

**Exhibit “3”**

**BID OF PSE SPORTS**

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Attorneys for PSE Sports & Entertainment LP

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF ARIZONA**

|  |  |
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| <p>In Re:</p> <p>DEWEY RANCH HOCKEY, LLC,</p> <p>COYOTES HOLDINGS, LLC,</p> <p>COYOTES HOCKEY, LLC,</p> <p>ARENA MANAGEMENT GROUP, LLC,</p> <p style="text-align: right;">Debtors,</p> <hr/> <p>This Filing Applies to:</p> <p><input checked="" type="checkbox"/> All Debtors</p> <p><input type="checkbox"/> Specified Debtors</p> | <p>) Chapter: 11</p> <p>)</p> <p>) Case No. 2:09-BK-09488-RTBP</p> <p>)</p> <p>) PSE SPORTS &amp; ENTERTAINMENT<br/>LP'S NOTICE OF RESERVICE OF<br/>ASSET PURCHASE AGREEMENT</p> |
|--|--|

PSE Sports & Entertainment LP ("PSE") hereby re-serves its Asset Purchase Agreement, a amended and previously filed on July 31, 2009 at [DE 538-15 Ex. B] as its Definitive Agreement (Qualified Relocation Bid), pursuant to the Amended Order Approving Bid Procedures of Auction/Sale of Phoenix Coyotes National Hockey League Team and Related Assets and the assumption and Assignment of Certain Executory Contracts and Unexpired Leases [DE 636] on the "Notice Parties" as defined in that Order.

1 The attached document represents the definitive Purchase Agreement PSE and Mr.  
2 Balsillie are prepared to execute upon Court approval of the transaction, as confirmed by  
3 the Second Declaration of Jim Balsillie [DE 538, Ex. A] ¶ 31. PSE's good faith deposit  
4 remains in the possession of the escrow agent arranged by the Debtors in the amount of  
5 \$10 million. PSE's commitment with respect to payment of a Relocation Fee (as defined  
6 in the Order) is set forth in Section 7.1(g) of the Asset Purchase Agreement, and has been  
7 confirmed by foregoing Second Declaration of Jim Balsillie at ¶ 32.

8 DATED this 24th day of August, 2009.

9 DEWEY & LeBOEUF LLP

10 By: Jeffrey L. Kessler  
11 Aldo A. Badini  
12 David L. Greenspan

13 and

14 LEWIS AND ROCA LLP

15   
16 By /s/ SMF (004199)

17 Susan M. Freeman  
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AND  
ROCA  
LLP  
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1 COPY of the foregoing  
2 e-mailed this 24<sup>th</sup> day of  
3 August, 2009, to:

3 National Hockey League  
4 1185 Avenue of the Americas  
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**ASSET PURCHASE AGREEMENT**

**dated as of May 5, 2009**

**amended as of July 31, 2009**

**between**

**COYOTES HOCKEY, LLC**

**("Seller"),**

**and**

**PSE SPORTS & ENTERTAINMENT LP, a Delaware limited partnership**

**("Buyer")**

## ASSET PURCHASE AGREEMENT

**THIS ASSET PURCHASE AGREEMENT (“Agreement”)** is made as of May 5, 2009, and amended as of July \_ 2009, by and between Coyotes Hockey, LLC, a Delaware limited liability company (“**Seller**”), on its behalf and on behalf of its bankruptcy estate, and PSE Sports & Entertainment LP, a Delaware limited partnership (“**Buyer**”) (collectively, the “**Parties**” and individually, a “**Party**”).

### R E C I T A L S:

- A. Seller is a member of the National Hockey League (“**NHL**”) and the owner of the Phoenix Coyotes hockey team (as defined more fully below, the “**Team**”).
- B. Seller wishes to sell to Buyer and Buyer wishes to purchase from Seller the Acquired Assets (as defined below) on the terms and conditions specified in detail below.
- C. Pursuant to the Sale Procedures Order (as defined below), Seller shall seek the entry of a Sale Approval Order (as defined below) by the Bankruptcy Court and, if applicable under Section 6.3, an order of the CCAA Court, authorizing and approving this Agreement and its consummation.
- D. Pursuant to the Sale Procedures Order, this Agreement constitutes an irrevocable offer to acquire the Business (as defined below), which offer shall remain open until the earlier of the execution of this Agreement by Seller and five (5) days following the Relocation Sale Hearing (as defined in the Sale Procedures Order).

### A G R E E M E N T:

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

### A R T I C L E I

#### DEFINITIONS

1.1 Certain Definitions. As used in this Agreement the following terms shall have the following meanings:

“**Accountant’s Report**” is defined in Section 3.5.

“**Accounting Firm**” is defined in Section 3.5.

“**Acquired Assets**” is defined in Section 2.2(a).

“**Acquired Contracts**” is defined in Section 2.2(a)(vii).

“**Acquired Intellectual Property**” is defined in Section 2.2(a)(iv).

**“Action”** means any action, suit, arbitration, inquiry, proceeding or investigation by or before any court, arbitrator, NHL Board of Governors, governmental or other regulatory or administrative agency or commission.

**“Additional Payment”** is defined in Section 3.1(d).

**“Affiliate”** means with respect to any Person, any other Person that directly or indirectly through one or more intermediaries, controls or is controlled by or under common control with the Person specified, whether through the ownership of voting securities, by contract, or otherwise.

**“Agreement”** means this Asset Purchase Agreement by and among Seller and Buyer, as amended, restated or supplemented in accordance herewith from time to time.

**“Allocation”** is defined in Section 3.5.

**“Arena Assets”** means all real and personal property owned by the lessor of the arena facility in Glendale, Arizona known as Jobing.com Arena, in which the Seller currently operates or pursuant to which Seller uses such assets, including without limitation any lease of such arena, contracts for maintenance of such arena, and concession contracts applicable to such arena, excluding items owned by Seller which are removable from such arena, which are included in the Acquired Assets.

**“Assignment and Assumption Agreement”** is defined in Section 7.1(k)(ii).

**“Assumed Liabilities”** is defined in Section 2.4.

**“Assumed Player Contracts”** is defined in Section 2.2(a)(vi).

**“Auction”** shall mean an auction scheduled by the Bankruptcy Court in accordance with the Sale Procedures Order where Buyer is allowed to bid for the Acquired Assets.

**“Auction Date”** means the date scheduled for the Auction.

**“Bankruptcy Code”** means 11 U.S.C. §§ 101 et. seq.

**“Bankruptcy Court”** means the United States Bankruptcy Court for the District of Arizona.

**“Bankruptcy Case”** means the Chapter 11 case of Seller pending in the Bankruptcy Court under jointly administered number 2:09-bk-09488-RTBP.

**“Bill of Sale”** is defined in Section 7.1(k)(i).

**“Books and Records”** of Seller means files (including electronic files), documents, instruments, papers, books, and records (tangible or electronic, including computer files with historical operating data) relating to the business, operations, condition (financial or otherwise), results of operations, and assets and properties of Seller in existence and in its possession or

control, including, without limitation, financial statements and related work papers and management letters from accountants, Tax Returns, budgets, ledgers, journals, Contracts, licenses, documents containing technical support (including vendor documents), customer lists, environmental studies and plans, and development plans.

“**Breach**” means any breach of, or any inaccuracy in, any representation or warranty or any breach of, or failure to perform or comply with, any covenant or obligation, in this Agreement or any Contract; provided, if a particular representation, warranty, covenant or obligation in this Agreement does not contain an express materiality qualification, a breach of such representation, warranty, covenant, or obligation to constitute a “Breach” must be reasonably expected to result in a Material Adverse Change.

“**Business**” means the operation of the professional NHL hockey team known currently as the Phoenix Coyotes and defined more fully herein as the “**Team**” by the Seller, including all of Seller’s operations that would be useful if conducted in a new location in Ontario, Canada, but excluding any non-hockey operations relating exclusively to the Arena Assets in Glendale, Arizona in which the Seller currently operates.

“**Business Day**” means a day on which banks are generally open for business in the State of Arizona.

“**CCAA**” means the *Companies’ Creditors Arrangement Act*, R.S. 1985 c. C-36, as amended.

“**CCAA Court**” means the Canadian court described in Section 6.3.

“**Closing**” and “**Closing Date**” means the consummation and date of consummation of the transactions contemplated by Section 2.1 hereof.

“**Consent**” means any consent, waiver, authorization, permit or approval of a third party, Governmental Body, or the NHL, or Bankruptcy Court authorization in lieu thereof, required to enjoy the rights and benefits under any Acquired Contract or take any action contemplated by this Agreement with respect to the Purchase.

“**Contract**” means any agreement, contract, lease, consensual obligation, promise, or undertaking (whether written or oral and whether express or implied), including independent contractor relationships with individuals.

“**Cure Amount**” means all unpaid amounts or unsatisfied obligations that must be paid or satisfied to effectuate, according to the Sale Order, the assumption by Seller and assignment to Buyer of Acquired Contracts, provided, however, that Cure Amount does not include the Relocation Fee.

“**DIP Financing**” means debtor-in-possession financing arranged by Buyer as described in Section 6.8 hereof.

“**DOJ**” means the United States Department of Justice.

**“Employee”** means each employee and officer of Seller or its Affiliates primarily engaged in the conduct of the Business.

**“Employee Benefit Plan”** means any “employee pension benefit plan” as defined in Section 3(3) of ERISA maintained or contributed to by Seller for the benefit of parties to Assumed Player Contracts, if any.

**“Encumbrance”** means any charge, claim, community or other marital property interest, lien, option, pledge, security interest, mortgage, deed of trust, right of way, easement, encroachment, right of first option, or right of first refusal.

**“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 Body, 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 Law or Occupational Safety and Health Law.

**“Environmental Laws”** means any federal, state, or local law, statute, ordinance, or regulation pertaining to health, industrial hygiene, or environmental conditions, including, without limitation, 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, without limitation, ambient air, surface water, groundwater, land surface, or sub-surface strata), including, without limitation, 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 the 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 or any successor law, and regulations and rules issued pursuant thereto.

**“Escrow”** means the escrow account established and into which Buyer has deposited the Escrow Deposit and thereafter will deposit the Purchase Price pursuant to Section 3 hereof for the purpose of consummating the transactions contemplated herein.

**“Escrow Agent”** means the entity described in Section 3.2.

**“Escrow Deposit”** means the deposit described in Section 3.2.

**“Excluded Assets”** means any claims, rights, or other assets of the Seller that are excluded from the Purchase as set forth in Section 2.3.

**“Excluded Liabilities”** is defined in Section 2.5(a).

**“Excluded Taxes”** is defined in Section 2.5(a)(v).

**“Final Order”** means an Order entered by a court of competent jurisdiction (x) that has not been reversed, stayed, modified or amended, (y) as to which no appeal or petition for review or motion for rehearing or reargument has been taken or has been made, and (z) as to which the time for filing a notice of appeal, a petition for review or a motion for reargument or rehearing has expired.

**“Franchise”** is defined in Section 2.2(a)(i).

**“GAAP”** means United States generally accepted accounting principles in effect at the time in question.

**“Governmental Body”** means any (a) nation, state, county, city, town, borough, village, district, province or other jurisdiction; (b) federal, state, provincial, local, municipal, foreign, or other government; (c) governmental or quasi-governmental authority of any nature (including any agency, branch, department, board, commission, court, tribunal, or other entity exercising governmental or quasi-governmental powers); (d) body exercising, or entitled or purporting to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power; or (e) official of any of the foregoing.

**“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 Material”** means any substance or material defined as or included in the definition of “hazardous substances”, “hazardous wastes”, “hazardous materials”, “extremely hazardous waste”, “acutely hazardous waste”, “restricted hazardous waste”, “toxic substances” or “known to cause cancer or reproductive toxicity” (or words of similar import), petroleum products (including crude oil or any fraction thereof) or any other chemical, substance, or material which is prohibited, limited or regulated under any federal, state or local law, ordinance, regulation, Order, permit, license, decree, common law, or treaty regulating, relating to, or imposing liability or standards concerning materials or substances known or suspected to be toxic or hazardous to health and safety, the environment, or natural resources.

**“HSR Act”** means Section 7A of the Clayton Act, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

**“HSR Filing”** has the meaning set forth in Section 6.9.

**“Intellectual Property”** means and includes all trademarks and trademark rights, trade names, and trade name rights, service marks, and service mark rights, service names, and service name rights, brand names, trade dress, business and product names, logos, copyrights, maps, and slogans relating to the development and operation of the Team as a member of the NHL, and related documentation and all applications and registrations therefor, all assignable code for the Seller’s websites, if any, all assignable licenses and other rights to the Team’s point of sale system, if any, all of the Seller’s E-mail addresses, domain names, computer files for historical operating data, contents of Books and Records, and all site plans, renderings, diagrams, architectural and engineering design drawings and specifications, applications, studies, reports and similar materials relating to any potential expansion or renovation of the Team, and all goodwill associated with any of the foregoing.

**“Injunctive Relief”** means the injunctions of the Bankruptcy Court and, if applicable under Section 6.3, the CCAA Court, enjoining pursuit in any manner of any claims or causes of action against Buyer relating to its purchase of the Acquired Assets and operation thereof in the Copps Coliseum in Southern Ontario, Canada, under the Sale Approval Order and, if applicable, the Plan.

**“Knowledge”** of any matter or fact means an individual’s actual awareness of that matter or fact, and the Knowledge of Seller shall mean the Knowledge of Earl Scudder and any person who has been a senior officer of the Seller from September 1, 2008 to the Closing, including without limitation Jerry Moyes and the Seller’s president, vice president, general counsel and general manager.

**“Legal Requirement”** means any federal, state, local, municipal, foreign, international, or multinational constitution, law, ordinance, principle of common law, code, regulation, statute or treaty or obligation set forth in an Order.

