venturer or that otherwise involves a sharing of profits with a third party or which creates any joint venture governing the title, use, acquisition or disposition of any assets of a Seller;

(vi) is for the purchase or other acquisition or the sale or other disposition of any material assets of a Seller, other than in the ordinary course of business;

(vii) relates to the transmission or broadcast, through any medium of communications, of games of the Team and/or other Team-related activities;

(viii) is an NHL Agreement;

(ix) affects the ownership of, title to, use of, or any interest in real estate or other material assets of a Seller, including leases and subleases of real property or other material assets of a Seller;

(x) relates to the development, construction or use of the Arena, including the financing thereof and parking thereat, but other than, subject to clause (i) above, any Arena event use agreement made in the ordinary course of business;

(xi) is a licensing or royalty agreement or other agreement or commitment with respect to Intellectual Property other than, subject to clause (i) above, any Team or Arena sponsorship, marketing or advertising agreements made in the ordinary course of business and any "off-the-shelf" software;

(xii) is an agreement with any minor league affiliate, including any player development Contract;

(xiii) is a concession agreement relating to the sale of food, beverage or merchandise at events held at the Arena, including Home Games;

(xiv) is a ticketing services agreement relating to sales of tickets to events held at the Arena, including Home Games;

(xv) is entered into in connection with the settlement of any legal proceeding;

(xvi) relates to the adjacent property known as the Westgate City Center; or

(xvii) is otherwise material to the operation of either Seller's business as presently conducted or anticipated to be conducted.

Notwithstanding the foregoing, "Material Contracts" excludes Employment and Independent Contractor Contracts, Employee Benefit Plans and League Contracts.

**"Member Club"** means a professional hockey club that is designated as being a member club of the NHL under the NHL Constitution and holding a franchise from the NHL for the operation of a hockey club in a specified city.



**"Moyes Guaranty"** means the Guaranty by Coyotes Holdings MemberCo, LLC, Coyotes Holdings, LLC, Arena Management Group, LLC, Jerry C. Moyes, Vickie Moyes and The Jerry and Vickie Moyes Family Trust, in favor of the NHL, dated as of September 27, 2006.

**"Multiemployer Plan"** means each Employee Benefit Plan set forth on Schedule 1.1(c) in effect on the date hereof in which any current or former employee of a Seller is eligible to participate pursuant to a Collective Bargaining Agreement or NHL Rules.

**"Net Profit"** means the aggregate consideration received by the Buyers or any direct or indirect parent entity of the Buyers upon consummation of a Team Sale, less (i) the aggregate consideration paid by the Buyers pursuant to Sections 3.1(a) – (b) of this Agreement, including the amount of all Assumed Liabilities (including, for the avoidance of doubt, all Assumed Liabilities relating to Indebtedness owed by the Sellers to the NHL and SOF and Cure Costs with respect to Assumed Contracts, including the AMULA and the Glendale Contracts, to the extent they become Assumed Contracts in accordance with Sections 2.12 and 2.14, respectively), less (ii) the aggregate amount paid by the Buyers for Purchased Claims pursuant to Section 8.4, less (iii) any additional amounts invested in, or loaned to or paid on behalf of, the Buyers by the NHL or any NHL Entity or any Affiliates thereof, including any interest charged thereon, during the period between the Closing Date and the consummation of such Team Sale, net of any amounts returned by way of loan repayment, dividend or distribution to the NHL or any NHL Entity or any Affiliates thereof, less (iv) the aggregate amount reasonably expected to be paid by the Buyers under the Transition Services Agreement during the period between the consummation of such Team Sale and June 30, 2010 with respect to any Glendale Contracts that, prior to the consummation of such Team Sale, have not either expired (without renewal), been terminated with the consent of all parties thereto or become Assumed Contracts in accordance with Section 2.14, less (v) any Indebtedness of the Buyers not included in clause (iii) above that is outstanding at the time of consummation of such Team Sale and is not assumed by the purchaser in such Team Sale, less (vi) fees and expenses (including attorneys' and accountants' fees and expenses) incurred by the NHL or the Buyers in connection with such Team Sale, not to exceed \$1,000,000. For the avoidance of doubt, the calculation of Net Profit shall not include (x) any relocation fees or other payments made directly to the NHL or to the Member Clubs in connection with any Team Sale, (y) more than \$2,000,000 in fees and expenses (including attorneys' and experts' fees and expenses) incurred by the Buyers, the NHL and any NHL Entity or Affiliate thereof in connection with the Bankruptcy Case or this Agreement, or (z), notwithstanding clause (y) above, any fees and expenses (including attorneys' and experts' fees and expenses) incurred by the Buyers, the NHL or any NHL Entity or Affiliate thereof in connection with litigation that is not directly related to the Bankruptcy Case or this Agreement (including, without limitation, any litigation based on alleged antitrust violations).

**"NHL"** means the National Hockey League, a joint venture organized as an unincorporated association not for profit, and any successor thereto. References herein to "NHL" shall be deemed to include, where appropriate from the context, (i) each of the component parts or offices of the NHL, including the NHL Board of Governors, the Chairman of the NHL Board of Governors, the NHL Commissioner, the Office of the Commissioner of the NHL, the

Executive Committee of the NHL Board of Governors, any other committee, body or offices duly created by the NHL Board of Governors or the NHL Commissioner from time to time, and the Member Clubs collectively, and (ii) related entities owned directly or indirectly by all of the Member Clubs.

**"NHL Agreements"** means all Contracts between the NHL or any Affiliate thereof, on the one hand, and Team Seller or Holdings, on the other hand, including that certain (i) License Agreement (United States) between Team Seller (together with other Member Clubs) and NHL Enterprises, L.P. and (ii) License Agreement (Canada) between Team Seller (together with other Member Clubs) and NHL Enterprises, L.P.; provided, however that each of (A) the Existing Consent Agreement and (B) the Moyes Guaranty shall not be deemed "NHL Agreements".

**"NHL Board of Governors"** means the Board of Governors of the NHL, as established under the NHL Constitution, and any successor chief governing body of the NHL that may be later established.

**"NHL By-Laws"** means the By-Laws of the NHL, as adopted under the NHL Constitution, as the same may be amended from time to time.

**"NHL Collective Bargaining Agreement"** means that certain Collective Bargaining Agreement, effective September 16, 2004 through September 15, 2011, between the NHL and the NHLPA, and any successor to such agreement, and any and all Contracts, memoranda of understanding or other instruments in effect from time to time that govern the overall relationship between the NHL and its players.

**"NHL Commissioner"** means the person designated as Commissioner of the NHL from time to time or, in the absence of an NHL Commissioner, any person or entity succeeding to the powers and duties of the NHL Commissioner under the NHL Constitution.

**"NHL Consent Agreement"** means a written consent for the approval of the transfer of the franchise to Team Buyer pursuant to the NHL Rules.

**"NHL Constitution"** means the Constitution of the NHL, as adopted by the Member Clubs, as the same may be amended from time to time, and any and all actions taken thereunder, including all bulletins, guidelines, policies, directives and decisions issued by the NHL Commissioner.

**"NHL Entities"** means entities jointly owned by all Member Clubs, including NHL Enterprises, L.P., NHL Enterprises, Inc., NHL Enterprises Canada, L.P., National Hockey League Enterprises Canada, Inc., NHL Enterprises B.V. and Intra-Continental Ensurers.

**"NHL Guaranty"** means a guaranty executed in favor of the NHL as required by the NHL Rules.

**"NHL Obligations"** means obligations with respect to (i) the Indebtedness of Team Seller pursuant to the Secured Credit Agreement, dated February 24, 2009, by and between Team Seller and the NHL, (ii) the Indebtedness of the Sellers pursuant to the debtor-in-possession financing provided by the NHL, and (iii) the Liabilities set forth in Schedule 1.1(d).

**"NHLPA"** means the National Hockey League Players Association and any successor organization thereto.

**"NHL Resolutions"** means the resolutions of the NHL Board of Governors, as adopted from time to time.

**"NHL Rules"** means (i) the NHL Constitution, (ii) the NHL By-Laws, (iii) the governing documents of each of the NHL, the NHL Entities and any NHL Member Clubs, (iv) all other existing or future rules, regulations, interpretations, memoranda, procedures, directives, policies, guidelines and resolutions of each of the NHL and the NHL Entities, (v) the NHL Collective Bargaining Agreement, the Collective Bargaining Agreement between the NHL and the National Hockey League Officials' Association and all other agreements, consent agreements, decrees, cooperation agreements and settlement agreements presently or hereafter in effect or entered into between or among the NHL or any NHL Entity or Entities, on the one hand, and the NHL Member Clubs generally, on the other hand, or any NHL Entity or Entities and/or the NHL Member Clubs generally, on the one hand, and other persons, on the other hand, in furtherance of the NHL's (or any NHL Entity's) business or interests or as otherwise authorized, directly or indirectly, by the NHL Board of Governors, the NHL Commissioner, the applicable NHL Entity, the NHL Constitution or the NHL By-Laws, (vi) the NHL Resolutions, and (vii) the NHL Commissioner's interpretation of, opinions concerning, and the custom and practice under, any of the foregoing, all as may be amended from time to time.

**"NSC"** has the meaning specified in Section 2.1(ix).

**"Occupational Health and Safety Law"** means any Law designed to provide safe and healthful working conditions and to reduce occupational safety and health hazards, including the Occupational Safety and Health Act, and any program, whether governmental or private, designed to provide safe and healthful working conditions.

**"Order"** means any decree, injunction, judgment, order, ruling, binding settlement agreement or writ entered, issued or rendered by any arbitrator or Governmental Entity.

**"ordinary course of business"** and all similar expressions means in the ordinary course of the applicable Seller's business consistent with past custom and practice (including with respect to quantity and frequency).

**"Partial Lease Assignment Agreement"** has the meaning specified in Section 2.12(a).

**"Permit"** means any approval, authorization, consent, qualification, registration, license, permit, franchise, certificate of authority or occupancy or order, or any waiver of the foregoing, required to be obtained from or issued by, or any notice, statement or other communication required to be filed with or delivered to, any Governmental Entity or the NHL or under the NHL Rules, including the NHL Consent Agreement.

**"Permitted Encumbrance"** means any Encumbrance (i) listed on Schedule 1.1(e) that is a matter of record on any leased real property that is a Purchased Asset or (ii) constitutes a lien for Taxes not yet due and payable.

**"Person"** means an individual or any corporation, limited liability company, partnership, association, trust or other entity or organization, including a Governmental Entity.

**"Post-Closing Tax Period"** means any Tax Period beginning after the end of the Closing Date and, with respect to any period beginning on or before the Closing Date and ending after the Closing Date, the portion of such period beginning after the end of the Closing Date.

**"Pre-Closing Tax Period"** means any Tax period ending on or before the end of the Closing Date and, with respect to any Tax period beginning on or before the Closing Date and ending after the Closing Date, the portion of such period ending on the end of the Closing Date.

**"Preferred Glendale Team Sale"** means a Glendale Team Sale meeting the requirements set forth in Section 2.12(d).

**"Purchased Arena Assets"** has the meaning specified in Section 2.3.

**"Purchased Assets"** means the Purchased Arena Assets and the Purchased Team Assets, collectively.

**"Purchased Claims"** has the meaning specified in Section 8.4.

**"Purchased Team Assets"** has the meaning specified in Section 2.1.

**"Release"** means any release, spill, emission, leak, pumping, pouring, dumping, emptying, injection, deposit, disposal, discharge, dispersal, leaching, or migration on or into the indoor or outdoor environment or into or out of any property.

**"Representatives"** shall mean a party's Affiliates and its and its Affiliate's directors, officers, employees, agents and direct and indirect investors (including attorneys, accountants, consultants, lenders and financial advisors).

**"Sale Hearing"** means the hearing conducted by the Bankruptcy Court to approve the Sale Motion.

**"Sale Motion"** means the motion or motions filed pursuant to the provisions of Sections 363 and 365 of the Bankruptcy Code to obtain the Sale Order.

**"Sale Order"** means an Order of the Bankruptcy Court, which Order shall be in form and substance acceptable to the Buyers, in their reasonable discretion, and substantially in the form attached hereto as Exhibit D, (i) approving, and authorizing the Sellers to consummate, this Agreement and the transactions contemplated hereby (including the sale of the Purchased Assets to the Buyers free and clear of all Encumbrances except the Permitted Encumbrances and the assumption and assignment of the Assumed Contracts); (ii) declaring or confirming that the Commissioner of the NHL or his designees have the sole right to operate and control the operations of the Team, effective immediately upon entry by the Bankruptcy Court of such Sale Order; (iii) determining (or establishing a procedure to finally determine, prior to the Closing Date) the Cure Costs for the Assumed Contracts as of the Closing Date; (iv) authorizing the assumption by the Sellers, and then their assignment to the Buyers, of the Assumed Contracts in accordance with Section 365 of the Bankruptcy Code; (v) providing that the Buyers are not the successors to the Sellers of their respective bankruptcy estates by reason of any theory of law or equity and that the Buyers have not assumed any Liability of the Sellers or their bankruptcy estates except as otherwise expressly provided in this Agreement; (vi) providing that the Assumed Contracts are transferred and assigned at Closing to the Buyers and that such Assumed Contracts will remain in full force and effect in accordance with their respective terms and notwithstanding any provisions in any such Assumed Contracts that prohibit, restrict or condition such assignment or transfer; (vii) providing that the Buyers have no obligation to pay any Liabilities of the Sellers of any kind, except as expressly provided in this Agreement; (viii) finding that notice of the Sale Motion, and any opportunity to object, was properly served by the Sellers on all known creditors of the Sellers; (ix) finding that the Buyers are good faith purchasers within the meaning of Section 363(m) of the Bankruptcy Code; (x) confirming that the Buyers may accept any Glendale Team Sale (whether or not a Preferred Glendale Team Sale) in their sole discretion, notwithstanding any higher or better offer or indication of interest that would result in a relocation of the Team and that no party other than the City shall have standing to object or otherwise challenge the Buyers' decision to accept any Glendale Team Sale (whether

or not a Preferred Glendale Team Sale); (xi) authorizing the Sellers to enter into the Transition Services Agreement and the Partial Lease Assignment Agreement and determining that such agreements are enforceable against any counterparty to a Glendale Contract or the AMULA that has not objected to the Sale Order; (xii) providing for the Bankruptcy Court to retain jurisdiction for purposes of resolving any dispute with respect to the determination of Net Profit (including determining the appropriateness of any relocation fee); and (xiii) providing such other and further relief as reasonably requested by the Buyers.

**"Securities"** means any and all debt and equity securities and other ownership interests in whatever form, whether certificated or uncertificated, including common stock, preferred stock or other capital stock, membership, partnership or participation interests or units, and notes, bonds, debentures or other similar debt instruments, including any securities, warrants, options or rights convertible into or exercisable for any of the foregoing.

