

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

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**Form 10-Q**

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**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2008,

or

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number 001-32601

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**LIVE NATION, INC.**

(Exact name of registrant as specified in its charter)

Delaware  
(State of Incorporation)

20-3247759  
(I.R.S. Employer Identification No.)

9348 Civic Center Drive  
Beverly Hills, CA 90210  
(Address of principal executive offices, including zip code)

(310) 867-7000  
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.  Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer.

- Large accelerated filer  Accelerated filer  
 Non-accelerated filer (Do not check if a smaller reporting company)  Smaller Reporting Company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).  Yes  No

On October 31, 2008, there were 78,191,721 outstanding shares of the registrant's common stock, \$0.01 par value per share, excluding 238,795 shares held in treasury.

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PART I — FINANCIAL INFORMATION

Item 1. Financial Statements (unaudited)

CONSOLIDATED BALANCE SHEETS

	September 30, 2008 <u>(unaudited)</u>	December 31, 2007 <u>(audited)</u>
(in thousands)		
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 205,916	\$ 338,991
Accounts receivable, less allowance of \$9,243 as of September 30, 2008 and \$18,928 as of December 31, 2007	358,621	264,316
Prepaid expenses	257,901	186,379
Other current assets	37,288	44,722
Assets held for sale	11,376	—
<b>Total Current Assets</b>	<b>871,102</b>	<b>834,408</b>
<b>PROPERTY, PLANT AND EQUIPMENT</b>		
Land, buildings and improvements	934,802	1,018,079
Furniture and other equipment	236,794	236,320
Construction in progress	148,883	51,725
	1,320,479	1,306,124
Less accumulated depreciation	406,100	391,079
	914,379	915,045
<b>INTANGIBLE ASSETS</b>		
Intangible assets — net	506,244	382,999
Goodwill	451,248	471,542
<b>OTHER LONG-TERM ASSETS</b>		
Notes receivable, less allowance of \$565 as of September 30, 2008 and December 31, 2007	1,440	1,703
Investments in nonconsolidated affiliates	21,347	23,443
Other long-term assets	182,641	122,963
<b>Total Assets</b>	<b>\$2,948,401</b>	<b>\$2,752,103</b>
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
<b>CURRENT LIABILITIES</b>		
Accounts payable	\$ 93,966	\$ 79,273
Accrued expenses	512,606	511,636
Deferred revenue	255,995	259,868
Current portion of long-term debt	59,948	36,345
Other current liabilities	50,420	18,348
<b>Total Current Liabilities</b>	<b>972,935</b>	<b>905,470</b>
Long-term debt	739,386	786,261
Other long-term liabilities	144,094	91,465
Minority interest liability	67,823	61,841
Series A and Series B redeemable preferred stock	40,000	40,000
Commitments and contingent liabilities (Note 8)		
<b>SHAREHOLDERS' EQUITY</b>		
Common stock	769	749
Additional paid-in capital	972,907	940,848
Retained deficit	(25,180)	(130,941)
Cost of shares held in treasury	(2,900)	—
Accumulated other comprehensive income	38,567	56,410
<b>Total Shareholders' Equity</b>	<b>984,163</b>	<b>867,066</b>
<b>Total Liabilities and Shareholders' Equity</b>	<b>\$2,948,401</b>	<b>\$2,752,103</b>

See Notes to Consolidated Financial Statements

**CONSOLIDATED STATEMENTS OF OPERATIONS (UNAUDITED)**

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2008	2007	2008	2007
	(in thousands except share and per share data)			
Revenue	\$ 1,588,653	\$ 1,452,578	\$ 3,251,077	\$ 2,836,397
Operating expenses:				
Direct operating expenses	1,295,416	1,200,071	2,589,443	2,265,952
Selling, general and administrative expenses	174,254	151,910	495,312	444,354
Depreciation and amortization	31,490	26,191	98,761	77,243
Gain on sale of operating assets	(1,158)	(6,112)	(799)	(20,806)
Corporate expenses	13,062	11,335	35,177	30,394
Operating income	75,589	69,183	33,183	39,260
Interest expense	15,285	15,018	45,646	45,194
Interest income	(2,978)	(3,704)	(8,406)	(10,631)
Equity in earnings of nonconsolidated affiliates	(1,979)	(3,211)	(871)	(2,571)
Minority interest expense (income)	4,261	8,099	(284)	8,574
Other expense (income) — net	277	(210)	(838)	(564)
Income (loss) from continuing operations before income taxes	60,723	53,191	(2,064)	(742)
Income tax expense (benefit):				
Current	(51,167)	5,880	(37,951)	22,545
Deferred	470	6,360	6,132	10,549
Income (loss) from continuing operations	111,420	40,951	29,755	(33,836)
Income from discontinued operations, net of tax	28,508	602	76,006	40,262
Net income	139,928	41,553	105,761	6,426
Other comprehensive income (loss), net of tax	(29,731)	20,326	(17,843)	29,809
Comprehensive income	\$ 110,197	\$ 61,879	\$ 87,918	\$ 36,235
Basic income (loss) per common share:				
Income (loss) from continuing operations	\$ 1.46	\$ 0.59	\$ 0.39	\$ (0.51)
Income from discontinued operations	0.38	0.01	1.01	0.61
Net income	\$ 1.84	\$ 0.60	\$ 1.40	\$ 0.10
Diluted income (loss) per common share:				
Income (loss) from continuing operations	\$ 1.33	\$ 0.54	\$ 0.39	\$ (0.51)
Income from discontinued operations	0.34	0.01	1.00	0.61
Net income	\$ 1.67	\$ 0.55	\$ 1.39	\$ 0.10
Weighted average common shares outstanding:				
Basic	76,230,900	69,398,147	75,647,661	66,820,837
Diluted	84,736,808	78,215,047	76,360,255	66,820,837

See Notes to Consolidated Financial Statements

CONSOLIDATED STATEMENTS OF CASH FLOWS (UNAUDITED)

	Nine Months Ended	
	September 30,	
	2008	2007
	(in thousands)	
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net income	\$ 105,761	\$ 6,426
Reconciling items:		
Depreciation	57,981	59,250
Amortization of intangibles	54,572	20,434
Impairment of operational assets	16,035	—
Deferred income tax expense	6,132	10,400
Amortization of debt issuance costs	3,368	1,337
Non-cash compensation expense	9,588	11,609
Gain on sale of operating assets	(167,797)	(20,934)
Gain on sale of other investments	—	(64)
Equity in losses (earnings) of nonconsolidated affiliates	673	(3,377)
Minority interest expense (income)	(123)	8,190
Changes in operating assets and liabilities, net of effects of acquisitions and dispositions:		
Increase in accounts receivable	(126,615)	(127,855)
Increase in prepaid expenses	(83,259)	(81,688)
Increase in other assets	(89,552)	(34,301)
Increase in accounts payable, accrued expenses and other liabilities	116,788	93,703
Increase in deferred revenue	52,885	91,232
Decrease in other — net	(401)	—
Net cash provided by (used in) operating activities	(43,964)	34,362
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Collection of notes receivable	106	1,873
Advances to notes receivable	—	(722)
Distributions from nonconsolidated affiliates	4,976	8,983
Investments made to nonconsolidated affiliates	(255)	(2,967)
Proceeds from disposal of other investments	—	3,616
Purchases of property, plant and equipment	(138,550)	(66,945)
Proceeds from disposal of operating assets, net of cash divested	194,286	72,007
Cash paid for acquisitions, net of cash acquired	(35,977)	(76,051)
Purchases of intangible assets	(46,316)	—
Decrease in other — net	308	368
Net cash used in investing activities	(21,422)	(59,838)
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Proceeds from long-term debt, net of debt issuance costs	275,242	315,741
Payments on long-term debt	(327,614)	(249,835)
Contributions from minority interest partners	8,847	—
Distributions to minority interest partners	(1,845)	(3,319)
Proceeds from exercise of stock options	636	424
Payments for purchases of common stock	(3,628)	—
Net cash provided by (used in) financing activities	(48,362)	63,011
Effect of exchange rate changes on cash	(19,327)	(73)
Net increase (decrease) in cash and cash equivalents	(133,075)	37,462
Cash and cash equivalents at beginning of period	338,991	313,880
Cash and cash equivalents at end of period	<u>\$ 205,916</u>	<u>\$ 351,342</u>

See Notes to Consolidated Financial Statements

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

### NOTE 1 — SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

#### *Nature of Business*

Live Nation, Inc. (the “Company” or “Live Nation”) was incorporated in Delaware on August 2, 2005 in preparation for the contribution and transfer by Clear Channel Communications, Inc. (“Clear Channel”) of substantially all of its entertainment assets and liabilities to the Company (the “Separation”). The Company completed the Separation on December 21, 2005 and became a publicly traded company on the New York Stock Exchange trading under the symbol “LYV”.

Prior to the Separation, Live Nation was a wholly-owned subsidiary of Clear Channel. As part of the Separation, holders of Clear Channel’s common stock received one share of Live Nation common stock for every eight shares of Clear Channel common stock.

The Company’s reportable segments are North American Music, International Music, Artist Nation (previously known as Global Artists) and Ticketing (previously known as Global Digital). Prior to 2008, the Company reported a Global Theater segment, which has been eliminated after the divestiture of substantially all of the Company’s North American theatrical business in January 2008. The Company’s United Kingdom theatrical venue operation business, previously included in Global Theater, is now reported in other operations and the few remaining North American theater venues are now reported in North American Music. The North American Music segment principally involves the promotion of live music events in the Company’s owned and/or operated venues and in rented third-party venues and the operation and management of music venues principally in the United States and Canada. The International Music segment principally involves the promotion of live music events in the Company’s owned and/or operated venues and in rented third-party venues, the production of music festivals and the operation and management of music venues outside of North America. The Artist Nation segment principally involves the promotion and/or production of global music tours as well as providing various services to artists including recorded music and music publishing, merchandise, artist fan sites and VIP ticketing, broadcast/digital media rights, and sponsorship and marketing services. The Ticketing segment principally involves the management of the Company’s internal centralized ticketing operations, the development of the Company’s new ticketing initiative and online and wireless distribution activities, including the development of the Company’s website. In addition, the Company has United Kingdom theatrical venue operations and other businesses, which are included under other operations.

#### *Seasonality*

Due to the seasonal nature of shows in outdoor amphitheaters and festivals, which primarily occur May through September, the Company experiences higher revenue during the second and third quarters. This seasonality also results in higher balances in cash and cash equivalents, accounts receivable, prepaid expenses, accrued expenses and deferred revenue at different times in the year.

#### *Preparation of Interim Financial Statements*

The consolidated financial statements included in this report have been prepared by the Company pursuant to the rules and regulations of the Securities and Exchange Commission (“SEC”) and, in the opinion of management, include all adjustments (consisting of normal recurring accruals and adjustments necessary for adoption of new accounting standards) necessary to present fairly the results of the interim periods shown. Certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles in the United States have been condensed or omitted pursuant to such SEC rules and regulations. Management believes that the disclosures made are adequate to make the information presented not misleading. Due to seasonality and other factors, the results for the interim periods are not necessarily indicative of results for the full year. The financial statements contained herein should be read in conjunction with the consolidated and combined financial statements and notes thereto included in the Company’s 2007 Annual Report on Form 10-K.

The consolidated financial statements include all accounts of the Company, its majority owned subsidiaries and variable interest entities for which the Company is the primary beneficiary. Significant intercompany accounts among the consolidated businesses have been eliminated in consolidation. Minority interest expense (income) is recorded for consolidated affiliates in which the Company owns more than 50%, but not all, of the voting common stock and also variable interest entities for which the Company is the primary beneficiary. Investments in nonconsolidated affiliates in which the Company owns 20% to 50% of the voting common stock or otherwise exercises significant influence over operating and financial policies of the nonconsolidated affiliate are accounted for using the equity method of accounting. Investments in nonconsolidated affiliates in which the Company owns less than 20% of the voting common stock are accounted for using the cost method of accounting.

#### *Reclassifications*

Certain reclassifications have been made to the 2007 consolidated financial statements to conform to the 2008 presentation to report discontinued operations. Refer to Note 4.

## **Recent Accounting Pronouncements**

### **Recently Adopted Pronouncements**

In September 2006, the Financial Accounting Standards Board (“FASB”) issued Statement of Financial Accounting Standards No. 157, *Fair Value Measurements* (“Statement 157”). Statement 157 provides guidance for using fair value to measure assets and liabilities and also responds to investors’ requests for expanded information about the extent to which companies measure assets and liabilities at fair value, the information used to measure fair value, and the effect of fair value measurements on earnings. Statement 157 applies whenever other standards require (or permit) assets or liabilities to be measured at fair value. Statement 157 does not expand the use of fair value in any new circumstances. The Company adopted Statement 157 on January 1, 2008 for all financial assets and liabilities recognized or disclosed at fair value in its consolidated financial statements on a recurring basis (at least annually). Refer to Note 7. In February 2008, the FASB issued FASB Staff Position No. 157-2, *Effective Date of FASB Statement No. 157*, which delays the effective date for nonfinancial assets and nonfinancial liabilities, except for items that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). The effective date for these items was delayed to fiscal years beginning after November 15, 2008. The Company is currently assessing the impact on its nonfinancial assets and liabilities that the adoption of Statement 157 will have on its financial position and results of operations.

In February 2007, the FASB issued Statement of Financial Accounting Standards No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities* (“Statement 159”). Statement 159 allows entities to voluntarily choose, at specified election dates, to measure certain financial assets and financial liabilities (as well as certain nonfinancial instruments that are similar to financial instruments) at fair value (the “fair value option”). The election is made on an instrument-by-instrument basis and is irrevocable. If the fair value option is elected for an instrument, Statement 159 specifies that all subsequent changes in fair value for that instrument will be reported in earnings. The Company adopted Statement 159 on January 1, 2008 and determined that it would not elect to measure any of its eligible financial instruments at fair value under the provisions of this standard.

### **Recently Issued Pronouncements**

In December 2007, the FASB issued Statement of Financial Accounting Standards No. 141(R), *Business Combinations* (“Statement 141(R)”). Statement 141(R) establishes revised principles and requirements for the recognition and measurement of assets and liabilities in a business combination. Statement 141(R) requires (i) recognition of 100% of the fair values of acquired assets, including goodwill, and assumed liabilities upon obtaining control, (ii) contingent consideration to be recorded at fair value at acquisition date, (iii) transaction costs to be expensed as incurred, (iv) pre-acquisition contingencies to be accounted for at acquisition date at fair value and (v) costs of a plan to exit an activity or terminate or relocate employees to be accounted for as post-combination costs. Statement 141(R) is effective for fiscal years beginning after December 15, 2008. The Company will adopt Statement 141(R) on January 1, 2009 and apply the requirements of Statement 141(R) for business combinations that occur after the date of adoption.

In December 2007, the FASB issued Statement of Financial Accounting Standards No. 160, *Noncontrolling Interests in Consolidated Financial Statements—an amendment of ARB No. 51* (“Statement 160”). Statement 160 clarifies the classification of noncontrolling interests in consolidated statements of financial position and the accounting for and reporting of transactions between the reporting entity and holders of such noncontrolling interests. Statement 160 is effective for fiscal years beginning after December 15, 2008. The provisions of Statement 160 are applied prospectively with the exception of reclassifying noncontrolling interests to equity and recasting consolidated net income (loss) to include net income (loss) attributable to both the controlling and noncontrolling interests, which are required to be adopted retrospectively. The Company will adopt Statement 160 on January 1, 2009 and is currently assessing the impact adoption will have on its financial position and results of operations.

In March 2008, the FASB issued Statement of Financial Accounting Standards No. 161, *Disclosures about Derivative Instruments and Hedging Activities—an amendment of FASB Statement No. 133* (“Statement 161”). Statement 161 requires enhanced disclosures about (i) how and why an entity uses derivative instruments, (ii) how derivative instruments and related hedged items are accounted for under FASB Statement No. 133, *Accounting for Derivative Instruments and Hedging Activities* (“Statement 133”) and its related interpretations and (iii) how derivative instruments and related hedged items affect an entity’s financial position, financial performance and cash flows. Statement 161 is effective for fiscal years and interim periods beginning after November 15, 2008. The Company will adopt Statement 161 in the first quarter of 2009.

In May 2008, the FASB issued FASB Staff Position (“FSP”) APB 14-1, *Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement)*. This FSP will change the accounting for certain convertible debt instruments, including the Company’s 2.875% convertible senior notes. Under the new rules for convertible debt instruments that may be settled entirely or partially in cash upon conversion, an entity would separately account for the liability and equity components of the instrument in a manner that reflects the issuer’s economic interest cost. The effect of the new rules for the Company’s notes is that the equity component will be included in the additional paid-in capital section of shareholders’ equity on the Company’s balance sheet and the value of the equity component will be treated as an original issue discount for purposes of accounting for the debt component of the notes. Higher interest expense will result by recognizing the accretion of the discounted carrying value of the notes to their face amount as interest expense over the expected term of the notes using an effective interest rate method of amortization. This FSP is effective for fiscal years and interim periods beginning after December 15, 2008 and is required to be applied retrospectively to all periods presented. The Company is currently evaluating the new rules and their impact on the Company’s current

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accounting for its notes and expects to recognize additional interest expense starting in 2009 due to the interest expense accretion associated with the notes and to report greater than previously reported interest expense due to retrospective application.

### NOTE 2 — LONG-LIVED ASSETS

#### *Definite-lived Intangibles*

The Company has definite-lived intangible assets which are amortized over the shorter of either the respective lives of the agreements or the period of time the assets are expected to contribute to the Company's future cash flows. The following table presents the gross carrying amount and accumulated amortization of definite-lived intangible assets as of September 30, 2008 and December 31, 2007:

	September 30, 2008		December 31, 2007	
	Gross Carrying Amount	Accumulated Amortization	Gross Carrying Amount	Accumulated Amortization
				(in thousands)
Venue management and leasehold interests	\$ 131,257	\$ (19,698)	\$ 82,693	\$ (8,848)
Artist relationships and other revenue-generating contracts	393,463	(55,340)	298,197	(28,962)
Trademarks and naming rights	23,577	(5,983)	14,390	(4,042)
Other	5,889	(515)	4,286	(761)
Total	\$ 554,186	\$ (81,536)	\$ 399,566	\$ (42,613)

During the nine months ended September 30, 2008, the Company recorded additional definite-lived intangible assets totaling \$162.9 million due primarily to purchase accounting adjustments for venue management and leasehold interests, naming rights, artist relationships and revenue-generating contracts resulting from the Company's 2007 acquisitions of Academy Music Holdings Limited Group ("AMG") and Signatures SNI, Inc. ("Signatures"), the acquisition in the first quarter of 2008 of the operating company that manages and holds the lease for the Heineken Music Hall located in Amsterdam, and the second quarter acquisitions of the remaining interests the Company did not already own in Lugerinc. AB and Moondog Entertainment AB ("Luger and Moondog"), both music-related companies in Sweden, a 51% interest in Live Nation – Haymon Ventures, LLC and a 78.3% interest in DFC Holdings Limited ("DFC"), a promoter in Scotland, through a joint venture with Gaiety Investments. The Company owns 50.1% of the joint venture with Gaiety Investments. These additional definite-lived intangible assets have a weighted average life of approximately ten years. Additionally, the Company recorded purchase accounting adjustments for the Company's 2007 acquisition of the remaining interest in Concert Productions International ("CPI") resulting in a reduction of \$51.3 million in artist relationship intangible assets due to a reclassification to goodwill.

In addition, the Company recorded other definite-lived intangible assets of \$55.0 million related to entering into certain artist rights agreements.

Total amortization expense from definite-lived intangible assets for the three months ended September 30, 2008 and 2007 and nine months ended September 30, 2008 and 2007 was \$11.6 million, \$6.8 million, \$41.5 million and \$20.4 million, respectively. The increase for the three and nine months ended September 30, 2008 as compared to the same periods of the prior year was primarily due to amortization of intangible assets related to purchase accounting adjustments for the Company's acquisitions of AMG, CPI, Signatures, and DFC. During the nine months ended September 30, 2008, the Company recorded an impairment write-down related to definite-lived intangibles of \$0.2 million included in depreciation and amortization in the Company's Artist Nation segment.

#### *Indefinite-lived Intangibles*

The Company has indefinite-lived intangible assets which consist primarily of the intangible value related to trade names which are reviewed for impairment at least annually. These indefinite-lived intangible assets had a carrying value of \$33.6 million and \$26.0 million as of September 30, 2008 and December 31, 2007, respectively. The increase in indefinite-lived intangible assets during 2008 was due primarily to the intangible value related to trade names resulting from purchase accounting adjustments for the Company's 2007 acquisition of AMG.



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### **Other Operating Assets**

The Company makes investments in various operating assets, including investments in assets and related rights for non-music events and DVD production and distribution. These assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of the asset may not be recoverable. In September 2008, in connection with the pending sale of the non-core events division along with rights to certain DVD projects, the Company recorded impairment write-downs related to these other operating assets, based on expected sales proceeds, of \$1.3 million included in direct operating expenses in the Company's Artist Nation segment and of \$14.8 million included in operating expenses as part of discontinued operations.

### **NOTE 3 — RESTRUCTURING**

As part of the Company's acquisition of House of Blues Concert Canada ("HOB Canada") in June 2007, the Company accrued \$1.2 million in restructuring costs in its North American Music segment related to severance costs. This restructuring resulted in the termination of eight employees. These additional costs were recorded as part of the purchase price allocation. As of September 30, 2008, the accrual balance for the HOB Canada restructuring was \$0.1 million.

As part of the Company's acquisition of Mean Fiddler Music Group, PLC, subsequently renamed Festival Republic ("Mean Fiddler") in July 2005, the Company accrued a total of \$7.4 million in its International Music segment primarily related to lease terminations which it expects to pay over the next several years. These additional costs were recorded as part of the purchase price allocation. In August 2007, the Company sold seven small-sized music venues that were acquired with Mean Fiddler resulting in a reduction of \$4.4 million in the restructuring accrual, with an offset to goodwill, for the lease terminations related to these venues. As of September 30, 2008, the accrual balance for the Mean Fiddler restructuring was \$1.1 million.

In addition, the Company has a remaining restructuring accrual of \$1.9 million as of September 30, 2008, related to its merger with Clear Channel in August 2000.

In total, the Company has recorded a liability in purchase accounting related to severance for terminated employees and lease terminations as follows:

	Nine Months Ended September 30,	
	2008	2007
	(in thousands)	
Severance and lease termination costs:		
Accrual at January 1	\$3,543	\$13,132
Restructuring accrual recorded	—	1,456
Payments charged against restructuring accrual	(428)	(6,185)
Adjustments and foreign currency	(34)	(4,434)
Accrual at September 30	<u>\$3,081</u>	<u>\$ 3,969</u>

The accrual at September 30, 2008 is comprised of \$0.7 million of severance and \$2.4 million of lease termination costs. The severance accrual includes amounts that will be paid over the next several years related to deferred payments to former employees, as well as other compensation. The lease termination accrual will be paid over the next 15 years. During the three and nine months ended September 30, 2008, \$0.1 and \$0.4 million, respectively, was charged to the restructuring reserve related to severance.

### **NOTE 4 — DISCONTINUED OPERATIONS AND ASSETS HELD FOR SALE**

In January 2008, the Company completed the sale of substantially all of its North American theatrical business, which included the assets of the North American theatrical presenting business and certain theatrical venues, to Key Brand Entertainment Inc. and its lenders for a gross sales price of \$90.4 million pursuant to a stock purchase agreement. After fees, expenses, an adjustment to replace the show cash of the North American theatrical business that was previously removed from the operations and utilized by the Company and other adjustments, the Company will receive approximately \$31.3 million of proceeds, net of cash sold and transaction costs. The sale of the North American theatrical business resulted in a total gain before tax of \$18.0 million.