**“Liability”** means, with respect to any Person, any liability or obligation of such Person of any kind, character, or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

**“Material Adverse Change”** means (a) with respect to the Seller, any material adverse change in the Business or the Acquired Assets, or in the Seller’s ability to perform its obligations under the Transaction Documents, as determined from the perspective of a reasonable person in the Buyer’s position, and (b) with respect to the Buyer, any material adverse change in the Buyer’s ability to perform its obligations under the Transaction Documents, as determined from the perspective of a reasonable person in the Seller’s position.

**“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.

**“Membership Interest”** is defined in Section 2.2(a)(i).

**“NHL”** means the National Hockey League, an unincorporated association not for profit, and any successor thereto. References herein to “NHL” shall be deemed to include (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) affiliated entities owned directly or indirectly by the Member Clubs.

**“NHL Accounts”** is defined in Section 2.2(a)(iii).

**“NHL Accounts Shortfall”** is defined in Section 3.1(b).

**“NHL Bylaws”** means the Bylaws of the NHL, as adopted under the NHL Constitution, as the same may be amended from time to time.

**“NHL Collective Bargaining Agreement”** means the Collective Bargaining Agreement, effective September 16, 2004 through September 15, 2011, between the NHL and the NHLPA.

**“NHL Commissioner”** means the chief executive officer and 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 Documents”** means the standard form Consent Agreement with the NHL in substantially the form referenced in the Sale Procedure Order as Exhibit C, with such changes as are reasonably acceptable to the NHL and to the Buyer and that comply with the Sale Approval Order, including the Transaction being free and clear of Excluded Liabilities, the standard form of Guaranty in favor of the NHL in substantially the form referenced in the Sale Procedure Order as Exhibit D, with such changes as are reasonably acceptable to the NHL and to the Buyer, and any other agreements or documents the NHL reasonably requires with respect to the financing or acquisition of the Acquired Assets by the Buyer in a form reasonably acceptable to the NHL and to the Buyer.

**“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 all NHL entities jointly owned by all Member Clubs, including, without limitation, NHL Enterprises, LP, NHL Enterprises Canada, L.P., NHL Enterprises, Inc.,



National Hockey League Enterprises Canada, Inc., NHL Enterprises B.V., Intra-Continental Ensurers, Limited.

**"NHL Lex Scripta"** means that certain compilation, dated as of March 27, 2002, of the NHL's governing documents, as the same may be amended from time to time, including the NHL Constitution, the NHL Bylaws, the NHL Resolutions and certain other related memoranda, schedules and appendices.

**"NHLPA"** means the National Hockey League Players Association.

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

**"NHL Rules"** means the NHL Constitution, the NHL Bylaws, the NHL Resolutions and the NHL Lex Scripta, and any other applicable rules, guidelines, regulations and requirements of the NHL Commissioner, the NHL Board of Governors or any other component of the NHL, as applicable.

**"NSC"** means 3051349 Nova Scotia Company, Nova Scotia, an unlimited liability company.

**"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 writ, judgment, decree, injunction or similar order of any Governmental Body (in each such case whether preliminary or final).

**"Person"** means an individual, partnership, joint venture, corporation, limited liability company, trust, unincorporated organization, and a government or any department or agency thereof.

**"Plan"** means a plan of reorganization filed with the Bankruptcy Court for distribution of proceeds from the transaction in accordance with the Bankruptcy Code, provided that it is, and remains through confirmation thereof, consistent in all respects with the provisions of this Agreement, including as such may be modified and confirmed by the Bankruptcy Court and, if applicable, by the CCAA Court.

**"Player Plan"** is defined in Section 4.16.

**"Purchase"** means the transactions contemplated by this Agreement at the Closing.

**"Purchase Price"** means the amount set forth in Section 3.1 hereof, as it may be increased at the Auction and approved by the Bankruptcy Court in the Sale Approval Order.

**“Related Parties”** means with respect to any person or entity, the officers, directors, shareholders, partners, members, equity holders, employees, agents, attorneys, successors, personal representatives, heirs, executors, or assigns of any such person or entity.

**“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.

**“Relocation Fee”** is defined in Section 7.1(g).

**“Representative”** means with respect to a particular Person, any director, officer, member, manager, employee, agent, consultant, advisor, or other representative of that Person, including legal counsel, accountants, financial advisors, and equity owner(s) of that Person or any of its Affiliates.

**“Revenue Code”** means the Internal Revenue Code of 1986, as amended, and any successor thereto and the rules and regulations promulgated thereunder.

**“Sale Approval Order”** means the Order entered by the Bankruptcy Court approving the sale of the Acquired Assets to Buyer pursuant to Section 363 of the Bankruptcy Code.

**“Sale Procedures Order”** means the Order of the Bankruptcy Court 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 dated July 6, 2009 at Docket 408.

**“Seller Deliverables”** is defined in Section 7.1(k).

**“Sponsors”** means each owner of a direct or indirect interest in the Buyer.

**“Tangible Personal Property”** is defined in Section 2.2(a)(ii).

**“Tax Returns”** means all returns, declarations, reports, or information returns or statements relating to Taxes.

**“Tax”** or **“Taxes”** means all taxes, charges, fees, imposts, levies or other assessments, including, without limitation, all net income, gross receipts, capital, sales, use, gains, ad valorem, value-added, transfer, franchise, profits, inventory, capital stock, license, withholding, payroll, employment, social security, unemployment, excise, severance, stamp, occupation, property and estimated taxes, customs duties, fees, assessments and charges of any kind whatsoever, whether computed on a separate, consolidated, unitary, combined or any other basis, together with any interest (including interest that would have accrued absent a netting of Taxes) and any penalties, fines, additions to tax or additional amounts imposed by any domestic taxing authority.

**“Team”** means all of the assets of the Seller that comprise the Phoenix Coyotes NHL hockey team which the Seller owns, operates, and is developing, including all personal and intellectual property owned by the Seller relating to such franchise, including Seller’s interest in

the San Antonio Rampage minor league hockey team, and including Seller's interest in all NHL Entities, and all other rights, privileges and benefits granted to a Member Club by the NHL.

"**Transaction**" means the transactions contemplated in this Agreement.

"**Transaction Documents**" means, without limitation, this Agreement, the Assignment and Assumption Agreement, the Bill of Sale, and all other documents related to the transactions contemplated in this Agreement.

"**Transferred Liens**" is defined in Section 6.2(b)(viii).

## ARTICLE II

### ACQUIRED ASSETS AND ASSUMED LIABILITIES

2.1 **Closing.** The Closing of the Purchase shall take place on a date mutually acceptable to the Seller and Buyer after all conditions precedent to Closing are met but not later than the fifth business day thereafter (the "**Closing Date**"), through the Escrow to be established with the Escrow Agent upon execution and delivery of this Agreement to Escrow Agent.

#### 2.2 Acquired Assets.

(a) The Buyer will acquire, free and clear of all liens, claims and other Encumbrances and interests, which will attach to the sale proceeds, those assets of the Seller used or useful in connection with the Business, including as described in this Section 2.2, but excluding the Excluded Assets (collectively, "**Acquired Assets**"). The Acquired Assets include the following:

(i) The Team's NHL franchise (the "**Franchise**") and Seller's membership interest in the NHL, and all other rights, privileges and benefits incidental thereto or otherwise granted to a Member Club by the NHL, including, without limitation, the Seller's right to receive amounts payable to the 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) ("**Membership Interest**"), as relocated and assigned under the Sale Approval Order;

(ii) all items of tangible personal property and fixtures owned by the Seller and the Seller's interest in all items of tangible personal property and fixtures leased by the Seller and, in either case, used in connection with the Business ("**Tangible Personal Property**"), including, without limitation, furniture, fixtures, furnishings, equipment including hockey, exercise and weight training and medical equipment, computer hardware and software and related materials, machinery, office equipment, telephone systems, instruments supplies, inventory, automobiles and other vehicles, all as will be set forth in a Schedule 2.2(a) approved by Buyer and attached hereto at or prior to Closing;

(iii) those amounts which have been accrued but not yet paid by the NHL to Seller in connection with the Business as of the Closing (the “**NHL Accounts**”), all as more particularly described in Schedule 2.2(a) attached hereto;

(iv) all Intellectual Property owned by or licensed by the Seller and all licenses of Intellectual Property held by the Seller and used in connection with the Business or to which Seller holds rights directly or indirectly as a member of any of the NHL Entities (the “**Acquired Intellectual Property**”), including, without limitation, all associated trade names, proprietary product names, service marks, logos, trademarks, and the goodwill associated therewith, and all copyrights, trade secrets, and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), patents, patent applications, inventions, know-how (whether or not patented, patentable or already reduced to practice), the Team’s interest in its website, website domain names, and all off-the-shelf software and the Seller’s rights therein, including as set forth in Schedule 2.2(a) attached hereto;

(v) all Books and Records of the Seller relating to the Business;

(vi) all rights of the Seller under contracts for the employment of Team players (the “**Assumed Player Contracts**”) and rights to Team players who are not under Assumed Player Contracts, all as set forth in Schedule 2.2(a) attached hereto with the Cure Amounts asserted by the Seller to be payable in connection with assumption and assignment of such Assumed Player Contracts;

(vii) all rights of the Seller under the other Contracts set forth in Schedule 2.2(a) attached hereto with the Cure Amounts asserted by the Seller to be payable in connection with assumption and assignment of such other Contracts, and including Seller’s rights to funds in connection with such Acquired Contracts including the Affiliation Agreement dated as of August 1, 2007 with San Antonio Hockey, LLC, as amended on June 24, 2008 regarding American Hockey League minor league team, the San Antonio Rampage (collectively, the “**Acquired Contracts**”);

(viii) all rights of the Seller to the membership or ownership interests in all NHL Entities;

(ix) all rights of the Seller in connection with the NHL Collective Bargaining Agreement between the NHL and the NHLPA;

(x) all causes of action of the Seller, whether mature, contingent, or otherwise, against any Person relating to any of the Acquired Assets or the Business, whether arising in tort, contract, or otherwise (but excluding causes of action set forth on Schedule 2.3 as Excluded Assets);

(xi) all insurance benefits, including rights and proceeds, arising from or relating to the Acquired Assets or the Assumed Liabilities prior to the Closing Date;

(xii) all other intangible assets of the Seller relating to the Business, including all goodwill associated with the Business;

(xiii) all of Seller's interest in NSC;

(xiv) any prepaid insurance as set forth in Schedule 2.2(a) attached hereto, and all other rights of the Seller relating to prepaid expenses, deposits, claims for refunds, offsets, escrowed funds and other credits owed to the Seller from third parties relating to the Acquired Assets;

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

(xvi) all claims and causes of action of Seller and its bankruptcy estate against third parties to enforce rights, including indemnification and offset rights, related to any of the Acquired Assets;

(xvii) all Consents used in the operation of the Team and /or Business, to the extent transferable;

(xviii) all rights and interests of Seller in all copyrighted broadcasts of Team games and other Team-related programming; and

(xix) all rights and assets of Seller under Employee Benefit Plans administered or sponsored for Persons with Assigned Player Contracts transferred to Buyer and required of Member Clubs by the NHL Collective Bargaining Agreement, including the right to have transferred employees continue to participate therein.

(b) The Seller shall transfer all non-leased Acquired Assets, and all rights and interests in and to all scheduled and assumed leases and leasehold interests, to the Buyer free and clear of all liens and other Encumbrances.

2.3 Excluded Assets. The Seller will not transfer, and the Buyer will not purchase, the following (the "Excluded Assets"), which shall be listed on Schedule 2.3:

(a) the Arena Assets, except to the extent of Tangible Personal Property owned by Seller and used in the Business if designated by Buyer;

(b) any asset that Buyer elects to exclude either by listing it on Schedule 2.3 or by requiring that such item does not appear on any of the Schedules referred to in Section 2.2;

(c) all rights of Seller under any Contracts other than the Assumed Player Contracts and the Acquired Contracts;

(d) any causes of action arising pursuant to Chapter 5 of the Bankruptcy Code;

(e) any Tax refunds or credits arising out of operation of the Team and Business prior to the Closing, and

(f) the ownership interest of the Seller in any other Person not referenced in 2.2(a), including Arizona Lacrosse, LLC and Coyotes Charities.

#### 2.4 Assumed Liabilities.

(a) At the Closing, the Buyer will assume the following liabilities of the Seller (collectively, "**Assumed Liabilities**"):

(i) all Liabilities relating to the Acquired Assets that accrue after the Closing Date, including without limitation all Liabilities under the Assumed Player Contracts and Acquired Contracts, except Liabilities for any breaches by the Seller of any of the Assumed Player Contracts and Acquired Contracts that occurred before the Closing Date, which shall be satisfied and/or discharged by the Seller's payment of any Cure Amount held due before assumption and assignment or under Seller's Plan.

(b) At the Closing, the Buyer and Buyer's Sponsors will comply with all obligations under the NHL Consent Documents, as completed to document this Transaction, provided however, that the transfer of Acquired Assets shall be free and clear of Seller's Liabilities except for the Assumed Liabilities, which Seller's Liabilities (except for Assumed Liabilities) shall be satisfied by Seller from the Purchase Price.