**"Seller"** has the meaning specified in the preamble to this Agreement.

**"Service Termination Date"** has the meaning specified in Section 2.14(d).

**"SOF"** means SOF Investments, L.P.

**"SOF Indebtedness"** means the Indebtedness and other obligations of the Sellers pursuant to, collectively, (i) the Credit Agreement, dated as of December 31, 2003, by and between Coyotes Hockey, LLC, and SOF Investments, L.P., as amended; (ii) Pledge Agreement, dated as of December 31, 2003, by and between Coyotes Hockey, LLC and SOF Investments, L.P.; (iii) Security Agreement, dated as of December 31, 2003, by and between Coyotes Hockey, LLC and SOF Investments, L.P.; (iv) Trademark Security Agreement, dated as of December 31, 2003, by and between Coyotes Hockey, LLC and SOF Investments, L.P.; (v) COA Account Control Agreement, dated as of December 31, 2003, by and among Coyotes Hockey, LLC, SOF Investments, L.P. and Wells Fargo Bank, N.A.; and (vi) Leasehold Deed of Trust by, dated as of December 31, 2003, by and among Coyotes Hockey, LLC, First American Title Insurance Company and SOF Investments, L.P.

**"Subsidiary"** means, (i) a corporation, at least 50% of the total voting power of shares of stock, other equity interest or other shares of beneficial interest entitled (irrespective of whether, at the time, stock of any other class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) to vote in the election of directors, managers or trustees of such corporation or generally entitled to share in the profits or capital of such legal entity is at the time owned or controlled, directly or indirectly, by a Seller or one or more of the other Subsidiaries of a Seller or a combination of a Seller and/or Subsidiaries thereof, or (ii) a partnership, limited liability company, association, joint venture or other business entity (other than a corporation), at least a majority of the partnership, joint venture or

other similar ownership interest of such entity is at the time owned or controlled, directly or indirectly, by a Seller or a combination of a Seller and/or Subsidiaries thereof.

**"Tax" or "Taxes"** means (i) any and all United States federal, state, local and Canadian or other foreign taxes, assessments and other governmental charges, duties, impositions and liabilities, including taxes based upon or measured by gross receipts, income, profits, sales, use and occupation, and value added, ad valorem, transfer, franchise, withholding, payroll, recapture, employment, excise and property taxes, together with all interest, penalties, additions or additional amounts imposed with respect to such amounts; and (ii) any liability for the payment of any amounts of the type described in clause (i) as a result of (a) being a member of an affiliated, consolidated, combined or unitary group for any period, (b) being a transferee of or successor in interest to any person or entity or (c) an express or implied obligation to any Person.

**"Tax Proceeding"** has the meaning specified in Section 8.1(c).

**"Tax Return"** means a return (including any information return), report, statement, schedule, notice, form or other document or information required to be supplied to a Governmental Entity in connection with the determination, assessment, collection or payment of any Tax or in connection with the administration, implementation or enforcement or compliance with any Law relating to any Tax, including, where permitted or required, combined or consolidated returns for any group of entities that includes any Affiliate.

**"Team"** has the meaning specified in Recital A.

**"Team Buyer"** has the meaning set forth in the preamble.

**"Team Cure Costs"** has the meaning set forth in Section 2.6(a)(vi).

**"Team Sale"** means the direct or indirect sale, transfer or other disposition of the Team to an unaffiliated third party, whether pursuant to a merger, consolidation, reorganization, share exchange, transfer of equity securities or disposition of all or substantially all of the assets of the Team Buyer.

**"Team Seller"** has the meaning set forth in the preamble.

**"Termination Date"** has the meaning specified in Section 10.1(e).

**"Transaction Documents"** means this Agreement and each other agreement or instrument contemplated to be executed and delivered by one or more of the parties pursuant hereto.

**"Transaction Taxes"** has the meaning specified in Section 8.1(b).

**"Transferred Employees"** has the meaning specified in Section 8.2(a).

**"Transition Services Agreement"** has the meaning specified in Section 2.14(c).

**"Valuation Expert"** has the meaning specified in Section 3.2.

1.2 Interpretation. For all purposes of this Agreement, except as otherwise expressly provided:

(a) the terms defined in this Article I have the meanings assigned to them in this Article I and include the plural as well as the singular;

(b) all references in this Agreement to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of the body of this Agreement;

(c) pronouns of either gender or neuter shall include, as appropriate, the other pronoun forms;

(d) the words "herein," "hereof," "hereby," and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision;

(e) the words "include," "including" and other words of similar import mean "include, without limitations" or "including, without limitation," regardless of whether any reference to "without limitation" or words of similar import is made; and

(f) whenever the word "Dollar" or the symbol "\$" is used herein, it shall refer to United States dollars unless otherwise specified.



## ARTICLE II

### THE PURCHASE AND SALE OF ASSETS; ASSUMPTION OF LIABILITIES

2.1 Purchase and Sale of the Purchased Team Assets. Subject to entry of the Sale Order by the Bankruptcy Court and the terms and conditions set forth in this Agreement, at the Closing, the Team Buyer shall purchase, acquire and accept from the Team Seller, and the Team Seller shall sell, transfer, assign, convey and deliver to the Team Buyer, free and clear of all Encumbrances (except for Permitted Encumbrances), all of the Purchased Team Assets. "**Purchased Team Assets**" shall mean all of the Team Seller's right, title and interest (including indirect and other forms of beneficial ownership) in the properties, assets and rights of every kind and nature related to the operation of the Team, whether tangible or intangible, real or personal and wherever located and by whomever possessed, including the following, but excluding the Excluded Team Assets and the Purchased Arena Assets:

(i) the Team's NHL franchise and the Team Seller's membership rights in the NHL and all other rights, privileges and benefits incidental thereto or otherwise granted to a Member Club by the NHL, including the Team Seller's right to receive amounts payable to the Team Seller by the NHL pursuant to NHL Rules or the NHL Collective Bargaining Agreement (e.g., league-wide television revenues generated by the NHL and distributions under the NHL's Player Compensation Cost Redistribution System);

(ii) all rights of the Team Seller under the Assumed Contracts to which the Team Seller is a party or to which assets of the Team Seller are subject;

(iii) all of the Intellectual Property of the Team Seller;

(iv) all goodwill, telephone numbers, facsimile numbers and e-mail addresses of the Team Seller;

(v) all tangible personal property of the Team Seller used in the operation of the Team, such as machinery, equipment, furniture and fixtures, supplies, motor vehicles, computers and computer software (subject to the terms of any lease or license agreement in effect with respect to the foregoing), including training room supplies, exercise and fitness equipment, audio-visual equipment, uniforms, skates, protective equipment, medical equipment, hockey sticks, pucks, office supplies and water coolers;

(vi) the Team Seller's inventory of Team novelties, souvenirs and other resale items on hand as of the Closing Date;

- (vii) all receivables of the Team Seller as of the Closing Date;
- (viii) the Team Seller's ownership or membership interests in all NHL Entities;
- (ix) the Team Seller's equity interests in 3051349 Nova Scotia Company, a Nova Scotia unlimited liability company ("NSC");
- (x) all insurance benefits, including rights and proceeds, arising from or related to the Purchased Team Assets or the Assumed Team Liabilities prior to the Closing;
- (xi) all sales data, ticketholder lists, supplier lists and advertising, marketing and promotional materials relating to the Team;
- (xii) the Team Seller's ownership interest in all copyrighted broadcasts of Team games and other Team-related programming;
- (xiii) the books and records of the Team Seller and any predecessor entity;
- (xiv) the Team Seller's interest in all leasehold improvements in premises occupied by the Team Seller;
- (xv) all Permits used in the operation of the Team, to the extent transferable;
- (xvi) the Employee Benefit Plans of the Team Seller set forth on Schedule 2.1(xvi) and the assets and rights of the Team Seller thereunder, and the rights and assets of the Team Seller under Multiemployer Plans administered or sponsored by the NHL for the benefit of Member Clubs, including the right to have Transferred Employees continue to participate therein;
- (xvii) all rights of the Team Seller under or pursuant to all warranties (express or implied), representations or guarantees provided by third parties relating to any of the other Purchased Team Assets;

(xviii) all deposits, credits, prepaid expenses, deferred charges, advanced payments, security deposits, escrowed funds, rights to refunds, offsets, set asides and prepaid items relating to the Purchased Team Assets or Assumed Team Liabilities;

(xix) all bank accounts, safety deposit boxes, lock boxes and the like of the Team Seller;

(xx) all Actions pending or threatened by, or available to, Team Seller against the Buyers, the NHL, any NHL Entity, any Member Club, and any of their respective Affiliates and Representatives of any nature whatsoever, whether choate or inchoate, known or unknown, contingent or otherwise, other than claims solely to enforce the provisions of this Agreement and the other Transaction Documents; and

(xxi) all claims and causes of action of the Team Seller and its bankruptcy estate against third parties to enforce rights, including indemnification and offset rights, related to any of the other Purchased Team Assets.

2.2 Excluded Team Assets. Nothing herein shall be deemed to sell, transfer, assign or convey the Excluded Team Assets to the Team Buyer, and the Team Seller shall retain all right, title and interest to, in and under the Excluded Team Assets. "**Excluded Team Assets**" shall mean the following assets of the Team Seller:

(i) all cash, cash equivalents and marketable securities of the Team Seller other than as described in Section 2.1(xviii);

(ii) all rights of the Team Seller under Contracts that are not Assumed Contracts, including the Contracts set forth on Schedule 2.2(ii) and the Glendale Contracts unless and until they become Assumed Contracts;

(iii) all defenses, claims, counter-claims, rights of offset and other Actions against any Person asserting or seeking to enforce any Excluded Team Liability against the Team Seller;

(iv) any rights of the Team Seller under this Agreement;

(v) any avoidance Actions, including, but not limited to, Actions under Chapter 5 of the Bankruptcy Code;

(vi) any income Tax refunds or credits arising out of the operation of the Team prior to the Closing Date;

(vii) the Actions of the Team Seller against (x) The Pennsylvania State University and (y) the National Lacrosse League;

(viii) any books and records related to the Team Seller's employees that are not being hired by the Team Buyer at or after the Closing, the transfer of which would conflict with any confidentiality or privacy obligations of the Team Seller under applicable Law; and

(ix) the ownership interest of the Team Seller in any other Person, including Arizona Lacrosse, LLC, Coyotes Charities and Dewey Ranch Hockey, LLC, but excluding NSC and the NHL Entities.

2.3 Purchase and Sale of the Purchased Arena Assets. Subject to entry of the Sale Order by the Bankruptcy Court and the terms and conditions set forth in this Agreement, at the Closing, the Arena Buyer shall purchase, acquire and accept from the Arena Seller, and the Arena Seller shall sell, transfer, assign, convey and deliver to the Arena Buyer, free and clear of all Encumbrances (except for Permitted Encumbrances), all of the Purchased Arena Assets. "**Purchased Arena Assets**" shall mean all of the Arena Seller's right, title and interest (including indirect and other forms of beneficial ownership) in the properties, assets and rights of every kind and nature related to the operation of the Arena, whether tangible or intangible, real or personal and wherever located and by whomever possessed, including the following, but excluding the Excluded Arena Assets and the Purchased Team Assets:

(i) all rights of the Arena Seller under the Assumed Contracts to which the Arena Seller is a party or to which assets of the Arena Seller are subject;

(ii) all of the Intellectual Property of the Arena Seller;

(iii) all goodwill, telephone numbers, facsimile numbers and e-mail addresses of the Arena Seller;

(iv) all tangible personal property of the Arena Seller used in the operation of the Arena, such as machinery, equipment, furniture and fixtures, supplies, motor vehicles, computers and computer software (subject to the terms of any lease or license agreement in effect with respect to the foregoing), including Zamboni ice resurfacing machines, dasher boards, team boxes, penalty boxes, scoreboards, static and non-static signage, goals and standards and the ice surface;

(v) the Arena Seller's inventory of Arena novelties, souvenirs and other resale items on hand as of the Closing Date;

(vi) all receivables of the Arena Seller as of the Closing Date;

(vii) all insurance benefits, including rights and proceeds, arising from or related to the Purchased Arena Assets or the Assumed Arena Liabilities prior to the Closing;

(viii) all sales data, ticketholder lists, supplier lists and advertising, marketing and promotional materials relating to the Arena;

(ix) the Arena Seller's ownership interest in all copyrighted broadcasts of Arena events (other than Home Games and other Team-related programming);

(x) the books and records of the Arena Seller and any predecessor entity;

(xi) the Arena Seller's interest in all leasehold improvements in premises occupied by the Arena Seller;

(xii) all Permits used in the operation of the Arena, to the extent transferable;

(xiii) the Employee Benefit Plans of the Arena Seller set forth on Schedule 2.3(xiii) and the assets and rights of the Arena Seller thereunder, and the rights and assets of the Arena Seller under Multiemployer Plans administered or sponsored by the NHL for the benefit of Member Clubs, including the right to have Transferred Employees continue to participate therein;

(xiv) all rights of the Arena Seller under or pursuant to all warranties (express or implied), representations or guarantees provided by third parties relating to any of the other Purchased Arena Assets;

(xv) all deposits, credits, prepaid expenses, deferred charges, advanced payments, security deposits, escrowed funds, rights to refunds, offsets, set asides and prepaid items relating to the Purchased Arena Assets or Assumed Arena Liabilities (including amounts relating to events not involving the Team);

(xvi) all bank accounts, safety deposit boxes, lock boxes and the like of the Arena Seller;

(xvii) all Actions pending or threatened by, or available to, Arena Seller against the Buyers, the NHL, any NHL Entity, any Member Club, and any of their respective Affiliates and Representatives of any nature whatsoever, whether choate or inchoate, known or unknown, contingent or otherwise, other than claims solely to enforce the provisions of this Agreement and the other Transaction Documents; and

(xviii) all claims and causes of action of the Arena Seller and its bankruptcy estate against third parties to enforce rights, including indemnification and offset rights, related to any of the other Purchased Arena Assets.

2.4 Excluded Arena Assets. Nothing herein shall be deemed to sell, transfer, assign or convey the Excluded Arena Assets to the Arena Buyer, and the Arena Seller shall retain all right, title and interest to, in and under the Excluded Arena Assets. "**Excluded Arena Assets**" shall mean the following assets of the Arena Seller:

(i) all cash, cash equivalents and marketable securities of the Arena Seller other than as described on Section 2.3(xv);

(ii) all rights of the Arena Seller under Contracts that are not Assumed Contracts, including the Contracts set forth on Schedule 2.4(ii) and the Glendale Contracts unless and until they become Assumed Contracts;

(iii) all defenses, claims, counter-claims, rights of offset and other Actions against any Person asserting or seeking to enforce any Excluded Arena Liability against the Arena Seller;

(iv) any rights of the Arena Seller under this Agreement;

(v) any avoidance Actions, including, but not limited to, Actions under Chapter 5 of the Bankruptcy Code;

(vi) any income Tax refunds or credits arising out of the operation of the Arena prior to the Closing Date;

(vii) any books and records related to the Arena Seller's employees that are not being hired by the Arena Buyer at or after the Closing, the transfer

of which would conflict with any confidentiality or privacy obligations of the Arena Seller under applicable Law; and

(viii) the ownership interest of the Arena Seller in any other Person.