In September 2008, the Company sold its motor sports business to Feld Acquisition Corp., a wholly-owned subsidiary of Feld Entertainment, Inc. pursuant to a stock purchase agreement for a gross sales price of \$175.0 million in cash, subject to certain net working capital and other post-closing adjustments, in addition to a performance-based contingent payment of up to \$30.0 million over a five-year period commencing with calendar year 2009. After estimated fees, expenses and other adjustments, the Company received approximately \$167.6 million of net proceeds, excluding the contingent payment. The sale of the motor sports business resulted in a gain before tax of \$145.8 million.

In October 2008, as part of a binding agreement with Events Acquisition Corporation, the Company agreed to sell its non-core events division along with rights to certain DVD projects. Events Acquisition Corporation is owned by Michael Cohl who is a former

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director and executive officer of the Company. The events division included rights or investments in certain non-music and exhibition-style events. Under the agreement, the Company will receive approximately \$15.4 million for the events division, DVD projects and other rights, in addition to performance-based contingent payments and undistributed profits related to future periods. At September 30, 2008, the Company recorded a \$29.2 million impairment related to the events division, including a \$13.0 million impairment of goodwill, and also a \$1.5 million impairment related to the DVD projects. The Company has reported the events business as assets held for sale in accordance with the provisions of Statement of Financial Accounting Standards No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets* ("Statement 144"), in the consolidated balance sheet at September 30, 2008. Mr. Cohl continues to work with the Company as a consultant and remains bound by a non-compete clause until 2016, but under the agreement he will be permitted to co-promote with Live Nation tours for certain artists. Mr. Cohl will also be able to continue his work with certain non-music related events and exhibitions. In connection with the sale, a number of employees, primarily from the Company's Miami offices, will leave the Company and join Mr. Cohl's new organization.

The Company has reported the North American theatrical business, the motor sports business and the events division as discontinued operations in accordance with Statement 144. Accordingly, the results of operations for all periods presented have been reclassified to reflect the North American theatrical business, the motor sports business and the events division as discontinued operations. Included in discontinued operations is the impairment of \$29.2 million for the events division as discussed above.

Summary operating results of discontinued operations are as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2008	2007	2008	2007
	(in thousands)			
Revenue	\$ 10,573	\$95,153	\$160,000	\$335,084
Operating expenses	43,369	92,383	166,177	296,520
Loss (gain) on sale of operating assets	262	(16)	(2,388)	(128)
Other expense (income) — net	1,310	2,629	1,588	(1,529)
Income (loss) from discontinued operations before income taxes	(34,368)	157	(5,377)	40,221
Income tax expense (benefit)	1,469	(445)	1,788	(41)
Income (loss) from discontinued operations before gain on disposal	(35,837)	602	(7,165)	40,262
Gain on disposal, net of tax of \$81.4 million for the three and nine months ended September 30, 2008	(64,345)	—	(83,171)	—
Income from discontinued operations	<u>\$ 28,508</u>	<u>\$ 602</u>	<u>\$ 76,006</u>	<u>\$ 40,262</u>

## NOTE 5 — INVESTMENTS

The Company has investments in various nonconsolidated affiliates. These investments are not consolidated, but are accounted for under the equity method of accounting whereby the Company records its investments in these entities in the balance sheet as investments in nonconsolidated affiliates. The Company's interests in their operations are recorded in the statement of operations as equity in earnings of nonconsolidated affiliates. For the nine months ended September 30, 2008, the following three investments are considered significant:

### ***Dominion Theatre***

The Company owns a 33% interest in the Dominion Theatre, a United Kingdom theatrical company involved in venue operations.

### ***Marek Lieberberg Konzertagentur***

The Company owns a 20% interest in Marek Lieberberg Konzertagentur ("MLK"), a German music company involved in promotion of, and venue operations for, live entertainment events.

### ***Delirium Concert, L.P.***

The Company owns a 50% interest in a joint venture with Cirque Du Soleil to develop, produce and promote a new type of live entertainment musical and visual event.

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Summarized unaudited income statement information for these investments is as follows:

	<u>Dominion</u>	<u>MLK</u> (in thousands)	<u>Delirium Concert (1)</u>
<b>Three Months Ended September 30, 2008</b>			
Revenue	\$ 3,101	\$ 56,685	\$ —
Operating income	\$ 1,258	\$ 9,476	\$ —
Net income	\$ 1,043	\$ 7,165	\$ —
<b>Nine Months Ended September 30, 2008</b>			
Revenue	\$11,199	\$ 95,398	\$ 15,769
Operating income (loss)	\$ 4,428	\$ 12,331	\$ (4,215)
Net income (loss)	\$ 3,734	\$ 8,712	\$ (4,198)
<b>Three Months Ended September 30, 2007</b>			
Revenue	\$ 4,261	\$ 79,321	\$ 2,710
Operating income (loss)	\$ 1,761	\$ 10,722	\$ (1,712)
Net income (loss)	\$ 1,530	\$ 6,486	\$ (1,712)
<b>Nine Months Ended September 30, 2007</b>			
Revenue	\$12,369	\$146,918	\$ 29,957
Operating income (loss)	\$ 5,137	\$ 16,317	\$ (16,037)
Net income (loss)	\$ 4,408	\$ 9,559	\$ (16,037)

(1) Included in Delirium Concert's operating income (loss) is amortization of production costs related to the event.

These assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of the asset may not be recoverable. For the nine months ended September 30, 2008, the Company recorded an impairment write-down related to these investments in nonconsolidated affiliates of \$1.4 million as equity in losses (earnings) of nonconsolidated affiliates as a component of other expense (income) – net in discontinued operations. For the nine months ended September 30, 2007, the Company recorded an impairment write-down related to these investments in nonconsolidated affiliates of \$1.2 million as equity in losses (earnings) of nonconsolidated affiliates in continuing operations.

### **NOTE 6 — DERIVATIVE INSTRUMENTS**

At September 30, 2008, the Company has four interest rate swap agreements, two of which were entered into during the third quarter of 2008, that are designated as cash flow hedges for accounting purposes, which include swaps and combinations of interest rate caps and floors, with a total notional amount of \$312.5 million, to effectively convert a portion of its floating-rate debt to a fixed-rate basis. One of these swap agreements is a forward swap with a notional amount of \$162.5 million and an effective date of March 31, 2009. The principal objective of these contracts is to eliminate or reduce the variability of the cash flows in interest payments associated with the Company's variable rate debt, thus reducing the impact of interest rate changes on future interest expense. Approximately 74% of the Company's outstanding term loans under the senior secured credit facility had their interest payments designated as the hedged forecasted transactions against the interest rate swap agreements at September 30, 2008. During the three months ended September 30, 2008 and 2007 and the nine months ended September 30, 2008 and 2007, the Company recorded an unrealized gain of \$2.0 million, an unrealized loss of \$1.4 million, an unrealized gain of \$1.8 million and an unrealized loss of \$1.0 million, respectively, as a component of other comprehensive income (loss) and recorded no ineffectiveness related to these hedges. Based on the current interest rate expectations, the Company estimates that approximately \$1.3 million of this loss in other comprehensive income will be reclassified into earnings in the next 12 months as an offset to interest expense.

The Company has recorded a gain (loss) and related asset (liability) related to these designated derivative instruments during the period as follows:

	<u>Three Months Ended</u> <u>September 30,</u>		<u>Nine Months Ended</u> <u>September 30,</u>	
	<u>2008</u>	<u>2007</u>	<u>2008</u>	<u>2007</u>
	(in thousands)			
Balance at beginning of period	\$(1,944)	\$ 539	\$ (1,784)	\$ 104
Unrealized holding gain (loss) on cash flow derivatives	1,970	(1,407)	1,810	(972)
Balance at end of period	<u>\$ 26</u>	<u>\$ (868)</u>	<u>\$ 26</u>	<u>\$ (868)</u>

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As part of the acquisition of AMG, the Company also has interest rate swap agreements to convert \$22.5 million of AMG's long-term debt from floating-rate debt to a fixed-rate basis. These interest rate swap agreements have not been designated as hedging instruments. Therefore, any change in fair value is recorded in earnings during the period of the change. For the three and nine months ended September 30, 2008, the change in fair value was not significant to the Company's results of operations.

The Company's 2.875% convertible senior notes issued in July 2007 include certain provisions which are bifurcated from the notes and accounted for as derivative instruments. At the date of issuance and as of September 30, 2008, the fair value of these provisions is considered de minimis.

In 2007, the Company guaranteed to a third party a minimum value of its stock pursuant to a contractual arrangement. As of September 30, 2008 and December 31, 2007, the fair value of this guarantee is \$8.0 million and \$10.5 million, respectively. The change in fair value of this guarantee is recorded as a component of depreciation and amortization expense.

Occasionally, the Company will use forward currency contracts to reduce its exposure to foreign currency risk. The principal objective of such contracts is to minimize the risks and/or costs associated with artist fee commitments. At September 30, 2008, the Company has forward currency contracts outstanding with a notional amount of \$21.4 million. The change in fair value of these instruments from date of purchase through September 30, 2008 was not significant to the Company's results of operations. These forward currency contracts have not been designated as hedging instruments.

### **NOTE 7 — FAIR VALUE MEASUREMENTS**

The Company adopted Statement 157 and Statement 159 on January 1, 2008. Statement 157 outlines a valuation framework and creates a fair value hierarchy in order to increase the consistency and comparability of fair value measurements. Statement 157 defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (an exit price). Under Statement 159, entities can elect to measure certain eligible financial instruments and certain other items at fair value, if not already required to be carried at fair value under existing accounting literature. The Company did not elect the fair value measurement option under Statement 159 for any of its eligible financial assets or liabilities.

The Company currently has various financial instruments carried at fair value such as marketable securities and derivatives, but does not currently have nonfinancial assets and nonfinancial liabilities that are required to be measured at fair value on a recurring basis. The Company's financial assets and liabilities are measured using inputs from two of the three levels of the fair value hierarchy as defined by Statement 157. For this categorization, only inputs that are significant to the fair value are considered. The three levels are defined as follows:

Level 1 – Inputs are unadjusted quoted prices in active markets for identical assets or liabilities that can be accessed at the measurement date.

Level 2 – Inputs include quoted prices for similar assets and liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active, inputs other than quoted prices that are observable for the asset or liability (i.e., interest rates, yield curves, etc.), and inputs that are derived principally from or corroborated by observable market data by correlation or other means (market corroborated inputs).

Level 3 – Unobservable inputs that reflect assumptions about what market participants would use in pricing the asset or liability. These inputs would be based on the best information available, including the Company's own data.

In accordance with the fair value hierarchy described above, the following table shows the fair value of the Company's financial assets and liabilities that are required to be measured at fair value as of September 30, 2008, which are classified as cash and cash equivalents, other long-term assets, other current liabilities and other long-term liabilities:

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Recurring Fair Value Measures (in thousands)	Fair Value Measurements at September 30, 2008			
	Level 1	Level 2	Level 3	Total
<b>Assets:</b>				
Forward exchange contracts	\$ —	\$ 1,419	\$ —	\$ 1,419
Investment in Rabbi Trust	2,622	—	—	2,622
Interest rate swaps	—	957	—	957
<b>Total</b>	<b>\$2,622</b>	<b>\$ 2,376</b>	<b>\$ —</b>	<b>\$ 4,998</b>
<b>Liabilities:</b>				
Forward exchange contracts	\$ —	\$ 1,277	\$ —	\$ 1,277
Interest rate swaps	—	1,058	—	1,058
Embedded derivatives	—	7,996	—	7,996
Other liabilities	2,622	—	—	2,622
<b>Total</b>	<b>\$2,622</b>	<b>\$10,331</b>	<b>\$ —</b>	<b>\$12,953</b>

Forward exchange contracts are based on observable market transactions of spot and forward rates. Investments held in Rabbi Trusts include exchange-traded equity securities and mutual funds. Fair values for these investments are based on quoted prices in active markets and are therefore classified within Level 1 of the fair value hierarchy. Interest rate swaps include interest rate collars and plain vanilla swaps. Fair values for these financial instruments are based upon inputs corroborated by observable market data with similar tenors. Embedded derivatives include a bifurcated derivative from a contractual arrangement. The fair value of this instrument is based upon inputs that are observable in the market. Other liabilities represent deferred compensation obligations to employees under certain plans. The liabilities related to these plans are adjusted based on changes in the fair value of the underlying employee-directed investments. Since the employee-directed investments are exchange-traded equity securities and mutual funds with quoted prices in active markets, the liabilities are classified within Level 1 of the fair value hierarchy.

### **NOTE 8 — COMMITMENTS AND CONTINGENT LIABILITIES**

The Company has leases that contain contingent payment requirements for which payments vary depending on revenue, tickets sold or other variables.

During 2006, in connection with the Company's acquisition of Historic Theatre Group, the Company guaranteed obligations related to a lease agreement. In the event of default, the Company could be liable for obligations which have future lease payments (undiscounted) of approximately \$30.9 million through the end of 2035. The scheduled future minimum rentals for this lease for the years 2008 through 2012 are \$1.6 million each year. The venues under the lease agreement were included in the sale of the North American theatrical business. The Company entered into an Assumption Agreement with the buyer in connection with the sale, under which the buyer is assuming the Company's obligations under the guaranty, however the Company remains contingently liable to the lessor. The Company believes that the likelihood of a material liability being triggered under this lease is remote, and no liability has been accrued for these contingent lease obligations as of September 30, 2008.

As of September 30, 2008 and December 31, 2007, the Company guaranteed the debt of third parties of approximately \$2.8 million for both periods primarily related to maximum credit limits on employee and tour related credit cards and bank lines of credit of a nonconsolidated affiliate and a third-party promoter.

Certain agreements relating to acquisitions provide for purchase price adjustments and other future contingent payments based on the financial performance of the acquired companies. The Company will accrue additional amounts related to such contingent payments if and when it is determinable that the applicable financial performance targets will be met. The aggregate of these contingent payments, if performance targets are met, would not significantly impact the financial position or results of operations of the Company.

The Company was a defendant in a lawsuit filed by Malinda Heerwagen on June 13, 2002, in the U.S. District Court for the Southern District of New York. The plaintiff, on behalf of a putative class consisting of certain concert ticket purchasers, alleged that anti-competitive practices for concert promotion services by the Company nationwide caused artificially high ticket prices. On August 11, 2003, the Court ruled in the Company's favor, denying the plaintiff's class certification motion. The plaintiff appealed this decision to the U.S. Court of Appeals for the Second Circuit. On January 10, 2006, the U.S. Court of Appeals for the Second Circuit affirmed the ruling in the Company's favor by the District Court. On January 17, 2006, the plaintiff filed a Notice of Voluntary Dismissal of her action in the Southern District of New York.

The Company is a defendant in twenty-two putative class actions filed by different named plaintiffs in various U.S. District Courts throughout the country. The claims made in these actions are substantially similar to the claims made in the *Heerwagen* action discussed above, except that the geographic markets alleged are regional, statewide or more local in nature, and the members of the putative classes are limited to individuals who purchased tickets to concerts in the relevant geographic markets alleged. The plaintiffs

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seek unspecified compensatory, punitive and treble damages, declaratory and injunctive relief and costs of suit, including attorneys' fees. The Company has filed its answers in some of these actions, and has denied liability. On December 5, 2005, the Company filed a motion before the Judicial Panel on Multidistrict Litigation to transfer these actions and any similar ones commenced in the future to a single federal district court for coordinated pre-trial proceedings. On April 17, 2006, the Panel granted the Company's motion and ordered the consolidation and transfer of the actions to the U.S. District Court for the Central District of California. On June 4, 2007, the Court conducted a hearing on the plaintiffs' motion for class certification. On June 25, 2007, the Court entered an order to stay all proceedings in the case pending the Court's ruling on the plaintiffs' motion for class certification. On October 22, 2007, the Court ruled in the plaintiffs' favor, granting the plaintiffs' motion for class certification and certifying a class in the Chicago, New England, New York/New Jersey, Colorado and Southern California regional markets. On November 5, 2007, the Company filed a Petition for Permission to Appeal from Order Granting Class Certification with the U.S. District Court of Appeals for the Ninth Circuit. At a status conference conducted on November 5, 2007, the U.S. District Court extended its stay of all proceedings pending further developments in the U.S. Court of Appeals for the Ninth Circuit. On February 15, 2008, the U.S. Court of Appeals for the Ninth Circuit issued an order denying the Company's Petition for Permission to Appeal. On February 20, 2008, the Company filed a Motion with the U.S. District Court for Reconsideration of its October 22, 2007 order granting the plaintiffs' motion for class certification. On March 6, 2008, the U.S. District Court entered an order approving a stipulated continuance and stay of all proceedings pending further developments in the U.S. Court of Appeals for the Ninth Circuit. The Company intends to vigorously defend all claims in all of the actions.

The Company is also currently involved in certain other legal proceedings and accrues its best estimate of the probable settlement or other losses for the resolution of these claims as selling, general and administrative expenses and corporate expenses. These estimates have been developed in consultation with counsel and are based upon an analysis of potential results, assuming a combination of litigation and settlement strategies. It is possible, however, that future results of operations for any particular period could be materially affected by changes in the Company's assumptions or the effectiveness of its strategies related to these proceedings.

### **NOTE 9 — RELATED-PARTY TRANSACTIONS**

#### *Transactions with Clear Channel*

From time to time, the Company purchases advertising from Clear Channel and its subsidiaries in the ordinary course of business. For the three months ended September 30, 2008 and 2007 and the nine months ended September 30, 2008 and 2007, the Company recorded \$4.2 million, \$4.0 million, \$10.8 million and \$9.4 million, respectively, as components of direct operating expenses and selling, general and administrative expenses for these advertisements.

#### *Transactions with Directors*

Through a stock purchase agreement in September 2007, the Company completed the purchase of all of the equity interests in CPI and related companies and subsidiaries (collectively, the "CPI Companies") that the Company did not already own. Michael Cohl, a director of Live Nation at the time, owned both a direct and an indirect ownership interest in the CPI Companies at the time of the completion of this purchase. The CPI Companies and the Company concurrently entered into a services agreement with KSC Consulting (Barbados) Inc. ("KSC") which provided for the executive services of Mr. Cohl, pursuant to which Mr. Cohl served as Chief Executive Officer of the CPI Companies and Chairman and Chief Executive Officer of the Company's former Live Nation Artists division for a term of five years. In June 2008, the parties entered into an amendment to the services agreement, under which Mr. Cohl will perform consulting services for the Company through June 2012. In connection with this amendment, the Company paid KSC a lump-sum payment of \$4.5 million as full payment for Mr. Cohl's services under the consulting engagement. As part of that amendment, Mr. Cohl resigned as a director of the Company and from all offices he held with the Company. For the three months ended September 30, 2008 and 2007 and the nine months ended September 30, 2008 and 2007, KSC was paid zero, \$0.3 million, \$0.8 million and \$0.8 million, respectively, under the original services agreement. In addition, in March 2008, KSC was awarded a bonus of 41,220 shares of the Company's common stock that were issued in April 2008.

#### *Other Related Parties*

During the nine months ended September 30, 2008, the Company paid \$10.6 million in connection with three acquisitions of companies owned by various members of management of the Company's subsidiaries. Two of these acquisitions were of companies that held leases of venues and the third acquisition related to a company that promotes a festival.

The Company conducts certain transactions in the ordinary course of business with companies that are owned, in part or in total, by various members of management of the Company's subsidiaries or companies over which the Company has significant influence. These transactions primarily relate to venue rentals, including a rental advance in 2008, concession services, equipment rental, ticketing, marketing and other services and reimbursement of certain costs. Expenses of \$4.4 million, \$3.8 million, \$16.7 million and \$8.0 million were incurred for the three months ended September 30, 2008 and 2007 and the nine months ended September 30, 2008 and 2007, respectively, and revenue of \$0.8 million, \$1.3 million, \$2.1 million and \$2.2 million was earned for those same periods, respectively, from these companies for services rendered or provided in relation to these business ventures.

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None of these transactions were with directors or executive officers of the Company.

### **NOTE 10 — INCOME TAXES**

The Company customarily calculates interim effective tax rates in accordance with Accounting Principles Board Opinion 28, *Interim Financial Reporting* (“APB 28”). As required by APB 28, the Company applies the estimated annual effective tax rate to year-to-date pretax income (or loss) at the end of each interim period to compute a year-to-date tax expense (or benefit). FASB Interpretation No. 18 (“FIN 18”) requires departure from customary effective tax rate computations when losses incurred within tax jurisdictions cannot be carried back and future profits associated with operations in those tax jurisdictions cannot be assured beyond any reasonable doubt. Accordingly, the Company has calculated an expected annual effective tax rate of 32%, excluding significant, unusual or extraordinary items, for ordinary income associated with operations, which are principally outside of the United States, for which the Company currently expects to have annual taxable income. That effective tax rate has been applied to year-to-date earnings for those operations for which the Company currently expects to have taxable income. The Company has not recorded tax benefits associated with losses from operations for which future taxable income cannot be reasonably assured. As required by APB 28, the Company also includes tax effects of significant, unusual or extraordinary items in income tax expense in the interim period in which they occur.

The net income tax benefit from continuing operations is \$31.8 million for the nine months ended September 30, 2008. Of this net income tax benefit \$67.6 million relates to tax benefits associated principally with current and prior year U.S. losses for which tax benefits were not previously recorded since those losses had not met the more likely than not criteria for recognition. During the third quarter of 2008, gains associated with the sale of the Company’s motor sports business enabled the current and some prior year losses to meet the criteria for recognition. The net tax benefit also includes a tax benefit of \$1.7 million resulting from the effect of changes in tax rates. The components of tax expense which contributed to the net tax benefit included \$24.5 million of statutory tax on profitable operations which are principally operations outside of the United States and which reflect an effective tax rate for those jurisdictions of 32%, state and local taxes of \$1.7 million, interest and penalties for uncertain tax positions of \$2.3 million and adjustments for significant, unusual and extraordinary items of \$9.0 million, including valuation allowances recorded against deferred tax assets.

During the first nine months of 2007, the effective tax rate applied to year-to-date earnings in taxable jurisdictions for which we expected to have taxable income was 29%. During the first nine months of 2008, an effective tax rate of 32% was applied to year-to-date earnings in taxable jurisdictions for which we expect to have taxable income. The increase in the effective tax rate applied during 2008 is principally related to larger permanent differences as a percentage of pre-tax income relative to 2007.

During the nine months ended September 30, 2008, the Company revised its estimated annual effective tax rate to account for the tax effects arising from a change in the statutory rate applicable to temporary differences related principally to AMG and other United Kingdom operations. As a result, income tax expense for the first nine months was adjusted to reflect the effects of the change in the tax law and resulted in a decrease in income tax expense of \$1.7 million during the second quarter. This amount is principally attributable to the application of enacted tax rates to deferred tax balances established for AMG.

The Company has U.S. federal net operating loss carry forwards that, if not used, will expire between calendar years 2008 and 2028. The amount of net operating loss carry forwards that will expire in 2008 and 2009 if not used are \$5.7 million and \$25.6 million, respectively.