#### 2.5 Excluded Liabilities.

(a) The Buyer shall not assume or be deemed to have assumed and shall not be required to assume or be obligated to pay, perform or otherwise discharge any Liabilities of the Seller other than the Assumed Liabilities (all such other Liabilities are referred to as the "**Excluded Liabilities**"). Excluded Liabilities include without limitation the following:

(i) any Liability related to or incurred in connection with the Business or acts or omissions of Seller or any Representatives or Related Parties of Seller attributable to periods after the Closing Date or, except to the extent an Assumed Liability, on or before the Closing Date, even if that Liability is unknown to the Seller or contingent as of the Closing Date, and even if it is a debt of Seller relating to Hockey-Related Assets as defined in the NHL Consent Documents;

(ii) any Liability arising out of, resulting from or related to the Excluded Assets;

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

(iv) except for the Assumed Player Contracts, all amounts of deferred compensation payable to players and former players on the Team attributable to services rendered by such players for employment services rendered during the 2008-2009 NHL season and prior NHL seasons and payable on or after the Closing Date including those set forth on the schedule attached hereto as Schedule 4.8 (which shall be paid by Seller from the sale proceeds as Cure Amounts), any Liability as to any employee or former employee of the Seller with respect to any matter arising out of or relating to that employee's or former employee's employment by the Seller, including, without limitation, unpaid compensation, vacation pay, pension, severance, retirement, employee welfare, healthcare, or other benefits, or claims arising under any Law designed to protect employees, including equal employment laws, unemployment taxes, wrongful discharge laws, and laws relating to health insurance coverage;

(v) any Liability for Taxes, including any Taxes arising as a result of Seller's operations of the Business prior to the Closing Date, any Taxes that arise as a result of the sale of the Acquired Assets, and any deferred Taxes of any nature (collectively, the "Excluded Taxes");

(vi) any Liability arising out of violations of any Environmental Laws occurring or existing before the Closing Date or arising out of any events, actions or omissions occurring or existing before the Closing Date;

(vii) any contributions to, or any Liability in connection with, any Employee Benefit Plan and any continuation coverage (including any penalties, excise taxes, or interest resulting from the failure to provide continuation coverage) required by Section 4980B of the Revenue Code due to qualifying events as defined therein, occurring on or before the Closing Date;

(viii) any Liability arising out of or relating to any products or services of the Seller, to the extent manufactured, sold or performed before the Closing Date, including, without limitation, liability for personal injury, death or property damage in connection with such claims;

(ix) any Liability that is not related to, or was not incurred in connection with, the Business; or

(x) legal, background investigation, investigation and accounting fees and other costs and expenses incurred by the NHL with respect to or in any way connected with the Bankruptcy Case or the Transaction contemplated by this Agreement.

### ARTICLE III

#### PURCHASE PRICE AND ESCROW

3.1 Purchase Price. The purchase price for the Assets to be sold to Buyer pursuant to Article II (the "**Purchase Price**") is \$212,500,000.00 (subject to the adjustment in 3.1(b) consisting of:

- (a) \$10,000,000.00 cash Escrow Deposit; and
- (b) \$202,500,000.00 additional cash payment at the Closing, reduced by the amount, if any, by which the NHL Accounts are offset or otherwise not collectible up to a maximum reduction of \$25,000,000.00 (the "**NHL Accounts Shortfall**").

3.2 Escrow Deposit and Escrow. Buyer has transferred \$10,000,000.00 ("**Escrow Deposit**") into an interest-bearing escrow account at U.S. Bank, National Association ("**Escrow Agent**") located in the State of Arizona, pursuant to an escrow agreement, as amended and attached hereto as Exhibit A.

3.3 Delivery of Transaction Documents. If Buyer is determined to be the successful bidder at the Auction, then within five (5) Business Days after entry of the Sale Approval Order by the Bankruptcy Court as provided in Section 6.2(b), and upon satisfaction or waiver of all Conditions Precedent in Article VII, Buyer and Seller shall deliver to Escrow Agent all Transaction Documents required by this Agreement for Closing.

3.4 Payment of Purchase Price. No later than five (5) Business Days after all of the Conditions Precedent are met, Buyer shall wire transfer to the Escrow Agent the balance of the Purchase Price, to be held in Escrow pending the Closing.

3.5 Allocation of Purchase Price. Buyer and Seller agree that the Purchase Price and any other consideration, such as the Liabilities assumed under Section 2.4, shall be allocated 85% to the Assumed Player Contracts and 15% to all other Acquired Assets, provided, however, that the aggregate amount attributable to tangible personal property and Intellectual Property shall not exceed .01% of the Purchase Price (the ".01% Cap"). Buyer and Seller shall endeavor to agree upon the further allocation of such 15% among such other Acquired Assets subject to the .01% Cap (the "**Allocation**"), upon reaching such agreement, shall execute a written acknowledgement of such Allocation pursuant to Section 1060 of the Revenue Code. The Allocation shall be prepared jointly by the parties within ninety (90) days following the Closing Date. Notwithstanding the foregoing, agreement on the Allocation is not a condition precedent to Closing, and if Seller and Buyer are not able to agree upon the Allocation, each Party may allocate the 15% of the Purchase Price attributable to Acquired Assets other than the Assumed Player Contracts for its own purposes in its sole discretion, subject to the .01% Cap. However, in the event that the Revenue Code requires the Parties to agree on an Allocation, and such agreement has not been reached within the ninety (90) day period, the issues of disagreement shall be submitted to the Buyer's national independent public accounting firm ("**Accounting Firm**") for determination. The Accounting Firm shall be directed to deliver its written report resolving all disputed matters and setting forth the Accounting Firm's determination of the Allocation (the "**Accountant's Report**") no later than thirty (30) days from its engagement, and the determinations in Accountant's Report shall be deemed to amend or supersede the Allocation with respect to all matters addressed therein. The fees of the Accounting Firm shall be borne by the Seller. The Parties will prepare and file



all Tax Returns and reports with respect to Taxes in a manner consistent with the Allocation as amended or superseded by the determinations in the Accountant's Report.

3.6 Escrow Completion.

(a) If all Conditions Precedent in Article VII have been met or waived, the Parties shall execute and deliver to Escrow Agent mutual written instructions directing Escrow Agent to (i) deliver to Buyer the executed Seller Deliverables and other Transaction Documents required to be delivered by Seller to Buyer hereunder, (ii) deliver to Buyer the Books and Records, subject to Buyer providing access and/or copies of such Books and Records on reasonable notice to Seller as may be needed by Seller in the Bankruptcy Case or for the purpose of filing final tax returns, and (iii) disburse the Purchase Price to Seller under Section 3.1 of this Agreement or as otherwise may be required by the Bankruptcy Court.

(b) In the event of Termination of this Agreement in accordance with Section 8.1, the Parties shall execute and deliver to Escrow Agent mutual written instructions directing Escrow Agent to disburse the Escrow Deposit in accordance with Section 8.2 of this Agreement and to return the Transaction Documents to the Party that delivered the same to Escrow Agent.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF SELLER

As of the date of this Agreement and as of the Closing Date, the Seller represents and warrants to the Buyer as follows:

4.1 Seller's and NSC's Organization. Seller is a limited liability company duly organized, validly existing, and in good standing under the laws of Delaware, and has full corporate power and authority to enter into this Agreement and consummate the transactions contemplated hereby, subject only to Bankruptcy Court approval. NSC is a Nova Scotia unlimited liability company duly organized, validly existing and in good standing under the laws of Nova Scotia and has full unlimited company power and authority to own its properties and assets and carry on its business as currently and heretofore conducted. NSC's organizational documents are in full force and effect. Schedule 4.1 sets forth a true, complete and correct list of all officers, directors and managers of Seller and NSC.

4.2 Authority and Enforceability. Subject to the Sale Approval Order, Seller has full corporate power and authority to enter into this Agreement. The execution and delivery of this Agreement, and the consummation and performance by the Seller of the transactions contemplated herein, have all been or will be duly authorized by all necessary corporate action, and no other proceedings on the part of the Seller are necessary with respect thereto, and this Agreement constitutes a valid and binding agreement of the 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.

4.3 Consents. Except as will be specified in a Schedule 4.3 approved by Buyer and attached hereto at or prior to Closing, and except with respect to the NHL Consent Documents, subject to determinations of the Bankruptcy Court, Seller is not required or obligated to give any notice to, make any filing with, or obtain the Consent of any Person or Governmental Body in connection with the execution and delivery of the Transaction Documents, the consummation of the transactions contemplated thereby, and performance of the Seller's obligations thereunder, including, without limitation, the Consent of any party to any Contract, provided that, with respect to Consents described in Section 6.2(b)(iv) and (viii), if this Transaction is not approved by the NHL, this requirement may be satisfied by entry of the Sale Approval Order as provided in Section 6.2(b) which has not been stayed, postponed in effect or prohibited in whole or part, any which stay, postponement or prohibition Seller will use its best efforts to resist and terminate.

4.4 Seller's Ownership Interests. Attached as Schedule 4.4 is a list of all of Seller's equity ownership interests in Affiliates. Seller has delivered to Buyer 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. 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.

4.5 Absence of Certain Changes. Since March 30, 2009, except as disclosed on Schedule 4.5, Seller has conducted the Business only in the ordinary course, consistent with sound business practices, and has 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 Change; (b) disposed of any tangible or intangible assets of the Business except in the ordinary course of business; (c) except as will be specified in a Schedule 4.5 (as will be referenced and set forth in a Schedule 2.2(a) approved by Buyer and attached hereto at or prior to Closing), incurred any Liability, except current liabilities for trade or business obligations incurred in the ordinary course of business and consistent with its sound business practices 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 will be specified on a Schedule 4.5 (as will be referenced and set forth in a Schedule 2.2(a) approved by Buyer and attached hereto at or prior to Closing), prior to Closing, created or permitted to exist any Lien on any Acquired Assets; (e) terminated or amended or breached any Acquired Contract (except, in the case of amendment, where the Seller has provided to the Buyer 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 will be specified on a Schedule 4.5 (as will be referenced and set forth in a Schedule 2.2(a) approved by Buyer and attached hereto at or prior to Closing), prior to Closing, experienced any damage, destruction or loss exceeding \$50,000 individually or \$100,000 in the aggregate, related to the Acquired 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 Change; or (j) entered into any agreement or made any commitment to take any of the actions described in Section 4.5(a) – 4.5 (i).

4.6 Books and Records. The articles of organization and operating agreement, minute books, and all other records of the Seller and NSC, all of which have been made available to the Buyer, are complete, and contain no inaccuracies, other than as set forth on Schedule 4.6.

4.7 Acquired Contracts.

(a) Schedule 2.2(a) attached hereto lists each Acquired Contract, and Seller's good faith estimate of the Cure Amount required to cure monetary defaults or breaches as of the Closing Date. The Sale Approval Order shall determine, or establish a procedure to finally determine prior to the Closing Date, the Cure Amounts for the Acquired Contracts as of the Closing Date, which shall be paid from the Purchase Price. Buyer may add or delete Contracts from the list of Acquired Contracts on Schedule 2.2(a) at any time before the Closing.

(b) Schedule 4.7 lists all material Contracts pertaining to the Business except for Contracts pertaining to Excluded Assets, including suite license agreements, and except for sponsorship agreements. At or prior to Closing, Seller shall have delivered to Buyer a copy of all material Contracts then existing and pertaining to the Business, including all amendments and supplements.

(c) Except as disclosed on Schedule 4.7 attached hereto, each Acquired Contract is in full force and effect and is valid and enforceable by Seller 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 4.7 attached hereto with respect to monetary defaults for which Cure Amounts are determined and paid from the Purchase Price (including amounts determined to be due under grievance procedures of the NHLPA Collective Bargaining Agreement which Seller shall be responsible to complete), Seller is not in breach of or default under any Acquired Contract, and no event or circumstance has occurred that would, with notice or lapse of time or both, constitute a breach or default by Seller under any Acquired Contract.

(e) Except as stated on Schedule 4.7 attached hereto, to Seller's Knowledge, no other Person is in breach of or default under any Acquired Contract and no event or

circumstance has occurred that would, with notice or lapse of time or both, constitute a breach or default by any other Person under any Acquired Contract.

(f) Except as stated on Schedule 4.7, Seller is not party to any oral Contract.

(g) The Seller shall assume, transfer and assign all Acquired Contracts to the Buyer as of the Closing pursuant to Section 365 of the Bankruptcy Code and the Sale Approval Order. Prior to the Relocation Sale Hearing, Seller shall use commercially reasonable efforts to settle disputes with any Person that objects to the assumption and assignment of an Acquired Contract or related Cure Amount.

#### 4.8 Player Contracts and Employees.

(a) Schedule 4.8 attached hereto lists the following information for each player employee of the Seller as of the date of this Agreement, including each such employee on leave of absence or layoff status: (a) name; (b) current annual base salary or annualized wages; (c) deferred compensation and time of payment of such compensation in the future; (d) vacation accrued and unused; and (e) service credited for purposes of vesting and eligibility to participate under any of the Employee Benefit Plans. At or prior to Closing, Seller shall have delivered to Buyer a copy of all Assumed Player Contracts and all amendments and supplements.

(b) To the Knowledge of Seller, no player employee of the Seller has indicated his or her intention to resign. Except for the Seller's player employees that the Seller identifies in a written communication to the Buyer before the Closing that shall remain confidential, all of the Seller's managers, officers, and employees are in good standing under the terms of their employment, and to the Seller's Knowledge there exists no problem or difficulty with the employment of any of the Seller's players. Except as disclosed on Schedule 4.8 attached hereto and except for certain incentive compensation and deferred compensation amounts owing to Wayne Gretzky, which have been previously disclosed to Buyer, Seller has 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 a Plan or otherwise. Except as set forth on Schedule 4.8, no grievance or arbitration proceeding arising out of or under any Collective Bargaining Agreement is pending and no claim therefore has been filed.

(c) 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 player employees.

(d) Except as disclosed on Schedule 4.8 attached hereto, each Assumed Player Contract is in full force and effect and is valid and enforceable 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.

(e) Except as stated on Schedule 4.8 attached hereto with respect to monetary defaults for which Cure Amounts are determined and paid from the Purchase

Price, Seller is not in breach of or default under any Assumed Player Contract, and no event or circumstance has occurred that would, with notice or lapse of time or both, constitute a breach of or default by Seller under any Assumed Player Contract.

(f) Except as stated on Schedule 4.8 attached hereto, to Seller's Knowledge, no other Person is in breach of or default under any Assumed Player Contract and no event or circumstance has occurred that would, with notice or lapse of time or both, constitute breach of or default by any other Person under any Assumed Player Contract.