## 2.5 Assumption of Team Liabilities.

(a) Subject to the terms and conditions set forth in this Agreement, at and as of the Closing, the Team Buyer shall assume and agree to perform, discharge and satisfy when due in accordance with their respective terms, the following Liabilities of the Team Seller (the "**Assumed Team Liabilities**"):

(i) Liabilities to the extent arising out of or relating to the ownership of the Purchased Team Assets, or the operation of the Team, by the Team Buyer that accrue following the Closing;

(ii) Liabilities under any of the Assumed Contracts arising out of or relating to performance by the Team Buyer thereunder that accrue after the Closing;

(iii) Liabilities accruing after the Closing with respect to Claims arising out of the employment by Team Buyer of any of the Transferred Employees; and

(iv) Liabilities with respect to the pending player grievances under the NHL Collective Bargaining Agreement specified on Schedule 2.5(a)(iv).

(b) From the date hereof through the Closing Date, the Team Seller shall use reasonable best efforts to obtain settlements or stipulations (but without any obligation of the Team Seller to pay any material amount in respect of such settlements) with any Person that objects to the assumption by the Team Seller and assignment to the Team Buyer of an Assumed Contract of the Team Seller or any related Team Cure Cost.

2.6 Excluded Team Liabilities. Notwithstanding any provision in this Agreement to the contrary, the Team Buyer shall not assume or be deemed to have assumed and shall not be obligated to assume or be obligated to pay, perform or otherwise discharge any Liability of the Team Seller, and the Team Seller shall be solely and exclusively liable with respect to all Liabilities of the Team Seller, other than the Assumed Team Liabilities (such Liabilities other than the Assumed Team Liabilities, collectively, the "**Excluded Team Liabilities**"). In furtherance of and without limiting the foregoing, Excluded Team Liabilities shall include:

(i) any Liabilities primarily arising out of, resulting from, or related to the Excluded Team Assets;

(ii) any Liabilities of the Team Seller arising out of, resulting from or related to this Agreement or the transactions contemplated hereby;

(iii) any Liabilities for (a) Taxes of the Team Seller, Holdings or any member of any consolidated, affiliated, combined or unitary group of which Team Seller or Holdings is or has been a member, for any period, (b) Taxes related to the operation of the Team for any period (or portion of any period) ending on or before the Closing Date or (c) Transaction Taxes;

(iv) any Liabilities that are not related to, or were not incurred in connection with, the Business;

(v) any obligations to pay unpaid amounts under the Allowable Unsecured Claims of the Team Seller set forth in Schedule 2.6(v) (as such Schedule may be amended or modified up through the date that is two (2) Business Days prior to the Closing Date as set forth in this Agreement); and

(vi) all unpaid amounts or unsatisfied obligations that must be paid or satisfied to effectuate, according to the Sale Order, the assumption by the Team Seller and assignment to the Team Buyer of the Assumed Contracts of the Team Seller ("**Team Cure Costs**"), except to the extent such Team Cure Costs are included as Allowable Unsecured Claims on Schedule 2.6(v) and are purchased by the Team Buyer in accordance with Section 8.4.

## 2.7 Assumption of Arena Liabilities.

(a) Subject to the terms and conditions set forth in this Agreement, at and as of the Closing, the Arena Buyer shall assume and agree to perform, discharge and satisfy when due in accordance with their respective terms, the following Liabilities of the Arena Seller (the "**Assumed Arena Liabilities**"):

(i) Liabilities to the extent arising out of or relating to the ownership of the Purchased Arena Assets, or the operation of the Arena, by the Arena Buyer that accrue following the Closing;

(ii) Liabilities under any of the Assumed Contracts arising out of or relating to performance by the Arena Buyer thereunder that accrue after the Closing; and.



(iii) Liabilities accruing after the Closing with respect to Claims arising out of the employment by Arena Buyer of any of the Transferred Employees.

(b) From the date hereof through the Closing Date, the Arena Seller shall use reasonable best efforts to obtain settlements or stipulations (but without any obligation from the Arena Seller to pay any material amount in respect of such settlements) with any Person that objects to the assumption by the Arena Seller and assignment to the Arena Buyer of an Assumed Contract of the Arena Seller or any related Arena Cure Cost.

2.8 Excluded Arena Liabilities. Notwithstanding any provision in this Agreement to the contrary, the Arena Buyer shall not assume or be deemed to have assumed and shall not be obligated to assume or be obligated to pay, perform or otherwise discharge any Liability of the Arena Seller, and the Arena Seller shall be solely and exclusively liable with respect to all Liabilities of the Arena Seller, other than the Assumed Arena Liabilities (such Liabilities other than the Assumed Arena Liabilities, collectively, the "**Excluded Arena Liabilities**"). In furtherance of and without limiting the foregoing, Excluded Arena Liabilities shall include:

(i) any Liabilities primarily arising out of, resulting from, or related to the Excluded Arena Assets;

(ii) any Liabilities of the Arena Seller arising out of, resulting from or related to this Agreement or the transactions contemplated hereby;

(iii) any Liabilities for (a) Taxes of the Arena Seller, Holdings or any member of any consolidated, affiliated, combined or unitary group of which Arena Seller or Holdings is or has been a member, for any period, (b) Taxes related to the operation of the Arena for any period (or portion of any period) ending on or before the Closing Date or (c) Transaction Taxes;

(iv) any Liabilities that are not related to, or were not incurred in connection with, the Business;

(v) any obligations to pay unpaid amounts under the Allowable Unsecured Claims of the Arena Seller set forth in Schedule 2.8(v) (as such Schedule may be amended or modified up through the date that is two (2) Business Days prior to the Closing Date as set forth in this Agreement); and

(vi) all unpaid amounts or unsatisfied obligations that must be paid or satisfied to effectuate, according to the Sale Order, the assumption by the Arena Seller and assignment to the Arena Buyer of the Assumed Contracts of the Arena Seller

("Arena Cure Costs"), except to the extent such Arena Cure Costs are included as Allowable Unsecured Claims on Schedule 2.8(v) and are purchased by the Arena Buyer in accordance with Section 8.4.

2.9 Contract Rejection and Assumption.

(a) Schedule 2.9 sets forth the Sellers' good faith estimate of the Cure Costs required to cure monetary defaults or breaches under the Assumed Contracts, the AMULA and the Glendale Contracts as of the Closing Date. The Sale Order shall determine, or establish a procedure to finally determine prior to the Closing Date, the Cure Costs for the Assumed Contracts, the AMULA and the Glendale Contracts as of the Closing Date. The Buyers shall have the option, which shall be exercisable at their sole discretion no later than two (2) Business Days prior to the Closing Date, to (i) exclude from the Purchased Assets any Contract previously identified as an Assumed Contract to the extent the Sellers have materially understated the Cure Cost therefor as set forth in the Sale Order, or (ii) add to the Assumed Contracts any Contract not previously identified as an Assumed Contract. Upon the Buyers' exercise of the option in the preceding sentence, Schedule 1.1(a) shall be deemed to be modified to give effect to such change as of the date hereof.

(b) Notwithstanding anything herein to the contrary, the Sellers shall, pursuant to Section 365 of the Bankruptcy Code and the terms of this Agreement, move the Bankruptcy Court for the entry of one or more Final Orders authorizing the Sellers to assume and assign to the Buyers (x) at the Closing any Contracts added as Assumed Contracts by the Buyers that were not previously included on Schedule 1.1(a) pursuant to the exercise of the option in Section 2.9(a), (y) the AMULA, to the extent the Buyers elect to assume the AMULA, subject to amendment, pursuant to Section 2.12(c) or (e), and (z) any Glendale Contract which the Buyers elect to assume pursuant to Section 2.14(b) (collectively, "**Added Contracts**"). In the event any Added Contracts cannot be assumed and assigned at the Closing, the Sellers shall proceed expeditiously after such Contracts become Added Contracts to obtain such relief.

2.10 Cure of Defaults. Except with respect to Cure Costs reflected in or included as Allowable Unsecured Claims on Schedules 2.6(v) and 2.8(v) which are purchased by the Buyers in accordance with Section 8.4 and which shall be the obligation of the Buyers, pursuant to the terms of the Sale Order or any other Final Order, the Sellers shall, on the Closing Date or such later date as may be set forth in the Sale Order or any other Final Order of the Bankruptcy Court with respect to Added Contracts, pay to such Person the Cure Cost set forth in the Sale Order necessary to cure any and all outstanding and unsatisfied monetary defaults and breaches under and satisfy (or, with respect to any Assumed Liability that cannot be rendered non-contingent and liquidated prior to the Closing Date, make effective provision reasonably satisfactory to the Bankruptcy Court for satisfaction from funds of the Sellers) any Assumed Liability with respect to each Assumed Contract with such Person as may be assumed by the Sellers and assigned to the Buyers in accordance with the provisions of Section 365 of the Bankruptcy Code and this Agreement. The parties hereto acknowledge and agree that each Allowable Unsecured Claim set forth on Schedules 2.6(v) and 2.8(v) which is marked by a hash symbol (#) does not reflect or include any Cure Costs. In cases in which the Sellers and the

Buyers are unable to establish in good faith that a default exists with respect to an Assumed Contract, the Sellers shall require that the Bankruptcy Court determine that the relevant Cure Cost for such Assumed Contract is \$0.

2.11 Assignments. The Sellers shall transfer and assign all Assumed Contracts to the Buyers, and the Buyers shall assume all Assumed Contracts from the Sellers, as of the Closing Date or such later date as the parties may specify with respect to Added Contracts pursuant to Section 365 of the Bankruptcy Code and the Sale Order or any other Final Order.

2.12 Treatment of AMULA.

(a) Prior to the Closing, the Buyers will enter into a partial lease assignment agreement with the Sellers substantially in the form attached as Exhibit E hereto, with such changes as may mutually be agreed to by the Buyers and the Sellers ("**Partial Lease Assignment Agreement**") pursuant to which, (i) the Sellers will assign to the Buyers, pursuant to Section 17.2 of the AMULA, all of the Sellers' rights under the AMULA; (ii) the Buyers will pay either to the Sellers or to the City on behalf of the Sellers, on or before the dates such payments are due under the terms of the AMULA, all rent and other amounts payable by the Sellers under the AMULA; and (iii) the Buyers will comply with such other obligations of the Sellers under the AMULA as the Buyers and the Sellers shall mutually agree. The Partial Lease Assignment Agreement shall terminate on the earlier of (x) June 30, 2010 and (y) the date of consummation of a Glendale Team Sale. The Sellers shall give notice to the City in accordance with Section 17.2.1 of the AMULA and take such other action as is necessary or appropriate in connection with the Partial Lease Assignment Agreement to effectuate the partial assignment of rights and obligations provided thereby.

(b) The Sellers agree not to reject the AMULA prior to the latest date on which they are required to make such determination under the Bankruptcy Code and to use their reasonable best efforts to obtain an Order extending such date until June 30, 2010, including seeking the Consent of the City to such extension. Team Seller and Arena Seller further agree that, if they reject the AMULA, the Sellers shall take all actions required to ensure that such rejection does not become effective until June 30, 2010.

(c) From and after the date of this Agreement, the Buyers will use their commercially reasonable efforts to negotiate with the City an amendment to the AMULA upon terms and conditions mutually satisfactory to the Buyers and the City, which terms shall include the ability of the Buyers to assign the AMULA to any Person approved by the NHL. In the event that the Buyers and the City agree to execute an amendment to the AMULA prior to the effective date of any rejection of the AMULA by the Sellers, then (i) the Sellers shall withdraw any motion to reject the AMULA and take such other action as may be required to obtain an Order of the Bankruptcy Court determining that the AMULA is not rejected, and (ii) the AMULA will be treated as an Added Contract in accordance with Section 2.9(b), subject to such amendment, and thereafter shall be deemed an Assumed Contract.

(d) Notwithstanding anything herein to the contrary, the Buyers and Sellers expressly agree that if, prior to December 31, 2009, the Buyers receive a bona fide offer with respect to a Glendale Team Sale (i) from a bona fide purchaser that (x) complies with all of the NHL's requirements for ownership of a Member Club, including submission of all required application materials, (y) demonstrates to the reasonable satisfaction of the NHL that it has the financial capability to consummate the Glendale Team Sale and meet the ongoing operating expenses of the Team and (z) otherwise satisfies the NHL's standards for approval as an owner of a Member Club, (ii) that requires the purchaser to execute the NHL's standard form of Consent Agreement and to assume the AMULA (as the same may be amended), (iii) that would result in the Buyers receiving a purchase price at the closing of such Glendale Team Sale that would result in a Net Profit of not less than \$0, and (iv) that would not be subject to a financing condition or any other material contingencies (other than NHL approval and compliance with the Hart-Scott-Rodino Act) (any such Glendale Team Sale meeting the foregoing requirements being a "**Preferred Glendale Team Sale**"), then the Buyers will accept such offer (or, in the event that the Buyers receive more than one bona fide offer satisfying the foregoing requirements, any such offer in the sole discretion of the Buyers) and use their commercially reasonable efforts to consummate such Preferred Glendale Team Sale, notwithstanding any higher or better offer or indication of interest that the Buyers may have received that does not satisfy such requirements (including, without limitation, a transaction that contemplates a relocation of the Team away from Glendale, Arizona). The Buyers and Sellers expressly agree that the City shall be entitled to enforce the Buyers' obligation to accept a Preferred Glendale Team Sale pursuant to this Section 2.12(d); provided that the City does not object to, challenge or seek to render invalid, illegal or unenforceable any of the Transaction Documents, including, without limitation, the Partial Lease Assignment Agreement; and, provided further, that nothing in this Section 2.12(d), including the immediately preceding proviso, shall restrict or limit the City's rights with respect to (x) any action by the Sellers seeking to reject the AMULA or (y) any claims the City may have against the Sellers or any other person (other than the NHL, any NHL Entity, the Buyers or their respective Affiliates), including, without limitation, with respect to rejection of the AMULA.

(e) Prior to the consummation of a Glendale Team Sale (whether or not a Preferred Glendale Team Sale), upon notice by the Buyers to the Sellers, (i) the Sellers shall withdraw any motion to reject the AMULA and take such other action as may be required to obtain an Order of the Bankruptcy Court determining that the AMULA is not rejected, and (ii) the AMULA will be treated as an Added Contract in accordance with Section 2.9(b), subject to any negotiated amendment, and thereafter shall be deemed an Assumed Contract

2.13 SOF Indebtedness. The Buyers shall pay at the Closing all amounts owed by the Sellers to SOF pursuant to the SOF Indebtedness, subject to such alternative arrangement as may be agreed upon prior to the Closing by the Buyers and SOF which results in the satisfaction and/or release of all of SOF's claims against the Sellers.