Historically, the Company has reinvested all foreign earnings in its foreign operations. During the nine months ended September 30, 2008, the Company remitted \$17.6 million from one of its non-U.S. North American operations. The Company has determined that the remittance generates no incremental U.S. tax due to the Company’s current net operating loss position. The Company believes all undistributed foreign earnings will be indefinitely reinvested in its foreign operations.

In June 2006, the FASB issued FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes* (“FIN 48”), which became effective for the Company on January 1, 2007. FIN 48 prescribes a recognition threshold and a measurement attribute for the financial statement recognition and measurement of tax positions taken or expected to be taken in a tax return. For those benefits to be recognized, a tax position must be more likely than not to be sustained upon examination by taxing authorities. The amount recognized is measured as the largest amount of benefit that has a greater than 50% likelihood of being realized upon ultimate settlement. The Company recognizes interest and penalties related to uncertain tax positions in income tax expense.

The tax years 2002 through 2007 remain open to examination by the major tax jurisdictions to which the Company is subject.

### **NOTE 11 — EARNINGS PER SHARE**

The Company computes net income per common share in accordance with FASB Statement of Financial Accounting Standards No. 128, *Earnings per Share* (“Statement 128”). Under the provisions of Statement 128, basic net income per common share is computed by dividing the net income applicable to common shares by the weighted average number of common shares outstanding during the period. Diluted net income per common share adjusts basic net income per common share for the effects of stock options, restricted stock and other potentially dilutive financial instruments only in the periods in which such effect is dilutive. In July 2007, the Company issued \$220.0 million of 2.875% convertible senior notes which are considered in the calculation of diluted net income per common share, if dilutive.

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The following table sets forth the computation of basic and diluted net income (loss) per common share:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2008	2007	2008	2007
(in thousands, except per share data)				
<b>Numerator:</b>				
Income (loss) from continuing operations	\$111,420	\$40,951	\$29,755	\$(33,836)
Effect of dilutive securities: 2.875% convertible senior notes	1,581	1,542	—	—
Numerator for income (loss) from continuing operations per common share — diluted	\$113,001	\$42,493	\$29,755	\$(33,836)
<b>Denominator:</b>				
Weighted average common shares	76,231	69,398	75,648	66,821
Effect of dilutive securities:				
Stock options, restricted stock and warrants	401	2,034	712	—
2.875% convertible senior notes	8,105	6,783	—	—
Denominator for income (loss) from continuing operations per common share — diluted	84,737	78,215	76,360	66,821
<b>Income (loss) from continuing operations per common share:</b>				
Basic	\$ 1.46	\$ 0.59	\$ 0.39	\$ (0.51)
Diluted	\$ 1.33	\$ 0.54	\$ 0.39	\$ (0.51)

The calculation of diluted income (loss) from continuing operations per common share includes the effects of the assumed exercise of any outstanding stock options and warrants, the assumed vesting of shares of restricted stock and the assumed conversion of the 2.875% convertible senior notes where dilutive. For the three and nine months ended September 30, 2008, the diluted weighted average common shares outstanding excludes the effect of 2,248,750 stock options and warrants, since the inclusion of such options and warrants would be anti-dilutive and 150,000 shares for a performance-based restricted stock award for which the objectives have not yet been met. For the three months ended September 30, 2007, the diluted weighted average common shares outstanding excludes the effect of 1,875,000 stock options, since the inclusion of such options would be anti-dilutive. For the nine months ended September 30, 2007, the Company has excluded all potentially dilutive securities, such as nonvested restricted stock and outstanding options to purchase common stock, from the calculation of diluted loss from continuing operations per common share because such securities are anti-dilutive. In addition, for the nine months ended September 30, 2008 and 2007, the diluted weighted average common shares outstanding excludes 8,104,690 and 2,285,938 shares, respectively, which represent the dilutive effect of conversion shares related to the Company's 2.875% convertible senior notes because such securities are anti-dilutive.

In October 2008, the Company issued 1,556,386 shares of the Company's common stock in connection with a music-related rights agreement.

### **NOTE 12 — OTHER INFORMATION**

Included in gain on sale of operating assets for the three months ended September 30, 2007 is a gain of \$5.5 million related to the sale of seven small-sized music venues in London. For the nine months ended September 30, 2007, in addition to the item noted above, gain on sale of operating assets included \$13.4 million related to the sale of two mid-sized venues in London and an amphitheater in Nashville, \$6.0 million related to the sale of an office building in San Francisco and \$3.6 million related to the sale of an arena/race track in Leicestershire, England. Partially offsetting these gains in 2007 was an \$8.1 million loss related to the sale of the Company's remaining 50.1% interest in the production of *Phantom: The Las Vegas Spectacular*.

### **NOTE 13 — SEGMENT DATA**

The Company's reportable segments are North American Music, International Music, Artist Nation and Ticketing. Prior to 2008, the Company reported a Global Theater segment, which has been eliminated after the divestiture of substantially all of the Company's North American theatrical business in January 2008, which is reported as discontinued operations. The remaining North American theatrical venues which were not sold and the Company's theatrical assets in the United Kingdom, both previously included in Global Theater, are now reported in the North American Music segment and other operations, respectively. Multiple operating segments are aggregated as the reportable segment for Artist Nation. The North American Music segment principally involves the promotion of live music events in the Company's owned and/or operated venues and in rented third-party venues and the operation and management of music venues primarily in the United States and Canada. The International Music segment principally involves the promotion of live music events in the Company's owned and/or operated venues and in rented third-party venues, the production of music festivals and the operation and management of music venues outside of North America. The Artist Nation segment principally involves the promotion and/or production of global music tours as well as providing various services to artists including recorded music and music publishing, merchandise, artist fan sites and VIP ticketing, broadcast/digital media rights, and sponsorship.

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and marketing services. The Ticketing segment principally involves the management of the Company's internal centralized ticketing operations, the development of the Company's new ticketing initiative and online and wireless distribution activities, including the development of the Company's website. Other operations include United Kingdom theatrical venue operations and other businesses. The Company's motor sports business was sold in September 2008 and the Company agreed to sell the events business in October 2008, both of which were previously included in other operations, and are now reported as discontinued operations.

The Company has reclassified all periods presented to conform to the current period presentation. Revenue and expenses earned and charged between segments are eliminated in consolidation. Corporate expenses, interest income, interest expense, equity in losses (earnings) of nonconsolidated affiliates, minority interest expense (income), other expense (income) — net and income tax expense (benefit) are managed on a total company basis.

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There are no customers that individually account for more than ten percent of the Company's consolidated revenue in any year.

<i>(in thousands)</i>	North American Music	International Music	Artist Nation	Ticketing	Other	Corporate	Eliminations	Consolidated
<b>Three Months Ended September 30, 2008</b>								
Revenue	\$ 864,046	\$ 480,735	\$225,676	\$ 6,733	\$ 16,489	\$ —	\$ (5,026)	\$1,588,653
Direct operating expenses	697,337	390,609	205,729	3,151	3,616	—	(5,026)	1,295,416
Selling, general and administrative expenses	90,204	44,040	20,988	8,751	10,271	—	—	174,254
Depreciation and amortization	15,443	8,037	3,558	1,319	2,180	953	—	31,490
Gain on sale of operating assets	(669)	(2)	—	—	(32)	(455)	—	(1,158)
Corporate expenses	—	—	—	—	—	13,062	—	13,062
Operating income (loss)	<u>\$ 61,731</u>	<u>\$ 38,051</u>	<u>\$ (4,599)</u>	<u>\$ (6,488)</u>	<u>\$ 454</u>	<u>\$(13,560)</u>	<u>\$ —</u>	<u>\$ 75,589</u>
Intersegment revenue	\$ —	\$ 720	\$ 5,924	\$ —	\$ (1,618)	\$ —	\$ —	\$ 5,026
<b>Three Months Ended September 30, 2007</b>								
Revenue	\$ 789,056	\$ 334,358	\$301,279	\$ 4,819	\$ 27,044	\$ —	\$ (3,978)	\$1,452,578
Direct operating expenses	640,921	268,483	281,423	1,534	11,685	—	(3,975)	1,200,071
Selling, general and administrative expenses	84,387	37,972	13,123	4,020	12,411	—	(3)	151,910
Depreciation and amortization	13,391	3,597	3,750	1,084	2,849	1,520	—	26,191
Loss (gain) on sale of operating assets	(766)	(5,558)	—	—	264	(52)	—	(6,112)
Corporate expenses	—	—	—	—	—	11,335	—	11,335
Operating income (loss)	<u>\$ 51,123</u>	<u>\$ 29,864</u>	<u>\$ 2,983</u>	<u>\$ (1,819)</u>	<u>\$ (165)</u>	<u>\$(12,803)</u>	<u>\$ —</u>	<u>\$ 69,183</u>
Intersegment revenue	\$ 27	\$ 996	\$ 1,222	\$ —	\$ 1,733	\$ —	\$ —	\$ 3,978
<b>Nine Months Ended September 30, 2008</b>								
Revenue	\$1,783,867	\$ 986,788	\$419,058	\$ 19,759	\$ 67,205	\$ —	\$ (25,600)	\$3,251,077
Direct operating expenses	1,421,712	789,256	373,972	8,658	21,448	—	(25,603)	2,589,443
Selling, general and administrative expenses	253,565	125,578	60,577	22,481	33,108	—	3	495,312
Depreciation and amortization	44,662	21,107	20,494	3,338	6,384	2,776	—	98,761
Loss (gain) on sale of operating assets	(667)	41	(117)	—	(205)	149	—	(799)
Corporate expenses	—	—	—	—	—	35,177	—	35,177
Operating income (loss)	<u>\$ 64,595</u>	<u>\$ 50,806</u>	<u>\$(35,868)</u>	<u>\$(14,718)</u>	<u>\$ 6,470</u>	<u>\$(38,102)</u>	<u>\$ —</u>	<u>\$ 33,183</u>
Intersegment revenue	\$ 12	\$ 6,666	\$ 18,922	\$ —	\$ —	\$ —	\$ —	\$ 25,600
Identifiable assets	\$1,133,138	\$ 811,166	\$694,039	\$ 34,337	\$203,314	\$ 72,407	\$ —	\$2,948,401
Capital expenditures	\$ 33,289	\$ 80,395	\$ 3,430	\$ 16,330	\$ 2,747	\$ 2,359	\$ —	\$ 138,550
<b>Nine Months Ended September 30, 2007</b>								
Revenue	\$1,503,934	\$ 774,183	\$452,698	\$ 9,034	\$104,618	\$ —	\$ (8,070)	\$2,836,397
Direct operating expenses	1,192,734	612,291	412,346	2,306	54,342	—	(8,067)	2,265,952
Selling, general and administrative expenses	253,126	103,538	37,232	10,664	39,797	—	(3)	444,354
Depreciation and amortization	40,259	11,856	10,388	2,170	8,479	4,091	—	77,243
Loss (gain) on sale of operating assets	(6,826)	(18,650)	—	—	4,780	(110)	—	(20,806)
Corporate expenses	—	—	—	—	—	30,394	—	30,394
Operating income (loss)	<u>\$ 24,641</u>	<u>\$ 65,148</u>	<u>\$ (7,268)</u>	<u>\$ (6,106)</u>	<u>\$ (2,780)</u>	<u>\$(34,375)</u>	<u>\$ —</u>	<u>\$ 39,260</u>
Intersegment revenue	\$ 126	\$ 1,289	\$ 3,407	\$ —	\$ 3,248	\$ —	\$ —	\$ 8,070
Identifiable assets	\$1,127,420	\$ 728,815	\$405,800	\$ 17,813	\$383,774	\$ 99,159	\$ —	\$2,762,781
Capital expenditures	\$ 31,234	\$ 13,395	\$ 2,115	\$ 10,002	\$ 4,979	\$ 5,220	\$ —	\$ 66,945

**Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations**

“Live Nation” (which may be referred to as “we”, “us” or “our”) means Live Nation, Inc. and its subsidiaries, or one of our segments or subsidiaries, as the context requires. You should read the following discussion of our financial condition and results of operations together with the unaudited consolidated financial statements and notes to the financial statements included elsewhere in this quarterly report.

**Special Note About Forward-Looking Statements**

Certain statements contained in this quarterly report (or otherwise made by us or on our behalf from time to time in other reports, filings with the Securities and Exchange Commission, or the SEC, news releases, conferences, internet postings or otherwise) that are not statements of historical fact constitute “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Exchange Act of 1934, as amended, notwithstanding that such statements are not specifically identified. Forward-looking statements include, but are not limited to, statements about our financial position, business strategy, competitive position, potential growth opportunities, potential operating performance improvements, the effects of competition, the effects of future legislation or regulations and plans and objectives of our management for future operations. We have based our forward-looking statements on our beliefs and assumptions based on information available to us at the time the statements are made. Use of the words “may,” “should,” “continue,” “plan,” “potential,” “anticipate,” “believe,” “estimate,” “expect,” “intend,” “outlook,” “could,” “target,” “project,” “seek,” “predict,” or variations of such words and similar expressions are intended to identify forward-looking statements but are not the exclusive means of identifying such statements.

Forward-looking statements are not guarantees of future performance and are subject to risks and uncertainties that could cause actual results to differ materially from those in such statements. Factors that could cause actual results to differ from those discussed in the forward-looking statements include, but are not limited to, those set forth under Item 1A.—Risk Factors in our 2007 Form 10-K, as well as other factors described herein or in our annual, quarterly and other reports we file with the Securities and Exchange Commission (collectively, “cautionary statements”). Based upon changing conditions, should any one or more of these risks or uncertainties materialize, or should any underlying assumptions prove incorrect, actual results may vary materially from those described in any forward-looking statements. All subsequent written and oral forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by the applicable cautionary statements. We do not intend to update these forward-looking statements, except as required by applicable law.

**Executive Overview**

The highlights for each of our segments for the third quarter of 2008 were:

***North American Music***

- We achieved a 39% increase in average profit per show from the events that we promoted at our owned and/or operated amphitheatres in the third quarter of 2008 as compared to the third quarter of 2007 primarily due to cost savings in venue operations and an increase in the ancillary revenue per attendee at these events. A strong talent lineup, including Jonas Brothers, Journey, Rascal Flatts and Jimmy Buffett, complemented these cost savings by driving an increase in attendance of 9% and an increase in average ticket prices of 7% even while show count remained relatively flat.
- In August 2008, we entered into an exclusive booking arrangement with CIE and T4F covering Mexico, Central America and South America. We believe that this arrangement will drive increased revenue in this region where we currently have a limited presence.
- Overall, for the third quarter of 2008 we increased the average profit per show by 33% as compared to the third quarter of 2007 primarily due to a 7% increase in ancillary revenue per attendee along with a 4% increase in attendance at all events for North American Music. Total events for the third quarter of 2008 are slightly down as compared to the third quarter of 2007 primarily due to a focused reduction in unprofitable shows. For the year-to-date in 2008, total events exceeded the number of 2007 events by 3%, total attendance increased 15% and the ancillary revenue per attendee increased by 4% over the same period of 2007.

***International Music***

- The third quarter of 2008 included approximately 650 events that we promoted in International Music, an increase over the approximately 400 events promoted in the same period of 2007, driven primarily by an increased volume of club shows as well as acquisitions. Total attendance for the third quarter of 2008 was in excess of 3.0 million, an increase of 0.8 million, driven primarily by acquisitions and the timing of the *O<sup>2</sup> Wireless and Rock Werchter* festivals.
- We entered into a 10-year contract with Telefonica O<sup>2</sup> for a naming rights sponsorship at The Point arena in Dublin, Ireland. This venue is currently expected to open in December 2008 after the completion of our capital expansion project.
- In July 2008, we acquired 51.0% of Moi.Je Prod SAS, the promoter of the *Main Square* festival in Arras, France.

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### **Artist Nation**

- In July 2008, we entered into a 3-tour-cycle extended rights agreement with Nickelback. This arrangement includes multiple rights for the band and represents entirely incremental business to us as we have not previously promoted their tours or had any other relationship with the band.
- Madonna began her 2008 *Sticky and Sweet* global tour which will conclude by the end of the year. Based on current projections, this is expected to be the largest tour ever, in terms of revenue, by a female touring artist, eclipsing her own record.
- During 2008, we provided artist services to a total of 789 artists. These services included, among others, fan club and website management, merchandise distribution and licensing and creative services.

### **Ticketing**

- This segment includes the results of our internal centralized ticketing operations and the revenue and costs associated with our website, [www.livenation.com](http://www.livenation.com). We derive the majority of our revenue in Ticketing from service charges earned on tickets sold through our internal centralized ticketing operations and sponsorships related to this business.
- The progression towards the launch of our ticketing platform for 2009 continues as planned. By being able to sell our tickets at our owned and/or operated venues, we believe that we will be able to control customer data, create enhanced ticket-based concert products and capitalize on expanded distribution channels and sponsorship opportunities.
- In September 2008, we announced that our ticketing company entered into an exclusive agreement to sell tickets at the majority of the North American facilities controlled by the world's leading venue management company, SMG.

### **Other information**

- In September 2008, we completed the divestiture of our motor sports business for a gross sales price of \$175.0 million plus a performance-based contingent payment of up to \$30.0 million over a five-year period beginning with the 2009 calendar year. The motor sports business was previously included in our other operations but, due to the sale, is now shown as discontinued operations.
- As of September 30, 2008, we have 770 local, national and international corporate sponsors which represents an increase of 7% over 2007.
- In October 2008, we sold our non-core events division to Michael Cohl, a former director and executive officer, and further reduced our non-core assets. The division includes a number of non-music, exhibition-style events, including *Bodies* and *Walking with Dinosaurs*. Also included in the sale were the rights to several previously produced live DVD packages. The majority of the assets sold are now reflected in discontinued operations. Mr. Cohl continues to work with us as a consultant and remains bound by a non-compete clause until 2016, but under the agreement he will be permitted to co-promote with Live Nation tours for certain artists with whom he has had a long and successful history. He will also be able to continue his work with certain non-music related events and exhibitions. In connection with the sale, a number of employees, primarily from our Miami offices, will leave the Company and join Mr. Cohl's new organization.

### **Our Separation from Clear Channel**

We were formed through acquisitions of various entertainment businesses and assets by our predecessors. On August 1, 2000, Clear Channel Communications, Inc. (Clear Channel) acquired our entertainment business. On August 2, 2005, we were incorporated in our current form as a Delaware corporation to own substantially all of the entertainment business of Clear Channel. On December 21, 2005, the separation of the business previously conducted by Clear Channel's live entertainment segment and sports representation business and the distribution by Clear Channel of all of our common stock to its shareholders was completed in a tax free spin-off. Following our separation from Clear Channel, we became a separate publicly traded company on the New York Stock Exchange trading under the symbol "LYV".

### **Segment Overview**

Our reportable segments are North American Music, International Music, Artist Nation (previously known as Global Artists), and Ticketing (previously known as Global Digital). In addition, we have United Kingdom theatrical venue operations (previously included in Global Theater) and other businesses which are included under other operations. Prior to 2008, we reported a Global Theater segment which has been eliminated after the divestiture of substantially all of the Company's North American theatrical business in January 2008. The segment results for all periods presented have been reclassified to conform to the current year presentation.

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### *North American Music*

Our North American Music segment principally involves the promotion of live music events in our owned and/or operated venues and in rented third-party venues primarily in the United States and Canada. While our North American Music segment operates year-round, we experience higher revenue during the second and third quarters due to the seasonal nature of shows at our outdoor amphitheaters, which primarily occur May through September.

To judge the health of our North American Music segment, we primarily monitor the number of confirmed events in our network of owned and/or operated and third-party venues, talent fees, average paid attendance and advance ticket sales. In addition, at our owned and/or operated venues, we monitor attendance, food and beverage sales per attendee, premium seat sales and corporate sponsorship sales.

### *International Music*

Our International Music segment principally involves the promotion of live music events in our owned and/or operated venues and in rented third-party venues and the production of music festivals outside of North America. While our International Music segment operates year-round, we experience higher revenue during the second and third quarters due to the seasonal nature of our international festivals, which primarily occur June through August.

To judge the health of our International Music segment, we primarily monitor the number of confirmed events in our network of owned and/or operated and third-party venues, talent fees, average paid attendance and advance ticket sales. In addition, at our owned and/or operated venues, we monitor attendance and food and beverage sales per attendee. Because this business is conducted in foreign markets, we look at the operating results from our foreign operations on a constant dollar basis.

### *Artist Nation*

Our Artist Nation segment principally involves the production and/or promotion of global music tours as well as providing various services to artists. While our Artist Nation segment operates year-round, the timing of tours of top-grossing acts can impact comparability of quarterly results year over year, although annual results may or may not be impacted.

To judge the health of our Artist Nation segment, we primarily monitor the number of confirmed events, paid attendance and tour contribution margin. In addition, for our Artist Services division, we monitor the number of artist relationships, services provided and revenue per artist.

### *Ticketing*

Our Ticketing segment manages the company's digital platform and is building the new Live Nation ticketing infrastructure which will be launched in 2009. This segment is involved in managing our internal ticketing operations and online distribution activities, including the ongoing development of our website.

To judge the health of our Ticketing segment, we primarily review the number of tickets sold through our internal centralized ticketing operations, the number of unique visitors to our websites and the overall number of customers in our database.

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### Consolidated Results of Operations

(in thousands)	Three Months Ended September 30,		% Change	Nine Months Ended September 30,		% Change
	2008	2007		2008	2007	
Revenue	\$1,588,653	\$1,452,578	9%	\$3,251,077	\$2,836,397	15%
Operating expenses:						
Direct operating expenses	1,295,416	1,200,071	8%	2,589,443	2,265,952	14%
Selling, general and administrative expenses	174,254	151,910	15%	495,312	444,354	11%
Depreciation and amortization	31,490	26,191	20%	98,761	77,243	28%
Gain on sale of operating assets	(1,158)	(6,112)	**	(799)	(20,806)	**
Corporate expenses	13,062	11,335	15%	35,177	30,394	16%
Operating income	75,589	69,183	9%	33,183	39,260	(15)%
Operating margin	4.8%	4.8%		1.0%	1.4%	
Interest expense	15,285	15,018		45,646	45,194	
Interest income	(2,978)	(3,704)		(8,406)	(10,631)	
Equity in earnings of nonconsolidated affiliates	(1,979)	(3,211)		(871)	(2,571)	
Minority interest expense (income)	4,261	8,099		(284)	8,574	
Other expense (income) — net	277	(210)		(838)	(564)	
Income (loss) from continuing operations before income taxes	60,723	53,191		(2,064)	(742)	
Income tax expense (benefit):						
Current	(51,167)	5,880		(37,951)	22,545	
Deferred	470	6,360		6,132	10,549	
Income (loss) from continuing operations	\$ 111,420	\$ 40,951		\$ 29,755	\$ (33,836)	
Income from discontinued operations, net of taxes	28,508	602		76,006	40,262	
Net income	\$ 139,928	\$ 41,553		\$ 105,761	\$ 6,426	

Note: Non-cash compensation expense of \$2.4 million, \$1.8 million, \$4.8 million and \$4.8 million is included in corporate expenses, \$1.3 million, \$3.1 million, \$5.7 million and \$5.9 million is included in selling, general and administrative expenses and \$0 million, \$0.9 million, (\$0.9) million and \$0.9 million is included in discontinued operations for the three months ended September 30, 2008 and 2007 and the nine months ended September 30, 2008 and 2007, respectively.

\*\* Percentages are not meaningful.