(g) Seller shall assume, transfer and assign all Assumed Player Contracts to a Buyer pursuant to Section 365 of the Bankruptcy Code and the Sale Approval Order. Prior to the Relocation Sale Hearing, Seller shall use commercially reasonable efforts to settle disputes with any Person that objects to the assumption and assignment of an Assumed Player Contract or related Cure Amount.

#### 4.9 Intellectual Property.

(a) To the best of Seller's Knowledge, all Acquired Intellectual Property is listed on Schedule 2.2(a) and owned by Seller (directly or through Seller's interest in the NHL Entities).

(b) With respect to each item of Acquired Intellectual Property identified on Schedule 2.2(a) (other than the off-the-shelf software) Seller represents and warrants the following:

(i) No activity of Seller in conducting the Business and no Acquired Intellectual Property listed on Schedule 2.2(a) violates or misappropriates any Intellectual Property or other proprietary rights of any other Person. Seller owns or has the right to use pursuant to license, sublicense, Contract, membership or ownership interest in the NHL Entities, or permission, such Acquired Intellectual Property for the operation of the Business as presently conducted, subject to rights granted under applicable requirements of the NHL. Each item of Acquired Intellectual Property owned or used by the Seller immediately before the Closing will be owned or available for use by the Buyer on identical terms and conditions immediately after the Closing;

(ii) To the extent Seller owns an item of Acquired Intellectual Property, except as disclosed on Schedule 4.9 attached hereto, 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 4.9 attached hereto, Seller has the right to assign the item to Buyer 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 Proceeding, complaint, or demand is pending or is threatened that challenges the legality, validity, enforceability, use, or ownership of the item;

(vi) Seller has not agreed to indemnify any Person for or against any interference, infringement, misappropriation, or other conflict with respect to the item; and

(vii) Seller will not use, interfere with, infringe upon, misappropriate, or otherwise come into conflict with, the Acquired Intellectual Property after the Closing.

(c) Schedule 2.2(a) shall list all off-the-shelf software licensed by Seller that is material to the operation of the Business in sufficient detail to permit the Buyer to assess compatibility with Buyer's software. Schedule 2.2(a) shall identify all such off-the-shelf software by type, number of copies of each software product, and number of licenses. As of the Closing Date, Seller is fully compliant with all software licenses and to Seller's Knowledge there are no unlicensed copies of software existing on any equipment, computers, machinery or media that is being transferred to the Buyer in the transactions contemplated by this Agreement.

4.10 Taxes. Seller has filed all Tax Returns required to be filed relating to the Business and has paid all Taxes relating to the Business, including employment-related FICA and other Taxes and Taxes that have become due as a result of those Tax Returns or any assessment that has become payable, other than those amounts being diligently contested in good faith by appropriate proceedings and against which adequate reserves are being maintained. All those Tax Returns were correct in all respects as filed on the date filed and all Taxes due have been paid or will be paid under the Seller's Plan. Seller has not waived or been asked to waive any statute of limitations in respect of Taxes relating to the Business.

4.11 Tangible Personal Property. Schedule 2.2(a), as approved by Buyer and attached hereto at or prior to Closing, accurately lists all items of Tangible Personal Property and accurately shows for each item of Tangible Personal Property whether it is subject to a lease or Lien. Except as otherwise disclosed on Schedule 4.11, 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 the Seller has 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.

4.12 NHL Accounts. Schedule 2.2(a) attached hereto contains an accurate description of all NHL Accounts as of the date specified therein and all obligations owed by Seller to the NHL, including all such obligations that may be offset against the NHL Accounts, which net amount shall be used to determine the Purchase Price adjustment under Section 3.1(b). Except as set forth on Schedule 2.2(a), and except for any Relocation Fee arising in connection with this Transaction, Seller does not owe, or have any Liability to, the NHL or any of its Member Clubs for franchise fees, membership fees, expansion fees, operating assessments, revenue sharing, playoff shortfall, player escrow or any other amounts

under the NHL Constitution, NHL Bylaws, NHL Rules or other applicable NHL regulations or requirements or the NHL Collective Bargaining Agreement, has deposited the correct amount into the players' escrow, and has accurately calculated and reported its hockey-related revenue to the NHL.

4.13 Adequacy of Assets. With the exception of certain Excluded Assets, the Acquired Assets 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. The San Antonio Rampage is the only minor league affiliate of the Team as of the date hereof.

4.14 NHL Status. Seller is an existing member of the NHL and Seller's Franchise and NHL membership have not been revoked.

4.15 Environmental Matters.

(a) Seller has obtained all Consents required for the operation of the Business by all Environmental Laws and Occupational Health and Safety Law and is in compliance with these Consents 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. Seller has not received, nor does it have any reason to suspect that it may receive, any notices, reports, or other information, and is 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 the 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 Seller's Knowledge, no facts exist that would be reasonably likely to result in any such matter listed in (i)-(iii).

(b) Seller has no Knowledge of any facts or conditions relating to the Seller's Business that prevent, hinder, or limit the Buyer's ability to comply with Environmental Laws or Occupational Health and Safety Laws, and has no Knowledge of or any basis to expect, nor has it or any other Person for whose conduct it 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, without limitation, 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 Safety and Health Law; (c) financial responsibility under any Environmental Law or Occupational Safety and Health 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 Safety and Health Law or any Person; or (d) any other compliance, corrective, or remedial measure required under any Environmental Law or Occupational Safety and Health Law. If required by any Environmental Law, the Seller has sent all Hazardous Materials for storage, recycling, treatment or disposal in accordance with all Environmental Laws.

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

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

4.16 Employee Benefit Plans. Schedule 4.16 sets forth each Employee Benefit Plan in effect on the Closing Date in which any Person who is a party to an Assigned Player Contract and any former Team player is eligible to participate pursuant to the NHL Collective Bargaining Agreement ("Player Plans"). Buyer and Seller shall have complied in all material respects with all applicable NHL Constitution and Bylaws and other regulations regarding the provision of employee benefits, and shall take all steps necessary to transfer assets and, as applicable or required, transfer sponsorship, of such Player Plans as are required by the NHL Collective Bargaining Agreement to be assumed and assigned, effective as of the Closing. Seller shall provide Buyer 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 Body or distributed to any participant to enable Seller and Buyer to effectuate the assignment of such Player Plans. To Seller's Knowledge, each such Player 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 the NHL Collective Bargaining Agreement. To Seller's Knowledge, there are no investigations by any Governmental Body, termination proceedings or other claims (except routine claims for benefits payable) or proceedings against or involving any Player Plan sponsored by Seller, and all contributions to and payment from such Player Plan required by law or by the NHL Collective Bargaining Agreement to be made has been timely made. Each Player 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 Seller's Knowledge, no circumstances exist that would adversely affect the tax-qualification of such Player Plan.

4.17 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 Seller's Knowledge, there are no facts relating to the Business that have not been disclosed to the Buyer, unless those facts would not reasonably be likely to result in a Material Adverse Change.



## ARTICLE V

### REPRESENTATIONS AND WARRANTIES OF BUYER.

As of the date of this Agreement and as of the Closing Date, the Buyer represents and warrants to the Seller as follows:

5.1 Buyer's Compliance with Sale Procedures Order. The Buyer has submitted to the NHL its NHL Transfer Application and, with Seller, an NHL Relocation Application, and the Buyer and Buyer's Sponsors have cooperated with the review process of the NHL, including responding as promptly as possible and in good faith to each supplemental inquiry of the NHL with respect to such applications, copies of which have been filed with the Bankruptcy Court under seal at Dockets 189, 236, 237, 309, 442 and 480.

5.2 Buyer's Organization. The Buyer is a limited partnership duly organized, validly existing, and in good standing under the laws of Delaware, and has full corporate power and authority to enter into this Agreement and consummate the Transaction contemplated hereby, subject only to Bankruptcy Court approval, which written evidence of authority has been delivered to the NHL and filed with the Bankruptcy Court under seal in its NHL Transfer Application filings.

5.3 Authority and Enforceability. The execution and delivery of this Agreement, and the consummation and performance by the Buyer and Buyer's Sponsors of the transactions contemplated herein, have all been or will be duly authorized by all necessary corporate action, including communication which has been delivered to the NHL and filed with the Bankruptcy Court under seal with the NHL Transfer Application filings. No other proceedings on the part of the Buyer are necessary with respect thereto, and upon Bankruptcy Court approval of this Agreement and execution by the Seller, this Agreement shall constitute a valid and binding agreement of the Buyer enforceable against it 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.

5.4 Financial Capability. Buyer will have as of the Closing Date sufficient funds to consummate this Agreement, as set forth in documentation provided as written evidence of financial capability to the NHL and filed with the Bankruptcy Court under seal with the NHL Transfer Application filings.

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

## ARTICLE VI

### COVENANTS OF SELLER AND BUYER

6.1 Due Diligence. Buyer shall be entitled to conduct such due diligence as is necessary or desirable to confirm the accuracy of Seller representations and warranties in this Agreement and the satisfaction of Conditions Precedent to Closing.

6.2 Court Approval Procedures. Unless waived by both Seller and Buyer in writing, the following sale procedures shall be undertaken.

(a) Auction Procedures. An Auction of the Acquired Assets shall be conducted in accordance with the Relocation Sale Procedures of the Sale Procedures Order.

(i) The Notice of Relocation Auction and Motion to Assume and Assign Executory Contracts shall include notice that Buyer may seek reimbursement of Buyer's expenses related to the Transaction, including travel expenses and attorneys' fees and costs, as an administrative expense subject to Bankruptcy Court approval, if the Acquired Assets are sold to another bidder at a higher price than Buyer's, and

(ii) The Notice of Relocation Auction and Motion to Assume and Assign Executory Contracts shall include specific language in the notice of such sale to all members of the NHL regarding, with specificity, the relief requested in the Sale Approval Order to be issued by the Bankruptcy Court in accordance with subsection (b), below, including subsection (b)(iv).

(b) Sale Approval Order. If Buyer's bid is approved by the Bankruptcy Court, the Sale Approval Order by the Bankruptcy Court shall be acceptable in form and substance to Buyer in Buyer's reasonable discretion, which Sale Approval Order will be deemed to be acceptable if it includes the following provisions, without other provisions unacceptable to Buyer in its reasonable discretion:

(i) providing that Buyer shall not incur any liability as a successor to the Seller unless such liability is expressly assumed, and shall have no successor liability on account of the NHL Consent Documents,

(ii) approving the sale of the Acquired Assets to Buyer on the terms and conditions set forth in this Agreement, or such higher and better terms and conditions offered at the Auction, and authorizing Seller to proceed with this transaction,

(iii) stating that any objections timely filed with respect to the sale of the Assets, which have not been withdrawn, are overruled or the interests of such objecting parties have been otherwise satisfied or adequately provided for by the Bankruptcy Court,

(iv) ordering the NHL to (1) execute and deliver to PSE the NHL Consent Documents to which PSE and the NHL have agreed, or in the absence of agreement, that the Bankruptcy Court has found reasonable, (2) accept the Relocation Fee to which PSE and the NHL have agreed, or in the absence of

agreement, that the Bankruptcy Court has found reasonable; and (3) execute, and deliver to PSE an effective and binding Certificate of Membership in the NHL to operate a NHL professional hockey club in Hamilton, Ontario pursuant to NHL Constitution Section 3.4,

(v) holding that, if the NHL and those of its Member Clubs that have, or claim to have, consent rights pursuant to the last two sentences of Article 4.3 of the NHL Constitution, have not unconditionally consented in writing to transfer and/or assumption and assignment (as applicable) of the Franchise to Buyer to be performed by Buyer with its home games to be played at the Copps Coliseum in Hamilton, Ontario, Canada with (a) a Home Territory (as defined in Section 4.1 of the NHL Constitution) consisting of the City of Hamilton and extending 50 miles outside its city limits, which Home Territory overlaps in part and is to that extent non-exclusive with the Toronto Maple Leafs and Buffalo Sabres, and (b) a Sphere of Influence and Outer Market that are the same as the Toronto Maple Leafs hockey team, (1) such written unconditional consent was deemed given, or objections to such operations were waived, and/or (2) under the circumstances, the restrictions on assignment to Buyer do not bar transfer, assumption and assignment under Bankruptcy Code § 363(f)(4) and/or 365(b)(2), (c)(1), or (f)(1), and they are transferred and assigned free and clear of any such claims, rights or objections as set forth in the Order and as set forth in subsection (viii), below,

(vi) finding that the Purchase Price (as approved in the Sale Approval Order) represents fair value for the Acquired Assets,

(vii) finding that the sale is in the best interests of Seller's estate and creditors,

(viii) finding that Buyer is a good faith purchaser of the Assets under Section 363(m) of the Bankruptcy Code and that the provisions of Section 363(m) of the Bankruptcy Code have not been violated and Buyer is entitled to all protections of Section 363(m),

(ix) providing that the sale of the Acquired Assets to Buyer shall be free and clear of all liens, claims, interests, obligations, setoff and recoupment interests and encumbrances ("Transferred Liens") whatsoever under Section 363 of the Bankruptcy Code and any other applicable sections of the Bankruptcy Code, with such Transferred Liens attaching to the proceeds of the Acquired Assets with the same validity and priority as the Transferred Liens had on the Acquired Assets immediately before the Closing, including without limitation any liens, claims, interests or obligations whatsoever of the NHL, its related entities, and those of its Member Clubs arising prior to Closing or by reason of completion of the Transaction and notwithstanding any provision in the NHL Consent Documents or NHL Rules, NHL Bylaws or the NHL Constitution regarding Seller debts relating to Hockey-Related Assets (as defined in the NHL Consent Documents) or otherwise, and notwithstanding any claim of consent rights pursuant to the last two sentences of Article 4.3 of the NHL Constitution for relief

of any kind on account of the sale and Buyer's relocation of the Team and Franchise to where the Franchise's home games will be played at Copps Coliseum in Hamilton, Ontario, Canada, whether such Member Club is located in the United States or Canada,

(x) providing that the Bankruptcy Court shall retain jurisdiction for the purpose of enforcing the provisions of the Sale Approval Order including, without limitation, compelling delivery of the Acquired Assets to Buyer and protecting Buyer and Buyer's Sponsors against any liens, claims, interests, obligations and encumbrances against Seller or the Acquired Assets as transferred to Buyer, and to the extent permitted by applicable law granting Injunctive Relief, including permanently enjoining each and every holder of any claim for such liabilities, wherever located, from commencing, continuing or otherwise pursuing or enforcing any remedy, claim, cause of action or encumbrance against Buyer or the Acquired Assets,

(xi) finding that there are no brokers involved in consummating the sale and no brokers' commissions are due,

(xii) authorizing and directing Seller to execute, deliver, perform under, consummate and implement this Agreement and the Transaction Documents,

(xiii) determining that Buyer is not a successor to Seller or otherwise liable for any liabilities not expressly assumed, including no successor liability by virtue of the NHL Consent Documents, and

(xiii) including any other provisions reasonably necessary to give effect to the Sale Approval Order and the Transaction.