2.14 Glendale Contracts.

(a) Schedule 2.14(a) sets forth all of the Contracts relating to the AMULA and the operation of the Arena, including the Team's use of the Arena, to which one or both of the Sellers is a party (the "**Glendale Contracts**"). The Sellers agree not to reject the Glendale Contracts prior to the earliest of (i) June 30, 2010, and (ii) the date of a Final Order confirming a plan of reorganization of Sellers under the Bankruptcy Code (in which case the Sellers shall take all actions required to ensure that such rejection does not become effective until June 30, 2010).

(b) At any time prior to the rejection of any Glendale Contract (but not later than June 30, 2010), the Buyers may elect to assume such Glendale Contract. In the event the Buyers have elected to assume a Glendale Contract, such Glendale Contract shall be treated as an Added Contract in accordance with Section 2.9(b) and thereafter shall be deemed an Assumed Contract.

(c) At the Closing, the Sellers and the Buyers will enter into a transition services agreement substantially in the form attached as Exhibit F hereto, with such changes as may mutually be agreed to by the Buyers and the Sellers ("**Transition Services Agreement**") pursuant to which (i) the Sellers will provide to the Buyers the goods, services, rights and benefits to which the Sellers are entitled under the Glendale Contracts, to the extent reasonably requested by the Buyers consistent with past operation of the Team and the Arena; and (ii) the Buyers will pay to the Sellers, as and when due under the Glendale Contracts, all fees, costs, rents and other amounts payable by the Sellers under the Glendale Contracts for the provision of goods and services thereunder. The Transition Services Agreement shall terminate on the earlier of (x) June 30, 2010 and (y) the date on which all Glendale Contracts have either (A) expired (without renewal), (B) been terminated with the consent of all parties thereto, or (C) been assumed by the Buyers pursuant to Section 2.14. To the extent any third party Consent is required in order to effectuate the terms of the Transition Services Agreement with respect to any Glendale Contract, the Sellers will use their commercially reasonable efforts to obtain such Consent. If such Consent is not obtained, the Buyers and Sellers will use their commercially reasonable efforts to enter into an alternative arrangement with respect to such Glendale Contract, including seeking relief from the Bankruptcy Court, to provide the Buyers with the benefits and burdens of such Glendale Contract. Notwithstanding anything in this Section 2.14 or the Transition Services Agreement to the contrary, the Buyers shall have no obligation to renew or extend any Glendale Contract that by its terms expires prior to the termination of the Transition Services Agreement.

(d) Notwithstanding anything herein to the contrary, prior to the termination of the Transition Services Agreement, upon 15 days' prior written notice provided to the Sellers, the Buyers may elect in their sole discretion to treat each Glendale Contract listed on Schedule 2.14(d) as an excluded Contract that will not become an Assumed Contract as of the date specified in such notice (such date, the "**Service Termination Date**"). Upon the Buyers' exercise of the option in the preceding sentence, as of and from the Service Termination Date (i) such Glendale Contract shall be deemed an excluded Contract and the rights thereunder shall be considered Excluded Assets, (ii) the Sellers shall no longer be required to provide the goods,

services, rights and benefits under such Contract to the Buyers, and the Buyers shall no longer be required to pay to the Sellers all fees, costs, rents and other amounts payable by Sellers under such Contract, and (iii) the Sellers shall be entitled to reject such Contract.

(e) Notwithstanding anything herein to the contrary, the Buyers reserve the right to seek to negotiate amendments to one or more of the Glendale Contracts prior to electing to assume such Glendale Contracts.

### ARTICLE III

#### CONSIDERATION

3.1 Consideration. The aggregate consideration for the Purchased Assets shall be:

(a) The assumption of the Assumed Liabilities, including but not limited to:

(i) Assumption of obligation to pay and payment or other satisfaction of all SOF Indebtedness, the aggregate amount of which will be set forth in a certificate, dated October 30, 2009, duly executed by the chief financial officer of each Seller and duly acknowledged by the Buyers and by SOF Investments, L.P., Donatello Investments, LLC and White Tip Investments, LLC<sup>1</sup>; and

(ii) Assumption of all NHL Obligations, the aggregate amount of which will be set forth in a certificate, dated October 30, 2009, duly executed by the chief financial officer of each Seller and duly acknowledged by the Buyers<sup>2</sup>; and

(b) Cash, payable to the Sellers on the Closing Date, in an amount equal to the difference between \$128,382,121 and the sum of the payments and amounts referred to in Sections 3.1(a)(i) and 3.1(a)(ii); and

(c) In the event that a Team Sale is consummated prior to the second anniversary of the Closing Date, an additional amount of cash, payable by the Buyers to the Sellers within ten (10) Business Days following consummation of such Team Sale, in an amount

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<sup>1</sup> As of 10/28/09, estimated to be approximately \$80.747 million, including accrued but unpaid interest and legal fees.

<sup>2</sup> As of 10/28/09, estimated to be approximately \$36.332 million, including interest and related costs through November 2, 2009 and \$2 million for the payment of professional fees and expenses.

equal to the Net Profit received in connection with such Team Sale; provided, that nothing contained in this Section 3.1(c) shall require the Buyers to seek or agree to a Team Sale involving a relocation of the Team or prohibit or restrict in any way the Buyers' right, in their sole discretion, to agree to and consummate a Glendale Team Sale (whether or not a Preferred Glendale Team Sale).

3.2 Allocation of the Consideration to Purchased Assets. The Buyers shall prepare a proposed allocation of the items constituting consideration for United States federal income tax purposes among the Purchased Assets in accordance with Section 1060 of the Code and the Treasury Regulations promulgated thereunder (and any corresponding or similar provisions of state, local, or foreign Law, as appropriate) and shall deliver such proposed allocation to the Sellers within thirty (30) days after the Closing Date. On or before the thirtieth (30th) Business Day following the Sellers' receipt of the proposed allocation from the Buyers as herein provided, the Sellers shall provide the Buyers with any comments they may have with respect to the proposed allocation. Such comments shall be considered in good faith by the Buyers. To the extent such comments are material in nature, the Sellers and the Buyers shall thereafter work in good faith to resolve any and all objections set forth therein. If the Sellers and the Buyers are unable to resolve any material differences with regard to the allocation of the consideration within thirty (30) Business Days after Sellers' delivery of such written comments to the proposed allocation, then any disputed, material matters will be finally and conclusively determined by an independent certified public accounting firm or independent certified appraisal firm (the "**Valuation Expert**") mutually agreed upon by the Buyers and the Sellers (such agreement not be unreasonably withheld, conditioned or delayed by the Buyers or the Sellers). The Valuation Expert shall promptly resolve any such matters in dispute and render a written report as to the disputed matters and the resulting allocation. The Valuation Expert's fees and expenses shall be borne equally by the Buyers, on the one hand, and the Sellers, on the other hand. The Buyers and the Sellers will each file all Tax Returns (including, but not limited to, IRS Forms 8594) consistent with the allocation established pursuant to the terms of this Section 3.2 (including any adjustment thereto as set forth in this Section 3.2). The Sellers, on one hand, and the Buyers, on the other hand, agree to provide the other promptly with any other information required to complete IRS Forms 8594. Neither the Buyers nor the Sellers shall take any Tax position inconsistent with such allocation (including any adjustment thereto) and neither the Buyers nor the Sellers shall agree to any proposed adjustment based upon or arising out of the allocation by any Governmental Entity without first giving the other party prior written notice; provided, however, that nothing contained herein shall prevent the Buyers or the Sellers from settling any proposed deficiency or adjustment by any Governmental Entity based upon or arising out of the allocation, and neither the Buyers nor the Sellers shall be required to litigate before any court any proposed deficiency or adjustment by any Governmental Authority based upon or arising out of such allocation. The allocation shall be revised by the Buyers in accordance with Section 1060 of the Code and the Treasury Regulations promulgated thereunder to appropriately take into account any payments made under this Agreement treated as an adjustment to the consideration for United States federal income tax purposes.

3.3 Payment Procedures. All cash required to be transferred on the Closing Date pursuant to Section 3.1 will be transferred by wire transfer of immediately available funds in U.S. dollars in the amounts and to the bank account or accounts designated in writing by the relevant party at least one (1) Business Day prior to the Closing Date.

## ARTICLE IV

### CLOSING DELIVERIES

4.1 Closing. Unless this Agreement is earlier terminated under Article X, the closing of the purchase and sale of the Purchased Assets and assumption and assignment of the Assumed Liabilities (the "**Closing**") shall take place at 10:00 a.m., Eastern time, on a date that is within two (2) Business Days after the conditions set forth in Article IX are satisfied or waived by the party entitled to waive the condition (other than those to be satisfied at Closing, but subject to the satisfaction or waiver of such conditions), at the offices of Skadden, Arps, Slate, Meagher & Flom LLP located at Four Times Square, New York, New York 10036, unless another place, date or time is agreed to by the Buyers and the Sellers. The date and time of the Closing are herein referred to as the "**Closing Date**."

4.2 Closing Deliveries by the Sellers. At the Closing, the Sellers shall deliver or cause to be delivered to the Buyers:

(a) duly executed bills of sale for the Purchased Team Assets and the Purchased Arena Assets, substantially in the form of Exhibits A-1 and A-2, respectively, attached hereto (collectively, the "**Bills of Sale**");

(b) duly executed assignment and assumption agreements for the Assumed Team Liabilities and the Assumed Arena Liabilities, substantially in the form of Exhibits B-1 and B-2, respectively, attached hereto (collectively, the "**Assignment and Assumption Agreements**");

(c) duly executed assignments of the registered Intellectual Property and applications for registrations of Intellectual Property included in the Purchased Team Assets and the Purchased Arena Assets, substantially in the form of Exhibits C-1 and C-2 respectively, attached hereto (collectively, the "**Intellectual Property Assignments**");

(d) such documentation, identified by the Buyers at least two (2) Business Days before the Closing Date, as may be necessary to change the authorized signatories on any bank accounts, safety deposit boxes and lock boxes containing or constituting Purchased Assets;

(e) a certified copy of the Sale Order and any other Order of the Bankruptcy Court with respect to Added Contracts, each of which shall be a Final Order in recordable form;

(f) a true and complete copy, certified by the secretary or an assistant secretary of each Seller, of the resolutions duly and validly adopted by the manager of such



Seller, evidencing the manager's authorization of the execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby;

(g) a copy of each Consent obtained by the Sellers with respect to the transactions contemplated hereunder;

(h) a non-foreign affidavit dated as of the Closing Date sworn under penalty of perjury and in form and substance required under Section 1445 of the Code and the Treasury Regulations promulgated thereunder from each Seller stating that such Seller is not a "foreign person" as defined in Section 1445 of the Code;

(i) the resignations of each director or managing member of any corporation, limited liability company or other entity for which such Person currently serves and which corporation, limited liability company or other entity is owned, directly or indirectly, by one or both Sellers and is acquired as a Purchased Asset by either Buyer pursuant to this Agreement;

(j) duly executed instruments necessary for the transfer of all equity interests of the Team Seller in NSC and the NHL Entities to the Team Buyer;

(k) duly executed copy of the NHL Consent Agreement;

(l) a duly executed copy of the Transition Services Agreement;

(m) a duly executed copy of the Partial Lease Assignment Agreement;

(n) the certificates, agreements, instruments and other documents referred to in Section 9.2; and

(o) such other documents as are reasonably required to be delivered by the Sellers to effectuate the transactions contemplated by this Agreement and the other Transaction Documents.

4.3 Closing Deliveries by the Buyers. At the Closing, the Buyers shall deliver or cause to be delivered to Sellers:

(a) the cash payable pursuant to Sections 3.1(b);

- (b) the duly executed Bills of Sale;
- (c) the duly executed Assignment and Assumption Agreements;
- (d) the duly executed Intellectual Property Assignments;
- (e) a copy of each Consent obtained by the Buyers with respect to the transactions contemplated hereunder;
- (f) a true and complete copy, certified by the secretary or an assistant secretary of each Buyer, of the resolutions duly and validly adopted by the manager of such Buyer, evidencing the manager's authorization of the execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions contemplated hereby and thereby;
- (g) a duly executed copy of the Transition Services Agreement;
- (h) a duly executed copy of the Partial Lease Assignment Agreement;
- (i) the certificates, agreements, instruments and other documents referred to in Section 9.3; and
- (j) such other documents as are reasonably required to be delivered by the Buyers to effectuate the transactions contemplated by this Agreement and the other Transaction Documents.

4.4 Subsequent Deliveries by the Buyers. Within ten (10) Business Days following the date of consummation of a Team Sale, the Buyers shall pay to Sellers that portion of the cash consideration payable pursuant to Section 3.1(c).

## **ARTICLE V**

### **REPRESENTATIONS AND WARRANTIES OF THE SELLERS**

Except as disclosed on the Schedules as referenced below, which Schedules have been separately delivered by the Sellers to the Buyers concurrently with the execution of this Agreement, the Sellers represent and warrant to the Buyers as follows:

5.1 Sellers' Organization. Each Seller is a limited liability company duly organized, validly existing, and in good standing under the Laws of Delaware, and has full limited liability company power and authority to enter into this Agreement and consummate the transactions contemplated hereby, subject only to Bankruptcy Court approval.

5.2 Authority and Enforceability. Subject to the Sale Order, each Seller has full limited liability company power and authority to enter into this Agreement. The execution and delivery of this Agreement, and the consummation and performance by Sellers of the transactions contemplated herein, have all been or will be duly authorized by all necessary limited liability company action, and no other proceedings on the part of such Seller are necessary with respect thereto, and this Agreement constitutes a valid and binding agreement of each Seller enforceable against it in accordance with its terms except as enforceability is limited by (a) any applicable bankruptcy, insolvency, reorganization, moratorium, or similar Laws affecting creditors' rights generally, or (b) general principles of equity, whether considered in a proceeding in equity or at Law.

5.3 Consents. Except as specified in Schedule 5.3, Sellers are not required or obligated to give any notice to, make any filing with, or obtain the Consent of any Person in connection with the execution and delivery of the Transaction Documents, the consummation of the transactions contemplated thereby, and performance of each Seller's obligations thereunder, including the Consent of any party to any Contract.

5.4 Capitalization; Officers and Directors.

(a) Holdings owns beneficially and of record all of the issued and outstanding membership interests in Arena Seller, the Persons listed on Schedule 5.4(a) own beneficially and of record the issued and outstanding membership interests in Team Seller set forth therein, and, except for such membership interests, there are no Securities of either Seller outstanding, authorized or held by any other Person nor is any other interest of any kind whatsoever held by any other Person in the capital of Seller.