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**Key Operating Metrics**

	Three Months Ended		Nine Months Ended	
	September 30,		September 30,	
	2008	2007	2008	2007
<b>Estimated Events</b>				
North American Music promotions:				
Owned and/or operated amphitheaters	600	588	860	821
All other	2,196	2,500	6,731	6,539
Total North American Music promotions	2,796	3,088	7,591	7,360
North American Music third-party rentals at our owned and/or operated venues	896	157	3,505	924
International Music promotions	644	363	2,219	1,979
International Music third-party rentals at our owned and/or operated venues	468	456	1,831	1,144
Artist Nation promotions	35	62	72	106
United Kingdom theater promotions	2	162	227	689
United Kingdom theater third-party rentals at our owned and/or operated venues	846	825	3,032	3,278
Total events	5,687	5,113	18,477	15,480
<b>Estimated Attendance (rounded)</b>				
North American Music promotions:				
Owned and/or operated amphitheaters	6,453,000	5,944,000	9,186,000	8,067,000
All other	5,809,000	5,863,000	15,413,000	13,380,000
Total North American Music promotions	12,262,000	11,807,000	24,599,000	21,447,000
North American Music third-party rentals at our owned and/or operated venues	929,000	367,000	2,576,000	1,610,000
International Music promotions	3,040,000	2,228,000	7,849,000	6,978,000
International Music third-party rentals at our owned and/or operated venues	399,000	514,000	2,157,000	2,285,000
Artist Nation promotions	861,000	1,635,000	1,501,000	2,344,000
United Kingdom theater promotions	3,000	155,000	242,000	672,000
United Kingdom theater third-party rentals at our owned and/or operated venues	934,000	872,000	3,313,000	3,317,000
Total attendance	18,428,000	17,578,000	42,237,000	38,653,000

Note: Events generally represent a single performance by an artist for both promotions and third-party rentals. Attendance generally represents the number of fans who were present at an event. Festivals are counted as one event in the quarter in which the festival begins but attendance is split over the days of the festival and can be split between quarters. Events and attendance metrics are estimated each quarter. Adjustments to previously reported quarters are only included in the year-to-date events and attendance metrics.

Promotions listed above include events in our owned and/or operated venues as well as events we promote in third-party venues. Excluded from the table above are events and attendance that occurred in the North American theatrical business that was sold in January 2008 and our motor sports business that was sold in September 2008.

The 2008 data for North American Music third-party rentals at our owned and/or operated venues is not comparable to 2007 because the 2008 data includes 538 events and 71,000 attendees for the three-month period and 2,315 events and 308,000 attendees for the nine-month period related to our House of Blues small-sized music venues. The comparable data for our House of Blues small-sized music venues is not available for 2007.

### **Revenue**

Our revenue increased \$136.1 million, or 9%, during the three months ended September 30, 2008 as compared to the same period of the prior year primarily due to increases in revenue in our International Music and North American Music segments of \$146.4 million and \$75.0 million, respectively, partially offset by a decrease in revenue in our Artist Nation segment of \$75.6 million. Included in the increase in revenue for the three months ended September 30, 2008 is approximately \$18.4 million from increases in foreign exchange rates as compared to the same period of 2007.

Our revenue increased \$414.7 million, or 15%, during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily due to increases in revenue in our North American Music and International Music segments of \$279.9 million and \$212.6 million, respectively, partially offset by a decrease in revenue in our other operations and Artist Nation segment of \$37.4 million and \$33.6 million, respectively. Included in the increase in revenue for the nine months ended September 30, 2008 is approximately \$72.9 million from increases in foreign exchange rates as compared to the same period of 2007.

More detailed explanations of the three- and nine-month changes are included in the applicable segment discussions contained herein.

### **Direct operating expenses**

Our direct operating expenses increased \$95.3 million, or 8%, during the three months ended September 30, 2008 as compared to the same period of the prior year primarily due to increases in our International Music and North American Music segments of \$122.1 million and \$56.4 million, respectively, partially offset by a decrease in our Artist Nation segment of \$75.7 million. Included in the increase in direct operating expenses for the three months ended September 30, 2008 is approximately \$16.5 million from increases in foreign exchange rates as compared to the same period of 2007.

Our direct operating expenses increased \$323.5 million, or 14%, during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily due to increases in our North American Music and International Music segments of \$229.0 million and \$177.0 million, respectively, partially offset by a decrease in our Artist Nation segment and other operations of \$38.4 million and \$32.9 million, respectively. Included in the increase in direct operating expenses for the nine months ended September 30, 2008 is approximately \$62.8 million from increases in foreign exchange rates as compared to the same period of 2007.

Direct operating expenses include artist fees, show related marketing and advertising expenses along with other costs.

More detailed explanations of the three- and nine-month changes are included in the applicable segment discussions contained herein.

### **Selling, general and administrative expenses**

Our selling, general and administrative expenses increased \$22.3 million, or 15%, during the three months ended September 30, 2008 as compared to the same period of the prior year primarily due to increases in our Artist Nation, International Music, North American Music and Ticketing segments of \$7.9 million, \$6.1 million, \$5.8 million and \$4.7 million, respectively. During the three months ended September 30, 2008, there was no significant impact from changes in foreign exchange rates as compared to the same period of 2007.

Our selling, general and administrative expenses increased \$51.0 million, or 11%, during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily due to increases in our Artist Nation, International Music and Ticketing segments of \$23.3 million, \$22.0 million and \$11.8 million, respectively. Included in the increase in selling, general and administrative expenses for the nine months ended September 30, 2008 is approximately \$6.2 million from increases in foreign exchange rates as compared to the same period of 2007.

More detailed explanations of the three- and nine-month changes are included in the applicable segment discussions contained herein.

### **Depreciation and amortization**

Our depreciation and amortization expense increased \$5.3 million, or 20%, during the three months ended September 30, 2008 as compared to the same period of the prior year primarily due to increases in depreciation and amortization in our International Music and North American Music segments of \$4.4 million and \$2.1 million, respectively.

Our depreciation and amortization expense increased \$21.5 million, or 28%, during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily due to an increase in depreciation and amortization in our Artist Nation and International Music segments of \$10.1 million and \$9.3 million, respectively.

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More detailed explanations of the three- and nine-month changes are included in the applicable segment discussions contained herein.

### ***Loss (gain) on sale of operating assets***

We recorded a net gain on sale of operating assets of \$1.2 million during the three months ended September 30, 2008 as compared to \$6.1 million for the same period of the prior year primarily due to gains recorded in 2007 related to the sale of seven small-sized venues in London.

We recorded a net gain on sale of operating assets of \$0.8 million during the nine months ended September 30, 2008 as compared to \$20.8 million for the same period of the prior year primarily due to gains recorded in 2007 of \$18.9 million related to the sale of two mid-sized and seven small-sized venues in London and an amphitheater in Nashville, \$6.0 million related to the sale of an office building in San Francisco, and \$3.6 million related to the sale of an arena/race track in Leicestershire, England. Partially offsetting these gains in 2007 is an \$8.1 million loss related to the sale of our remaining 50.1% interest in the production of *Phantom: The Las Vegas Spectacular*.

### ***Corporate expenses***

Corporate expenses increased \$1.7 million, or 15%, during the three months ended September 30, 2008 as compared to the same period of the prior year primarily due to increased headcount and related costs and consulting expenses.

Corporate expenses increased \$4.8 million, or 16%, during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily due to increased headcount and related costs and consulting expenses.

### ***Interest expense***

Interest expense for the three and nine months ended September 30, 2008 is relatively unchanged as compared to the same periods in the prior year since increases in the debt balance were essentially offset by decreases in the weighted average cost of debt.

Our debt balances and weighted average cost of debt, including redeemable preferred stock, were \$839.3 million and 6.41%, respectively, at September 30, 2008 and \$813.4 million and 6.79%, respectively, at September 30, 2007.

### ***Interest income***

Interest income decreased \$0.7 million and \$2.2 million during the three and nine months ended September 30, 2008 as compared to the same periods in the prior year primarily due to lower excess cash invested in money market funds and other short-term investments in 2008.

### ***Equity in losses (earnings) of nonconsolidated affiliates***

Equity in earnings of nonconsolidated affiliates decreased \$1.2 million during the three months ended September 30, 2008 as compared to the same period of the prior year. The decrease was primarily due to the sale of our investment in Broadway in Chicago in the fourth quarter of 2007, partially offset by improved results from our investments in a joint venture with Cirque Du Soleil and Marek Lieberberg Konzertagentur, a German music company.

Equity in earnings of nonconsolidated affiliates decreased \$1.7 million during the nine months ended September 30, 2008 as compared to the same period of the prior year. The decrease was primarily due to the sale of our investment in Broadway in Chicago in the fourth quarter of 2007, the acquisition of the remaining interest in House of Blues Concert Canada, or HOB Canada, partially offset by a reduction in losses from our investment in a joint venture with Cirque Du Soleil.

### ***Minority interest expense (income)***

Minority interest expense decreased \$8.9 million during the nine months ended September 30, 2008, as compared to the same period of the prior year primarily due to lower operating results for Academy Music Holdings Limited Group, or AMG, and Angel Festivals Limited.

### ***Income Taxes***

We customarily calculate interim effective tax rates in accordance with Accounting Principles Board Opinion 28, *Interim Financial Reporting* (APB 28). As required by APB 28, we apply the estimated annual effective tax rate to year-to-date pretax income (or loss) at the end of each interim period to compute a year-to-date tax expense (or benefit). Financial Accounting Standards Board (FASB) Interpretation No. 18 (FIN 18) requires departure from customary effective tax rate computations when losses incurred within tax jurisdictions cannot be carried back and future profits associated with operations in those tax jurisdictions cannot be assured beyond any reasonable doubt. Accordingly, we have calculated an expected annual effective tax rate of 32%, excluding significant, unusual or extraordinary items, for ordinary income associated with operations, which are principally outside of the United States, for which we currently expect to have annual taxable income. That effective tax rate has been applied to year-to-date earnings for those

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operations for which we currently expect to have taxable income. We have not recorded tax benefits associated with losses from operations for which future taxable income cannot be reasonably assured. As required by APB 28, we also include tax effects of significant, unusual or extraordinary items in income tax expense in the interim period in which they occur.

The net income tax benefit from continuing operations is \$31.8 million for the nine months ended September 30, 2008. Of this net income tax benefit \$67.6 million relates to tax benefits associated principally with current and prior year U.S. losses for which tax benefits were not previously recorded since those losses had not met the more likely than not criteria for recognition. During the third quarter of 2008, gains associated with the sale of our motor sports business, enabled the current and some prior year losses to meet the criteria for recognition. The net tax benefit also includes a tax benefit of \$1.7 million resulting from the effect of changes in tax rates. The components of tax expense which contributed to the net benefit include \$24.5 million of statutory tax on profitable operations which are principally operations outside of the United States and which reflect an effective tax rate for those jurisdictions of 32%, state and local taxes of \$1.7 million, interest and penalties for uncertain tax positions of \$2.3 million, and adjustments for significant, unusual and extraordinary items of \$9.0 million, including valuation allowances recorded against deferred tax assets.

During the first nine months of 2007, the effective tax rate applied to year-to-date earnings in taxable jurisdictions for which we expected to have taxable income was 29%. During the first nine months of 2008, an effective tax rate of 32% was applied to year-to-date earnings in taxable jurisdictions for which we expect to have taxable income. The increase in the effective tax rate applied during 2008 is principally related to larger permanent differences as a percentage of pre-tax income relative to 2007.

We have U.S. federal net operating loss carry forwards that, if not used, will expire between calendar years 2008 and 2028. The amount of net operating loss carry forwards that will expire in 2008 and 2009 if not used are \$5.7 million and \$25.6 million, respectively.

### **Discontinued Operations**

In January 2008, we completed the sale of our North American theatrical business, which included the assets of the North American theatrical presenting business and certain theatrical venues, to Key Brand Entertainment Inc. and its lenders for a gross sales price of \$90.4 million pursuant to a stock purchase agreement. After fees, expenses, an adjustment to replace the show cash of the North American theatrical business that was previously removed from the operations and utilized by us and other adjustments, we will receive approximately \$31.3 million of proceeds, net of cash sold and transaction costs. The sale of the North American theatrical business resulted in a total gain before tax of \$18.0 million.

In September 2008, we sold our motor sports business to Feld Acquisition Corp., a wholly-owned subsidiary of Feld Entertainment, Inc. pursuant to a stock purchase agreement for a gross sales price of \$175.0 million in cash, subject to certain net working capital and other post-closing adjustments, in addition to a performance-based contingent payment of up to \$30.0 million over a five-year period commencing with calendar year 2009. After estimated fees, expenses and other adjustments, we received approximately \$167.6 million of net proceeds, excluding the contingent payment. The sale of the motor sports business resulted in a gain before tax of \$145.8 million.

In October 2008, as part of a binding agreement with Events Acquisition Corporation, we agreed to sell our non-core events division along with rights to certain DVD projects. Events Acquisition Corporation is owned by Michael Cohl who is a former director and executive officer of the Company. The events division included rights or investments in certain non-music and exhibition-style events. Under the agreement, we will receive approximately \$15.4 million for the events division, DVD projects and other rights, in addition to performance-based contingent payments and undistributed profits related to future periods.

### **North American Music Results of Operations**

Our North American Music segment operating results were as follows:

(in thousands)	Three Months Ended		%	Nine Months Ended		%
	September 30,			September 30,		
	2008	2007	Change	2008	2007	Change
Revenue	\$864,046	\$789,056	10%	\$1,783,867	\$1,503,934	19%
Direct operating expenses	697,337	640,921	9%	1,421,712	1,192,734	19%
Selling, general and administrative expenses	90,204	84,387	7%	253,565	253,126	—
Depreciation and amortization	15,443	13,391	15%	44,662	40,259	11%
Gain on sale of operating assets	(669)	(766)	**	(667)	(6,826)	**
Operating income	<u>\$ 61,731</u>	<u>\$ 51,123</u>	21%	<u>\$ 64,595</u>	<u>\$ 24,641</u>	**
Operating margin	7.1%	6.5%		3.6%	1.6%	

\*\* Percentages are not meaningful.

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### *Three Months*

North American Music revenue increased \$75.0 million, or 10%, during the three months ended September 30, 2008 as compared to the same period of the prior year due to an increase in the number of events, ancillary revenue per attendee, attendance and average ticket prices at our owned and/or operated amphitheaters and third-party venues for artists such as the Jonas Brothers and Journey, partially offset by a decrease in number of events, attendance and average ticket prices at arenas.

North American Music direct operating expenses increased \$56.4 million, or 9%, during the three months ended September 30, 2008 as compared to the same period of the prior year due to higher expenses associated with an increased number of events and attendance at our owned and/or operated amphitheaters and third-party venues partially offset by lower expenses resulting from a decrease in number of events and attendance at arenas as discussed above.

North American Music selling, general and administrative expenses increased \$5.8 million, or 7%, during the three months ended September 30, 2008 as compared to the same period of the prior year primarily due to higher incentive compensation expense in 2008.

The increase in operating income for North American Music was primarily a result of cost controls on talent buying and other variable expenses, increased ancillary revenue per attendee, higher ticket sales through our internal ticketing operations, higher average ticket prices and increased activity at our owned and/or operated amphitheaters, partially offset by lower results for arena tours and increased incentive compensation expense.

### *Nine Months*

North American Music revenue increased \$279.9 million, or 19%, during the nine months ended September 30, 2008 as compared to the same period of the prior year due to an increase in the number of events, ancillary revenue per attendee, attendance and average ticket prices at our owned and/or operated amphitheaters and third-party venues for artists such as Dave Matthews Band, the Jonas Brothers and Journey, and strong results from arena tours for artists such as Van Halen, Bruce Springsteen and Rascal Flatts. The increase is also due to approximately \$94.9 million of incremental revenue related to our acquisition of HOB Canada during the second quarter of 2007.

North American Music direct operating expenses increased \$229.0 million, or 19%, during the nine months ended September 30, 2008 as compared to the same period of the prior year due to higher operating expenses associated with increased number of events and attendance at amphitheaters and third-party venues and strong arena tours as discussed above. The increase is also due to direct operating expenses of approximately \$87.4 million related to our acquisition of HOB Canada.

North American Music selling, general and administrative expenses were relatively unchanged during the nine months ended September 30, 2008 as compared to the same period of the prior year. Lower legal expenses in 2008 related to ongoing cases offset higher incentive compensation expense and incremental selling, general and administrative expense of \$5.8 million related to our HOB Canada acquisition.

North American Music gain on sale of operating assets decreased \$6.2 million during the nine months ended September 30, 2008 as compared to the same period of the prior year due to the sale of an office building in San Francisco and the sale of the Starwood Amphitheater in Nashville in 2007.

The increase in operating income for North American Music was primarily a result of cost controls on talent buying and other variable expenses, increased ancillary revenue per attendee, higher ticket sales through our internal ticketing operations, higher average ticket prices and increased activity at our owned and/or operated amphitheaters and improved results for arena tours, partially offset by gains recorded in 2007 on the sale of an office building and an amphitheater.

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### International Music Results of Operations

Our International Music segment operating results were as follows:

(in thousands)	Three Months Ended			Nine Months Ended		
	September 30,		% Change	September 30,		% Change
	2008	2007		2008	2007	
Revenue	\$480,735	\$334,358	44%	\$986,788	\$774,183	27%
Direct operating expenses	390,609	268,483	45%	789,256	612,291	29%
Selling, general and administrative expenses	44,040	37,972	16%	125,578	103,538	21%
Depreciation and amortization	8,037	3,597	123%	21,107	11,856	78%
Loss (gain) on sale of operating assets	(2)	(5,558)	**	41	(18,650)	**
Operating income	<u>\$ 38,051</u>	<u>\$ 29,864</u>	27%	<u>\$ 50,806</u>	<u>\$ 65,148</u>	(22)%
Operating margin	7.9%	8.9%		5.1%	8.4%	

\*\* Percentages are not meaningful.

#### Three Months

International Music revenue increased \$146.4 million, or 44%, during the three months ended September 30, 2008 as compared to the same period of the prior year. Excluding the increase related to the impact of changes in foreign exchange rates of \$18.9 million, revenue increased \$127.5 million, or 38%, primarily due to incremental revenue of \$44.2 million related to the effect of our acquisitions of the Heineken Music Hall operations in January 2008, DFC Holdings Limited, or DFC, in April 2008, Lugerinc. AB and Moondog Entertainment AB, or Luger and Moondog, in June 2008, and Moi.Je Prod SAS, or Arras France festival, in July 2008. We also experienced stronger promotion activity in Sweden, Norway and France driven by strong stadium events for artists such as Bruce Springsteen and Iron Maiden and strong arena tours for artists such as Coldplay and Stevie Wonder. In addition, we had an overall increase in revenues related to our festival operations in the United Kingdom and Belgium primarily driven by the timing of the *Rock Werchter* and *O<sup>2</sup> Wireless* festivals and higher revenues from the *Reading, Leeds and Latitude* festivals in 2008.

International Music direct operating expenses increased \$122.1 million, or 45%, during the three months ended September 30, 2008 as compared to the same period of the prior year. Excluding the increase related to the impact of changes in foreign exchange rates of \$16.3 million, direct operating expenses increased \$105.8 million, or 39%, primarily related to incremental direct operating expenses of \$35.5 million related to the effect of our acquisitions noted above as well as the increase in revenue related to our festival timing and performance and promotion activity noted above in the United Kingdom and Belgium.

International Music selling, general and administrative expenses increased \$6.1 million, or 16%, during the three months ended September 30, 2008 as compared to the same period of the prior year. Excluding the increase related to the impact of changes in foreign exchange rates of \$0.6 million, the increase in selling, general and administrative expenses was \$5.5 million, or 14%, primarily due to an increase of \$3.3 million related to the acquisitions noted above as well as higher compensation costs for salary and timing of performance bonus recognition.

International Music depreciation and amortization expense increased \$4.4 million, or 123%, during the three months ended September 30, 2008 as compared to the same period of the prior year primarily due to increased amortization for intangible assets related to the AMG and DFC acquisitions, partially offset by reduced depreciation expense related to The Point closure.

International Music gain on sale of operating assets decreased \$5.6 million during the three months ended September 30, 2008 as compared to the same period of the prior year primarily due to the sale of seven small-sized venues in London in August 2007.

The increase in operating income for International Music was primarily driven by festival results, partially due to the timing of certain festivals, and also due to acquisitions. These increases were partially offset by increased amortization of intangibles related to the AMG and DFC acquisitions, higher compensation costs and the gain recorded in 2007 on venue disposals.

#### Nine Months

International Music revenue increased \$212.6 million, or 27%, during the nine months ended September 30, 2008 as compared to the same period of the prior year. Excluding the increase related to the impact of changes in foreign exchange rates of \$62.3 million, revenue increased \$150.3 million, or 19%, primarily due to incremental revenue of \$88.8 million related to the effect of our acquisitions of AMG in July 2007, Heineken Music Hall operations in January 2008, DFC in April 2008, Luger and Moondog in June 2008, and Arras France festival in July 2008. We also experienced stronger promotion activity in the United Kingdom, Sweden and Norway driven by strong stadium events for artists such as Bruce Springsteen and Iron Maiden and strong arena tours for artists such as Celine Dion and The Osmonds. In addition, we had an overall increase in revenue related to our festival operations in the United Kingdom, Belgium and The Netherlands, primarily driven by increased attendance. These increases were partially offset by declines in revenue related to the closure of The Point in Ireland during renovation and the disposal of two mid-sized and seven small-sized venues in London in 2007.

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International Music direct operating expenses increased \$177.0 million, or 29%, during the nine months ended September 30, 2008 as compared to the same period of the prior year. Excluding the increase related to the impact of changes in foreign exchange rates of \$52.4 million, direct operating expenses increased \$124.6 million, or 20%, primarily related to incremental direct operating expenses of \$61.0 million related to the effect of our acquisitions noted above as well as the increase in revenue related to festival performance and our promotion activity noted above in the United Kingdom, Sweden and Norway. These increases were partially offset by the decreases related to The Point closure and venue disposals noted above.

International Music selling, general and administrative expenses increased \$22.0 million, or 21%, during the nine months ended September 30, 2008 as compared to the same period of the prior year. Excluding the increase related to the impact of changes in foreign exchange rates of \$5.8 million, the increase in selling, general and administrative expenses was \$16.2 million, or 16%, primarily due to an increase of \$14.9 million related to the acquisitions noted above as well as higher compensation costs. These increases were partially offset by the venue disposals and closure of The Point noted above.

International Music depreciation and amortization expense increased \$9.3 million, or 78%, during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily due to increased amortization for intangible assets related to the AMG and DFC acquisition, partially offset by reduced depreciation expense related to The Point closure noted above.

International Music gain on sale of operating assets decreased \$18.7 million during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily due to the sale of the Hammersmith Apollo and Forum, both mid-sized venues, and the seven small-sized venues in London.

The decrease in operating income for International Music was primarily a result of increased amortization of intangibles related to the AMG and DFC acquisitions, lost income from the venues disposed of in 2007 as well as the gain recorded on these venue disposals in 2007, partially offset by increased operating income from acquisitions.