Seller shall use commercially reasonable efforts to obtain entry of the Sale Approval Order in the form described herein. Buyer's obligations to consummate the transactions contemplated herein shall be conditioned upon the Bankruptcy Court's entry of the Sale Approval Order in the form described herein, which shall be in form and substance satisfactory to Buyer in its reasonable discretion.

6.3 Canadian Court Proceedings. If requested by Buyer, Seller will promptly commence court proceedings in the Canadian city and court requested by Buyer (the "CCAA Court") under the CCAA and/or as otherwise directed by Buyer with such notice to third parties as Buyer may request in addition to notice deemed appropriate by Seller for the purpose of authorizing and/or enforcing or effectuating this Agreement, including the provisions of Section 6.2(b) hereof. Seller will use its best efforts to: (a) obtain any order or decision in such proceedings as soon as possible, and (b) support the participation of Buyer in such proceedings. Upon Closing of the Transaction as contemplated in this Agreement, Buyer shall have the right to designate an appropriate estate representative in any such CCAA Court proceedings to make necessary decisions for Seller related to the order or decision being sought, provided further that all further activities in the proceeding at that time will be borne by Buyer, and the costs and expenses, including attorneys' fees, related to all further activities in the proceeding from and after the Closing will be borne by Buyer.

6.4 Plan. Should Seller file a Plan in its Bankruptcy Case, if any appeal of the Sale Approval Order is then pending, the Plan will include an injunction or other provisions reconfirming and further implementing the Transaction and this Agreement, and Buyer shall have the right to approve such Plan provisions, which review and consent rights shall not be unreasonably withheld.

6.5 Further Assurances. Each of the Seller and Buyer agree that, from time to time, whether before, at, or after the Closing, it shall execute, deliver, and record such further instruments of conveyance and transfer and take such other action as may be necessary or desirable to carry out the purposes and intents of this Agreement.

6.6 Operation of the Business of Seller. Until the Closing, in each instance with respect exclusively to the Business, unless consented to in writing by Buyer (which consent shall not be unreasonably withheld, delayed, or conditioned), Seller 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 relations and goodwill with suppliers, customers, landlords, creditors, employees, agents, and others having business relationships with Seller;

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

(c) Maintenance. Not dispose of or transfer Acquired Assets (including the disposition or transfer of any Tangible Personal Property) except in the ordinary course of business; and maintain the Acquired Assets in a state of repair and condition that materially complies with Legal Requirements and is consistent with Seller's ordinary course of business;

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

(e) Consents. Cooperate with Buyer in good faith and in a commercially reasonable manner, but without incurring any material cost or expense, to assist Buyer in identifying and obtaining any Consents required by Buyer to operate the Business from and after the Closing Date, provided that Seller will be responsible for obtaining Consents pursuant to Section 7.1(d) 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 Articles IV 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 VII which are within its control;

(h) without limiting the generality of the foregoing, unless otherwise agreed to in writing by Buyer, Seller will re-sign all restricted free agents and will not trade or release any players or draft picks to the extent possible as of the date of this Agreement.

6.7 Inspection of Books and Records. Buyer shall permit Seller and its Representatives, at Seller's expense, at reasonable times during business hours, and upon reasonable notice, to inspect all relevant files, books, records, and accounts of the Business transferred to the Buyer hereunder that Buyer has in its possession at the time of that request, as well as provide Seller with access to, and the cooperation of, any employee having knowledge of the information therein contained, if that inspection, access, and cooperation would serve a reasonable purpose, including without limitation (a) preparation for proceedings to which the Seller is a party relating to the Business prior to the date of this Agreement or (b) performance of accounting reviews or audits of the Business relating to periods prior to the Closing Date. Buyer has previously provided Seller with an executed Confidentiality Agreement.

6.8 DIP Financing. An affiliate of Buyer may at its option provide (unless Seller obtains such financing from another source) DIP Financing to Seller pursuant to a separate DIP Financing Agreement and Bankruptcy Court Order.

6.9 HSR Filing. Seller and Buyer have submitted all filings required by the HSR Act (the "HSR Filing") to the DOJ, and the waiting period applicable to the purchase and sale of the Acquired Assets under the HSR Act has expired, as set forth in filings in the Bankruptcy Case at Docket 229 and 314.

## ARTICLE VII

### CONDITIONS PRECEDENT TO CLOSING

7.1 Conditions Precedent to Obligations of the Buyer. The obligation of Buyer to pay the Purchase Price and consummate the transactions contemplated by this Agreement is subject to satisfaction, or waiver by the Buyer, of the following conditions at or before the Closing:

- (a) the representations and warranties made by the Seller in this Agreement were accurate in all material respects as of the date of this Agreement and will be accurate in all material respects on the Closing Date;
- (b) the Bankruptcy Court has entered the Sale Approval Order which, if not a Final Order, has not been stayed or postponed or prohibited in effect in whole or part by any court or Governmental Body, and meets the requirements of Section 6.2(b) of this Agreement;
- (c) Seller has complied in all material respects with those obligations that it is required to comply with before the Closing Date;
- (d) Seller has obtained any Consent, given any notice, and made any filing required in connection with its execution and delivery of this Agreement and each of the

other Transaction Documents to which it is party and its performance of its obligations hereunder and thereunder, except such Consents as Buyer agrees may be obtained and determined in conjunction with confirmation and approval of the Plan;

(e) Buyer shall have provided evidence to the NHL and Seller and filed such evidence with the Bankruptcy Court showing that (i) Buyer is able to fulfill all obligations in connection with this Transaction and (ii) Buyer and Buyer's Sponsors through their respective governing bodies have approved this Transaction;

(f) The NHL shall have approved this Agreement, Buyer's Sponsors, and Buyer's purchase of the Acquired Assets under the NHL Constitution, the NHL Bylaws and all other applicable requirements, except to the extent that the Bankruptcy Court shall have determined in the Sale Approval Order that (i) such approval is deemed given or objections to such Transaction were waived, and/or (ii) under the circumstances, the restrictions on assignment to Buyer do not bar transfer, assumption and assignment under Bankruptcy Code § 363(f)(4) and/or 365(b)(2), (c)(1), or (f)(1);

(g) The NHL shall have advised Buyer of the amount of any payments or other consideration to the NHL or any of its Member Clubs in connection with the relocation of the Team to Hamilton, Ontario, including any fee or indemnity payment in connection with such relocation as determined in good faith by the NHL's Board of Governors in accordance with the NHL Rules (the "Relocation Fee") or, if the NHL has not so advised Buyer or if the Relocation Fee as advised by the NHL is not acceptable to Buyer in its sole discretion, the Bankruptcy Court shall have determined the reasonable and appropriate amount of such Relocation Fee in accordance with the Sale Procedures Order, and the amount of such Relocation Fee is acceptable to Buyer in its sole discretion, whereupon Buyer agrees to pay such Relocation Fee. Buyer agrees that any Relocation Fee shall be for the account of Buyer and not Seller. Nothing in this Agreement shall preclude Buyer from entering into an agreement whereby another party, including any of Seller's equity owners, reimburses Buyer for any portion of such Relocation Fee;

(h) no statute, rule or regulation shall have been enacted or promulgated by any Governmental Body which prohibits the consummation of the Transaction, and there shall be no order or injunction of a court of competent jurisdiction in effect precluding consummation of the Transaction;

(i) since the date of this Agreement, there shall not have been commenced or threatened against the Buyer or Seller, or against any Person affiliated with the Buyer or Seller any proceeding by a Governmental Body: (i) involving any challenge to, or seeking damages or other relief in connection with the Transaction, or (ii) that may have the effect of preventing, delaying, making illegal, or otherwise interfering with any of the Transaction;

(j) the Seller has delivered confirmation from the NHL of the NHL Accounts Shortfall;

(k) the Buyer has received the following items (the “Seller Deliverables”) through the Escrow:

(i) a bill of sale substantially in the form of Exhibit B (the “Bill of Sale”), signed by the Seller;

(ii) an assignment and assumption agreement substantially in the form of Exhibit C (the “Assignment and Assumption Agreement”), signed by the Seller;

(iii) a true and complete copy of the duly and validly adopted resolutions of Seller’s manager authorizing the execution and delivery of this Agreement and the Transaction Documents and the consummation of the transactions contemplated thereby;

(iv) a true and complete copy of each Consent obtained by the Seller with respect to the Transaction pursuant to Section 7.1(d); and

(v) the resignation of all officers and directors of NSC;

(l) the Buyer has received through Escrow from the NHL the NHL Consent Documents for operation of the Franchise and Team in the Home Territory and with the Sphere of Influence and Outer Market set forth in this Agreement, and with such changes as are reasonably acceptable to the NHL and Buyer, which Buyer and Buyer’s Sponsors will execute, and has received a duly executed, effective and binding Certificate of Membership in the NHL to operate a NHL professional hockey club in Hamilton, Ontario pursuant to NHL Constitution Section 3.4.

7.2 Conditions to Obligations of the Seller. The obligation of Seller to consummate the transactions contemplated by this Agreement as of the Closing is subject to receipt by the Escrow Agent of the full Purchase Price in accordance with Section 3.4 of this Agreement, the entry of the Sale Approval Order as provided in Section 7.1(b), and absence of any action by a Governmental Body as provided in Section 7.1(h) and (i), and Buyer has accepted and paid any Relocation Fee pursuant to Section 7.1(g).

## ARTICLE VIII

### TERMINATION PRIOR TO CLOSING

8.1 Termination Events. By notice given prior to or at the Closing, subject to Section 8.2, this Agreement may be terminated as follows:

(a) Seller Breach. By Buyer, if a Breach of any provision of this Agreement has been committed by Seller and such Breach has (i) not been waived by Buyer or (ii) not been cured within five (5) Business Days after Buyer has notified Seller of its intent to terminate this Agreement pursuant to this Section 8.1(a);



(b) Buyer Breach. By Seller, if a Breach of any provision of this Agreement has been committed by Buyer and such Breach has (i) not been waived by Seller or (ii) not been cured within five (5) Business Days after Seller has notified Buyer of its intent to terminate this Agreement pursuant to this Section 8.1(b);

(c) Failure to Meet Conditions Precedent on or Before September 14, 2009. By Buyer, if the conditions precedent described in Section 7.1, including 7.1(b) of this Agreement relating to the Sale Approval Order of the Bankruptcy Court, and 7.1(g) regarding the Relocation Fee and 7.1(l) regarding the NHL Consent Documents have not been satisfied on or before the close of business, Phoenix, Arizona time, on September 14, 2009.

**8.2 Effect of Termination**. If this Agreement is terminated pursuant to Section 8.1 or any other provision of this Agreement permitting termination, all obligations of the Parties under this Agreement will terminate, except that this Section 8.2 and Article IX, will survive; provided, however,

(a) if this Agreement is terminated by Buyer pursuant to Section 8.1(a) or Section 8.1(c), (i) Buyer's Escrow Deposit and all accrued interest thereon will be refunded to Buyer, less applicable Escrow Agent fees, and (ii) Buyer's rights to pursue all legal remedies for any Breach of this Agreement by Seller shall survive such termination;

(b) if this Agreement is terminated other than by Buyer pursuant to Section 8.1(a) or Section 8.1(c), (i) Buyer's Escrow Deposit and all accrued interest thereon will be disbursed to Seller, less applicable Escrow Agent fees, and (ii) Seller's rights to pursue all legal remedies against Buyer for any Breach of this Agreement by Buyer shall survive such termination, except that any damages resulting from such Breach shall be offset by the amount of the Escrow Deposit disbursed to Seller, and the amount by which Seller has mitigated its damages, including by selling the Acquired Assets to other parties, which Seller shall be obligated to undertake in good faith.

## ARTICLE IX

### MISCELLANEOUS

**9.1 Contents of Agreement; Parties in Interest**. This Agreement (including agreements incorporated herein) and the Schedules and Exhibits hereto contain the entire agreement between the Parties regarding the subject matter hereof, and there are no agreements, understandings, representations, or warranties between the Parties other than those set forth herein.

**9.2 Successors and Assigns; Assignment**. Neither this Agreement nor any right, interest, or obligation hereunder may be assigned by any party hereto without the prior written consent of the other Party hereto and any attempt to do so will be void, except that Buyer may assign any or all of its rights, interests and obligations hereunder to any post-Closing purchaser of the Business or a substantial part of the Assets (whether by operation of law or

otherwise), but no such assignment shall relieve Buyer of its obligations hereunder. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the Parties hereto and their respective successors and assigns.