(b) Except as set forth on Schedule 5.4(b), neither Seller has any Subsidiaries, and neither Seller, directly or indirectly, owns, of record or beneficially, any Securities in any Person. Sellers have delivered to Buyers a true, correct and complete copy of the organizational documents of NSC, the only business of which is to own shares in National Hockey League Enterprises Canada, Inc. and limited partnership interests in National Hockey League Enterprises Canada, L.P. Team Seller owns beneficially and of record all of the issued and outstanding equity interests of NSC, and there is no interest therein of any kind whatsoever held by any other Person, including no options, warrants, rights or commitments of any character.

(c) Schedule 5.1(c) sets forth a true, correct and complete list of all officers, directors and managers of each Seller and NSC.

5.5 Absence of Certain Changes. Since June 30, 2008, except as disclosed on Schedule 5.5, Sellers have conducted the Business only in the ordinary course of business and

have not done any of the following: (a) suffered any change except changes that, in the aggregate, have not resulted and could not reasonably be expected to result in a Material Adverse Effect; (b) disposed of any tangible or intangible assets of the Business except in the ordinary course of business; (c) except as specified in Schedule 5.5, incurred any Liability, except current liabilities for trade or business obligations incurred in the ordinary course of business or suffered any "Loss" (meaning any Liability, penalty, fine, loss, claim, settlement payment, cost, expense, interest, award, judgment, damages (including punitive damages), diminution in value, fines, fees and penalties or other charge), (d) except as specified on Schedule 5.5, created or permitted to exist any Encumbrance on any Purchased Assets; (e) terminated or amended or breached any Assumed Contract (except, in the case of amendment, where Sellers have provided to Buyers a complete copy of such amendment); (f) except in the ordinary course of business, entered into any Contract or made any purchase commitment in excess of the normal, ordinary and usual requirements of its business or at any price materially in excess of the then-current market price or upon terms and conditions materially more onerous than those usual and customary in the industry; (g) failed to replenish its inventories and supplies in a normal and customary manner consistent with its prior practice and ordinary business practices prevailing in the industry; (h) except as specified on Schedule 5.5, experienced any damage, destruction or loss exceeding \$50,000 individually or \$100,000 in the aggregate, related to the Purchased Assets; (i) obtained Knowledge of any occurrence, event, action, failure to act, or transaction, any one of which was outside the ordinary course of business, unless any of the above was not reasonably likely to result in a Material Adverse Effect; or (j) entered into any agreement or made any commitment to take any of the actions described in Section 5.5(a) - 5.5(i).

5.6 Books and Records. The certificate of formation and operating agreement, minute books, and all other records of each Seller, all of which have been made available to Buyers, are complete, and contain no inaccuracies, other than as set forth on Schedule 5.6.

5.7 Material Contracts.

(a) Schedule 5.7(a) attached hereto lists each Material Contract.

(b) At or prior to Closing, Sellers shall have delivered or made available to Buyers a copy of all Material Contracts, including all amendments and supplements.

(c) Except as disclosed on Schedule 5.7(c), each Material Contract is in full force and effect and is valid and enforceable by each such Seller party thereto in accordance with its terms, except as enforceability is limited by (i) any applicable bankruptcy, insolvency, reorganization, moratorium or similar Law affecting creditors' rights generally, or (ii) general principles of equity, whether considered in a proceeding in equity or at Law.

(d) Except as stated on Schedule 5.7(d), neither Seller is in default under any Material Contract, and no event or circumstance has occurred that would, with notice or lapse of time or both, constitute a default by such Seller under any Material Contract.

(e) Except as stated on Schedule 5.7(e), to the Knowledge of the Sellers, no other Person is in default under any Material Contract and no event or circumstance has occurred that would, with notice or lapse of time or both, constitute a default by any other Person under any Material Contract.

(f) Except as stated on Schedule 5.7(f), neither Seller is party to any oral Contract.

#### 5.8 Player Contracts and Employees.

(a) Schedule 5.8 attached hereto lists the following information for each Team player as of the date of this Agreement: (i) name; (ii) current annual base salary or annualized wages; (iii) deferred compensation and time of payment of such compensation in the future; (iv) vacation accrued and unused; and (v) service credited for purposes of vesting and eligibility to participate under any of the Employee Benefit Plans. At or prior to Closing, Team Seller shall have delivered to Buyers a copy of all Employment and Independent Contractor Contracts for the employment of Team players and all amendments and supplements.

(b) To the Knowledge of Team Seller, no player employee of Team Seller has indicated his intention to resign. Except for Team Seller's player employees that Team Seller identifies in a written communication to Buyers before the Closing that shall remain confidential, all of Sellers' managers, officers, and employees are in good standing under the terms of their employment, and to the Knowledge of the Team Seller there exists no problem or difficulty with the employment of any of the Team players. Except as disclosed on Schedule 5.8 attached hereto, Sellers have paid all wages, bonuses, commissions, or other compensation due and payable to each of its employees in accordance with its customary practice, or such amounts will be paid under an Employee Benefit Plan or otherwise.

(c) Team Seller currently complies and has always complied, in all respects, with the Immigration Reform and Control Act of 1986 and all laws and all rules of the NHL with respect to Team players.

(d) Except as disclosed on Schedule 5.8 attached hereto, each Employment and Independent Contractor Contract for the employment of Team players is in full force and effect and is valid and enforceable in accordance with its terms, except as enforceability is limited by (i) any applicable bankruptcy, insolvency, reorganization, moratorium or similar Law affecting creditors' rights generally, or (ii) general principles of equity, whether considered in a proceeding in equity or at Law.

(e) Except as stated on Schedule 5.8 attached hereto, Team Seller is not in default under any Employment and Independent Contractor Contract for the employment of Team players, and no event or circumstance has occurred that would, with notice or lapse of time

or both, constitute a default by Team Seller under any Employment and Independent Contractor Contract for the employment of Team players.

(f) Except as stated on Schedule 5.8 attached hereto, to the Knowledge of the Team Seller, no other Person is in default under any Employment and Independent Contractor Contract for the employment of Team players and no event or circumstance has occurred that would, with notice or lapse of time or both, constitute a default by any other Person under any Employment and Independent Contractor Contract for the employment of Team players.

5.9 Employee Benefit Plans. Schedule 5.9 sets forth each Multiemployer Plan in effect on the Closing Date in which any Person who is a party to an Employment and Independent Contractor Contract for the employment of a Team player and any former Team player is eligible to participate. Buyers and Sellers shall have complied in all material respects with all applicable NHL Constitution and NHL By-Laws and other regulations regarding the provision of employee benefits, and shall take all steps necessary to transfer sponsorship, of such Multiemployer Plans as are required by a Collective Bargaining Agreement to be assumed and assigned, effective as of the Closing. Sellers shall provide Buyers with true, complete and correct summary plan descriptions, Form 5500s, funding or financing arrangement, reports, returns and similar documents required to be filed with any Governmental Entity or distributed to any participant to enable Sellers and Buyers to effectuate the assignment of sponsorship of such Multiemployer Plans. To the Knowledge of the Sellers, each such Multiemployer Plan that is sponsored by Seller has been administered in accordance with its terms and is in compliance with applicable provisions of ERISA and other applicable law and any applicable terms of a Collective Bargaining Agreement. To the Knowledge of the Sellers, there are no investigations by any Governmental Entity, termination proceedings or other claims (except routine claims for benefits payable) or proceedings against or involving any Multiemployer Plan sponsored by the Sellers, and all contributions to and payment from such Multiemployer Plan required by law or by a Collective Bargaining Agreement to be made has been timely made. Each Multiemployer Plan has been the subject of an unrevoked determination letter or opinion letter from the Internal Revenue Service that such plan and related trust is qualified and exempt from federal income taxes, and to the Knowledge of the Sellers, no circumstances exist that would adversely affect the tax-qualification of such Multiemployer Plan.

5.10 Intellectual Property.

(a) To the best of the Knowledge of the Sellers, all Intellectual Property used in the Business is listed on Schedule 5.10(a) and owned or licensed by one or both Sellers.

(b) With respect to each item of Intellectual Property identified on Schedule 5.10(a) (other than the off-the-shelf software) Sellers represent and warrant the following:

(i) No activity of Sellers in conducting the Business and no Intellectual Property listed on Schedule 5.10(a) violates or misappropriates any Intellectual Property or other proprietary rights of any other Person. One or both Sellers own or have the right to use pursuant to license, sublicense, Contract, or permission, such Intellectual Property for the operation of the Business as presently conducted. Each item of Intellectual Property owned or used by a Seller immediately before the Closing will be owned or available for use by Buyers on identical terms and conditions immediately after the Closing;

(ii) To the extent a Seller owns an item of Intellectual Property, except as disclosed on Schedule 5.10 attached hereto, such Seller possesses all right, title, and interest in and to such item, free and clear of any lien, license, or other restriction;

(iii) Except as disclosed on Schedule 5.10 attached hereto, a Seller has the right to assign the item to Buyers and has not conveyed any rights in the item to any other Person;

(iv) The item is not subject to any outstanding Order;

(v) No Action, complaint, or demand is pending or is threatened that challenges the legality, validity, enforceability, use, or ownership of the item;

(vi) Neither Seller has agreed to indemnify any Person for or against any interference, infringement, misappropriation, or other conflict with respect to the item; and

(vii) Neither Seller will use, interfere with, infringe upon, misappropriate, or otherwise come into conflict with, the Intellectual Property listed on Schedule 5.10(a) after the Closing.

(c) Schedule 5.10(a) lists all off-the-shelf software licensed by Sellers that is material to the operation of the Business in sufficient detail to permit Buyers to assess compatibility with Buyers' software. Schedule 5.10(a) identifies all such off-the-shelf software by type, number of copies of each software product, and number of licenses. As of the Closing Date, Sellers are fully compliant with all software licenses and to the Knowledge of the Sellers there are no unlicensed copies of software existing on any equipment, computers, machinery or media that is being transferred to Buyers in the transactions contemplated by this Agreement.

5.11 Taxes. The Sellers have (i) timely filed all Tax Returns required to be filed relating to the Business and (ii) except as such payment is stayed as a result of the Bankruptcy Case, have paid all Taxes relating to the Business which will have been required to

be paid by it, the non-payment of which would result in a Encumbrance on any Purchased Asset, would otherwise adversely affect the Business or would result in the Buyers becoming liable or responsible therefore. The Sellers have established, in accordance with generally accepted accounting principles applied on a basis consistent with that of preceding periods, adequate reserves for the payment of all Taxes relating to the Business incurred or relating to a Pre-Closing Tax Period, the non-payment of which would result in a Encumbrance on any Purchased Asset, would otherwise adversely affect the Business or would result in the Buyers becoming liable therefore, and such Taxes have been paid or will be paid under the Sellers' plan of reorganization filed with the Bankruptcy Court. The Sellers have not waived or been asked to waive any statute of limitations in respect of Taxes relating to the Business.

5.12 Tangible Personal Property. Schedule 5.12 accurately lists all items of tangible personal property used in connection with the Business and accurately shows for each item of tangible personal property whether it is subject to a lease or Encumbrance. Except as otherwise disclosed on Schedule 5.12, the tangible personal property is in good operating condition and repair (ordinary wear and tear excepted) and is available for use in the Business. All tangible personal property (including tangible personal property in which Sellers have only a leasehold interest) has been maintained and repaired in a reasonably prudent manner and at a level not less than the level of maintenance and repair existing prior to the execution of the Agreement.

5.13 Adequacy of Assets. The Purchased Assets, together with all Material Contracts that are not Assumed Contracts, constitute, in the aggregate, all of the assets, property and Contracts necessary for conduct of the Business in all material respects in the manner in which, and to the extent to which, it is currently being conducted.

5.14 NHL Status. The Team Seller is an existing Member Club and such membership interest in the NHL has not been revoked.

5.15 Environmental Matters.

(a) Sellers have obtained all Permits required for the operation of the Business by all Environmental Laws and Occupational Health and Safety Laws and are in compliance with these Permits and with all other limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules, and timetables contained in or arising from any Environmental Laws and Occupational Health and Safety Laws. Sellers have not received, nor do they have any reason to suspect that they may receive, any notices, reports, or other information, and are not subject to any threatened or pending investigations or proceedings or any Order, from any Person, regarding (i) an actual, potential, or alleged violation of or failure to comply with any Environmental Law or Occupational Health and Safety Law; (ii) any Environmental Contamination; or (iii) any Release, event, incident, condition, action, or failure to act related to a Seller or the Business, which is reasonably likely to prevent continued compliance with any Environmental Law or Occupational Health and Safety Law or which would otherwise be reasonably likely to give rise to any Environmental, Health or Safety Liabilities, and, to the Knowledge of the Sellers, no facts exist that would be reasonably likely to result in any such matter listed in (i)-(iii).



(b) Sellers have no Knowledge of any facts or conditions relating to Sellers' Business that prevent, hinder, or limit Buyers' ability to comply with Environmental Laws or Occupational Health and Safety Laws, and Sellers have no Knowledge of or any basis to expect, nor has either Seller or any other Person for whose conduct such Seller is or may be held responsible, received any citation, directive, inquiry, notice, Order, summons, warning or other communication that relates to (x) a Hazardous Activity, (y) Hazardous Materials, or (z) any alleged, actual, or potential obligation to undertake or bear the cost of any Environmental, Health or Safety Liabilities, including facts or conditions consisting of or relating to the following: (a) any environmental, health, or safety matter or condition (including on-site or off site Environmental Contamination, occupational safety and health, and regulation of any Hazardous Material); (b) any proceeding, Order, loss, or litigation expense arising under any Environmental Law or Occupational Health and Safety Law; (c) financial responsibility under any Environmental Law or Occupational Health and Safety Law for cleanup costs or corrective action, including any cleanup, removal, containment, or other remediation or response actions required by any Environmental Law or Occupational Health and Safety Law or any Person; or (d) any other compliance, corrective, or remedial measure required under any Environmental Law or Occupational Health and Safety Law. If required by any Environmental Law, Sellers have sent all Hazardous Materials for storage, recycling, treatment or disposal in accordance with all Environmental Laws.

(c) Sellers have not assumed, either expressly or by operation of law, any Liability of any other Person relating to an Environmental Law.

(d) Sellers have delivered to Buyer true and complete copies and results of any reports, studies, analyses, tests, or monitoring that Sellers have Knowledge of having been in possession of either Seller, pertaining to Hazardous Materials or Hazardous Activities in, on, or under any property related to the Business or concerning compliance by a Seller, or any other Person for whose conduct such Seller may be held responsible, with Environmental Laws.

5.16 No Operations. Dewey Ranch Hockey, LLC does not own, lease, license or otherwise have any rights in or to (i) any assets, or (ii) any employees involved in the operation of the Team or the Arena.

5.17 Real Property.

(a) Neither Seller owns any real property.