### **Artist Nation Results of Operations**

Our Artist Nation segment operating results were as follows:

<u>(in thousands)</u>	<u>Three Months Ended</u>		<u>%</u>	<u>Nine Months Ended</u>		<u>%</u>
	<u>September 30,</u>			<u>September 30,</u>		
	<u>2008</u>	<u>2007</u>	<u>Change</u>	<u>2008</u>	<u>2007</u>	<u>Change</u>
Revenue	\$225,676	\$301,279	(25)%	\$419,058	\$452,698	(7)%
Direct operating expenses	205,729	281,423	(27)%	373,972	412,346	(9)%
Selling, general and administrative expenses	20,988	13,123	60%	60,577	37,232	63%
Depreciation and amortization	3,558	3,750	(5)%	20,494	10,388	97%
Gain on sale of operating assets	—	—	**	(117)	—	**
Operating income (loss)	\$ (4,599)	\$ 2,983	**	\$ (35,868)	\$ (7,268)	**
Operating margin	(2.0)%	1.0%		(8.6)%	(1.6)%	

\*\* Percentages are not meaningful.

### **Three Months**

Artist Nation revenue decreased \$75.6 million, or 25%, during the three months ended September 30, 2008 as compared to the same period of the prior year primarily due to a decline in the volume of global tours as well as lower grossing shows, driven by the mix of venues as these shows were primarily held in amphitheaters in 2008 as compared to stadiums in 2007. These declines were partially offset by incremental revenue of \$61.3 million from our acquisitions of Signatures SNI, Inc., or Signatures, and Anthill Trading Ltd., or Anthill, in the fourth quarter of 2007.

Artist Nation direct operating expenses decreased \$75.7 million, or 27%, during the three months ended September 30, 2008 as compared to the same period of the prior year primarily as a result of a decrease in touring-related direct operating expenses due to the lower volume of events and venue mix noted above. This decrease was partially offset by \$53.3 million of incremental direct operating expenses from our acquisitions discussed above.

Artist Nation selling, general and administrative expenses increased \$7.9 million, or 60%, during the three months ended September 30, 2008 as compared to the same period of the prior year primarily due to incremental expenses of \$4.3 million related to our acquisitions noted above. In addition, we experienced an increase in selling, general and administrative expenses due to increased salary for additional headcount and consulting expenses related to the infrastructure for artist rights acquisitions.

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The decrease in operating income for Artist Nation was primarily a result of the decreased volume and venue mix of global tours, increased headcount for artist services and increased amortization of the intangible assets from our acquisition of CPI, partially offset by a slight increase due to the acquisitions of Signatures and Anthill.

### *Nine Months*

Artist Nation revenue decreased \$33.6 million, or 7%, during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily due to a decline in the volume of global tours as well as lower grossing shows, driven by the mix of venues as these shows were primarily held in amphitheaters in 2008 as compared to stadiums in 2007. These declines were partially offset by incremental revenue of \$122.9 million from our acquisitions noted above.

Artist Nation direct operating expenses decreased \$38.4 million, or 9%, during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily as a result of a decrease in touring-related direct operating expenses due to the lower volume of events and venue mix noted above, partially offset by \$105.4 million of incremental direct operating expenses from our acquisitions discussed above.

Artist Nation selling, general and administrative expenses increased \$23.3 million, or 63%, during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily due to incremental expenses of \$13.0 million related to our acquisitions noted above. In addition, we experienced an increase in selling, general and administrative expenses due to increased salary for additional headcount and consulting expenses related to the infrastructure for artist rights acquisitions.

Artist Nation depreciation and amortization expense increased \$10.1 million during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily due to amortization of the intangible assets resulting from the acquisition of the remaining interest in CPI in the third quarter of 2007 and intangible assets associated with certain artist rights agreements.

The decrease in operating income for Artist Nation was primarily a result of the decreased volume and venue mix of global tours, increased headcount for artist services and increased amortization of the intangible assets from our acquisition of CPI, partially offset by increased sponsorships and the acquisitions of Signatures and Anthill.

### **Ticketing Results of Operations**

Our Ticketing segment operating results were as follows:

<u>(in thousands)</u>	<u>Three Months Ended</u> <u>September 30,</u>		<u>%</u> <u>Change</u>	<u>Nine Months Ended</u> <u>September 30,</u>		<u>%</u> <u>Change</u>
	<u>2008</u>	<u>2007</u>		<u>2008</u>	<u>2007</u>	
Revenue	\$ 6,733	\$ 4,819	40%	\$ 19,759	\$ 9,034	**
Direct operating expenses	3,151	1,534	**	8,658	2,306	**
Selling, general and administrative expenses	8,751	4,020	**	22,481	10,664	**
Depreciation and amortization	1,319	1,084	22%	3,338	2,170	54%
Operating loss	<u>\$(6,488)</u>	<u>\$(1,819)</u>	**	<u>\$(14,718)</u>	<u>\$(6,106)</u>	**
Operating margin	(96.4)%	(37.7)%		(74.5)%	(67.6)%	

\*\* Percentages are not meaningful.

### *Three Months*

Ticketing revenue increased \$1.9 million during the three months ended September 30, 2008 as compared to the same period of the prior year primarily due to increased ticketing revenue from our internal ticketing operations as all existing internal ticketing operations have now been centralized under this group as well as an increase in sponsorship revenue.

Ticketing direct operating expenses increased \$1.6 million during the three months ended September 30, 2008 as compared to the same period of the prior year due to costs associated with our internal ticketing operations increased revenue.

Ticketing selling, general and administrative expenses increased \$4.7 million during the three months ended September 30, 2008 as compared to the same period of the prior year primarily due to increased salary costs related to building our ticketing infrastructure, operations of our existing internal ticketing operations and website and internet management, as well as maintenance expense associated with our website and ticketing operations.

The decrease in the operating income for Ticketing was primarily a result of higher salary costs, partially offset by increased revenue from our internal ticketing operations.

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### *Nine Months*

Ticketing revenue increased \$10.7 million during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily due to increased ticketing revenue from our internal ticketing operations as all existing internal ticketing operations have now been centralized under this group.

Ticketing direct operating expenses increased \$6.4 million during the nine months ended September 30, 2008 as compared to the same period of the prior year due to costs associated with our internal ticketing operations increased revenue.

Ticketing selling, general and administrative expenses increased \$11.8 million during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily due to increased salary costs related to building our ticketing infrastructure, operations of our existing internal ticketing operations and website and internet management, as well as maintenance expense associated with our website and ticketing operations.

The decrease in the operating income for Ticketing was primarily a result of higher salary costs, partially offset by increased revenue from our internal ticketing operations and sponsorships.

### **Other Results of Operations**

Our other operating results were as follows:

<u>(in thousands)</u>	<u>Three Months Ended</u> <u>September 30,</u>		<u>%</u> <u>Change</u>	<u>Nine Months Ended</u> <u>September 30,</u>		<u>%</u> <u>Change</u>
	<u>2008</u>	<u>2007</u>		<u>2008</u>	<u>2007</u>	
Revenue	\$16,489	\$27,044	(39)%	\$67,205	\$104,618	(36)%
Direct operating expenses	3,616	11,685	(69)%	21,448	54,342	(61)%
Selling, general and administrative expenses	10,271	12,411	(17)%	33,108	39,797	(17)%
Depreciation and amortization	2,180	2,849	(23)%	6,384	8,479	(25)%
Loss (gain) on sale of operating assets	(32)	264	**	(205)	4,780	**
Operating income (loss)	<u>\$ 454</u>	<u>\$ (165)</u>	**	<u>\$ 6,470</u>	<u>\$ (2,780)</u>	**
Operating margin	2.8%	(0.6)%		9.6%	(2.7)%	

\*\* Percentages are not meaningful.

### *Three Months*

Other revenue decreased \$10.6 million, or 39%, during the three months ended September 30, 2008 as compared to the same period of the prior year primarily due to a decline in revenue from our United Kingdom theater operations as a result of fewer productions and touring theatrical shows.

Other direct operating expenses decreased \$8.1 million, or 69%, during the three months ended September 30, 2008 as compared to the same period of the prior year primarily due to lower direct operating expenses from our United Kingdom theater operations due to reduced productions.

### *Nine Months*

Other revenue decreased \$37.4 million, or 36%, during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily as a result of the sale of our interest in the production of *Phantom: The Las Vegas Spectacular* in the first quarter of 2007 and a decline in revenue from our United Kingdom theater operations as a result of fewer productions and touring theatrical shows.

Other direct operating expenses decreased \$32.9 million, or 61%, during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily due to the sale of our interest in the production of *Phantom: The Las Vegas Spectacular* and lower direct operating expenses from our United Kingdom theater operations due to fewer productions.

Other selling, general and administrative expenses decreased \$6.7 million, or 17%, during the nine months ended September 30, 2008 as compared to the same period of the prior year primarily due to higher overhead costs in 2007 related to businesses that we have sold or are no longer operating.

Gain on sale of operating assets was \$0.2 million during the nine months ended September 30, 2008 as compared to a loss on sale of operating assets of \$4.8 million during the same period of the prior year primarily due to the loss on the sale of our interest in the production of *Phantom: The Las Vegas Spectacular*, partially offset by a gain recorded on the sale of an arena/race track in Leicestershire, England.

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### Reconciliation of Segment Operating Income (Loss)

(in thousands)	Three Months Ended		Nine Months Ended	
	September 30,		September 30,	
	2008	2007	2008	2007
North American Music	\$ 61,731	\$ 51,123	\$ 64,595	\$ 24,641
International Music	38,051	29,864	50,806	65,148
Artist Nation	(4,599)	2,983	(35,868)	(7,268)
Ticketing	(6,488)	(1,819)	(14,718)	(6,106)
Other	454	(165)	6,470	(2,780)
Corporate	(13,560)	(12,803)	(38,102)	(34,375)
Consolidated operating income	<u>\$ 75,589</u>	<u>\$ 69,183</u>	<u>\$ 33,183</u>	<u>\$ 39,260</u>

### Liquidity and Capital Resources

Our working capital requirements and capital for our general corporate purposes, including acquisitions and capital expenditures, are funded from operations or from borrowings under our senior secured credit facility described below. Our cash is currently managed on a worldwide basis.

Our balance sheet reflects cash and cash equivalents of \$205.9 million and current and long-term debt of \$799.3 million at September 30, 2008, and cash and cash equivalents of \$339.0 million and current and long-term debt of \$822.6 million at December 31, 2007. These debt balances do not include our outstanding redeemable preferred stock.

Our available cash and cash equivalents is held in accounts managed by third-party financial institutions and consists of invested cash and cash in our operating accounts. The invested cash is invested in interest-bearing funds managed by third-party financial institutions. These funds generally invest in direct obligations of the government of the United States. Cash held in operating accounts in many cases exceeds the Federal Deposit Insurance Corporation, or FDIC, insurance limits. While we monitor cash and cash equivalents balances in our operating accounts on a regular basis and adjust the balances as appropriate, these balances could be impacted if the underlying financial institutions fail. To date, we have experienced no loss or lack of access to our cash or cash equivalents; however, we can provide no assurances that access to our cash and cash equivalents will not be impacted by adverse conditions in the financial markets.

We may need to incur additional debt or issue equity to make other strategic acquisitions or investments. There can be no assurance that such financing will be available to us on acceptable terms or at all. Our ability to issue additional equity may be constrained because the issuance of additional stock may cause the Distribution to be taxable under section 355(e) of the Internal Revenue Code, and, under our tax matters agreement with Clear Channel, we would be required to indemnify Clear Channel against the tax, if any. We may make significant acquisitions in the near term, subject to limitations imposed by our financing documents, market conditions and the tax matters agreement.

The lenders under our revolving credit facility and counterparties to our interest rate swap agreements discussed below consist of banks and other third-party financial institutions. While we currently have no indications or expectations that such lenders and counterparties will be unable to fund their commitments as required, we can provide no assurances that future funding availability will not be impacted by adverse conditions in the financial markets. Should an individual lender default on its obligations, the remaining lenders would not be required to fund the shortfall, resulting in a reduction in the total amount available to us for future borrowings, but would remain obligated to fund their own commitments. Should any counterparty to our interest rate swap agreements default on its obligations, we could experience higher interest rate volatility during the period of any such default.

We generally receive cash related to ticket revenue in advance of the event, which is recorded in deferred revenue until the event occurs. With the exception of some upfront costs and artist deposits, which are recorded in prepaid expenses until the event occurs, we pay the majority of event-related expenses at or after the event. We view our available cash as cash and cash equivalents, less event-related deferred revenue, less accrued expenses due to artists and for cash collected on behalf of others, plus event-related prepaids. This is essentially our cash available to, among other things, repay debt balances, make acquisitions, repurchase stock and finance revenue-generating capital expenditures.

Our intra-year cash fluctuations are impacted by the seasonality of our various businesses. An example of seasonal effects includes our North American Music and International Music segments, which report the majority of their revenue in the second and third quarters. Cash inflows and outflows depend on the timing of event-related payments but the majority of the inflows generally occur prior to the event. See “—Seasonality” below. We believe that we have sufficient financial flexibility to fund these fluctuations and to access the global capital markets on satisfactory terms and in adequate amounts, although there can be no assurance that this will be the case, and capital could be less accessible and/or more costly given current economic conditions. We expect cash flow from operations and borrowings under our senior secured credit facility, along with other financing alternatives, to satisfy working capital, capital expenditures and debt service requirements for at least the succeeding year.

### Sources of Cash

#### *Senior Secured Credit Facility*

We have a senior secured credit facility consisting of term loans originally totaling \$550 million and a \$285 million revolving credit facility. The revolving credit facility provides for borrowings up to the amount of the facility with sub-limits of up to \$235 million to be available for the issuance of letters of credit and up to \$100 million to be available for borrowings in foreign currencies. The term loans of \$325 million and \$225 million mature in June 2013 and December 2013, respectively, and the revolving credit

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portion of the credit facility matures in June 2012. For the term loan maturing in June 2013, minimum quarterly principal repayments of approximately \$2.7 million per year are required through March 2013, with the balance due at maturity. For the term loan maturing in December 2013, minimum quarterly principal repayments of approximately \$1.9 million per year are required through September 2013, with the balance due at maturity. We are required to prepay the outstanding term loans, subject to certain exceptions and conditions, from certain asset sale net proceeds and casualty and condemnation proceeds that we do not reinvest within a 365-day period or from certain additional debt issuance proceeds. On asset sales, a minimum of 50% of the net proceeds is required to be prepaid at the time the sale proceeds are received.

During the nine months ended September 30, 2008, we made principal payments totaling \$30.1 million and \$288.0 million on the term loans and revolving credit facility, respectively, which includes a \$26.8 million term loan pre-payment from the proceeds received from the sale of the motor sports business. The payments on the revolving credit facility were to repay short-term borrowings used to fund working capital requirements during the year and to pay down the beginning balance. At September 30, 2008, the outstanding balances on the term loans and revolving credit facility were \$421.6 million and \$40.0 million, respectively. Taking into account letters of credit of \$40.8 million, \$204.2 million was available for future borrowings.

Borrowings under the term loan portion of the credit facility bear interest at per annum floating rates equal, at our option, to either (a) the base rate (which is the greater of the prime rate offered by JPMorgan Chase Bank, N.A. or the federal funds rate plus 0.5%) plus 2.25% or (b) Adjusted LIBOR plus 3.25%. Borrowings under the revolving portion of the credit facility bear interest at per annum floating rates equal, at our option, to either (a) the base rate (which is the prime rate offered by JPMorgan Chase Bank, N.A. ) plus an applicable margin or (b) Adjusted LIBOR plus an applicable margin. Sterling and Euro-denominated borrowings under the revolving portion of the credit facility currently bear interest at per annum floating rates equal to either Adjusted LIBOR or Adjusted EURIBOR, respectively, plus an applicable margin. The revolving credit facility margins are subject to change based upon the amount of leverage for the previous calendar quarter. In the event our leverage ratio improves, the interest rate margin on revolving credit borrowings declines gradually to 1.25% at a total leverage ratio of less than, or equal to, 1.25 times. Under the terms of the original term loan, we were required to enter into an interest rate swap for a minimum of 50% of the outstanding debt for a minimum of three years.

The interest rate we pay on borrowings on our senior term loans is 3.25% above LIBOR. The interest rate we pay on our \$285 million multi-currency revolving credit facility depends on our total leverage ratio. Based on our current total leverage ratio, our interest rate on revolving credit borrowings is 2.25% above LIBOR. In addition to paying interest on outstanding principal under the credit facility, we are required to pay a commitment fee to the lenders under the revolving credit facility in respect of the unutilized commitments. As of September 30, 2008, the commitment fee rate was 0.375%. We also are required to pay customary letter of credit fees, as necessary.

The senior secured credit facility contains a number of covenants that, among other things, restrict our ability to incur additional debt, pay dividends and make distributions, make certain investments and acquisitions, repurchase stock and prepay certain indebtedness, create liens, enter into agreements with affiliates, modify the nature of the business, enter into sale-leaseback transactions, transfer and sell material assets and merge or consolidate.

### ***2.875% Convertible Senior Notes***

In July 2007, we issued \$220 million of convertible senior notes, due 2027, in a private placement in the United States to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended. The notes pay interest semiannually at a rate of 2.875% per annum. Beginning with the period commencing on July 20, 2014 and ending on January 14, 2015, and for each of the interest periods commencing thereafter, we will pay contingent interest on the notes if the average trading price of the notes during the five consecutive trading days ending on the second trading day immediately preceding the first day of the applicable interest period equals or exceeds 120% of the principal amount of the notes. The contingent interest payable per note will equal 0.25% per year of the average trading price of such note during the applicable five trading-day reference period, payable in arrears. The notes will be convertible, under certain circumstances, at an initial conversion rate of 36.8395 shares per \$1,000 principal amount of notes, which represents a 27.5% conversion premium based on the last reported sale price prior to issuance of \$21.29 per share on July 10, 2007. Upon conversion, the notes may be settled in shares of Live Nation common stock or, at our election, cash or a combination of cash and shares of Live Nation common stock. The net proceeds from the offering, after deducting estimated offering expenses payable by us, were approximately \$212.4 million.

Holder of the 2.875% convertible senior notes may require us to purchase for cash all or a portion of their notes on July 15, 2014, July 15, 2017 and July 15, 2022 at a price equal to 100% of the principal amount plus accrued and unpaid interest, if any, subject to specified additional conditions. In addition, if we experience a fundamental change, as defined in the indenture governing the notes, holders may require us to purchase for cash all or a portion of their notes, subject to specified exceptions, at a price equal to 100% of the principal amount of the notes plus accrued and unpaid interest, if any.

On or after July 20, 2014, we may redeem all or a portion of the notes for cash at a price equal to 100% of the principal amount being redeemed plus accrued and unpaid interest, if any.

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### ***Redeemable Preferred Stock***

As part of the Separation, one of our subsidiaries sold 200,000 shares of Series A (voting) mandatorily Redeemable Preferred Stock to third-party investors and issued 200,000 shares of Series B (non-voting) mandatorily Redeemable Preferred Stock to Clear Channel which then sold this Series B Redeemable Preferred Stock to third-party investors. We did not receive any of the proceeds from the sale of the Series B Redeemable Preferred Stock sold by Clear Channel. As of September 30, 2008, we had 200,000 shares of Series A Redeemable Preferred Stock and 200,000 shares of Series B Redeemable Preferred Stock outstanding (collectively, the Preferred Stock) with an aggregate liquidation preference of \$40 million. The Preferred Stock accrues dividends at 13% per annum and is mandatorily redeemable on December 21, 2011, although we are obligated to make an offer to repurchase the Preferred Stock at 101% of the liquidation preference in the event of a change of control.

The Amended and Restated Certificate of Incorporation governing the Redeemable Preferred Stock (the Amended Preferred Stock Certificate) contains a number of covenants that, among other things, restrict our ability to incur additional debt, issue certain equity securities, create liens, merge or consolidate, modify the nature of our business, make certain investments and acquisitions, transfer and sell material assets, enter into sale-leaseback transactions, enter into swap agreements, pay dividends and make distributions, and enter into agreements with affiliates. If we default under any of these covenants, we will have to pay additional dividends.

### ***Guarantees of Third-Party Obligations***

As of September 30, 2008, we guaranteed the debt of third parties of approximately \$2.8 million, primarily related to maximum credit limits on employee and tour related credit cards and guarantees of bank lines of credit of a nonconsolidated affiliate and a third-party promoter.

During 2006, in connection with our acquisition of Historic Theatre Group, we guaranteed obligations related to a lease agreement. In the event of default, we could be liable for obligations which have future lease payments (undiscounted) of approximately \$30.9 million through the end of 2035. The venues under the lease agreement were included in the sale of our North American theatrical business. We entered into an Assumption Agreement with the buyer in connection with the sale, under which the buyer is assuming our obligations under the guaranty.

### ***Disposal of Assets***

During the nine months ended September 30, 2008, we received \$194.3 million of proceeds primarily related to the sale of our North America theatrical business and the sale of our motor sports business. These proceeds are presented net of any cash included in businesses sold.

### ***Debt Covenants***

The significant covenants on our multi-currency senior secured credit facility relate to total leverage, senior leverage, interest coverage and capital expenditures contained and defined in the credit agreement. The adjusted leverage ratio covenant requires us to maintain a ratio of consolidated total indebtedness minus unrestricted cash and cash equivalents, up to a maximum of \$150 million (all as defined by the credit agreement), to consolidated earnings-before-interest-taxes-depreciation-and-amortization (as defined by the credit agreement, "Adjusted Consolidated EBITDA") of less than 4.0 times, provided that aggregated subordinated indebtedness and permitted holding company indebtedness (as defined by the credit agreement) is less than \$25 million or 6.0 times if greater than \$25 million. The senior leverage covenant, which is only applicable provided aggregate subordinated indebtedness and permitted holding company indebtedness is greater than \$25 million, requires us to maintain a ratio of adjusted consolidated senior indebtedness minus unrestricted cash and cash equivalents to Adjusted Consolidated EBITDA of less than 4.0 times. The interest coverage covenant requires us to maintain a minimum ratio of Adjusted Consolidated EBITDA to cash interest expense (as defined by the credit agreement) of 2.5 times. The capital expenditure covenant limits annual capital expenditures (as defined by the credit agreement) to \$110 million or less, subject to a carryover provision. In the event that we do not meet these covenants, we are considered to be in default on the credit facilities at which time the credit facilities may become immediately due. This credit facility contains a cross default provision that would be triggered if we were to default on any other indebtedness greater than \$10 million.

In July 2008, we amended our existing amended and restated senior secured credit agreement and the Amended Preferred Stock Certificate effective June 30, 2008 to, among other things, (i) increase the amount of allowable investments by the amount of net proceeds received from issuances of equity and convertible debt, (ii) permit investment in unrestricted subsidiaries in an amount of up to 50% of the amount of net proceeds received from issuances of equity and convertible debt and (iii) revise the definition of certain items in the agreement.

The Amended Preferred Stock Certificate contains covenants similar to the senior secured credit facility and also contains a covenant that requires us to pay additional dividends ranging from 2% to 7% in the event the ratio of consolidated total indebtedness minus unrestricted cash and cash equivalents, up to a maximum of \$150 million (all as defined by the Amended Preferred Stock Certificate), to consolidated earnings-before-interest-taxes-depreciation-and-amortization (as defined by the Amended Preferred Stock Certificate) exceeds 4.0 times.

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Some of our other subsidiary indebtedness includes restrictions on acquisitions and prohibits payment of ordinary dividends. They also have financial covenants including minimum consolidated EBITDA to consolidated net interest payable, minimum consolidated cash flow to consolidated debt service, and maximum consolidated debt to consolidated EBITDA, all as defined in the applicable debt agreements.

At September 30, 2008, we were in compliance with all debt and Redeemable Preferred Stock covenants. We expect to remain in compliance with all of these covenants throughout 2008.