9.3 Severability. The Parties hereto expressly agree that it is not the intention of any Party hereto to violate any public policy, statutory, or common law rules, regulations, treaties, or decisions of any government or agency thereof. If any provision of this Agreement is judicially or administratively interpreted or construed as being in violation of any such provision, such articles, sections, sentences, words, clauses, or combinations thereof shall be inoperative, and the remainder of this Agreement shall remain binding upon the Parties hereto.

9.4 Counterparts. This Agreement may be executed in any number of counterparts, and each counterpart shall constitute an original instrument, but all such separate counterparts shall constitute one and the same agreement.

9.5 Governing Law. The validity, construction, and enforceability of this Agreement shall be governed in all respects by the laws of the State of Arizona, without regard to its conflict of laws rules.

9.6 Waiver of Provisions. The terms, covenants, representations, warranties, and conditions of this Agreement may be waived only by a written instrument executed by the Party waiving compliance. The failure of any Party at any time to require performance of any provisions hereof shall, in no manner, affect the right at a later date to enforce the same. No waiver by any Party of any condition, or breach of any provision, term, covenant, representation, or warranty contained in this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of any other provision, term, covenant, representation, or warranty of this Agreement.

9.7 Costs. If any legal Action or any arbitration or other proceeding is brought because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing Party or Parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in that Action or proceeding, in addition to any other relief to which it or they may be entitled.

9.8 Expenses. Except as set forth herein, including Section 6.2(a)(iii), each Party will bear its own expenses in connection with the transactions described herein (including without limitation all fees of counsel, consultants, and accountants).

9.9 Section Headings and Gender. The article and section headings herein have been inserted for convenience of reference only and shall in no way modify or restrict any of the terms or provisions hereof. The use of the masculine pronoun herein when referring to any Party has been for convenience only and shall be deemed to refer to the particular Party intended regardless of the actual gender of such Party.

9.10 Notices. All notices, demands, and statements will be in writing and will be given by (a) personal delivery, (b) facsimile or electronic mail, or (c) overnight delivery, by a courier service such as Federal Express where there is written evidence of delivery, addressed

to the Parties at the addresses appearing below or at such other place as a Party may designate in writing to the other Party. The date notice is deemed to have been given and to have become effective will be (i) the date on which the notice is delivered, if notice is given by personal delivery or overnight delivery or by electronic mail or facsimile with a response to the sender that day, and (ii) the next Business Day after a facsimile or electronic mail is sent if no response is delivered that day.

Notice Addresses.

If to Seller:

Coyotes Hockey, LLC  
c/o Coyotes Holdings, LLC  
P.O. Box 1397  
Tolleson, AZ 85353  
ATTN: Jerry Moyes, Manager  
Fax no.: (602) 275-6417  
Email address: jerry\_moyes@swifttrans.com

Or (if via overnight delivery)

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

with a copy to:

Squire, Sanders & Dempsey LLP.  
40 North Central Avenue, Suite 2700  
Phoenix, AZ 85004  
ATTN: Thomas J. Salerno  
Fax no.: (602) 253-8129  
Email address: tsalerno@ssd.com

If to Buyer:

PSE Sports & Entertainment LP  
c/o A. Richard Rodier  
618 Vesta Drive  
Toronto, Ontario  
Canada. M5N 1H9  
Fax no.: (416) 863-1716 (c/o Gary Solway)  
Email address: rrodier@richardrodierlaw.com

with a copy to:

Lewis and Roca LLP  
40 N. Central Avenue  
Phoenix, Arizona 85004  
ATTN: Susan M. Freeman

Fax no.: (602) 734-3824

Email address: SFreeman@LRLaw.com

9.11 Exhibits. All exhibits referred to in this Agreement are intended to be and are hereby specifically made a part of this Agreement and incorporated herein by reference.

EXECUTED as of the date first above written.

**SELLER:**

**COYOTES HOCKEY, LLC, a Delaware limited liability company**

**By: Its Managing Member, Coyotes Holdings LLC, a Delaware limited liability company**

By: \_\_\_\_\_

**Name: Jerry Moyes**

**Title: Manager**

**Exhibit A-1**

PHOENIX/496085.3

Case 2:09-bk-09488-RTBP Doc 538-15 Filed 07/31/09 Entered 07/31/09 21:33:41  
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Desc Exhibit 3 (part 1) Page 45 of 75

**BUYER:**

PSE SPORTS & ENTERTAINMENT LP, a Delaware limited partnership  
By: PSE SPORTS & ENTERTAINMENT GP, INC.  
Its: General Partner

By: \_\_\_\_\_  
Name: A. Richard Rodier  
Title: Vice President

**GUARANTY**

The undersigned, James Balsillie ("Guarantor"), hereby guarantees to Seller that upon entry of the Sale Approval Order as provided in Section 6.2(b) and satisfaction of all Conditions Precedent in the Asset Purchase Agreement, Guarantor will cause the Buyer to transfer the Purchase Price, less any Escrow Deposit already paid, into the Escrow Account holding the Escrow Deposit.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty on the \_\_\_ day of July, 2009.

\_\_\_\_\_  
James Balsillie

Exhibit A-2

PHOENIX/496085.3

Case 2:09-bk-09488-RTBP Doc 538-15 Filed 07/31/09 Entered 07/31/09 21:33:41  
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**EXHIBIT A**  
**ESCROW INSTRUCTIONS**  
**(Executed Escrow Agreement, as Amended)**

**Exhibit A-3**

PHOENIX/496085.3

Case 2:09-bk-09488-RTBP Doc 538-15 Filed 07/31/09 Entered 07/31/09 21:33:41  
Desc Exhibit B Page 40 of 42

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**EXHIBIT B**  
**BILL OF SALE**

**Exhibit B-1**

PHOENIX/496085.3

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**EXHIBIT C**  
**ASSIGNMENT AND ASSUMPTION AGREEMENT**

**Exhibit C-1**

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Desc Exhibit 3 (part 1) Page 49 of 75

ORIGINAL OF ECF FILING

**File a Notice:**

2:09-bk-09488-RTBP Dewey Ranch Hockey, LLC

Type: bk

Chapter: 11 v

Office: 2 (Phoenix)

Assets: y

Judge: RTBP

Case Flag: SealedDoc,  
JointAdmin

**U.S. Bankruptcy Court**

**District of Arizona**

Notice of Electronic Filing

The following transaction was received from SUSAN M. FREEMAN entered on 8/24/2009 at 3:09 PM AZ and filed on 8/24/2009

**Case Name:** Dewey Ranch Hockey, LLC

**Case Number:** 2:09-bk-09488-RTBP

**Document Number:** 750

**Docket Text:**

Notice of Filing *PSE Sports & Entertainment LP's Notice of Reservice of Asset Purchase Agreement* filed by SUSAN M. FREEMAN of LEWIS AND ROCA on behalf of PSE Sports & Entertainment LP and S&E Interim Facility Corporation.(FREEMAN, SUSAN)

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**H:\Not of Reservice.pdf

**Electronic document Stamp:**

[STAMP bkecfStamp\_ID=875559564 [Date=8/24/2009] [FileNumber=14962908-0 ] [230fb96a0fbc4e5a8114e1e786e649d11413d4fcd2c3be7c68322261cc71331c83242dc7f940ab31e32fe7cd656c8e48b85b03d397dc655f1a344cbfc6c3dd65]]

**2:09-bk-09488-RTBP Notice will be electronically mailed to:**

THOMAS H. ALLEN on behalf of Creditor Committee The Official Joint Committee of Unsecured Creditors

tallen@asbazlaw.com, rnieto@asbazlaw.com;asbecf@asbazlaw.com

C. TAYLOR ASHWORTH on behalf of Creditor NATIONAL HOCKEY LEAGUE

tashworth@stinson.com, rmcgee@stinson.com

ANDREW V. BANAS on behalf of Debtor Dewey Ranch Hockey, LLC

abanas@ssd.com, kgraves@ssd.com

SUSAN G BOSWELL on behalf of Interested Party Ice Edge Holdings, LLC

susan.boswell@quarles.com

GEORGE BRANDON on behalf of Plaintiff Coyotes Hockey, LLC  
gbrandon@ssd.com, brios@ssd.com

JAMES E. CROSS on behalf of Interested Party National Hockey League Players' Association  
jcross@omlaw.com, kstewart@omlaw.com

TIMOTHY STEPHEN DANNINGER on behalf of Plaintiff Coyotes Hockey, LLC  
tdanninger@ssd.com, rsanhadja@ssd.com;phxdocketmb@ssd.com;schristensen@ssd.com

NICHOLAS CONSTANTINE DRANIAS on behalf of Attorney Carrie Ann Sitren  
ndranias@goldwaterinstitute.org

SUSAN M. FREEMAN on behalf of Interested Party PSE Sports & Entertainment LP and S&E Interim  
Facility Corporation  
SMF@LRLAW.COM, mschoenike@lrlaw.com

DONALD L. GAFFNEY on behalf of Creditor DONATELLO INVESTMENTS, LLC  
dgaffney@swlaw.com, dgaffney@swlaw.com;docket@swlaw.com;jrogalla@swlaw.com

SHANE D GOSDIS on behalf of Creditor Lease Group Resources, Inc.  
shane.gosdis@dlapiper.com, linda.farrell@dlapiper.com

SCOTT J. GREENBERG on behalf of Interested Party Ice Edge Holdings, LLC  
scott.greenberg@cwt.com, jonathan.canfield@cwt.com;wendy.kane@cwt.com;eva.DeGrauw@cwt.com

CARL L. GRUMER on behalf of Interested Party AEG Facilities, LLC  
CGRUMER@MANATT.COM

RICHARD HENRY HEROLD on behalf of Creditor ARAMARK Sports and Entertainment Services,  
Inc.  
rherold@hinshawlaw.com, khaley@hinshawlaw.com

KERRY HODGES on behalf of Creditor Jerry Moyes  
khodges@jsslw.com, sbermingham@jsslw.com

NICOLAS B. HOSKINS on behalf of Creditor City of Glendale, Arizona  
nhoskins@fclaw.com

JONATHAN P. IBSEN on behalf of Creditor Wayne Gretzky  
jpi@jaburgwilk.com, amh@jaburgwilk.com

CAROLYN J. JOHNSEN on behalf of Creditor Jerry Moyes  
cjjohnsen@jsslw.com

LORI LAPIN JONES on behalf of Creditor BWD Group LLC  
ljones@jonespllc.com

IVAN L. KALLICK on behalf of Interested Party Ticketmaster  
iKallick@manatt.com

GEOFFREY M. KHOTIM on behalf of Interested Party Glendale Hockey LLC; Glendale Arena, LLC;  
Jerry Reinsdorf, John Kaites and Tony Tavares  
gmkhotim@rhkl-law.com, mmmartin@rhkl-law.com

ALLISON L. KIEMAN on behalf of Creditor Lease Group Resources, Inc.  
allison.kierman@dlapiper.com, pat.kelly@dlapiper.com

BRENDA K. MARTIN on behalf of Interested Party National Hockey League Players' Association  
bmartin@omlaw.com, kstewart@omlaw.com

ALAN A. MEDA on behalf of Creditor NATIONAL HOCKEY LEAGUE  
ameda@stinson.com, rmcgee@stinson.com

MARK ALLEN NADEAU on behalf of Creditor Jobing.com, L.L.C.  
mark.nadeau@dlapiper.com, pat.kelly@dlapiper.com

WILLIAM NOVOTNY on behalf of Interested Party COYOTE CENTER DEVELOPMENT, LLC  
william.novotny@mwmf.com

SEAN P. O'BRIEN on behalf of Creditor DRAWBRIDGE SPECIAL OPPORTUNITIES FUND L.P.  
spobrien@gustlaw.com, larmijo@gustlaw.com

STEFAN M. PALYS on behalf of Interested Party PSE Sports & Entertainment LP and S&E Interim  
Facility Corporation  
spalys@lrlaw.com, cscruggs@lrlaw.com

CATHY L. REECE on behalf of Creditor City of Glendale, Arizona  
creece@fclaw.com

SARA KATHRYN REGAN on behalf of Counter-Claimant Coyotes Hockey, LLC  
sregan@ssd.com, sregan@ssd.com;jtaft@ssd.com;hbell@ssd.com;phxdocketmb@ssd.com

ARTHUR E. ROSENBERG on behalf of Interested Party Facility Merchandising, Inc  
arthur.rosenberg@hklaw.com

PAUL SALA on behalf of Creditor Committee The Official Joint Committee of Unsecured Creditors  
psala@asbazlaw.com, sgomez@asbazlaw.com;asbecf@asbazlaw.com;wnorris@asbazlaw.com

THOMAS J. SALERNO on behalf of Debtor Arena Management Group, LLC  
tsalerno@ssd.com;kgraves@ssd.com;dkampen@ssd.com;ksinger@ssd.com;scork@ssd.com;khutchison@ssd.com

DALE C. SCHIAN on behalf of Interested Party NATIONAL BASKETBALL ASSOCIATION  
ecfdocket@swazlaw.com

KELLY SINGER on behalf of Debtor Dewey Ranch Hockey, LLC  
kgraves@ssd.com;ksinger@ssd.com;tsalerno@ssd.com;dkampen@ssd.com;khutchison@ssd.com

PETER W. SORENSEN on behalf of Creditor Jerry Moyes  
psorensen@jsslaw.com

LARRY LEE WATSON on behalf of U.S. Trustee U.S. TRUSTEE

[larry.watson@usdoj.gov](mailto:larry.watson@usdoj.gov), [connie.s.hoover@usdoj.gov](mailto:connie.s.hoover@usdoj.gov)

EDWARD M ZACHARY on behalf of Debtor Dewey Ranch Hockey, LLC  
[edward.zachary@bryancave.com](mailto:edward.zachary@bryancave.com), [pxdocket@bryancave.com](mailto:pxdocket@bryancave.com); [cbeckstead@bryancave.com](mailto:cbeckstead@bryancave.com)



## ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this "Agreement") is made and entered into as of May 6, 2009, by and among PSE Sports & Entertainment, LP, a Delaware limited partnership ("Buyer"); Coyotes Hockey, LLC, a Delaware limited liability company ("Seller"); and U.S. Bank National Association (the "Escrow Agent").