(b) Schedule 5.17(b) sets forth a true and complete list and a brief description of each leasehold, license or other interest in (including the right to use or occupy or permit others to use or occupy) real property, including the Arena, parking and other buildings or improvements, held by either Seller as of the date hereof (collectively, the "**Leased Real Property**"). The applicable Seller (i) has a valid leasehold, license, easement or other interest in each Leased Real Property that is part of the Purchased Assets (the "**Purchased Leased Real Property**") and (ii) has the right to quiet enjoyment of each Purchased Leased Real Property for

the full term of each lease, license, easement, declaration or similar agreement (and any renewal option) relating thereto. The Sellers have provided the Buyers with true and complete copies of all leases, licenses, easements, declarations, and similar agreements relating to the Purchased Leased Real Property in their possession, including all amendments, modifications and supplements thereto, all of which are specifically listed on Schedule 5.17(b), and each of which is in full force and effect and under which no default or event of default has occurred either with respect to the Sellers or, to the Knowledge of the Sellers, the other parties thereto. The leasehold, license, easement or other interest of the applicable Seller in such Purchased Leased Real Property is not subject or subordinate to any Encumbrances, except for Permitted Encumbrances, and the applicable Seller has the right to convey such interest to Buyers, free and clear of all Encumbrances other than such Permitted Encumbrances, in accordance with the terms of this Agreement. To the Knowledge of the Sellers, each of the Purchased Leased Real Properties is properly zoned and entitled (and meets all applicable zoning requirements that it is subject to), and all Permits have been obtained or made, for the applicable Seller's current and heretofore use thereof, and all such Permits are in full force and effect and neither the Sellers nor Holdings has received any notice of any violations of such Permits. There are no condemnation proceedings in which either Seller or Holdings has been served or, to the Knowledge of the Sellers, threatened with respect to any of the Purchased Leased Real Properties. The Purchased Leased Real Properties are in good condition and repair (subject to ordinary wear and tear) and, to the Knowledge of the Sellers, there are no latent or patent structural or other material defects and there is no material deferred maintenance with respect to the Purchased Leased Real Properties. No offsite improvements are necessary or used for the ownership, use or operation of the Purchased Leased Real Properties, other than public utilities. The Sellers have delivered to the Buyers all operating manuals and warranties related to the Arena and the systems and equipment therein.

(c) To the Knowledge of the Sellers, there is no pending or threatened claim to curtail or reduce any utility service to the Purchased Leased Real Properties or any part thereof. To the Knowledge of the Sellers, all potable and industrial water and gas, electrical, telecommunication, sanitary, drainage and storm sewer lines, systems and hook ups and all other utilities and public or quasi-public improvements located upon, under, at or adjacent to the Purchased Leased Real Properties and necessary for the normal operation thereof in the ordinary course of business are installed and connected under valid Permits, in good working order and adequate to service the Purchased Leased Real Properties. To the Knowledge of the Sellers, the water supply and water purity, the sewer, drainage and waste disposal systems and all other utility systems necessary and appropriate for the use and occupancy of the Purchased Leased Real Properties in the ordinary course of business are sufficient in all material respects for the operation thereof in the ordinary course of business.

5.18 Disclosure. The Transaction Documents do not contain any untrue statement of material fact and do not omit any material fact necessary to make statements contained therein not misleading. To the Knowledge of the Sellers, there are no facts relating to the Business that have not been disclosed to Buyers, unless those facts would not reasonably be likely to result in a Material Adverse Effect.

## ARTICLE VI

### REPRESENTATIONS AND WARRANTIES OF THE BUYERS

Except as disclosed on the Buyer Schedules as referenced below, which Buyer Schedules have been separately delivered by the Buyers to the Sellers concurrently with the execution of this Agreement, the Buyers represent and warrant to the Sellers as follows:

6.1 Buyers' Organization. Each Buyer is a limited liability company duly organized, validly existing, and in good standing under the Laws of Delaware, and has full limited liability company power and authority to enter into this Agreement and consummate the transactions contemplated hereby, subject only to Bankruptcy Court approval. Each Buyer is directly or indirectly owned and controlled by an Affiliate of the NHL or an NHL Entity.

6.2 Authority and Enforceability. Each Buyer has full limited liability company power and authority to enter into this Agreement. The execution and delivery of this Agreement, and the consummation and performance by each Buyer of the transactions contemplated herein, have all been or will be duly authorized by all necessary limited liability company action, no other proceedings on the part of such Buyer are necessary with respect thereto, and this Agreement constitutes a valid and binding agreement of each Buyer enforceable against such Buyer in accordance with its terms except as enforceability is limited by (a) any applicable bankruptcy, insolvency, reorganization, moratorium, or similar Law affecting creditors' rights generally, or (b) general principles of equity, whether considered in a proceeding in equity or at Law.

6.3 Financial Capability. The Buyers currently expect to have as of the Closing Date sufficient funds to enable the Buyers to consummate the transactions contemplated by this Agreement. The Buyers currently expect that such funds will be provided by the NHL or an Affiliate of the NHL or an NHL Entity from existing credit facilities and cash on hand.

6.4 Litigation. There is no Action now pending, or, to the knowledge of the Buyers, threatened against either Buyer before any court, arbitration, administrative, or regulatory body or any Governmental Entity which may result in any Order or other determination which will, or could reasonably be expected to, materially impair the ability of either Buyer to fulfill and perform its obligations under this Agreement.

6.5 NHL Consents. The Buyers are legally, financially and otherwise qualified under the NHL Rules to acquire and operate the Business. The Buyers have obtained the consent or a waiver of consent from the NHL approving the transactions contemplated hereby, including the ownership of the Team by Team Buyer and its Affiliates and the operation of the Team in its current territory of Glendale, Arizona, and no further Consents of the NHL pursuant to the NHL Rules, shall be required.

## ARTICLE VII

### COVENANTS WITH RESPECT TO CONDUCT OF THE SELLERS AND THE BUYERS PRIOR TO CLOSING

From the date hereof through and including the Closing Date, the Buyers and the Sellers will comply with the applicable terms and provisions of this Article VII.

7.1 Access; Books and Records. From the date of this Agreement until the Closing Date, upon notice given in accordance with this Agreement from the Buyers to the Sellers, the Sellers shall, and shall cause their Representatives to, authorize and permit the Buyers and their Representatives to have reasonable access during normal business hours, in such manner as will not unreasonably interfere with the conduct of each Seller's business, to all of the Sellers' properties, books, records, Tax Returns and all other information with respect to each Seller's business, the Purchased Assets and the Assumed Liabilities as the Buyers may from time to time request, and to make copies of such books, records and other documents, and to discuss each Seller's business with the officers, accountants and counsel, of such Seller as requested by the Buyers.

7.2 Notification of Certain Matters; Updates of Schedules. The Sellers shall give prompt notice to the Buyers, and the Buyers shall give prompt notice to the Sellers, of (and in each case the notifying party shall use its reasonable best efforts to cure before the Closing Date) the occurrence, or failure to occur, of any event that would be likely to cause any representation or warranty by such party contained in this Agreement to not be true and correct or any failure of such party to comply with any covenant or agreement to be complied with by it under this Agreement, in either case that would prevent the satisfaction of a Closing condition set forth in Article IX. Furthermore, on or prior to the Closing Date, the Sellers shall deliver to the Buyers amendments to the Schedules delivered by the Sellers to the Buyers under Article V to reflect any changes thereto that occurred or were discovered between the execution of this Agreement and the Closing Date. No amendment to the Schedules or notification to the Buyers made pursuant to the requirements of this Section 7.2 shall (i) become effective or prevent or cure any breach of any representation, warranty, covenant or other provision of this Agreement or (ii) have any effect on Buyers' rights and remedies hereunder.

7.3 Conduct of Business. Until the Closing, in each instance with respect exclusively to the Business, unless consented to in writing by Buyers (which consent shall not be unreasonably withheld, delayed, or conditioned), Sellers shall:

(a) Preservation. Use commercially reasonable efforts to preserve intact its current business organization, keep available the services of its officers, employees, and agents and maintain its present business relations and goodwill with suppliers, customers, landlords, creditors, employees, agents, and others having business relationships with Sellers;

(b) Changes. Confer with Buyers prior to implementing operational decisions of a material nature;

(c) Maintenance. Not dispose of or transfer Purchased Assets (including the disposition or transfer of any tangible personal property) except in the ordinary course of business and maintain the Purchased Assets in a state of repair and condition that materially complies with Law and is consistent with Sellers' ordinary course of business;

(d) Compliance. Comply in all material respects with all Laws and contractual obligations applicable to the operations of the Business;

(e) Consents. Cooperate with Buyers in good faith and in a commercially reasonable manner, but without incurring any material cost or expense, to assist Buyers in identifying and obtaining any Consents required by Buyers to operate the Business from and after the Closing Date, provided that Sellers will be responsible for obtaining Consents pursuant to Section 7.4 prior to Closing;

(f) Books. Maintain all books and records relating to the Business in the ordinary course of business;

(g) Other Actions. Do or refrain from doing all acts and things in order to (i) ensure that the representations and warranties in Article V remain true and correct at the Closing as if such representations and warranties were made at and as of such date, and (ii) to satisfy or cause to be satisfied the conditions in Article IX which are within Sellers' control; and

(h) Player Actions. Without limiting the generality of the foregoing, unless otherwise agreed to in writing by Buyers, Team Seller will not trade or release any players or draft picks.

Nothing contained in this Section 7.3 shall be deemed to amend, modify, supersede or terminate the rights of the Commissioner of the NHL or his designees to operate and control the operation of the Team pursuant to the Sale Order.

#### 7.4 Permits and Consents.

(a) The Sellers and the Buyers agree to cooperate with each other and use their respective reasonable best efforts to obtain (and will promptly prepare all registrations, filings, applications, requests and notices relating to) all Permits that may be necessary to consummate the transactions contemplated by this Agreement. Team Buyer agrees to accept and enter into the NHL Consent Agreement and the NHL Guaranty. To the extent applicable, the Sellers agree to enter into the NHL Consent Agreement on such terms and conditions as are customarily provided in an NHL Consent Agreement.

(b) To the extent that the Consent of a third Person with respect to any Material Contract or Employment and Independent Contractor Contract that is an Assumed Contract or any Assumed Plan is required to consummate the transactions contemplated by this Agreement, the Sellers and Buyers shall use their reasonable best efforts to obtain such Consent prior to the Closing Date; provided, however, unless contractually required, neither the Sellers nor Buyers shall be required to compensate any third Person, incur any material expense or make any material amendment or modification to any such Contract or Employee Benefit Plan.

(c) The Sellers, on the one hand, and the Buyers, on the other hand, will promptly notify the other if they reasonably believe that, notwithstanding their reasonable best efforts, they will be unable to obtain one or more of the Permits or Consents prior to the Closing Date.

7.5 Reports; Financial Statements. The Sellers shall furnish to the Buyers as soon as available copies of any material reports, renewals, filings, certificates, statements, memoranda and other documents filed by either Seller with any Governmental Entity.

7.6 Efforts of Parties to Close. During the period from the date of this Agreement through the Closing Date, subject to Section 7.4, each party hereto shall use its reasonable best efforts to cause all conditions to Closing set forth in Article IX to be timely satisfied and to perform and fulfill all obligations on its part to be performed and fulfilled under this Agreement, to the end that the transactions contemplated by this Agreement shall be effected in an expeditious manner to the extent practicable; provided, however, that the Buyers shall not be deemed in breach of the foregoing or any other provision of this Agreement if they do not agree upon terms and conditions of any amendment to the AMULA pursuant to Section 2.12(c) acceptable to the Buyers.

7.7 Bankruptcy Court Matters.

(a) The Sellers and the Buyers acknowledge that this Agreement and the sale of the Purchased Assets and the assumption and assignment of the Assumed Contracts are subject to Bankruptcy Court approval. The Sellers and the Buyers acknowledge that (i) to obtain such approval, the Sellers must demonstrate that they have taken reasonable steps to obtain the highest and otherwise best offer possible for the Purchased Assets, and that such demonstration shall include giving notice of the transactions contemplated by this Agreement to creditors and other interested parties as ordered by the Bankruptcy Court, and (ii) the Buyers must provide adequate assurance of further performance under the to-be-assigned executory Assumed Contracts.

(b) The Buyers shall serve this Agreement, including the attached Sale Order, so as to be received on or before October 29, 2009, at 4:00 p.m., by (i) the Debtors; (ii) the NHL; (iii) the Notice Parties (as defined in the Bid Procedures Order); (iv) all known creditors and counterparties of the Sellers; (v) all federal, state, county, local and foreign Taxing authorities that have a reasonably known interest in the relief granted in the Sale Order; (vi) the IRS; and (vii) the Pension Benefit Guaranty Corporation.

(c) The Bankruptcy Court has scheduled the Sale Hearing for November 2, 2009. The Sellers shall use their reasonable best efforts to have the Bankruptcy Court enter the Sale Order immediately upon the completion of the Sale Hearing, but in any case no later than three (3) days after the Sale Hearing. The Sellers shall use their reasonable best efforts to obtain a ruling that the Sale Order is immediately effective notwithstanding Fed. R. Bankr. P. 6004(h) and 6006(d). Furthermore, the Sellers shall use their reasonable best efforts to obtain any other Consents from the Bankruptcy Court that may be reasonably necessary to consummate the transactions contemplated in this Agreement.

(d) The Buyers agree to promptly use their reasonable best efforts (not including the expenditure of funds other than professional and administrative costs) to take such actions as are reasonably requested by the Sellers to assist in obtaining the Sale Order, including furnishing truthful affidavits and/or information, to the extent reasonably available to the Buyers, for filing with the Bankruptcy Court for the purposes, among others, of providing necessary assurances of performance by the Buyers under this Agreement and demonstrating that the Buyers are "good faith" purchasers under Section 363(m) of the Bankruptcy Code.

(e) With respect to each of the Assumed Contracts, the Buyers shall cooperate as reasonably necessary to provide adequate assurance of future performance to counterparties to such Assumed Contracts as required under Section 365 of the Bankruptcy Code.

(f) In the event the entry of the Sale Order shall be appealed or a stay thereof be sought, the Sellers shall immediately notify the Buyers. The Sellers shall use their reasonable efforts to defend such appeal and oppose such a stay.

7.8 Due Diligence. Buyers shall be entitled to conduct such due diligence as is necessary or desirable to (a) confirm the accuracy of Sellers' representations and warranties in Article V, (b) confirm the satisfaction of conditions precedent to Closing set forth in Article IX and (c) update or modify the Schedules as provided herein.