### Uses of Cash

#### *Acquisitions*

When we make acquisitions, especially of entities where we buy a controlling interest only, the acquired entity may have cash on its balance sheet at the time of acquisition. All amounts discussed in this section are presented net of any cash acquired. During the nine months ended September 30, 2008, we used \$36.0 million in cash for acquisitions in our various segments primarily related to the acquisition of the operating company that manages and holds the lease for the Heineken Music Hall located in Amsterdam, the acquisition of a 51% interest in Live Nation – Haymon Ventures, LLC in North America, and the acquisition of the remaining interests we did not already own in Luger and Moondog, both music-related companies in Sweden.

#### *Capital Expenditures*

Venue operations is a capital intensive business, requiring consistent investment in our existing venues in order to address audience and artist expectations, technological industry advances and various federal, state and/or local regulations.

We categorize capital outlays into maintenance capital expenditures and revenue generating capital expenditures. Maintenance capital expenditures are associated with the renewal and improvement of existing venues and, to a lesser extent, capital expenditures related to information systems, web development and administrative offices. Revenue generating capital expenditures relate to either the construction of new venues or major renovations to existing buildings, buildings that are being added to our venue network or other expenditures that will create new or enhanced revenue streams. Capital expenditures typically increase during periods when venues are not in operation.

Our capital expenditures consisted of the following:

<u>(in thousands)</u>	<u>Nine Months Ended</u> <u>September 30,</u>	
	<u>2008</u>	<u>2007</u>
Maintenance capital expenditures	\$ 21,657	\$30,695
Revenue generating capital expenditures	116,893	36,250
Total capital expenditures	<u>\$138,550</u>	<u>\$66,945</u>

Revenue generating capital expenditures during the first nine months of 2008 increased significantly from the same period in the prior year primarily due to the development and renovation of various venues, including The Point in Ireland, *House of Blues* in Houston and Boston, the Hollywood Palladium, AMG venue expansions in Sheffield and Leeds, as well as for our ticketing roll-out.

We expect maintenance capital expenditures to be approximately \$30.0 million for the full year 2008 and total revenue generating capital expenditures to be approximately \$155.0 million for the full year 2008.

### Summary

Our primary short-term liquidity needs are to fund general working capital requirements and capital expenditures while our long-term liquidity needs are primarily acquisition related. Our primary sources of funds for our short-term liquidity needs will be cash flows from operations and borrowings under our senior secured credit facility, while our long-term sources of funds will be from cash from operations, long-term bank borrowings and other debt or equity financing.

### Cash Flows

<u>(in thousands)</u>	<u>Nine Months Ended</u> <u>September 30,</u>	
	<u>2008</u>	<u>2007</u>
Cash provided by (used in):		
Operating activities	\$(43,964)	\$ 34,362
Investing activities	\$(21,422)	\$(59,838)
Financing activities	\$(48,362)	\$ 63,011

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### *Operating Activities*

Cash used in operations was \$44.0 million for the nine months ended September 30, 2008, compared to cash provided by operations of \$34.4 million for the nine months ended September 30, 2007. The \$78.4 million increase in cash used in operations resulted primarily from advances related to entering into certain artist rights agreements and changes in the event-related operating accounts which are dependent on the timing, size, and number of events for upcoming periods. The accounts primarily affected by this event timing was deferred revenue which increased less than last year and resulted in an increase in cash used in operating activities, partially offset by accrued event related expenses which increased more than last year and resulted in a decrease in cash used in operating activities.

### *Investing Activities*

Cash used in investing activities was \$21.4 million for the nine months ended September 30, 2008, compared to \$59.8 million for the nine months ended September 30, 2007. The \$38.4 million decrease in cash used in investing activities is primarily due to higher proceeds received in 2008 from the sale of our motor sports and North American theatrical businesses as compared to proceeds received in 2007 from the sales of an arena/race track in Leicestershire, England, an amphitheater in Nashville, an office building in San Francisco, two mid-sized and seven small-sized music venues in London and our production of *Phantom: The Las Vegas Spectacular*. Additionally, we used more cash in the prior year related to our acquisitions of AMG and HOB Canada. Partially offsetting these decreases in cash used in investing activities, were higher capital expenditures and acquisitions of certain artist rights in 2008.

### *Financing Activities*

Cash used in financing activities was \$48.4 million for the nine months ended September 30, 2008, compared to cash provided by financing activities of \$63.0 million for the nine months ended September 30, 2007. The \$111.4 million increase in cash used in financing activities was primarily a result of reduced borrowings in 2008 as compared to the same period of the prior year. Included in 2007 was the issuance of our 2.875% convertible senior notes, while 2008 includes a net paydown on the revolving credit facility of \$15.0 million along with a \$26.7 million paydown on our term loans from the sale proceeds of the motor sports business.

### **Seasonality**

Our North American Music and International Music segments typically experience higher operating income in the second and third quarters as our outdoor venues and international festivals are primarily used or occur during May through September. Our United Kingdom theater venue operations typically experience higher operating income during the first and fourth quarters of the calendar year as the theatrical venues have their highest rental usage from September through March. In addition, the timing of tours of top-grossing acts in our Artist Nation segment can impact comparability of quarterly results year over year, although annual results may or may not be impacted.

Cash flows from our North American Music and International Music segments typically have a slightly different seasonality as payments are often made for artist performance fees and production costs in advance of the date the related event tickets go on sale. These artist fees and production costs are expensed when the event occurs. Once tickets for an event go on sale, we begin to receive payments from ticket sales, still in advance of when the event occurs. We record these ticket sales as revenue when the event occurs.

### **Market Risk**

We are exposed to market risks arising from changes in market rates and prices, including movements in foreign currency exchange rates and interest rates.

### *Foreign Currency Risk*

We have operations in countries throughout the world. The financial results of our foreign operations are measured in their local currencies. As a result, our financial results could be affected by factors such as changes in foreign currency exchange rates or weak economic conditions in the foreign markets in which we have operations. Currently, we do not operate in any hyper-inflationary countries. Our foreign operations reported operating income of \$62.9 million for the nine months ended September 30, 2008. We estimate that a 10% change in the value of the United States dollar relative to foreign currencies would change our operating income for the nine months ended September 30, 2008 by \$6.3 million. As of September 30, 2008, our primary foreign exchange exposure included the Euro, British Pound, Swedish Kroner and Canadian Dollar. This analysis does not consider the implication such currency fluctuations could have on the overall economic conditions of the United States or other foreign countries in which we operate or on the results of operations of our foreign entities.

Occasionally, we will use forward currency contracts to reduce our exposure to foreign currency risk. The principal objective of such contracts is to minimize the risks and/or costs associated with artist fee commitments. At September 30, 2008, we had forward currency contracts outstanding with a notional amount of \$21.4 million.

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### **Interest Rate Risk**

Our market risk is also affected by changes in interest rates. We had \$799.3 million total debt outstanding as of September 30, 2008. Of the total amount, taking into consideration existing interest rate hedges, we have \$631.9 million of fixed-rate debt and \$167.4 million of floating-rate debt.

Based on the amount of our floating-rate debt as of September 30, 2008, each 25 basis point increase or decrease in interest rates would increase or decrease our annual interest expense and cash outlay by approximately \$0.4 million. This potential increase or decrease is based on the simplified assumption that the level of floating-rate debt remains constant with an immediate across-the-board increase or decrease in the interest rate as of September 30, 2008 with no subsequent change in rates for the remainder of the period.

At September 30, 2008, we have four interest rate swap agreements that are designated as cash flow hedges for accounting purposes, which include swaps and combinations of interest rate caps and floors, with a total notional amount of \$312.5 million, to effectively convert a portion of our floating-rate debt to a fixed-rate basis. Two of these agreements expire in March 2009 and one in September 30, 2010. One of these swap agreements has a forward swap with a notional amount of \$162.5 million effective March 31, 2009 which expires March 31, 2011. The fair value of these agreements at September 30, 2008 was a net asset of less than \$0.1 million. These agreements were put in place to eliminate or reduce the variability of a portion of the cash flows from the interest payments related to our senior secured credit facility. The terms of our senior secured credit facility required that an interest rate swap be put in place for at least 50% of the original \$325 million senior term loan and for at least three years.

As part of the acquisition of AMG, we have interest rate swap agreements with a \$22.5 million aggregate notional amount that effectively converts a portion of our floating-rate debt to a fixed-rate basis. These agreements expire in January 2015. These interest rate swap agreements have not been designated as hedging instruments. Therefore, any change in fair value is recorded in earnings during the period of the change.

In July 2007, we issued \$220.0 million of 2.875% convertible senior notes due 2027. Beginning with the period commencing on July 20, 2014 and ending on January 14, 2015, and for each of the interest periods commencing thereafter, we will pay contingent interest on the notes if the average trading price of the notes during the five consecutive trading days ending on the second trading day immediately preceding the first day of the applicable interest period equals or exceeds 120% of the principal amount of the notes. The contingent interest payable per note will equal 0.25% per year of the average trading price of such note during the applicable five trading-day reference period, payable in arrears.

### **Ratio of Earnings to Fixed Charges**

The ratio of earnings to fixed charges is as follows:

<u>Nine Months Ended September 30,</u>		<u>Year Ended December 31,</u>			
<u>2008</u>	<u>2007</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>
0.96	1.51	1.28	0.96	0.07	1.18

The ratio of earnings to fixed charges was computed on a total enterprise basis. Earnings represent income from continuing operations before income taxes less equity in undistributed net income (loss) of nonconsolidated affiliates plus fixed charges. Ratios above for periods prior to 2008 have not been restated to remove the impact of discontinued operations. Fixed charges represent interest, amortization of debt discount and expense, and the estimated interest portion of rental charges. Rental charges exclude variable rent expense for events in third-party venues.

### **Stock-Based Compensation**

As of September 30, 2008, there was \$29.5 million of total unrecognized compensation cost related to nonvested stock-based compensation arrangements for stock options and restricted stock awards. This cost is expected to be recognized over the next four years.

### **Recent Accounting Pronouncements**

#### ***Recently Adopted Pronouncements***

In September 2006, the FASB issued Statement of Financial Accounting Standards No. 157, *Fair Value Measurements*, or Statement 157. Statement 157 provides guidance for using fair value to measure assets and liabilities and also responds to investors' requests for expanded information about the extent to which companies measure assets and liabilities at fair value, the information used to measure fair value and the effect of fair value measurements on earnings. Statement 157 applies whenever other standards require (or permit) assets or liabilities to be measured at fair value. Statement 157 does not expand the use of fair value in any new circumstances. We adopted Statement 157 on January 1, 2008 for all financial assets and liabilities recognized or disclosed at fair value in our consolidated financial statements on a recurring basis (at least annually). In February 2008, the FASB issued FASB Staff Position No. 157-2, *Effective Date of FASB Statement No. 157*, which delays the effective date for nonfinancial assets and nonfinancial liabilities, except for items that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). The effective date for these items was delayed to fiscal years beginning after November 15, 2008. We are currently

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assessing the impact on our nonfinancial assets and liabilities that the adoption of Statement 157 will have on our financial position and results of operations.

In February 2007, the FASB issued Statement of Financial Accounting Standards No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities*, or Statement 159. Statement 159 allows entities to voluntarily choose, at specified election dates, to measure many financial assets and financial liabilities (as well as certain nonfinancial instruments that are similar to financial instruments) at fair value (the “fair value option”). The election is made on an instrument-by-instrument basis and is irrevocable. If the fair value option is elected for an instrument, Statement 159 specifies that all subsequent changes in fair value for that instrument will be reported in earnings. We adopted Statement 159 on January 1, 2008 and determined that we would not elect to measure any of our eligible financial instruments at fair value under the provisions of this standard.

### **Recently Issued Pronouncements**

In December 2007, the FASB issued Statement of Financial Accounting Standards No. 141(R), *Business Combinations*, or Statement 141(R). Statement 141(R) establishes revised principles and requirements for the recognition and measurement of assets and liabilities in a business combination. Statement 141(R) requires (i) recognition of 100% of the fair values of acquired assets, including goodwill, and assumed liabilities upon obtaining control, (ii) contingent consideration to be recorded at fair value at acquisition date, (iii) transaction costs to be expensed as incurred, (iv) pre-acquisition contingencies to be accounted for at acquisition date at fair value and (v) costs of a plan to exit an activity or terminate or relocate employees to be accounted for as post-combination costs. Statement 141(R) is effective for fiscal years beginning after December 15, 2008. We will adopt Statement 141(R) on January 1, 2009 and apply the requirements of Statement 141(R) for business combinations that occur after the date of adoption.

In December 2007, the FASB issued Statement of Financial Accounting Standards No. 160, *Noncontrolling Interests in Consolidated Financial Statements—an amendment of ARB No. 51*, or Statement 160. Statement 160 clarifies the classification of noncontrolling interests in consolidated statements of financial position and the accounting for and reporting of transactions between the reporting entity and holders of such noncontrolling interests. Statement 160 is effective for fiscal years beginning after December 15, 2008. The provisions of Statement 160 are applied prospectively with the exception of reclassifying noncontrolling interests to equity and recasting consolidated net income (loss) to include net income (loss) attributable to both the controlling and noncontrolling interests, which are required to be adopted retrospectively. We will adopt Statement 160 on January 1, 2009 and are currently assessing the impact adoption will have on our financial position and results of operations.

In March 2008, the FASB issued Statement of Financial Accounting Standards No. 161, *Disclosures about Derivative Instruments and Hedging Activities—an amendment of FASB Statement No. 133*, or Statement 161. Statement 161 requires enhanced disclosures about (i) how and why an entity uses derivative instruments, (ii) how derivative instruments and related hedged items are accounted for under FASB Statement No. 133, *Accounting for Derivative Instruments and Hedging Activities*, or Statement 133, and its related interpretations and (iii) how derivative instruments and related hedged items affect an entity’s financial position, financial performance and cash flows. Statement 161 is effective for fiscal years and interim periods beginning after November 15, 2008. We will adopt Statement 161 in the first quarter of 2009.

In May 2008, the FASB issued FASB Staff Position, or FSP, APB 14-1, *Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement)*. This FSP will change the accounting for certain convertible debt instruments, including our 2.875% convertible senior notes. Under the new rules for convertible debt instruments that may be settled entirely or partially in cash upon conversion, an entity should separately account for the liability and equity components of the instrument in a manner that reflects the issuer’s economic interest cost. The effect of the new rules for our notes is that the equity component will be included in the additional paid-in capital section of shareholders’ equity on the our balance sheet and the value of the equity component will be treated as an original issue discount for purposes of accounting for the debt component of the notes. Higher interest expense will result by recognizing the accretion of the discounted carrying value of the notes to their face amount as interest expense over the expected term of the notes using an effective interest rate method of amortization. This FSP is effective for fiscal years and interim periods beginning after December 15, 2008 and is required to be applied retrospectively to all periods presented. We are currently evaluating the new rules and their impact on our current accounting for our notes and expect to recognize additional interest expense starting in 2009 due to the interest expense accretion associated with the notes and to report greater than previously reported interest expense due to retrospective application.

### **Critical Accounting Policies and Estimates**

The preparation of our financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates, judgments and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements and the reported amount of expenses during the reporting period. On an ongoing basis, we evaluate our estimates that are based on historical experience and on various other assumptions that are believed to be reasonable under the circumstances. The result of these evaluations forms the basis for making judgments about the carrying values of assets and liabilities and the reported amount of revenue and expenses that are not readily apparent from other sources. Because future events and their effects cannot be determined with certainty, actual results could differ from our assumptions and estimates, and such difference could be material.

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Management believes that the accounting estimates involved in the allowance for doubtful accounts, impairment of long-lived assets and goodwill, revenue recognition, litigation accruals, stock-based compensation and accounting for income taxes are the most critical to aid in fully understanding and evaluating our reported financial results, and they require management's most difficult, subjective or complex judgments, resulting from the need to make estimates about the effect of matters that are inherently uncertain. These critical accounting estimates, the judgments and assumptions and the effect if actual results differ from these assumptions are described in Part II, Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations of our Annual Report on Form 10-K filed with the SEC on February 29, 2008. There have been no changes to our critical accounting policies during the nine months ended September 30, 2008.

### **Item 3. Quantitative and Qualitative Disclosures About Market Risk**

Required information is within Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations — Market Risk.

### **Item 4. Controls and Procedures**

#### **Evaluation of Disclosure Controls and Procedures**

We have established disclosure controls and procedures to ensure that material information relating to our company, including our consolidated subsidiaries, is made known to the officers who certify our financial reports and to other members of senior management and our board of directors.

Based on their evaluation as of September 30, 2008, our Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended) are effective to ensure that (1) the information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and (2) the information we are required to disclose in such reports is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls and procedures or internal controls will prevent all possible error and fraud. Our disclosure controls and procedures are, however, designed to provide reasonable assurance of achieving their objectives, and our Chief Executive Officer and Chief Financial Officer have concluded that our financial controls and procedures are effective at that reasonable assurance level.

#### **Changes in Internal Control Over Financial Reporting**

There has been no change in our internal control over financial reporting during the period covered by this report that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

## PART II — OTHER INFORMATION

### Item 1. Legal Proceedings

We were a defendant in a lawsuit filed by Malinda Heerwagen on June 13, 2002, in the U.S. District Court for the Southern District of New York. The plaintiff, on behalf of a putative class consisting of certain concert ticket purchasers, alleged that anti-competitive practices for concert promotion services by us nationwide caused artificially high ticket prices. On August 11, 2003, the Court ruled in our favor, denying the plaintiff's class certification motion. The plaintiff appealed this decision to the U.S. Court of Appeals for the Second Circuit. On January 10, 2006, the U.S. Court of Appeals for the Second Circuit affirmed the ruling in our favor by the District Court. On January 17, 2006, the plaintiff filed a Notice of Voluntary Dismissal of her action in the Southern District of New York.

We are a defendant in twenty-two putative class actions filed by different named plaintiffs in various U.S. District Courts throughout the country. The claims made in these actions are substantially similar to the claims made in the *Heerwagen* action discussed above, except that the geographic markets alleged are regional, statewide or more local in nature, and the members of the putative classes are limited to individuals who purchased tickets to concerts in the relevant geographic markets alleged. The plaintiffs seek unspecified compensatory, punitive and treble damages, declaratory and injunctive relief and costs of suit, including attorneys' fees. We have filed our answers in some of these actions, and we have denied liability. On December 5, 2005, we filed a motion before the Judicial Panel on Multidistrict Litigation to transfer these actions and any similar ones commenced in the future to a single federal district court for coordinated pre-trial proceedings. On April 17, 2006, the Panel granted our motion and ordered the consolidation and transfer of the actions to the U.S. District Court for the Central District of California. On June 4, 2007, the Court conducted a hearing on the plaintiffs' motion for class certification. On June 25, 2007, the Court entered an order to stay all proceedings in the case pending the Court's ruling on the plaintiffs' motion for class certification. On October 22, 2007, the Court ruled in the plaintiffs' favor, granting the plaintiffs' motion for class certification and certifying a class in the Chicago, New England, New York/New Jersey, Colorado and Southern California regional markets. On November 5, 2007, we filed a Petition for Permission to Appeal from Order Granting Class Certification with the U.S. District Court of Appeals for the Ninth Circuit. At a status conference conducted on November 5, 2007, the U.S. District Court extended its stay of all proceedings pending further developments in the U.S. Court of Appeals for the Ninth Circuit. On February 15, 2008, the U.S. Court of Appeals for the Ninth Circuit issued an order denying our Petition for Permission to Appeal. On February 20, 2008, we filed a Motion with the U.S. District Court for Reconsideration of its October 22, 2007 order granting the plaintiffs' motion for class certification. On March 6, 2008, the U.S. District Court entered an order approving a stipulated continuance and stay of all proceedings pending further developments in the U.S. Court of Appeals for the Ninth Circuit. We intend to vigorously defend all claims in all of the actions.

From time to time, we are involved in other legal proceedings arising in the ordinary course of our business, including proceedings and claims based upon violations of antitrust laws and tortious interference, which could cause us to incur significant expenses. We also have been the subject of personal injury and wrongful death claims relating to accidents at our venues in connection with our operations. As required, we accrue our estimate of the probable settlement or other losses for the resolution of any outstanding claims. These estimates have been developed in consultation with counsel and are based upon an analysis of potential results, assuming a combination of litigation and settlement strategies. It is possible, however, that future results of operations for any particular period could be materially affected by changes in our assumptions or the effectiveness of our strategies related to these proceedings. In addition, under our agreements with Clear Channel, we have assumed and will indemnify Clear Channel for liabilities related to our business for which they are a party in the defense.

### Item 1A. Risk Factors

While we attempt to identify, manage and mitigate risks and uncertainties associated with our business to the extent practical under the circumstances, some level of risk and uncertainty will always be present. Item 1A of our 2007 Annual Report on Form 10-K describes some of the risks and uncertainties associated with our business which have the potential to materially affect our business, financial condition or results of operations. We do not believe that there have been any material changes to the risk factors previously disclosed in our 2007 Annual Report on Form 10-K.

### Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

None.

### Item 3. Defaults Upon Senior Securities

None.

### Item 4. Submission of Matters to a Vote of Security Holders

None.

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[Index to Financial Statements](#)

**Item 5. Other Information**

None.

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## [Index to Financial Statements](#)

### **Item 6. Exhibits**

<u>Exhibit Number</u>	<u>Description</u>
3.1	Amended and Restated Bylaws of Live Nation, Inc. dated September 9, 2008 (incorporated by reference to Exhibit 3.1 of the Company's Current Report on Form 8-K filed September 15, 2008).
10.1*	Stock Purchase Agreement, dated September 9, 2008, by and among Feld Entertainment, Inc., Feld Acquisition Corp., Live Nation Worldwide, Inc., and Live Nation Motor Sports, Inc.
31.1*	Certification of Chief Executive Officer
31.2*	Certification of Chief Financial Officer
32.1**	Section 1350 Certification of Chief Executive Officer
32.2**	Section 1350 Certification of Chief Financial Officer

\* Filed herewith.

\*\* Furnished herewith.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on November 7, 2008.

LIVE NATION, INC.

By: /s/ Brian Capo  
Brian Capo  
Chief Accounting Officer

**EXHIBIT INDEX**

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\* Filed herewith.

\*\* Furnished herewith.

STOCK PURCHASE AGREEMENT

by

and

among

FELD ENTERTAINMENT, INC.,

FELD ACQUISITION CORP.,

LIVE NATION WORLDWIDE, INC.

and

LIVE NATION MOTOR SPORTS, INC.

Dated as of September 9, 2008

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Exhibits

Exhibit A	Form of Transition Services Agreement
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## STOCK PURCHASE AGREEMENT

THIS STOCK PURCHASE AGREEMENT (this "Agreement") is made as of September 9, 2008, by and among Feld Entertainment, Inc., a Delaware corporation ("Parent"), Feld Acquisition Corp., a Texas corporation and wholly-owned subsidiary of Parent ("Buyer" and together with Parent, the "Buyer Parties"), Live Nation Motor Sports, Inc., a Texas corporation (the "Company"), and Live Nation Worldwide, Inc., a Delaware corporation ("Seller"). Capitalized terms used and not otherwise defined herein have the meanings set forth in Article XI.

WHEREAS, Seller owns all of the issued and outstanding capital stock of the Company as of the date of this Agreement, which consists of 1,000 shares (the "Shares") of common stock, par value \$0.01 per share ("Common Stock"); and

WHEREAS, upon the terms and subject to the conditions set forth herein, Buyer desires to acquire the Shares from Seller, and Seller desires to sell the Shares to Buyer.