### RECITALS

A. Buyer and Seller have entered into an Asset Purchase Agreement dated as of May 5, 2009 (as amended, modified or supplemented from time to time, the "Asset Purchase Agreement"). All capitalized terms not otherwise defined herein shall have the respective meanings ascribed to such terms in the Asset Purchase Agreement.

B. Pursuant to the Asset Purchase Agreement, Buyer agreed, among other things, to acquire from Seller the Acquired Assets.

C. Pursuant to Section 3.2 of the Asset Purchase Agreement, upon execution of the Asset Purchase Agreement, Buyer will transfer Twenty Million Dollars (\$20,000,000) (the "Escrow Deposit") to a trust account maintained by Seller's lawyers, who shall transfer the funds to the Escrow Agent as soon as feasible thereafter.

D. Pursuant to Section 3.3 of the Asset Purchase Agreement, if Buyer is determined to be the successful bidder at the Auction, within five (5) Business Days after entry of the Sale Approval Order, Buyer and Seller shall deliver to Escrow Agent all Transaction Documents required by the Asset Purchase Agreement for Closing.

E. Pursuant to Section 3.4 of the Asset Purchase Agreement, no later than five (5) Business Days after all of the Conditions Precedent in Article VII of the Asset Purchase Agreement are met, Buyer shall wire transfer to the Escrow Agent the balance of the Purchase Price, in an amount equal to One Hundred Seventy Million and no/100 Dollars (\$170,000,000.00), subject to reduction in accordance with Section 3.1(b) of the Asset Purchase Agreement (together with the Escrow Deposit, the "Escrow Amount"), to be held in Escrow pending the Closing.

E. Buyer and Seller desire to appoint Escrow Agent to serve as escrow agent hereunder, and Escrow Agent is willing to act as escrow agent pursuant to the terms and conditions of this Agreement.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## ARTICLE I

### ESTABLISHMENT OF ESCROW

1.1. Buyer and Seller hereby appoint the Escrow Agent, and the Escrow Agent hereby agrees to serve, as the escrow agent and depository subject to the terms and conditions set forth herein.

1.2. The Escrow Agent shall receive the Escrow Amount and hold the Escrow Amount in a separate and distinct account (the "Escrow Account"), which the Escrow Agent shall distribute or release only in accordance with the express terms and conditions of this Agreement.

1.3. The Escrow Agent shall maintain control of all Transaction Documents, including any third party consents, delivered to it at all times until the satisfaction of all conditions to the release and delivery thereof as provided by this Agreement, and shall hold the Transaction Documents for safekeeping.

1.4. The parties to the Asset Purchase Agreement acknowledge that the deposit by any of them of any Transaction Document with Escrow Agent is conclusive evidence that such document has been approved by such party as the final form in which such document will be dated, deemed executed, and delivered at the Closing. No changes may be made to any Transaction Document without the prior written consent of all parties to such document, and no party shall be entitled to demand consent to any requested change in a Transaction Document as a condition to Closing under this Agreement or otherwise in connection with the Asset Purchase Agreement.

## ARTICLE II

### INVESTMENT OF ESCROW AMOUNT

2.1. The Escrow Amount shall be invested as soon as reasonably practicable, including income earned on said investment, in a money market account under the control of Escrow Agent.

2.2. The Escrow Agent shall not be responsible to Buyer or Seller or any other person or entity for any loss or liability arising in respect of any directed investment in Section 2.1 except to the extent that such loss or liability arose from the Escrow Agent's gross negligence or willful misconduct.

## ARTICLE III

### DISBURSEMENTS FROM THE ESCROW ACCOUNT

3.1. Escrow Agent shall act in accordance with mutual written instructions of Buyer and Seller executed and delivered to Escrow Agent pursuant to Section 3.6 of the Asset Purchase Agreement.

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3.2. Immediately upon disbursement from the Escrow Account, the Escrow Agent shall send notice via email to Buyer and Seller stating the amount of the disbursement and the amount remaining in the Escrow Account. Additionally, as promptly as practicable following any such disbursement, the Escrow Agent shall send a written statement to Buyer and Seller stating the amount of the disbursement and the amount remaining in the Escrow Account.

3.3. Unless otherwise instructed via email, with contemporaneous follow up in writing, by the recipient of a disbursement, Escrow Agent shall make all payments and disbursements that are to be made hereunder in accordance with Article VIII hereof.

#### ARTICLE IV

##### COMPENSATION; EXPENSES

In consideration for its services as escrow agent hereunder, the Escrow Agent shall be entitled to receive the compensation set forth in Exhibit A hereto upon execution hereof, as well as the reimbursement of all reasonable out-of-pocket costs and expenses actually incurred by the Escrow Agent in the performance of its duties hereunder (collectively such compensation and expenses, the "Escrow Agent Fees"). Buyer and Seller hereby agree that the Escrow Agent Fees shall be paid from the Escrow Amount, and, notwithstanding anything herein or in the Asset Purchase Agreement to the contrary, the Escrow Agent hereby is authorized to disburse to itself a portion of the Escrow Amount equal to the Escrow Agent Fees prior to making any disbursement of any portion of the Escrow Amount, including, without limitation, the Escrow Deposit, to either Buyer or Seller.

#### ARTICLE V

##### EXCULPATION AND INDEMNIFICATION

5.1 The obligations and duties of the Escrow Agent are confined to those specifically set forth in this Agreement. In the event that any of the terms and provisions of any other agreement between any of the parties hereto conflict or are inconsistent with any of the terms and provisions of this Agreement, the terms and provisions of this Agreement shall govern and control in all respects. The Escrow Agent shall not be subject to, nor be under any obligation to ascertain or construe the terms and conditions of any other agreement or instrument, whether or not now or hereafter deposited with or delivered to the Escrow Agent or referred to in this Agreement, nor shall the Escrow Agent be obligated to inquire as to the form, execution, sufficiency, or validity of any such instrument nor to inquire as to the identity, authority, or rights of the person or persons executing or delivering same.

5.2 The Escrow Agent shall not be personally liable for any act that it may do or omit to do hereunder in good faith and in the exercise of its own best judgment. Any act done or omitted to be done by the Escrow Agent pursuant to the advice of its attorneys shall be deemed conclusively to have been performed or omitted in good faith by the Escrow Agent.

5.3 In the event the Escrow Agent is notified of any dispute, disagreement or legal action between Buyer, Seller and any third party relating to or arising in connection with the

escrow, the Escrow Amount, or the performance of the Escrow Agent's duties under this Agreement, the Escrow Agent will not be required to determine the controversy or to take any action regarding it. The Escrow Agent may hold all documents and funds and may wait for settlement of any such controversy by final appropriate legal proceedings, arbitration, or other means as, in the Escrow Agent's discretion, it may require. In such event, the Escrow Agent will not be liable for interest or damage. Furthermore, the Escrow Agent may, at its option, file an action of interpleader requiring the parties to answer and litigate any claims and rights among themselves, provided that such action must be brought before an arbitrator pursuant to Article XVI hereof. The Escrow Agent is authorized, at its option, to deposit with the clerk of the court or such arbitrator, as applicable, all documents and funds held in escrow. Buyer and Seller agree to pay all costs, expenses, charges, and reasonable attorneys' fees incurred by the Escrow Agent due to such interpleader action. Upon initiating such action, the Escrow Agent shall be fully released and discharged of and from all obligations and liability related to the subject matter of such action imposed by the terms of this Agreement.

5.4 Buyer and Seller hereby agree, jointly and severally, to indemnify and hold the Escrow Agent, and its directors, officers, employees, and agents, harmless from and against all costs, damages, judgments, attorneys' fees (whether such attorneys shall be regularly retained or specifically employed), expenses, obligations and liabilities of every kind and nature which the Escrow Agent, and its directors, officers, employees, and agents, may incur, sustain, or be required to pay in connection with or arising out of this Agreement, unless the aforementioned results from the Escrow Agent's gross negligence or willful misconduct, and to pay the Escrow Agent on demand the amount of all such costs, damages, judgments, attorneys' fees, expenses, obligations, and liabilities. The costs and expenses of enforcing this right of indemnification also shall be paid by Buyer and Seller. The foregoing indemnities in this paragraph shall survive the resignation or substitution of the Escrow Agent or the termination of this Agreement.

## ARTICLE VI

### TERMINATION OF AGREEMENT

This Agreement may be terminated at any time upon the receipt by the Escrow Agent of three (3) Business Days' prior written notice of termination by Buyer and Seller directing the distribution of all assets then held by the Escrow Agent under and pursuant to this Agreement. This Agreement shall automatically terminate if and when all amounts in the Escrow Account (including all the securities in which any of the funds deposited into the Escrow Account shall have been invested) shall have been distributed by the Escrow Agent in accordance with the terms of this Agreement; provided, however, that the rights and obligations of the parties hereto shall survive the termination hereof.

## ARTICLE VII

### RESIGNATION OF ESCROW AGENT

The Escrow Agent may resign at any time upon giving at least thirty (30) days prior written notice to Buyer and Seller; provided, however, that no such resignation shall become effective until the appointment of a successor escrow agent which shall be accomplished as

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follows: Buyer and Seller shall use their best efforts to select a successor escrow agent within thirty (30) days after receiving such notice. If Buyer and Seller fail to appoint a successor escrow agent within such time, the Escrow Agent shall have the right to appoint a successor escrow agent. The successor escrow agent shall execute and deliver an instrument accepting such appointment and it shall, without further acts, be vested with all the estates, properties, rights, powers, and duties of the predecessor escrow agent as if originally named as escrow agent. Upon delivery of such instrument, the Escrow Agent shall be discharged from any further duties and liability under this Agreement. The Escrow Agent shall be paid any outstanding Escrow Agent Fees prior to transferring assets to a successor escrow agent.

#### ARTICLE VIII

##### METHOD OF DISBURSEMENT BY ESCROW AGENT

All payments by Escrow Agent to any party to this Agreement will be made by wire transfer of immediately available federal funds to an account designated in writing by such party set forth on Exhibit B hereto. In the event any payment or disbursement is required by the terms hereof to be made on a date that is not a Business Day, such payment or disbursement shall be made on the next succeeding Business Day.

#### ARTICLE IX

##### NOTICES

All notices required by this Agreement shall be in writing and shall be deemed to have been received (a) immediately if sent by facsimile transmission or electronic mail (with a confirming copy sent the same Business Day by registered or certified mail), or by hand delivery (with signed return receipt), or (b) the next Business Day if sent by nationally recognized overnight courier, in any case to the respective addresses as follows:

If to Seller, addressed to:

Coyotes Hockey, LLC  
c/o Coyotes Holdings, LLC  
P.O. Box 1397  
Tolleson, AZ 85353  
ATTN: Jerry Moyes, Manager  
Fax no.: (602) 275-6417  
Email address: jerry\_moyes@swifttrans.com

Or (if via overnight delivery):

2200 South 75th Avenue  
Phoenix, AZ 85043  
ATTN: Jerry Moyes, Manager

with a copy to:

PHOENIX/480353.4

Squire, Sanders & Dempsey LLP.  
40 North Central Avenue, Suite 2700  
Phoenix, AZ 85004  
ATTN: Thomas J. Salerno  
Fax no.: (602) 253-8129  
Email address: tsalerno@ssd.com

If to Buyer, addressed to:

PSE Sports & Entertainment LP  
c/o A. Richard Rodier  
618 Vesta Drive  
Toronto, Ontario  
Canada. M5N 1H9  
Fax no.: (416) 863-1716 (c/o Gary Solway)  
Email address: rrodier@richardrodierlaw.com

with a copy to:

Lewis and Roca LLP  
40 N. Central Avenue  
Phoenix, Arizona 85004  
ATTN: Susan M. Freeman  
Fax no.: (602) 734-3824  
Email address: SFreeman@LRLaw.com

If to the Escrow Agent:

U.S. Bank National Association  
Corporate Trust Services  
101 North First Avenue, Suite 1600  
Phoenix, AZ 85003  
ATTN: Mary J. Ambriz-Reyes, Vice President  
Phone: 602-257-5430  
Fax: 602-257-5433  
mary.ambrizreyes@usbank.com

#### ARTICLE X

#### GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona and the parties hereto consent to jurisdiction in the State of Arizona.

PHOENIX/480353.4

## ARTICLE XI

### AUTOMATIC SUCCESSION

Any bank or corporation into which the Escrow Agent may be merged or with which it may be consolidated, or any bank or corporation to whom the Escrow Agent may transfer a substantial amount of its Escrow business, shall be the successor to the Escrow Agent without the execution or filing of any paper or any further act on the part of any of the parties, anything herein to the contrary notwithstanding.

## ARTICLE XII

### AMENDMENT AND MODIFICATION

Buyer and Seller and the Escrow Agent may amend, modify, and/or supplement this Agreement as they may mutually agree in writing.

## ARTICLE XIII

### COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same agreement.

## ARTICLE XIV

### INTERPRETATION

14.1 The headings used in this Agreement are for convenience only and shall not constitute a part of this Agreement.

14.2 As used in this Agreement, "Business Day" means a day other than a Saturday, Sunday, or other day when banking institutions are authorized or required by law or executive order to be closed.

## ARTICLE XV

### SEVERABILITY

The parties hereto agree that if any provision of this Agreement shall under any circumstances be deemed invalid or inoperative this Agreement shall be construed with the invalid or inoperative provisions deleted and the rights and obligations of the parties hereto shall be construed and enforced accordingly.