7.9 Termination of Claims and Actions. Notwithstanding anything to contrary in this Agreement, from the date hereof, the Sellers agree, and shall use their reasonable best efforts to cause their Affiliates, (i) not to, directly or indirectly, investigate, commence, prosecute, support, assist, aid, abet, cooperate with or encourage any claims, actions, lawsuits, demands, causes of action or the like including, but not limited to, any such claims, actions, lawsuits, demands or causes of action based on alleged violations of any antitrust laws, against the Buyers, the NHL or the City, (ii) not to object to or contest in any manner, or raise any defense to any motion, proceeding or other action requesting the rescission, dismissal or other termination of any such claims, actions, lawsuits, demands or causes of action against the Buyers, the NHL or the City, and (iii) to take all actions necessary to cause any such claims, actions, lawsuits, demands or causes of action by or on behalf of the Sellers to be rescinded, dismissed or otherwise terminated; provided, however, that the foregoing (i), (ii) and (iii) shall not apply to any claims, actions, lawsuits, demands or causes of action against the Buyers or the NHL to enforce this Agreement.

## ARTICLE VIII

### CONTINUING COVENANTS

#### 8.1 Tax Matters.

(a) Real Property, Personal Property and Similar Ad Valorem Obligations. Sellers shall be liable for any real property, personal property and similar *ad valorem* obligations applicable to the Business and the Purchased Assets allocable to a Pre-Closing Tax Period; and Buyers shall be liable for any such obligations allocable to a Post-Closing Tax Period. Such obligations shall be allocated to the Pre-Closing Tax Period by multiplying 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 period ending on the close of Closing Date and the denominator of which is the number of calendar days in the entire period; and such obligations shall be allocated to the Post-Closing Tax Period by multiplying 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 period ending beginning after the Closing Date and the denominator of which is the number of calendar days in the entire period.

(b) Transaction Taxes. The Sellers shall bear and be responsible for paying any and all sales, use, transfer and any other real estate, documentary, registration, business and occupation and other similar taxes (including related penalties (civil or criminal), additions to tax and interest) imposed by any Governmental Entity with respect to the transactions contemplated by this Agreement ("**Transaction Taxes**"), regardless of whether the tax authority seeks to collect such taxes from the Sellers, Buyers or any of their Affiliates.

(c) Cooperation on Tax Matters. The Sellers and the Buyers agree to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information as is reasonably necessary to allow the Sellers or the Buyers, as the case may be, to file any Tax Returns for which such party is responsible, and determine the amount of Taxes due thereon, with respect to any Taxes relating to the Business, the non-payment of which would result in a Encumbrance on any Purchased Asset, would otherwise adversely affect the Business or would result in Buyer becoming liable or responsible therefore. The Buyers and Sellers shall cooperate fully, as and to the extent reasonably requested by the other party, in connection with any audit, litigation, or other proceeding with respect to such Taxes (a "**Tax Proceeding**"). The Sellers, on the one hand, and Buyers, on the other hand, shall give prompt written notice to the other party of any proposed adjustment or assessment of any such Taxes, or of any examination of related to such Taxes. The Sellers, on the one hand, and the Buyers, on the other hand, shall not negotiate a settlement or compromise of such Taxes without the written consent of the other party, which consent shall not be unreasonably conditioned, delayed or withheld. The parties' cooperation shall include the retention and (upon the other party's request) the provision of



records and information that are reasonably relevant to any such Tax Proceeding and the availability of employees on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Buyers and Sellers agree (A) to retain all books and records with respect to Tax matters related to such Taxes until the expiration of the statute of limitations (and, to the extent notified by the Buyers or Sellers, any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any taxing authority, and (B) to give the other party reasonable written notice prior to transferring, destroying or discarding any such books and records and, if the other party so requests, the Buyers or Sellers, as the case may be, shall allow the other party to take possession of such books and records to the extent they would otherwise be destroyed or discarded. Any information obtained under this Section 8.1 or under any other Section hereof providing for the sharing of information or the review of any Tax Return or other schedule relating to Taxes shall be subject to Section 12.6 hereof.

(d) Notice. The Sellers shall (i) provide appropriate notice of the Bankruptcy Case, any motions filed in respect of the Sale Order and related matters to all Governmental Authorities that may seek to collect property Taxes or impose on the Sellers, the Buyers or any Purchased Asset penalties for any property Taxes, and (ii) use all commercially reasonable efforts to obtain certificates, releases or other appropriate documentation from such Governmental Authorities to the extent such Governmental Authorities provide such certificates, releases or documentation in the ordinary course, providing that such property Taxes have been paid or are not owed.

## 8.2 Employee Matters.

(a) Employment. The Sellers shall terminate as of the Closing all of their employees who are not parties to Employment and Independent Contractor Contracts that are Assumed Contracts, and the applicable Buyer shall offer full-time employment effective as of the Closing to each employee who is not party to an Employment and Independent Contractor Contract that is an Assumed Contract and who is employed immediately prior to the Closing Date. Notwithstanding the immediately preceding sentence, the Sellers will not terminate any of their employees who are parties to Employment and Independent Contractor Contracts that are Glendale Contracts prior to the earlier of (i) the date on which the Sellers are permitted to reject Glendale Contracts pursuant to Section 2.14(a) and (ii) the expiration (without renewal) in accordance with its terms, if any, with respect to the applicable Employment and Independent Contractor Contract. Such offers of employment shall, unless the Buyers in their sole discretion determine otherwise, be on an employment-at-will basis, and shall be on such other terms and conditions as the Buyers determine in their sole discretion. Such employees who accept a Buyer's offer of employment and all employees of a Seller who are parties to Employment and Independent Contractor Contracts that are Assumed Contracts shall be referred to as the "**Transferred Employees**." To facilitate the Buyers' obligations under this Section 8.2, upon request, the Sellers shall provide the Buyers within a reasonable period prior to the Closing a true and correct list of all their employees, including with respect to any inactive employee, the reason for such inactive status and, if applicable, the anticipated date of return to active employment. Except as otherwise specifically set forth herein, the Sellers shall have no

responsibility whatsoever for any Liabilities that relate in any way to any Transferred Employee's employment with, or termination by, a Buyer.

(b) Employee Benefits. The Sellers shall cooperate with the Buyers to ensure a smooth and orderly transition of the Assumed Plans, including the rights and assets of the Sellers under Multiemployer Plans administered or sponsored by the NHL for the benefit of the Member Clubs, to the Buyers (or their designated Affiliate).

8.3 Further Assurances. In case at any time after the Closing any further action is necessary to carry out the purposes of this Agreement, each of the parties shall take such further action (including the execution and delivery of such further instruments and documents) as the other party reasonably may request, all at the sole cost and expense of the requesting party.

8.4 Purchase of Allowable Unsecured Claims. During the period commencing immediately following the Closing and ending on the 60<sup>th</sup> day following the Closing Date, the Buyers shall offer, and shall use their commercially reasonable efforts, to purchase the Allowable Unsecured Claims listed on Schedules 2.6(v) and 2.8(v) from the respective owners of such Allowable Unsecured Claim, in each case for the respective amounts set forth on Schedules 2.6(v) and 2.8(v); provided, that with respect to any Allowable Unsecured Claim set forth on Schedules 2.6(v) or 2.8(v) that is marked with an asterisk (\*), if the Buyers, the holder and the Creditors' Committee agree on a different amount, the Buyers shall purchase the claim at such agreed upon amount (any Allowable Unsecured Claims so purchased, the "**Purchased Claims**"). The Buyers' obligation to purchase any of the Allowable Unsecured Claims listed on Schedules 2.6(v) and 2.8(v) will be expressly conditioned upon, and the Buyers will have no obligation to purchase any of such Allowable Unsecured Claims in the absence of, the Closing having occurred in accordance with the provisions of this Agreement and receipt of a written agreement from the sellers of such Allowable Unsecured Claims effectively transferring to the Buyers all of such seller's rights with respect thereto in the form of Exhibit G. Any Purchased Claims will be subordinated in right of payment from the Sellers' estates to all other Allowable Unsecured Claims other than claims of any nature whatsoever of Jerry C. Moyes, Vickie Moyes and The Jerry and Vickie Moyes Family Trust or any of their respective Affiliates. Within five (5) Business Days after May 1, 2010, the Buyers will pay to the Sellers' estates cash in an amount equal to the difference, if any, resulting from \$11,617,879 minus the aggregate amount actually paid by the Buyers for Purchased Claims pursuant to this Section 8.4. The Buyers and the Sellers expressly agree that the Creditors' Committee shall be the sole party entitled to enforce Buyers' obligation to offer and use their commercially reasonable efforts to acquire the Allowable Unsecured Claims listed on Schedules 2.6(v) and 2.8(v) from the respective owners of such Allowable Unsecured Claim in accordance with the terms of this Section 8.4.

8.5 Reduction of Moyes Guaranty. The parties acknowledge that, concurrently with and effective upon the Closing, the NHL will, at the request of the Creditors' Committee amend the Moyes Guaranty to reduce the maximum cap amount under the Moyes Guaranty from \$30,000,000 to \$15,000,000; provided, that such amendment will specify, and the parties acknowledge and understand, that neither the NHL, on the one hand, nor Jerry C. Moyes, Vickie Moyes and The Jerry and Vickie Moyes Family Trust, on the other hand, waives or

releases, and each expressly reserves its right to assert, any claims, actions, causes of action or defenses they may have with respect to the Moyes Guaranty, as so amended. Such amendment will be in the form of a written instrument mutually acceptable to, and duly and validly executed by, the NHL, on the one hand, and Jerry C. Moyes, Vickie Moyes and The Jerry and Vickie Moyes Family Trust, on the other hand.

## **ARTICLE IX**

### **CONDITIONS OF PURCHASE**

9.1 General Conditions. The obligations of the parties to effect the Closing shall be subject to the following conditions unless waived in writing by the parties:

(a) No Restraint. No Law shall have been enacted, entered, issued, promulgated or enforced by any Governmental Entity that prohibits or restricts the transactions contemplated by this Agreement. No Governmental Entity shall have notified any party to this Agreement that consummation of the transactions contemplated by this Agreement would constitute a violation of any Law of any jurisdiction and/or that it intends to commence a suit, action, proceeding or investigation to restrain or prohibit such transactions or force divestiture or rescission, unless such Governmental Entity shall have withdrawn such notice and abandoned any such suit, action, proceeding or investigation prior to the Closing Date.

(b) Sale Order. The Bankruptcy Court shall have entered the Sale Order which, if not a Final Order, shall not have been stayed or postponed or prohibited in effect in whole or part by any court or Governmental Entity, and such Sale Order meets the requirements of Section 7.7 of this Agreement.

9.2 Conditions to Obligations of the Buyers. The obligations of the Buyers to effect the Closing shall be subject to the following conditions, except to the extent waived in writing by the Buyers:

(a) Representations and Warranties.

(i) Each representation and warranty of the Sellers contained in this Agreement shall be true and correct in all material respects, in each case on and as of the date of this Agreement and on and as of the Closing Date, except that those representations and warranties that (A) are limited or qualified by terms such as "material" or "Material Adverse Effect" shall be true and correct in all respects and (B) address matters only as of a particular date shall remain true and correct as of said date.

(ii) The Sellers shall have delivered to the Buyers a certificate of the Sellers in form and substance reasonably satisfactory to the Buyers, dated the as of

Closing Date and signed on behalf of the Sellers by a duly authorized officer, in such capacity, confirming the matters in Sections 9.2(a)(i), 9.2(b), 9.2(c) and 9.2(d) (which certificate however, shall not serve as evidence or otherwise have any effect on the determination of whether the conditions set forth in Section 9.2(a)(i), 9.2(b), 9.2(c) and 9.2(d) have been satisfied).

(b) Covenants. The Sellers shall have performed and complied in all material respects with all covenants and agreements required by this Agreement to be performed or complied with by the Sellers on or prior to the Closing Date.

(c) No Litigation. No Action shall be pending or threatened before any Governmental Entity, arbitrator or regulatory or self-regulatory body wherein an unfavorable Order could (i) prevent consummation of any of the transactions contemplated by this Agreement or prevent the Sellers from fulfilling a material obligation contemplated herein, (ii) cause any of the transactions contemplated by this Agreement to be rescinded following consummation, or (iii) adversely affect the right of the Buyers to own the Purchased Assets and to control the Team and Arena (and with respect to any of the foregoing, no such Order shall be in effect).

(d) Consents and Permits. All Consents and Permits of third Persons that must be obtained or made by the Sellers in order for the Sellers to consummate the transactions contemplated by this Agreement shall have been obtained or deemed obtained or made, shall be in full force and effect, and shall be in form and substance reasonably satisfactory to Buyers, without any diminution in value of the Purchased Assets.

(e) Assumed Plans. The Sellers shall have taken all steps reasonably necessary to transfer sponsorship of the Assumed Plans sponsored by the Sellers, and the rights and assets of the Sellers under Multiemployer Plans administered or sponsored by the NHL for the benefit of the Member Clubs, to the Buyers (or their designated Affiliates) effective as of the Closing.

(f) Closing Deliverables. The Buyers shall have received all documents and other items required to be delivered by the Sellers to the Buyers pursuant to Section 4.2.

9.3 Conditions to Obligations of the Sellers. The obligations of the Sellers to effect the Closing shall be subject to the following conditions, except to the extent waived in writing by Seller:

(a) Representations and Warranties.

(i) Each representation and warranty of the Buyers contained in this Agreement shall be true and correct in all material respects, in each case on and as of the date of this Agreement and on and as of the Closing Date, except that those representations and warranties that (A) are limited or qualified by terms such as "material" or "Material Adverse Effect" shall be true and correct in all respects and (B) address matters only as of a particular date shall remain true and correct as of said date.

(ii) The Buyers shall have delivered to the Sellers a certificate of the Buyers in form and substance reasonably satisfactory to the Sellers, dated the as of Closing Date and signed on behalf of the Buyers by a duly authorized officer, in such capacity, confirming the matters in Sections 9.3(a)(i), 9.3(b), 9.3(c) and 9.3(d) (which certificate however, shall not serve as evidence or otherwise have any effect on the determination of whether the conditions set forth in Section 9.3(a)(i), 9.3(b), 9.3(c) and 9.3(d) have been satisfied).

(b) Covenants. The Buyers shall have performed and complied in all material respects with all covenants and agreements required by this Agreement to be performed or complied with by the Buyers on or prior to the Closing Date.

(c) No Litigation. No Action shall be pending or threatened before any Governmental Entity, arbitrator or regulatory or self-regulatory body wherein an unfavorable Order could (a) prevent consummation of any of the transactions contemplated by this Agreement or (b) cause any of the transactions contemplated by this Agreement to be rescinded following consummation (and with respect to either of the foregoing, no such Order shall be effect).

(d) Consents and Permits. All Consents and Permits of third Persons that must be obtained or made by the Buyers in order for the Buyers to consummate the transactions contemplated by this Agreement shall have been obtained or deemed obtained or made, shall be in full force and effect, and shall be in form and substance reasonably satisfactory to Sellers, without any diminution in value of the Purchased Assets.

(e) Closing Deliverables. The Sellers shall have received all documents and other items required to be delivered by the Buyers to the Sellers pursuant to Section 4.3.