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

### ARTICLE I.

#### PURCHASE AND SALE

##### 1.01 Delivery of Estimates: Calculation of Purchase Price.

(a) On or prior to the Closing Date, Seller has delivered to Buyer a certificate (the "Closing Payment Certificate"), setting forth (i) its good faith estimate of Cash On Hand (such estimate is referred to as the "Estimated Cash On Hand"), (ii) its good faith estimate of the Net Working Capital Amount (such estimate is referred to as the "Estimated Net Working Capital Amount"), (iii) the Indebtedness Payoff Amount and (iv) the amount of Transaction Expenses.

(b) For purposes hereof, the "Purchase Price" means an amount equal to (A) \$175,000,000 ("Enterprise Value"), plus (B) the Estimated Cash On Hand, minus (C) the Indebtedness Payoff Amount, plus (D) the amount, if any, by which the Estimated Net Working Capital Amount exceeds the Target Net Working Capital Amount, minus (E) the amount, if any, by which the Target Net Working Capital Amount exceeds the Estimated Net Working Capital Amount, minus (F) the amount of Transaction Expenses. The Purchase Price shall be further increased by any Earn-Out Amounts paid to Seller pursuant to Section 1.05 hereof.

1.02 Purchase and Sale of Shares. At the Closing, upon the terms and subject to the conditions set forth in this Agreement, Seller shall sell, assign, transfer and convey the Shares to Buyer, and Buyer shall purchase and acquire the Shares from Seller, free and clear of all Liens other than restrictions on transfer arising under applicable securities Laws. The purchase price to be paid by Buyer at the Closing to Seller for the Shares shall consist of a payment by wire

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transfer of immediately available funds to the account designated by Seller on or prior to the Closing Date, of an amount of cash equal to the Purchase Price.

1.03 The Closing.

(a) The closing of the transactions contemplated by this Agreement (the “Closing”) shall take place at the offices of Fulbright & Jaworski L.L.P. located at 666 Fifth Avenue, New York, NY promptly following the parties’ entrance into this Agreement. The date on which the Closing shall occur is referred to herein as the “Closing Date.”

1.04 Final Cash On Hand and Net Working Capital Calculations.

(a) Delivery of Closing Statement. As promptly as possible, but in any event within 75 days after the Closing Date, Parent will deliver to Seller a consolidated balance sheet of the Company as of the Closing Date, which shall be prepared in accordance with GAAP and in a manner consistent with the accounting methodologies and principles set forth on Schedule 1.04 (provided that (i) in the event of a conflict between GAAP and consistency with Schedule 1.04, consistency therewith shall control and (ii) subject to the Buyer Parties’ compliance with Section 1.04(e), Parent may reserve all or any portion of any Designated Accounts Receivable to the extent such amount remains uncollected by the Company or its Subsidiaries as of the date of Parent’s delivery of the Closing Statement), and a reasonably detailed statement (the “Closing Statement”) setting forth Parent’s calculations of Cash on Hand and the Net Working Capital Amount.

(b) Determination. After delivery of the Closing Statement, Seller and its accountants shall be permitted reasonable access to review the Company’s and its Subsidiaries’ books and records and work papers (including the work papers of Parent’s and the Company’s accountants) related to the preparation of the Closing Statement. Seller and its accountants may make inquiries of the Buyer Parties, the Company and their respective accountants and employees regarding questions concerning or disagreements with the Closing Statement arising in the course of their review thereof, and Parent shall use its, and shall cause the Company and its Subsidiaries to use their, commercially reasonable efforts to cause any such accountants and employees to cooperate with and respond to such inquiries. If Seller has any objections to the Closing Statement, Seller shall deliver to Parent a statement setting forth its objections thereto (an “Objections Statement”). If an Objections Statement is not delivered to Parent within 45 days after delivery of the Closing Statement, the Closing Statement shall be final, binding and non-appealable by the parties hereto. Seller and Parent shall negotiate in good faith to resolve any objections set forth in the Objections Statement (and all such discussions related thereto shall, unless otherwise agreed by Parent and Seller, be governed by Rule 408 of the Federal Rules of Evidence (and any applicable similar state rule)), but if they do not reach a final resolution within 15 days after the delivery of the Objections Statement, Seller and Parent shall submit such dispute to KPMG Peat Marwick LLP or, in the event of any actual or perceived conflict of interest between KPMG Peat Marwick LLP, on the one hand, and Parent or Seller (as the case may be), on the other hand, to any other nationally recognized independent accounting firm mutually acceptable to Parent and Seller (the “Independent Auditor”). If any dispute is submitted to the Independent Auditor, each party will furnish to the Independent Auditor such work papers and other documents and information relating to the disputed issues as the

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Independent Auditor may request and are available to that party or its independent accountants (including information of the Company and its Subsidiaries) and each party shall be afforded the opportunity to present the Independent Auditor material relating to the determination and to discuss the determination with the Independent Auditor. The Independent Auditor shall act as an auditor and not as an arbitrator and shall resolve matters in dispute and adjust and establish any disputed adjustment of the Purchase Price amount to reflect such resolution. It is the intent of Parent and Seller that the process set forth in this Section 1.04 and the activities of the Independent Auditor in connection herewith are not intended to be and, in fact, are not arbitration and that no formal arbitration rules shall be followed (including rules with respect to procedures and discovery). Seller and Parent shall use their commercially reasonable efforts to cause the Independent Auditor to resolve all such disagreements as promptly as practicable. The resolution of the dispute by the Independent Auditor shall be final, binding and non-appealable on the parties hereto. The Closing Statement shall be modified if necessary to reflect such determination. The fees and expenses of the Independent Auditor shall be allocated for payment by Parent, on the one hand, and/or Seller, on the other hand, based upon the percentage which the portion of the contested amount not awarded to each party bears to the amount actually contested by such party, as determined by the Independent Auditor.

(c) Adjustments.

(i) Cash On Hand Adjustment. If the Cash on Hand as finally determined pursuant to Section 1.04(b) above is greater than the Estimated Cash on Hand, Buyer shall pay to Seller the excess in accordance with Section 1.04(d). If the Cash on Hand as finally determined pursuant to Section 1.04(b) above is less than the Estimated Cash on Hand, Seller shall pay such shortfall to Buyer in accordance with Section 1.04(d).

(ii) Net Working Capital Adjustment. If the Net Working Capital Amount as finally determined pursuant to Section 1.04(b) above is greater than the Estimated Net Working Capital Amount, Buyer shall pay to Seller such excess in accordance with Section 1.04(d). If the Net Working Capital Amount as finally determined pursuant to Section 1.04(b) above is less than the Estimated Net Working Capital Amount, Seller shall pay such shortfall to Buyer in accordance with Section 1.04(d).

(d) Final Adjustment Amount. Without duplication, all amounts owed pursuant to Section 1.04(c)(i) and (ii) shall be aggregated, and the net amount (if any) owed by Buyer to Seller, on the one hand, or Seller to Buyer, on the other hand, is referred to as the "Final Adjustment Amount." The Final Adjustment Amount shall be calculated as an adjustment to the Purchase Price and the Purchase Price, as so adjusted, is referred to herein as the "Final Purchase Price." Payment of the Final Adjustment Amount shall be paid by wire transfer of immediately available funds to an account designated by Parent or Seller (as the case may be) within five Business Days after the date of final determination.

(e) Treatment of Designated Accounts Receivable. In the event that a reserve for all or any portion of any Designated Accounts Receivable has been established by Parent pursuant to Section 1.04(a) for purposes of the calculation of Net Working Capital Amount, as

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finally determined pursuant to Section 1.04(b), Seller will acquire hereunder, and thereafter Seller shall have the right and authority to collect for Seller's account, that portion of any Designated Accounts Receivable corresponding to such reserve. In furtherance of the foregoing:

(i) from and after the Closing Date, Parent shall not, and shall cause its Affiliates (including the Company and its Subsidiaries) not to, (A) assign, transfer or convey any Designated Accounts Receivable, (B) settle or compromise any claim relating to, or other right to the recovery of, any Designated Accounts Receivable, or (C) enter into any material discussions with the counterparty to such Designated Accounts Receivable regarding the collection thereof, or any other amounts owed or owing by such Person to the Company or any of its Subsidiaries, without the prior written consent of the Seller;

(ii) contemporaneously with the payment of the Final Adjustment Amount, Parent shall, and shall cause the Company and its Subsidiaries to, assign, transfer and convey to Seller all of the Company's and its Subsidiaries' rights, title and interest in and to any Designated Accounts Receivable that remains uncollected as of the date of Parent's delivery of the Closing Statement and notify the counterparty(ies) to any such Designated Accounts Receivable of the assignment thereof, and

(iii) Parent shall, and shall cause Company and its Subsidiaries to, (A) pay to the Seller within three Business Days after receipt thereof any payments received from the counterparty in respect of any Designated Accounts Receivable that remains uncollected as of the date of Parent's delivery of the Closing Statement in order to ensure that the parties have given effect to the assignment to Seller of such Designated Accounts Receivable and (B) reasonably cooperate with Seller in connection with the collection of any such Designated Accounts Receivable, including, without limitation, by making employees, information and documentation relating to such Designated Accounts Receivable available to Seller as and to the same extent as such employees, information and documentation had or would have been made available to Seller prior to Closing.

#### 1.05 Calculation of Earn-Out Amounts.

(a) Except as otherwise provided in this Section 1.05, no later than 120 days following the last day of the calendar year ending December 31, 2009 and no later than 90 days following the last day of each successive calendar year (each such calendar year, an "Earn-Out Year") until the earlier of (x) 90 days following the last day of the calendar year ending December 31, 2013 or (y) such time as Seller has been paid the Maximum Earn-Out Amount pursuant to this Section 1.05 (the "Earn-Out Expiration Date"), Parent shall cause the Company to prepare and deliver to Seller a written statement (the "Earn-Out Statement"), setting forth Parent's good faith calculations of Sponsorship Net Revenue for such Earn-Out Year and the Earn-Out Amount payable to Seller with respect thereto, which calculations shall be certified by Parent's chief financial officer as true, correct and complete, and accompanied by a detailed summary of all sponsorship revenues and commissions taken into account in the calculation of Sponsorship Net Revenue for such Earn-Out Year. During the 45-day period following Seller's receipt of each Earn-Out Statement, Parent shall, and shall cause the Company and its Subsidiaries to, provide reasonable access to the Company's and its Subsidiaries' books and

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records and work papers relating to the calculation of Sponsorship Net Revenues (including the work papers of Parent's accountants and copies of all relevant contracts and agreements) related to the preparation of the Earn-Out Statement, and any other documents that may be reasonably requested by Seller or its authorized representatives to determine whether the calculation of Sponsorship Net Revenue was made in accordance with this Section 1.05. The Earn-Out Statement shall become final and binding upon the parties on the 45<sup>th</sup> day following Seller's receipt thereof, unless Seller gives written notice setting forth its disagreement with the Earn-Out Statement (an "Earn-Out Notice of Disagreement") to Parent prior to such date. If an Earn-Out Notice of Disagreement is received by Parent in a timely manner, then the Earn-Out Statement (as revised in accordance with this Section 1.05) shall become final and binding upon Seller and Parent on the earlier of (i) the date Seller and Parent resolve in writing any differences they have with respect to the matters specified in the Earn-Out Notice of Disagreement or (ii) the date any disputed matters are finally resolved in writing by the Independent Auditor. During the 30-day period following the delivery of any Earn-Out Notice of Disagreement, Seller and Parent shall seek in good faith to resolve in writing any differences that they may have with respect to the matters specified in the Earn-Out Notice of Disagreement. During such period, Parent and its accountants shall have access to the work papers, schedules and calculations of Seller and Seller's accountants, if any. At the end of such 30-day period (or such later date as Seller and Parent shall mutually agree in writing), if Seller and Parent are unable to resolve their disagreements with respect to the matters specified in the Earn-Out Notice of Disagreement, Seller and Parent shall furnish to the Independent Auditor such work papers and other documents and information relating to the disputed issues as the Independent Auditor may reasonably request and are available to that party or its independent accountants, and each party shall be afforded the opportunity to present the Independent Auditor material relating to the determination and to discuss the determination with the Independent Auditor. The Independent Auditor shall act as an auditor and not as an arbitrator and shall resolve matters in dispute and adjust and establish any disputed adjustment of Sponsorship Net Revenue and/or the Earn-Out Amount to reflect such resolution. It is the intent of Parent and Seller that the process set forth in this Section 1.05(a) and the activities of the Independent Auditor in connection herewith are not intended to be and, in fact, are not arbitration and that no formal arbitration rules shall be followed (including rules with respect to procedures and discovery). Seller and Parent shall use their commercially reasonable efforts to cause the Independent Auditor to resolve all such disagreements as promptly as practicable. The resolution of the dispute by the Independent Auditor shall be final, binding and non-appealable by the parties hereto. The Earn-Out Statement shall be modified if necessary to reflect such determination. The fees and expenses of the Independent Auditor shall be allocated for payment by Parent, on the one hand, and/or Seller, on the other hand, based upon the percentage which the portion of the contested amount not awarded to each party bears to the amount actually contested by such party, as determined by the Independent Auditor.

(b) Within five Business Days after an Earn-Out Statement becomes final and binding upon the parties in accordance with Section 1.05(a), Parent shall pay or cause the payment to Seller of an amount in cash equal to the Earn-Out Amount for such Earn-Out Year, payable by wire transfer of immediately available funds to the account designated by Seller in writing to Parent; provided, however, that in no event shall (i) the Earn-Out Amount paid in respect of any Earn-Out Year, or collectively in respect of all Earn-Out Years, exceed the Maximum Earn-Out Amount, and (ii) any Earn-Out Amount be payable in respect of any Earn-

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Out Year in which an Acceleration Amount is paid in accordance with Section 1.05(e) or in respect of any Earn-Out Year thereafter.

(c) From the Closing Date through the Earn-Out Expiration Date:

(i) Parent shall cause the respective businesses of the Company and its Subsidiaries (taken as a whole, the “Company Business”) to be conducted in good faith and Parent shall exercise commercially reasonable business judgment to promote the interests of the Company Business, including the generation of Sponsorship Net Revenues;

(ii) Parent shall cause the financial statements used for the determination of Sponsorship Net Revenue to be prepared using the same accounting methods, policies, practices and procedures, with consistent classifications and estimation methodologies, as were used in the preparation of the Audited Financial Statements and in a manner consistent with Schedule 1.05(c) (provided that, in the event of a conflict between the Audited Financial Statements and consistency with Schedule 1.05(c), consistency therewith shall control); and

(iii) Parent shall cause to be maintained complete and accurate books and records relating to the calculation of Sponsorship Net Revenues, sufficient in all material respects to permit an audit thereof.

(d) In the event Parent, directly or indirectly, sells, transfers or otherwise disposes of all or substantially all the assets comprising one of the distinct segments of the Company Business listed on Schedule 1.05(d) (a “Transferred Business Segment”) to any Person other than an Affiliate of Parent (each such event, a “Partial Disposition Event”), then:

(i) Sponsorship Net Revenues for the Earn-Out Year in which such Partial Disposition Event occurs shall equal the sum of: (A) the amount of Sponsorship Net Revenue for such Earn-Out Year (other than Sponsorship Net Revenue for such Earn-Out Year attributable to the Transferred Business Segment) plus (B) the product of (1) the amount of Sponsorship Net Revenue attributable to such Transferred Business Segment for the calendar year preceding the Earn-Out Year in which Partial Disposition Event occurs, and (2) the percentage listed on Schedule 1.05(d) opposite and below the Earn-Out Year in which such Partial Disposition Event occurs; and

(ii) Sponsorship Net Revenues for each Earn-Out Year after the Earn-Out Year in which such Partial Disposition Event occurs (each, a “Subsequent Earn-Out Year”) shall equal the sum of: (A) the amount of Sponsorship Net Revenue for such Subsequent Earn-Out Year (other than Sponsorship Net Revenue for such Subsequent Earn-Out Year attributable to the Transferred Business Segment) plus (B) the product of (1) the amount of Sponsorship Net Revenue attributable to such Transferred Business Segment for the calendar year preceding the Earn-Out Year in which such Partial Disposition Event occurs, and (2) the percentage listed on Schedule 1.05(d) opposite the Earn-Out Year in which such Partial Disposition Event occurs and below such Subsequent Earn-Out Year.

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(e) Notwithstanding any other provision of this Section 1.05, in the event any of the following transactions is consummated during any Earn-Out Year (each such event, an “Acceleration Event”):

(i) a liquidation or dissolution of Parent (other than a liquidation or dissolution of Parent into or with an Affiliate of Parent after which such Affiliate of Parent continues to operate the Company Business in accordance with Parent’s obligations set forth in Section 1.05(c)) or the termination or cessation of Parent’s business;

(ii) a sale of all or substantially all the assets of Parent to any Person (other than an Affiliate of Parent who or which continues to operate the Company Business in accordance with Parent’s obligations set forth in Section 1.05(c));

(iii) a merger, reorganization, consolidation, amalgamation or share exchange in which the outstanding shares of Parent’s capital stock are converted into or exchanged for a different kind of security of the successor entity and the holders of Parent’s outstanding voting power immediately prior to such transaction do not hold, directly or indirectly, a majority of the outstanding voting power of the successor entity immediately upon completion of such transaction;

(iv) an acquisition of a majority of the outstanding voting capital stock of Parent or a successor Affiliate by one or more Persons who are not Affiliates of Parent;

(v) Parent, directly or indirectly, (A) sells or transfers substantially all of the capital stock of the Company or the assets of the Company Business or otherwise disposes (whether by merger, reorganization, recapitalization or otherwise) of the Company Business to a Person other than an Affiliate of Parent (other than in a transaction consummated after December 31, 2010 in which the aggregate consideration paid to Parent and its Affiliates is less than \$125,000,000 and in which such Person does not assume Parent’s obligation to pay Earn-Out Amounts to Seller in accordance with this Section 1.05), or (B) dissolves or liquidates the Company and its Subsidiaries (except, in the case of this clause (B), if Parent or an Affiliate of Parent continues to operate the Company Business in accordance with Parent’s obligations set forth in Section 1.05(c)) or terminates or ceases to operate the Company Business; or

(vi) Parent or a successor Affiliate elects, in its sole discretion, to accelerate the payment of the Earn-Out Amounts payable hereunder,

then, in each case, Parent shall pay or cause the payment to Seller of cash in an amount equal to the Acceleration Amount, payable by wire transfer of immediately available funds to the account designated by Seller in writing to Parent within five Business Days of such event; provided, however, that the sum of the Acceleration Amount and the aggregate of any Earn-Out Amounts previously paid to Parent hereunder shall in no event exceed the Maximum Earn-Out Amount.

(f) For purposes of this Section 1.05:

(i) "Acceleration Amount" means the sum of the Present Values of the Annual Acceleration Amount for the Earn-Out Year in which an Acceleration Event is consummated and for each subsequent Earn-Out Year through December 31, 2013. Schedule 1.05(f)(i) sets forth examples of the calculation of the Acceleration Amount, based on the assumptions set forth therein.

(ii) "Annual Acceleration Amount" means, for each Earn-Out Year, the product of (A) the result of (1) the amount of Target Sponsorship Gross Revenue for such Earn-Out Year, minus (2) the Average Commission Amount, minus (3) \$22,400,000, multiplied by (B) 0.57.

(iii) "Average Commission Amount" means, for each Earn-Out Year, an amount equal to the product of (A) Target Sponsorship Gross Revenue for such Earn-Out Year multiplied by (B) the Average Commission Percentage.

(iv) "Average Commission Percentage" means an amount, expressed as a percentage, equal to (A) the sum of (1) an amount, expressed as a percentage, equal to (w) the aggregate Sponsorship Commissions during the calendar year preceding the Earn-Out Year in which an Acceleration Event occurs, divided by (x) the aggregate Sponsorship Gross Revenues during such calendar year plus (2) an amount, expressed as a percentage, equal to (y) the aggregate Sponsorship Commissions during the calendar year two-years prior to the Earn-Out Year in which an Acceleration Event occurs, divided by (z) the aggregate Sponsorship Gross Revenues during such calendar year, divided by (B) 2.

(v) "Earn-Out Amount" means, with respect to each Earn-Out Year, the product of (A) the amount (if any) by which Sponsorship Net Revenue for such Earn-Out Year exceeds \$22,400,000, multiplied by (B) 0.57. Schedule 1.05(f)(v) sets forth examples of the calculation of the Earn-Out Amount based on the assumptions set forth therein.

(vi) "Maximum Earn-Out Amount" means (A) \$30,000,000 minus (B) fifty-percent (50%) of the aggregate amount of any Company EBITDA Losses.

(vii) "Present Value" of any Annual Acceleration Amount means (A) with respect to each Earn-Out Year after the Earn-Out Year in which an Acceleration Event occurs, the present value of such Annual Acceleration Amount, assuming a discount rate equal to 10% per Earn-Out Year, and (B) with respect to the Earn-Out Year in which such Acceleration Event occurs, the present value of such Annual Acceleration Amount, assuming a discount rate equal to 10% multiplied by a fraction the numerator of which is the number of days in such Earn-Out Year that have elapsed as of the date on which such Acceleration Event occurs and the denominator of which is 365.

(viii) "Sponsorship Commissions" means, with respect to any period, the aggregate amount of any commissions actually paid to sales personnel (including independent contractors or other unaffiliated third parties) during such period to the extent directly attributable to Sponsorship Gross Revenue for such period; provided.

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however, that (A) any Sponsorship Commissions paid to sales personnel employed by Parent or any of its Subsidiaries in excess of 12% of any applicable Sponsorship Gross Revenue shall be disregarded for purposes of the calculation of Sponsorship Net Revenue or the Average Commission Percentage, (B) any Sponsorship Commissions paid to independent contractors or other unaffiliated third parties retained by Parent or any of its Subsidiaries in excess of 12% of any applicable Sponsorship Gross Revenue attributable to any Person who had been a source of Sponsorship Gross Revenue at any time during the period from January 1, 2006 through and including the Closing Date shall be disregarded for purposes of the calculation of Sponsorship Net Revenue or the Average Commission Percentage, and (C) any Sponsorship Commissions paid to independent contractors or other unaffiliated third parties retained by Parent or any of its Subsidiaries in excess of 20% of any applicable Sponsorship Gross Revenue attributable to any Person who had not been a source of Sponsorship Gross Revenue at any time during the period from January 1, 2006 through and including the Closing Date shall be disregarded for purposes of the calculation of Sponsorship Net Revenue or the Average Commission Percentage.

(ix) "Sponsorship Gross Revenue" means, with respect to any period, the aggregate amount of all sponsorship revenue recognized and collected during such period that is directly or indirectly attributable to the operation of the Company Business in the United States and Canada, as determined in accordance with GAAP and in a manner consistent with the Audited Financial Statements and the methodologies and principles set forth on Schedule 1.05(c).

(x) "Sponsorship Net Revenue" means, with respect to any period, (A) Sponsorship Gross Revenue for such period, less (B) Sponsorship Commissions for such period.

(xi) "Target Sponsorship Gross Revenue" means, with respect to any Earn-Out Year, the amount listed below such Earn-Out Year on Schedule 1.05(f)(xi).