## ARTICLE XVI

### RESOLUTION OF DISPUTES

16.1 Any controversy arising out of or relating to this Agreement, or relating to the breach hereof, shall be brought before the Bankruptcy Court. The expenses of the action shall be borne by the losing party unless otherwise allocated by the Bankruptcy Court. During the continuance of any action before the Bankruptcy Court, the parties shall continue to perform their respective obligations under this Assignment. Any award of attorneys' fees, costs, or expenses rendered against the Seller shall come from the Escrow Amount and shall not exceed the Escrow Amount.

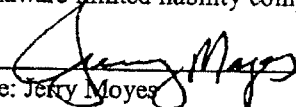
16.2 The provisions of this Article XVI shall survive termination of this Agreement. Any dispute regarding the applicability of this Article XVI to a particular claim or controversy shall be arbitrated as provided in this Article XVI.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the day and year first above written.

**SELLER:**

COYOTES HOCKEY, LLC, a Delaware limited liability company

By: Its Managing Member, Coyotes Holdings LLC, a Delaware limited liability company

By:   
Name: Jerry Moyes  
Title: Manager

**BUYER:**

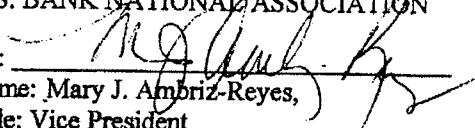
PSE SPORTS & ENTERTAINMENT, LP, a Delaware limited partnership

By: PSE SPORTS & ENTERTAINMENT GP, INC.  
Its: General Partner

By: \_\_\_\_\_  
Name: A. Richard Rodier  
Title: Vice President

**ESCROW AGENT:**

U.S. BANK NATIONAL ASSOCIATION

By:   
Name: Mary J. Ambriz-Reyes,  
Title: Vice President

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the day and year first above written.

**SELLER:**

COYOTES HOCKEY, LLC, a Delaware limited liability company

By: Its Managing Member, Coyotes Holdings LLC, a Delaware limited liability company

By: \_\_\_\_\_

Name: Jerry Moyes

Title: Manager

**BUYER:**

PSE SPORTS & ENTERTAINMENT, LP, a Delaware limited partnership

By: PSE SPORTS & ENTERTAINMENT GP, INC. Its: General Partner

By: \_\_\_\_\_

Name: A. Richard Rodier

Title: Vice President

**ESCROW AGENT:**

U.S. BANK NATIONAL ASSOCIATION

By: \_\_\_\_\_

Name: Mary J. Ambriz-Reyes,

Title: Vice President



F-2004.1-1.

**U.S. BANK NATIONAL ASSOCIATION  
MONEY MARKET ACCOUNT AUTHORIZATION FORM  
DESCRIPTION AND TERMS**

The U.S. Bank Money Market account is a U.S. Bank National Association ("U.S. Bank") interest-bearing money market deposit account designed to meet the needs of U.S. Bank's Corporate Trust Services Escrow Group and other Corporate Trust customers of U.S. Bank. Selection of this investment includes authorization to place funds on deposit and invest with U.S. Bank.

U.S. Bank uses the daily balance method to calculate interest on this account (actual/365 or 366). This method applies a daily periodic rate to the principal balance in the account each day. Interest is accrued daily and credited monthly to the account. Interest rates are determined at U.S. Bank's discretion, and may be tiered by customer deposit amount.

The owner of the account is U.S. Bank as Agent for its trust customers. U.S. Bank's trust department performs all account deposits and withdrawals. Deposit accounts are FDIC Insured per depositor, as determined under FDIC Regulations, up to applicable FDIC limits.

**AUTOMATIC AUTHORIZATION**

In the absence of specific written direction to the contrary, U.S. Bank is hereby directed to invest and reinvest proceeds and other available moneys in the U.S. Bank Money Market Account. The U.S. Bank Money Market Account is a permitted investment under the operative documents and this authorization is the permanent direction for investment of the moneys until notified in writing of alternate instructions.

EXHIBIT A

**Escrow Agent  
Schedule Of Fees**

|       |  |            |
|-------|--|------------|
| 04460 | <b>Escrow Agent Administration Fee</b><br>One-time Escrow Agent Administration fee for performance of the routine duties of the escrow agent associated with the management of the escrow account. Administration fees are payable upon execution of the Escrow Agreement. | \$2,500.00 |
|-------|--|------------|

***Direct Out of Pocket Expenses***

|  |   |         |
|--|---|---------|
|  | Reimbursement of expenses associated with the performance of our duties, including but not limited to publications, legal counsel after the initial close, travel expenses and filing fees, if any. | At Cost |
|--|---|---------|

***Extraordinary Services***

Extraordinary services are duties or responsibilities of an unusual nature, including termination, but not provided for in the governing documents or otherwise set forth in this schedule. A reasonable charge will be assessed based on the nature of the service and the responsibility involved. At our option, these charges will be billed at a flat fee or at our hourly rate then in effect.

**EXHIBIT B**  
**Wire Transfer Instructions**

PHOENIX/480353.4

## FIRST AMENDMENT TO ESCROW AGREEMENT

THIS FIRST AMENDMENT TO ESCROW AGREEMENT (this "Amendment") is made and entered into as of July 31, 2009, by and among PSE Sports & Entertainment, LP, a Delaware limited liability partnership ("Buyer"); Coyotes Hockey, LLC, a Delaware limited liability company ("Seller"); and U.S. Bank National Association ("Escrow Agent") (collectively, the "Parties").

### RECITALS

A. The Parties have previously entered into an Escrow Agreement, dated May 6, 2009 (the "Escrow Agreement"), wherein Escrow Agent agreed to hold and disburse funds related to the possible purchase by Buyer of the Phoenix Coyotes National Hockey League franchise, and related assets, from Seller.

B. In accordance with Article XII of the Escrow Agreement, the Parties desire to amend in writing the Escrow Agreement upon the terms and conditions provided in this Amendment.

### AGREEMENT

NOW, THEREFORE, in consideration of and in reliance upon the representations, warranties, and obligations in the Escrow Agreement and in this Amendment, the Parties hereby agree as follows:

1. Amendments. Section 3.1 of the Escrow Agreement is hereby deleted in its entirety and the following inserted in lieu thereof:

"3.1. Escrow Agent shall act in accordance with mutual written instructions of Buyer and Seller executed and delivered to Escrow Agent, including, but not limited to, those instructions issued pursuant to Section 3.6 of the Asset Purchase Agreement."

2. Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Amendment.

3. Facsimile Signatures. This Amendment may be executed by either or all the Parties by facsimile signature, and any such facsimile signature shall be deemed an original signature.

4. Effect of Amendment. Except as provided for herein, all other terms and conditions of the Escrow Agreement shall remain unchanged. This Amendment may only be varied by a document, in writing, of even or subsequent date hereof, executed by the Parties.

(Signature Page Follows)


2075006.1

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

**SELLER:**

COYOTES HOCKEY, LLC, a Delaware limited liability company


By: Its Managing Member, Coyotes Holdings LLC, a Delaware limited liability company

By:   
Name: Jerry Moyes  
Title: Manager

**BUYER:**

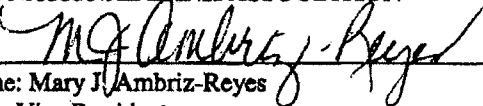
PSE SPORTS & ENTERTAINMENT, LP, a Delaware limited partnership

By: Its General Partner, PSE Sports & Entertainment GP, Inc.

By:   
Name: A. Richard Rodier  
Title: Vice President

**ESCROW AGENT:**

U.S. NATIONAL BANK ASSOCIATION

By:   
Name: Mary J. Ambriz-Reyes  
Title: Vice President

July 31, 2009

U.S. Bank National Association  
Corporate Trust Services  
101 North First Avenue, Suite 1600  
Phoenix, Arizona 85003  
ATTN: Mary J. Ambriz-Reyes, Vice President

Re: *Instructions for Disbursement from Escrow Account Number 132837000 to PSE Sports & Entertainment, LP.*

Dear Ms. Ambriz-Reyes:

Reference is made to that certain Escrow Agreement entered into by PSE Sports & Entertainment, LP, a Delaware limited partnership ("Buyer"), Coyotes Hockey, LLC, a Delaware limited liability company ("Seller"), and U.S. Bank National Association ("U.S. Bank" or "you"), dated as of May 6, 2009, as amended (the "Escrow Agreement"). This letter serves as a letter of instruction on behalf of Buyer and Seller.

Pursuant to an Asset Purchase Agreement entered into by Buyer and Seller, on May 5, 2009, as amended, the sum of Twenty Million Dollars (\$20,000,000.00) was transferred to U.S. Bank for holding in interest bearing Escrow Account number 132837000. This amount was to serve as a good faith deposit for the potential purchase by Buyer of the Phoenix Coyotes National Hockey League franchise, and related assets, from the Seller. Subsequently, pursuant to a court order issued in U.S. Bankruptcy Court for the District of Arizona Case No. 2:09-bk-09488-RTBP, dated June 22, 2009, the amount of the deposit required for such purchase has been reduced to Ten Million Dollars (\$10,000,000.00).

Accordingly, as authorized in Section 3.1 of the Escrow Agreement, Buyer and Seller hereby instruct you to disburse the amount currently held in the Escrow Account (\$20,000,000.00 plus accrued interest) minus \$10,000,000.00 to the Buyer at the account below, pursuant to the terms provided for in the Escrow Agreement, including the notice provisions of Section 3.2 therein. Immediately following the disbursement, the amount remaining in the Escrow Account should be Ten Million Dollars (\$10,000,000.00).

Please transfer the funds in U.S. Dollars to the following account:

Beneficiary Name: Pittsburgh Sports & Entertainment, LP  
Account number: 2752-7312094

Bank: TD Canada Trust  
381 King Street W.  
Kitchener, Ontario - CANADA  
Swift # for TD: TDOMCATTOR

This escrow instruction letter may be executed in counterparts, all of which shall constitute one document. It shall be construed under the laws of the State of Arizona.

Please acknowledge your acceptance of the foregoing instructions by signing this letter below.

Sincerely,

**SELLER:**

**COYOTES HOCKEY, LLC**, a Delaware limited liability company


By: Its Managing Member, Coyotes Holdings LLC, a Delaware limited liability company

By:   
Name: Jerry Moyes  
Title: Manager

**BUYER:**

**PSE SPORTS & ENTERTAINMENT, LP**, a Delaware limited partnership


By: Its General Partner, PSE Sports & Entertainment GP, Inc.

By:   
Name: A. Richard Rodier  
Title: Vice President

U.S. Bank agrees with Buyer and Seller to strictly and completely comply with the foregoing letter of instructions this 31<sup>st</sup> day of July, 2009.

**U.S. BANK:**

**U.S. NATIONAL BANK ASSOCIATION**

By:   
Name: Mary J. Ambriz-Reyes  
Title: Vice President





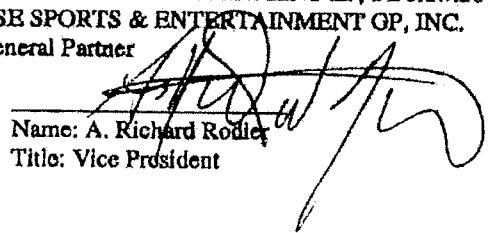
**BUYER:**

PSE SPORTS & ENTERTAINMENT LP, a Delaware limited partnership

By: PSE SPORTS & ENTERTAINMENT OP, INC.

Its: General Partner

By:

  
Name: A. Richard Rodic  
Title: Vice President

**GUARANTY**

The undersigned, James Balsillie ("Guarantor"), hereby guarantees to Seller that upon entry of the Sale Approval Order as provided in Section 6.2(b) and satisfaction of all Conditions Precedent in the Asset Purchase Agreement, Guarantor will cause the Buyer to transfer the Purchase Price, less any Escrow Deposit already paid, into the Escrow Account holding the Escrow Deposit.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty on the <sup>16</sup>25 day of July, August 2009.

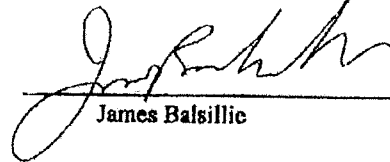
  
James Balsillie

Exhibit A-2

PHOENIX/4960853

Case 2:09-bk-09488-RTBP Doc 538-15 Filed 07/31/09 Entered 07/31/09 21:33:41  
Desc Exhibit B Page 39 of 42



**BILL OF SALE**

Pursuant to that certain Asset Purchase Agreement dated as of May 5, 2009 and as amended (the "Purchase Agreement"), between Coyotes Hockey, LLC, a Delaware limited liability company ("Seller"), PSE Sports & Entertainment LP, a Delaware limited partnership ("Buyer"), and for the consideration set forth in the Purchase Agreement, the receipt and adequacy of which is hereby acknowledged and which has been paid to Seller by Buyer, and the assumption by Buyer of the Assumed Liabilities, Seller does unconditionally sell, convey, transfer, assign and deliver unto Buyer, its successors and assigns, all legal and beneficial right, title and interest in and to the Acquired Assets free and clear of all liens and other Encumbrances, and as further set forth in the Purchase Agreement and order of the United States Bankruptcy Court for the District of Arizona approving the Purchase Agreement, to have and to hold such Acquired Assets to Buyer, its successors and assigns.

Unless otherwise defined, all capitalized terms used in this Bill of Sale shall have the same meanings as are set forth in the Purchase Agreement.

This Bill of Sale is being executed in connection with, and is subject to all representations, warranties, covenants and agreements set forth in the Purchase Agreement.

Seller agrees that it will at any time and from time to time at the reasonable request of Buyer, its successors or assigns, execute and deliver any and all instruments as Buyer, its successors or assigns, may reasonably request for the purpose of vesting in Buyer title to the Acquired Assets or to enable Buyer, its successors or assigns, to enjoy such Acquired Assets or to carry out the intent and purposes of this Bill of Sale.

This Bill of Sale shall be governed and controlled as to validity, enforcement, interpretation, construction, effect and in all other respects by the laws of the State of Arizona.