## ARTICLE X

### TERMINATION

10.1 Termination of Agreement. This Agreement may be terminated at any time before the Closing as follows and in no other manner:

(a) Mutual Consent. By mutual written consent of the Buyers and the Sellers.

(b) Conditions to the Buyers' Performance Not Met. By the Buyers, upon written notice to the Sellers, if any event occurs or matter is discovered or becomes known to the Buyers that would render impossible the satisfaction, on or before the Termination Date, of one or more conditions to the obligations of the Buyers to consummate the transactions contemplated by this Agreement as set forth in Section 9.1 or 9.2, and the Buyers shall not have waived and do not, in their sole discretion, wish to waive such condition or conditions; provided, however, that the right to terminate this Agreement under this Section 10.1(b) shall not be available to the Buyers if the Buyers' actions or omissions resulted in or were primarily responsible for such impossibility and the Buyers' actions or omissions constitute a breach of any of the Buyers' representations, warranties, covenants or agreements under this Agreement.

(c) Conditions to the Sellers' Performance Not Met. By the Sellers, upon written notice of the Sellers to the Buyers, if any event occurs or matter is discovered or becomes known to the Sellers that would render impossible the satisfaction, on or before the Termination Date, of one or more conditions to the obligations of the Sellers to consummate the transactions contemplated by this Agreement as set forth in Section 9.1 or 9.3, and the Sellers shall not have waived and do not, in their sole discretion, wish to waive such condition or conditions; provided, however, that the right to terminate this Agreement under this Section 10.1(c) shall not be available to the Sellers if the Sellers' actions or omissions resulted in or were primarily responsible for such impossibility and the Sellers' actions or omissions constitute a breach of any of the Sellers' representations, warranties, covenants or agreements under this Agreement.

(d) Material Breach. (i) By the Buyers if (A) the Buyers have not materially breached any of their representations, warranties, covenants or agreements under this Agreement and (B) there has been a material breach on the part of the Sellers of any of their representations, warranties, covenants or agreements that is not curable or, if curable, has not been cured within five (5) Business Days after the Seller's receipt of written notice (including a reasonably detailed description of such breach) from the Buyers of an intention to terminate if such breach continues or (ii) by the Sellers if (A) the Sellers have not materially breached any of their representations, warranties, covenants or agreements under this Agreement and (B) there has been a material breach on the part of the Buyers of any of their representations, warranties, covenants or agreements that is not curable or, if curable, has not been cured within five (5) Business Days after the Buyers' receipt of written notice (including a reasonably detailed description of such breach) from the Sellers of an intention to terminate if such breach continues.

(e) Outside Date. By the Sellers, on the one hand, or the Buyers, on the other hand, if the Closing has not occurred on or before November 15, 2009 (the "**Termination Date**"); provided, however, that the right to terminate this Agreement under this Section 10.1(e) shall not be available to any party whose actions or omissions resulted in or were primarily responsible for the failure of the Closing to occur on or before the Termination Date and such

actions or omissions constitute a breach of any of such party's representations, warranties, covenants or agreements under this Agreement.

(f) Bankruptcy. By the Buyers if (i) the Bankruptcy Case is dismissed or converted to a case under Chapter 7 of the Bankruptcy Code and neither such dismissal nor conversion expressly contemplates the transactions provided for in this Agreement, or a trustee is appointed for the Sellers and such trustee rejects the transactions contemplated by this Agreement, (ii) the Sale Order fails to contain a finding under Section 363(m) of the Bankruptcy Code or fails to authorize the sale of the Purchased Assets free and clear of Encumbrances (other than Permitted Encumbrances) pursuant to Section 363(f) of the Bankruptcy Code, (iii) the Sale Order fails to declare or confirm that the Commissioner of the NHL or his designees have the sole right to operate and control the operations of the Team, effective immediately upon entry by the Bankruptcy Court of such Sale Order, or if subsequent to the date of such Sale Order, such rights to operate and control the operations of the Team are terminated, withdrawn or amended in any material respect that could reasonably be expected to have a material adverse effect on the rights of Buyers to operate and control the operations of the Team, or (iv) the debtor-in-possession financing terminates or expires.

## 10.2 Effect of Termination.

(a) Subject to Section 10.2(b), if this Agreement is terminated under any provision of Section 10.1, all further obligations of the parties under this Agreement shall terminate; provided, however, that no termination of this Agreement pursuant to Section 10.1(d) shall relieve any party of any Liability for any breach by such party of its representations, warranties, covenants or agreements set forth in this Agreement or be deemed to constitute a waiver of any available right or remedy for any such breach.

(b) This Article X, Article XI and Article XII, and any other provision of this Agreement that expressly provides for its continued effectiveness after a termination of this Agreement, shall be deemed to survive any termination of this Agreement.

## ARTICLE XI

### REPRESENTATIONS AND WARRANTIES

11.1 No Other Representations or Warranties. Except for the representations and warranties contained in Article V (as modified by the Schedules hereto), neither the Sellers nor any other Person makes any other express or implied representation or warranty with respect to the Sellers, the Business, the Purchased Assets (including the value, condition or use of any Purchased Asset), the Assumed Liabilities or the transactions contemplated by this Agreement, and the Sellers disclaim any other representations or warranties, whether made by the Sellers, any Affiliate of the Sellers or any of their respective officers, directors, employees, agents or representatives. Except for the representations and warranties contained in Article V (as modified by the Schedules hereto), each Seller (i) expressly disclaims and negates any

representation or warranty, expressed or implied, at common law, by statute or otherwise, relating to the condition of the Purchased Assets (including any implied or expressed warranty of merchantability or fitness for a particular purpose, or of the probable success or profitability of the ownership, use or operation of the Purchased Assets by the Buyers after the Closing), and (ii) disclaims all Liability and responsibility for any representation, warranty, projection, forecast, statement or information made, communicated or furnished (orally or in writing) to the Buyers or their Representatives (including any opinion, information, projection or advice that may have been or may be provided to the Buyers by any director, officer, employee, agent, consultant or representative of either Seller or any of their Affiliates).

11.2 Survival of Representations and Warranties. None of the representations or warranties of the Sellers set forth in this Agreement shall survive the Closing.

## ARTICLE XII

### GENERAL

12.1 Entire Agreement; Amendments. This Agreement (including any schedules, exhibits and documents delivered herewith or attached hereto) and the other Transaction Documents constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof and supersede and are in full substitution for any and all previous agreements, contracts, representations, warranties and conditions among the parties, whether written or oral with respect to such subject matter. No provision of this Agreement may be modified, supplemented, or amended except by a written instrument executed by each of the parties hereto.

12.2 Schedules; Exhibits. Each Schedule and Exhibit delivered under the terms of this Agreement shall be in writing and shall constitute an integral part of this Agreement.

12.3 Assignment. Neither this Agreement nor any rights, duties or obligations under it are assignable (directly, indirectly, by operation of law, change of control or otherwise) by any party hereto without the prior written consent of the other parties, except that the Buyers may assign this Agreement and any of their rights, duties or obligations under this Agreement (i) prior to the Closing Date to any other Affiliate of the NHL or an NHL Entity, (ii) after the Closing Date to any Person to which the Team Buyer sells or transfers the Team's NHL franchise (subject to NHL approval) or the Arena Buyer sells or transfers the rights to operate and manage the Arena or (iii) at any time to any of their lenders or other financing sources for collateral security purposes, so long as, in the case of clause (iii), such assignment does not have a material adverse effect on the ability of the Buyers (or such assignee in the case of clause (i)) to consummate the transactions contemplated under this Agreement. This Agreement shall be binding upon, shall inure to the benefit of, and shall be enforceable by, each party hereto and its successors and permitted assigns.

12.4 Headings. The descriptive headings of the Articles, Sections and subsections of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.



12.5 Counterparts; Facsimile/pdf Signatures. This Agreement may be executed in one or more counterparts and by different parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which when taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature to this Agreement by facsimile or emailing of a pdf file shall be as effective as delivery of a manually executed counterpart of this Agreement.

12.6 Confidentiality. The Sellers acknowledge that a failure to maintain the confidentiality of any confidential information of either Seller could adversely affect the value of the Purchased Assets contemplated to be acquired by the Buyers hereunder and acknowledge and agree that (i) except in connection with solicitation or negotiation of a proposal or offer providing for the acquisition, directly or indirectly, of the Purchased Assets by a third Person that is subject to a confidentiality agreement with Sellers, Sellers will not disclose any such confidential information of either Seller to any third Person (other than to their Representatives on a need to know basis only and to the NHL and as otherwise required by Law) without the consent of the Buyers, (ii) a breach of this Section 12.6 by a Seller would constitute a Material Adverse Effect and cause the Buyers irreparable harm that cannot be objectively measured or compensated by monetary damages and (iii) without prejudice to any other rights or remedies as the Buyers may have under this Agreement, at Law or in equity, the Buyers shall be entitled to obtain injunctive relief to enforce the provisions of this Section 12.6, without the necessity of proving monetary damages or posting a bond or security.

12.7 No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any Person that is not a party hereto, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

12.8 Notices. Unless otherwise specified herein, all notices, requests, demands, consents and other communications hereunder shall be transmitted in writing by personal service, Federal Express or other nationally recognized overnight courier or facsimile (with confirmation of successful transmission), shall be deemed to have been duly given when received by the intended recipient, and shall be addressed as follows:

**If to the Sellers, addressed to:**

Coyotes Hockey, LLC  
c/o Coyotes Holdings, LLC  
P.O. Box 1397  
Tolleson, Arizona 85353  
Telecopy: (602) 275-6417  
Attention: Jerry Moyes, Manager

Or (if via overnight delivery)

2200 South 75<sup>th</sup> Avenue  
Phoenix, Arizona 85043  
Attention: Jerry Moyes, Manager

**with a copy to:**

Squire, Sanders & Dempsey LLP  
40 North Central Avenue, Suite 2700  
Phoenix, Arizona 85004  
Telecopy: (602) 253-8129  
Attention: Thomas J. Salerno

**If to the Buyers, addressed to:**

Coyotes Newco, LLC  
c/o National Hockey League  
1185 Avenue of the Americas  
New York, New York 10036  
Telecopy: (212) 789-2030  
Attention: William Daly

**with a copy to:**

Skadden, Arps, Slate, Meagher & Flom LLP  
Four Times Square  
New York, New York 10036  
Telecopy: (212) 735-2000  
Attention: J. Gregory Milmo  
Marc R. Packer

or to such other address, facsimile number or person as either party shall have last designated by such notice to the other party.

12.9 Expenses. Except as otherwise provided herein, including Section 8.1(a) or (b) hereof, the Sellers, on the one hand, and the Buyers, on the other hand, shall each pay their own expenses incident to the negotiation, preparation and performance of this Agreement and the transactions contemplated hereby, including the fees, expenses and disbursements of their respective accountants and counsel. Notwithstanding the generality of the foregoing, any expenses (including, but not limited to any fees and expenses for attorneys, experts, travel and discovery) incurred by the parties hereto in connection with any litigation, arbitration or other Action related to any dispute arising hereunder shall be borne by the losing party in such Action.

12.10 Waivers. No waiver of any provision nor consent to any exception to the terms of this Agreement shall be effective unless in writing and signed by the Buyers and the Sellers or, in the case of a waiver, by the party waiving compliance. No failure on the part of any party to exercise, or delay in exercising, any right hereunder shall be deemed a waiver thereof, nor shall any single or partial exercise preclude any further or other exercise of such or any other right.

12.11 Representation By Counsel; Interpretation. The Sellers and Buyers each acknowledge that each party to this Agreement has been represented by counsel in connection with this Agreement and the transactions contemplated by this Agreement. Accordingly, any

rule of Law or legal decision that would require interpretation of any claimed ambiguities in this Agreement against the party that drafted it has no application and is expressly waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the intent of the Buyers and Sellers.

12.12 Severability. If any term or provision of this Agreement is held invalid, unenforceable or contrary to Law, such term or provision shall be deemed to be severable from the other terms and provisions hereof, but only to the extent necessary to bring this Agreement within the requirements of Law, and the remainder of this Agreement shall be given effect as if the parties had not included the severed term herein; provided, however, that if the party that would be adversely affected by such severance demonstrates that a material inducement to its entering into this Agreement would be materially impaired, such party shall be entitled to seek an adjudication that this Agreement should be terminated on that ground.

12.13 Governing Law; Jurisdiction; Jury Trial; Waiver.

(a) Except to the extent the mandatory provisions of the Bankruptcy Code apply, this Agreement shall be governed by, and construed in accordance with, the Laws of the State of New York applicable to Contracts made and to be performed entirely in such state without regard to principles of conflicts or choice of laws or any other Law that would make the Laws of any other jurisdiction other than the State of New York applicable hereto.

(b) Without limitation of any party's right to appeal any Order of the Bankruptcy Court, (i) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated hereby and (ii) any and all claims relating to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the parties hereby consent and submit to the exclusive jurisdiction and venue of the Bankruptcy Court and irrevocably waive the defense of an inconvenient forum to the maintenance of any such Action; provided, however, that, if the Bankruptcy Case is closed, all actions arising out of or relating to this Agreement shall be heard and determined in a state court or federal court in the City and State of New York, and the parties hereby irrevocably submit to the exclusive jurisdiction and venue of such courts in any such Action and irrevocably waive the defense of an inconvenient forum to the maintenance of any such Action. The parties consent to service of process by mail (in accordance with Section 12.9) or any other manner permitted by law.

(c) EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION HERewith OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.

**[SIGNATURE PAGE TO FOLLOW]**

**IN WITNESS WHEREOF**, each of the parties hereto has caused this Agreement to be executed as of the date first above written.

**"BUYERS"**

**COYOTES NEWCO, LLC**

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

**ARENA NEWCO, LLC**

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

**"SELLERS"**

**COYOTES HOCKEY, LLC**

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

**ARENA MANAGEMENT GROUP, LLC**

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

**EXHIBIT A-1**

**TEAM FORM OF BILL OF SALE**

**EXHIBIT A-2**

**ARENA FORM OF BILL OF SALE**

**EXHIBIT B-1**

**TEAM FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT**



**EXHIBIT B-2**

**ARENA FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT**

**EXHIBIT C-1**

**FORM OF TEAM INTELLECTUAL PROPERTY ASSIGNMENT**

**EXHIBIT C-2**

**FORM OF ARENA INTELLECTUAL PROPERTY ASSIGNMENT**

**EXHIBIT D**

**FORM OF SALE ORDER**

**EXHIBIT E**

**FORM OF TRANSFER OF PARTIAL LEASE ASSIGNMENT AGREEMENT**

**EXHIBIT F**

**FORM OF TRANSFER OF TRANSITION SERVICES AGREEMENT**

**EXHIBIT G**  
**FORM OF TRANSFER OF PURCHASABLE CLAIM**