(g) Notwithstanding the foregoing, Parent shall deduct from all or any portion of any Earn-Out Amounts or the Acceleration Amount otherwise payable to Seller under this Section 1.05 an amount equal to fifty-percent (50%) of the aggregate amount of any Company EBITDA Losses, it being understood and agreed that in no event shall the aggregate amounts payable to Seller pursuant to this Section 1.05 be reduced by an amount in excess of fifty-percent (50%) of the aggregate amount of any Company EBITDA Losses (except as contemplated by Section 1.05(f)(vi)(B)). In the event that the existence of any Company EBITDA Breach is finally determined by a court having jurisdiction over such matters pursuant to Section 12.16 after payment by Parent to Seller of any Earn-Out Amount or Acceleration Amount pursuant to this Section 1.05, Seller shall, promptly following such determination, pay to Parent an amount equal to any deductions from such Earn-Out Amount or Acceleration Amount that would otherwise have been applicable pursuant to the preceding sentence had the existence of such Company EBITDA Breach finally been determined before payment by Parent to Seller of such Earn-Out Amount or the Acceleration Amount.

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(h) Nothing in this Section 1.05 shall be construed to create any partnership, joint venture, strategic alliance, fiduciary, agency or other similar relationship between Parent, including any of its Subsidiaries, and Seller.

1.06 No Further Ownership Rights in Shares. The aggregate Purchase Price, when delivered at Closing in accordance with Section 1.02 in exchange for the Shares (exclusive of any adjustments to the Purchase Price pursuant to Sections 1.04 or 1.05), shall be deemed to have been paid in full satisfaction of all Seller's rights pertaining to the Shares, and Seller shall have no further rights as a shareholder of the Company after the Closing; provided, however, that nothing set forth in this Section 1.06 shall relieve the Buyer Parties of their obligations hereunder to make any payments required to be made to Seller in accordance with Sections 1.04 and 1.05 hereof.

## ARTICLE II.

### CONDITIONS TO CLOSING

2.01 Conditions to Buyer's Obligations. The obligation of the Buyer Parties to consummate the transactions contemplated by this Agreement is subject to the satisfaction (or Parent's waiver) of the following conditions as of the Closing Date:

(a) The applicable waiting periods, if any, under the HSR Act (including any extensions thereof) shall have expired or been terminated;

(b) Seller shall have executed and delivered to the Buyer Parties a Transition Services Agreement, substantially in the form attached hereto as Exhibit A (the "Transition Services Agreement");

(c) All consents, authorizations, waivers and approvals listed on Schedule 2.01(c) shall have been duly obtained and delivered to the Buyer Parties;

(d) Seller shall have delivered or caused to be delivered to Buyer the certificates representing the Shares owned by Seller, duly endorsed for transfer or accompanied by appropriate transfer documents, and the Shares shall be free and clear of all Liens other than restrictions on transfer arising under applicable securities Laws; and

(e) Seller shall have delivered or caused to be delivered to the Buyer Parties each of the following:

(i) resignations effective as of the Closing from the officers and directors of the Company and each of its Subsidiaries listed on Schedule 2.01(e) hereof;

(ii) certified copies of the resolutions duly adopted by Seller's board of directors (or its equivalent governing body) authorizing the execution, delivery and performance of this Agreement and the other agreements contemplated hereby to which Seller is a party, and the consummation of all transactions contemplated hereby and thereby;

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(iii) UCC termination statements or other releases in a form reasonably satisfactory to Parent, dated as of the Closing Date and (if applicable) in a form suitable for filing, evidencing the release of any Liens other than Permitted Liens on the Shares or any assets of the Company or its Subsidiaries and any guarantee by the Company or any of its Subsidiaries of Indebtedness of any other Person, including without limitation the Liens and guarantees arising under the Senior Credit Facility;

(iv) a properly executed certificate in a form reasonably satisfactory to Parent in accordance with Treasury Regulation Section 1.1445-2; and

(v) an affidavit or affidavits from Seller to be delivered to Buyer's title company for purposes of obtaining current extended coverage ALTA Owner's Policy including a non-imputation endorsement with respect to the Owned Real Property, in a form reasonably satisfactory to Seller.

2.02 Conditions to Seller's Obligations. The obligations of Seller to consummate the transactions contemplated by this Agreement are subject to the satisfaction (or the waiver by Seller) of the following conditions as of the Closing Date:

(a) Buyer shall have delivered, or caused to be delivered, the Purchase Price to Seller, by wire transfer of immediately available funds in accordance with Section 1.02;

(b) The applicable waiting periods, if any, under the HSR Act (including any extensions thereof) shall have expired or been terminated;

(c) Seller shall have received all consents, waivers, releases and authorizations required under the Senior Credit Facility in connection with the consummation of the transactions contemplated hereby, in each case, on such terms and conditions as may be satisfactory to Seller in its sole and absolute discretion;

(d) The Buyer Parties shall have executed and delivered to Seller the Transition Services Agreement; and

(e) The Buyer Parties shall have delivered or caused to be delivered to Seller certified copies of the resolutions duly adopted by each Buyer Parties' board of directors (or its equivalent governing body) authorizing the execution, delivery and performance of this Agreement and the other agreements contemplated hereby to which such Buyer Party is a party, and the consummation of all transactions contemplated hereby and thereby.

### ARTICLE III.

#### REPRESENTATIONS AND WARRANTIES OF SELLER

Except as disclosed in the disclosure schedules attached hereto (the "Disclosure Schedules"), Seller represents and warrants to the Buyer Parties as follows:

3.01 Organization and Authority. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, with all requisite

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corporate power and authority to execute and deliver this Agreement and perform its obligations hereunder.

3.02 Authorization: Valid and Binding Agreement. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all required corporate action on the part of Seller and no other corporate proceedings on the part of Seller are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly executed and delivered by Seller and, assuming this Agreement is the valid and binding agreement of the Buyer Parties, this Agreement constitutes a valid and binding agreement of Seller, enforceable against Seller in accordance with its terms, except as enforceability may be limited by bankruptcy laws, other similar laws affecting creditors' rights and general principles of equity affecting the availability of specific performance and other equitable remedies.

3.03 Ownership of Capital Stock. As of the date of this Agreement, Seller is the record owner of the Shares and, together with its parent entities, a beneficial owner of the Shares. At the Closing, Seller shall transfer to Buyer good title to the Shares, free and clear of any Liens, other than applicable federal and state securities law restrictions and Liens being released at the Closing.

3.04 No Breach. Except (i) as set forth on Schedule 3.04 and (ii) for the applicable requirements of the HSR Act and any other Antitrust Law, the execution, delivery and performance of this Agreement by Seller and the consummation of the transactions contemplated hereby do not result in any breach of, constitute a default under, result in a violation of, result in the creation of any Lien (other than a Permitted Lien) upon any asset of the Company or any of its Subsidiaries, or require any material permit, authorization, consent or approval by, filing with or notice or declaration to, any Governmental Authority, under (a) the provisions of Seller's certificate of incorporation or bylaws, (b) any indenture, mortgage, note, bond, encumbrance, license, government registration, contract, lease, franchise, permit, agreement or other instrument or obligation to which Seller is a party or by which Seller or its properties or assets may be bound, or (c) any law, statute or regulation or order, judgment or decree to which Seller is subject, except, in the case of clauses (b) and (c), where the failure of any of the foregoing to be true would not have a Material Adverse Effect or a material adverse effect on the ability of Seller to consummate the transactions contemplated by this Agreement.

3.05 Consents. Except for the applicable requirements of the HSR Act and any other applicable Antitrust Law, Seller is not required to submit any notice, report or other filing with any Governmental Authority in connection with the execution, delivery or performance by it of this Agreement, or the consummation of the transactions contemplated hereby. No consent, approval or authorization of any Governmental Authority or any other Person is required to be obtained by Seller in connection with its execution, delivery and performance of this Agreement, or the consummation of the transactions contemplated hereby.

3.06 Litigation. There are no actions, suits or proceedings pending or, to Seller's knowledge, threatened against or affecting Seller before or by any Governmental Authority, which would adversely affect in any material respect Seller's performance under this Agreement or the consummation of the transactions contemplated hereby.

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ARTICLE IV.

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as disclosed in the Disclosure Schedules, the Company represents and warrants to the Buyer Parties as follows:

4.01 Organization and Authority.

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas, and the Company has all requisite corporate power to own and operate its properties and to carry on its businesses as now conducted.

(b) The Company is duly qualified to do business and is in good standing in every jurisdiction in which its ownership of property or the conduct of its businesses as now conducted requires it to qualify, except where the failure to be so qualified or in good standing would not have a Material Adverse Effect. The Company has made available to the Buyer Parties true, correct, and complete copies of the articles of incorporation and bylaws of the Company as currently in effect.

4.02 Authorization; Valid and Binding Agreement. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all required corporate action on the part of the Company and no other corporate proceedings on the part of the Company are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly executed and delivered by the Company and, assuming that this Agreement is a valid and binding obligation of the Buyer Parties, this Agreement constitutes a valid and binding obligation of the Company, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy laws, other similar laws affecting creditors' rights and general principles of equity affecting the availability of specific performance and other equitable remedies.

4.03 Capital Stock. The total authorized capital stock of the Company consists of 1,000,000 shares of Common Stock, of which 1,000 shares of Common Stock are issued and outstanding as of the date hereof. All of the issued and outstanding shares of Common Stock are duly and validly issued and outstanding, and are fully paid and non-assessable. All of the issued and outstanding shares of Common Stock are held of record by Seller, free and clear of all Liens, except Liens that will be released at the Closing. Except as set forth on Schedule 4.03, there are no outstanding subscriptions, options, warrants, commitments, preemptive rights, agreements, arrangements or commitments of any kind for or relating to the issuance, sale, registration or voting of, or outstanding securities convertible into, or exchangeable for, any shares of capital stock of any class or other equity interests of the Company.

4.04 No Breach. Except (i) as set forth on Schedule 4.04 and (ii) for the applicable requirements of the HSR Act and any other applicable Antitrust Law, the execution, delivery and performance of this Agreement by the Company and the consummation of the transactions contemplated hereby do not result in any breach of, constitute a default under, result in a violation of, result in the creation of any Lien (other than a Permitted Lien) upon any asset of the

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Company or any of its Subsidiaries, or require any permit, authorization, consent or approval by, filing with or notice or declaration to, any Governmental Authority, under (a) the provisions of the Company's or any of its Subsidiaries' certificate of incorporation, bylaws or equivalent organizational documents, (b) any Material Contract or Real Property Lease, or (c) any law, statute or regulation or order, judgment or decree to which the Company or any of its Subsidiaries is subject, except, in the case of clause (c), where the failure of any of the foregoing to be true would not have a Material Adverse Effect.

#### 4.05 Subsidiaries.

(a) Except as set forth on Schedule 4.05(a), neither the Company nor any of its Subsidiaries owns any stock, partnership interest, joint venture interest or other equity ownership interest in any other Person. Each Subsidiary of the Company identified on Schedule 4.05(a), (i) is validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation, (ii) has all requisite corporate power and authority to carry on its businesses as now conducted and (iii) is duly qualified to do business and is in good standing in every jurisdiction in which its ownership of property or the conduct of its businesses as now conducted requires it to qualify, except, in each case, where the failure to be so qualified or in good standing would not have a Material Adverse Effect. The Company has made available to the Buyer Parties true, correct, and complete copies of the certificate or incorporation, bylaws or equivalent organizational documents of each of its Subsidiaries as currently in effect.

(b) All of the issued and outstanding shares of capital stock or other equity interest of each Subsidiary of the Company are duly and validly issued and outstanding, and are fully paid (in compliance with applicable laws) and, to the extent applicable, non-assessable. Except as set forth on Schedule 4.05(b), (i) each Subsidiary of the Company is wholly owned by the Company or another Subsidiary of the Company; (ii) all of the issued and outstanding shares of capital stock or other ownership interest of each Subsidiary of the Company are directly or indirectly owned by the Company, free and clear of all Liens, except for Permitted Liens and Liens that will be released at the Closing; and (iii) there are no outstanding subscriptions, options, warrants, commitments, preemptive rights, agreements, arrangements or commitments of any kind for or relating to the issuance, sale, registration or voting of, or outstanding securities convertible into or exchangeable for, any shares of capital stock or other equity interests of any Subsidiary of the Company.

#### 4.06 Financial Statements.

(a) The Company has furnished the Buyer Parties with true, correct, and complete copies of (i) its audited consolidated balance sheets as of December 31, 2007 and 2006, and the related audited consolidated statements of income and cash flows of the Company for the fiscal years ended December 31, 2007 and 2006 (collectively, the "Audited Financial Statements") and (ii) its unaudited consolidated balance sheet as of June 30, 2008, and the related unaudited consolidated statement of income of the Company for the six months ended June 30, 2008 (collectively, the "Interim Financial Statements") and, together with the Audited Financial Statements, the "Financial Statements"), copies of which are attached to Schedule 4.06(a). Except as set forth on Schedule 4.06(a), the Financial Statements were prepared in accordance with GAAP, are true and correct in all material respects, and fairly

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present in all material respects the consolidated financial condition, results of operations and cash flows of the Company and its Subsidiaries (taken as a whole) as of the dates and for the periods indicated (subject, in the case of the Interim Financial Statements, to the absence of footnote disclosure, and normal year-end adjustments).

(b) Neither the Company nor any of its Subsidiaries has (x) any obligations or liabilities (whether pursuant to contracts or otherwise, matured or unmatured, fixed or contingent) required to be recorded on a balance sheet prepared in accordance with GAAP or (y) to the Company's knowledge, any other obligations or liabilities (whether pursuant to contracts or otherwise, matured or unmatured, fixed or contingent) other than, in each case, (i) those set forth or adequately provided for in the Latest Balance Sheet, (ii) those incurred in the ordinary course of business and not required to be set forth in the Latest Balance Sheet in accordance with GAAP, (iii) those incurred in the ordinary course of business since the date of the Latest Balance Sheet, (iv) those incurred in connection with the execution of this Agreement and the performance by the Company of its obligations hereunder, and (v) those set forth on Schedule 4.06(b) or elsewhere on the Disclosure Schedules.

4.07 Absence of Certain Developments. Except as set forth on Schedule 4.07, since December 31, 2007, the Company and each of its Subsidiaries has conducted its business in the ordinary course of business, and there has not been any event, occurrence or development which, individually or in the aggregate, has had or reasonably would be expected to have a Material Adverse Effect. Except as set forth on Schedule 4.07, or except as contemplated by this Agreement, since the date of the Latest Balance Sheet, neither the Company nor any of its Subsidiaries has:

(a) mortgaged, pledged or subjected to any material Lien, any material portion of the assets of the Company and its Subsidiaries, taken as a whole, except Permitted Liens;

(b) sold, assigned or transferred any material portion of the tangible assets of the Company Business, except in the ordinary course of business;

(c) sold, assigned or transferred any of its material Intellectual Property;

(d) redeemed or repurchased, directly or indirectly, any shares of capital stock or declared, set aside or paid any dividends or made any other distributions (whether in cash or in kind) with respect to any shares of its capital stock;

(e) issued, sold or transferred any of its capital stock, securities convertible into its capital stock or warrants, options or other rights to acquire its capital stock;

(f) made any loan, advance or capital contribution to or investment in any Person other than expenses or advances to employees of the Company or its Subsidiaries made in the ordinary course of business;

(g) made any material capital expenditures or commitments therefor, except in the ordinary course of business;

(h) changed any of its accounting policies, practices or procedures;

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(i) revalued in any material respect any of its assets, including, without limitation, writing down the value of any assets or inventory or writing off notes or accounts receivable, other than in the ordinary course of business;

(j) amended or modified its certificate of incorporation, bylaws or equivalent organizational documents;

(k) delayed or postponed the payment of accounts payable and other liabilities outside the ordinary course of business;

(l) suffered any material damage, destruction or loss (whether or not covered by insurance) to its property;

(m) experienced or been subject to any labor dispute, other than routine individual grievances, or any activity, action, suit or proceeding, by a labor union or representative thereof to organize any employees of the Company or its Subsidiaries, which employees were not subject to a collective bargaining agreement as of the date of the Latest Balance Sheet, or any lockouts, strikes, slowdowns, work stoppages or threats thereof by or with respect to such employees;

(n) except for normal increases in the ordinary course of business, or as required by previously existing contract, increased the compensation or benefits payable to any of its present or former officers or senior executives; or

(o) entered into any agreement, arrangement or commitment to take any actions specified in this Section 4.07, except for this Agreement.

#### 4.08 Title to Properties.

(a) Except as set forth on Schedule 4.08(a), the Company and its Subsidiaries own good title to, hold pursuant to valid and enforceable leases or otherwise have the legal right to use, all of the tangible personal property shown to be owned by them on the Latest Balance Sheet (except for such personal property sold or disposed of subsequent to the date thereof in the ordinary course of business), free and clear of all Liens, except for Permitted Liens. Except as contemplated by the Transition Services Agreements and except for matters disclosed in Schedule 4.17, the property and assets of the Company and its Subsidiaries will, as of the Closing Date, be sufficient for the conduct of the business of the Company and its Subsidiaries as currently conducted.

(b) Schedule 4.08(b) lists all real property owned by the Company or any of its Subsidiaries (“Owned Real Property”). With respect to each parcel of Owned Real Property, except as set forth on Schedule 4.08(b) and except for matters that would not materially impair the use or value of the Owned Real Property: (i) the Company or one of its Subsidiaries has good and indefeasible fee simple title, free and clear of all Liens, except for Permitted Liens; (ii) neither the Company nor any of its Subsidiaries has leased, licensed or otherwise granted to any Person the right to use or occupy such Owned Real Property or any portion thereof; and (iii) to the Company’s knowledge, there are no outstanding options, rights of first offer or rights of first refusal to purchase such Owned Real Property or any portion thereof or interest therein, and (iv)

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to the Company's knowledge, all Improvements (as defined in the Declaration) commenced, constructed, placed, erected and maintained on the Owned Real Property, and all alterations, changes and additions made to any such Improvements (as defined in the Declaration)(except those made to the interior of a building) have been submitted to and approved in writing by the Committee (as defined in the Declaration). As used in this paragraph, the term "Declaration" shall mean that certain Declaration of Covenants, Conditions, Restrictions and Easements of the Meridian Business Campus Phase, 1 recorded June 13, 1984 as Document R84-44944, as amended.

(c) The real property demised by the leases described on Schedule 4.08(c) (the "Real Property Leases") constitutes all of the material real property leased, subleased, licensed or otherwise used by the Company and its Subsidiaries (including, for the avoidance of doubt, any leases, subleases, licenses or other use arrangements with a term of less than one year) (the "Leased Real Property" and, together with the Owned Real Property, the "Real Property"). Except as set forth on Schedule 4.08(c), the Real Property Leases are in full force and effect, subject to proper authorization and execution of such lease by the other party and the limitations of bankruptcy laws, other similar laws affecting creditors' rights and general principles of equity affecting the availability of specific performance and other equitable remedies. The Company has made available to the Buyer Parties true and complete copies of the Real Property Leases. With respect to the Real Property Leases, except as set forth on Schedule 4.08(c), neither the Company nor any of its Subsidiaries nor, to the Company's knowledge, any other party thereto, is in default under any such Real Property Lease, and, to the Company's knowledge, there is not under any of such Real Property Leases, any event which, with notice or lapse of time or both, would constitute a material default thereunder. No consent, authorization and/or approval is required from any landlord or any other party to the Real Property Leases in connection with this Agreement or the consummation of any of the transactions contemplated by this Agreement.

(d) The Real Properties (taken as a whole) are in good condition and repair, subject to normal wear and maintenance given their relative ages. The Company has not received any written notice of any violation or alleged violation of any applicable laws, ordinances, regulations, rules, orders and insurance requirements and/or restriction of record. All material certificates, licenses, consents, permits or approvals required with respect to current use and occupancy of the Real Properties have been obtained and are currently in effect. Except (i) as contemplated by the Transition Services Agreement or (ii) pursuant to any common area, landlord access or similar rights contemplated by the terms of the Real Property Leases, there are no parties in possession of the Real Properties other than the Company and its Subsidiaries.

**4.09 Tax Matters.** Except as set forth on Schedule 4.09:

(a) Each Affiliated Group has timely filed all income Tax Returns that it was required to file for each Tax period during which the Company or any of its Subsidiaries was a member of such Affiliated Group, and each of Seller, the Company and its Subsidiaries has timely filed all Tax Returns required to be filed by it, in each case taking into account all applicable extensions. All such Tax Returns were correct and complete in all material respects. All income Taxes owed by any Affiliated Group (whether or not shown on any Tax Return) have been paid for each Tax period during which the Company or any of its Subsidiaries was a

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member of such Affiliated Group, and all Taxes due and payable by the Company or any of its Subsidiaries (whether or not shown on any Tax Return) have been timely paid, except, in each case, to the extent such Taxes are being contested in good faith by appropriate proceedings and are disclosed on Schedule 4.09. No claim has ever been made in writing by a Taxing authority in a jurisdiction where an Affiliated Group, the Company or any of its Subsidiaries does not file Tax Returns that it is or may be subject to Tax by that jurisdiction.

(b) Except as set forth on Schedule 4.09, neither the Company nor any of its Subsidiaries is currently the beneficiary of an extension of time within which to file any Tax Return.

(c) Each of the Company and its Subsidiaries has withheld and paid all Taxes required to have been withheld and paid by it in connection with any amounts paid or owing to any employee, independent contractor, creditor, stockholder or other third party.

(d) No unresolved dispute or claim concerning any Tax liability of the Company or any of its Subsidiaries for any Tax period ended on or before the Closing Date has been raised by any Taxing authority in writing. None of Seller, the Company or any of its Subsidiaries has received written notice that any Taxing authority intends to assess additional Taxes against the Company or any of its Subsidiaries for any Tax period ended on or before the Closing Date.

(e) None of Seller, the Company, any of the Company's Subsidiaries or, for any Tax period during which the Company or any of its Subsidiaries was a member of an Affiliated Group, such Affiliated Group has waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency; provided, however, that the statutes of limitation for assessment with respect to the 2003, 2004 and 2005 federal income tax returns of the Affiliated Group of which the Company and its Subsidiaries were members during such years have been extended to March 31, 2009.

(f) There are no Liens on any assets of the Company or any of its Subsidiaries relating or attributable to Taxes, other than Permitted Liens.

(g) Neither the Company nor any of its Subsidiaries is, or has been at any time, a "United States real property holding corporation" within the meaning of Section 897(c)(2) of the Code.

(h) Neither the Company nor any of its Subsidiaries (i) has, since January 1, 2003, ever been a member of an Affiliated Group filing a consolidated federal income Tax Return (other than, (1) with respect to Post-Spin Off Tax Periods, a group the common parent of which was Live Nation Holdco #2, Inc., a Delaware corporation ("Holdco") and (2) with respect to Tax periods preceding any Post-Spin Off Tax Period, a group the common parent of which was Clear Channel Communications, Inc.), (ii) is a party to any Tax sharing, indemnification or allocation agreement which is currently in effect, except that certain Tax Matters Agreement by and among Clear Channel Communications, Inc., CCE Spinco, Inc. and CCE Holdco #2, Inc. dated as of December 21, 2005 (the "Clear Channel Tax Sharing Agreement"), or owes any amount under any Tax sharing, indemnification or allocation agreement, or (iii) is currently

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liable for any unpaid Taxes of any Person (other than the Company or any of its Subsidiaries) under Treas. Reg. § 1.1502-6 (or any similar provision of state, local or foreign Laws), as a transferee or successor, by contract, or otherwise.

(i) Each of the Company and its Subsidiaries has disclosed on its federal income Tax Returns all positions taken therein that could give rise to a substantial understatement of federal income Tax within the meaning of Section 6662 of the Code and has complied with all reporting and recordkeeping requirements under Section 6038A of the Code with respect to certain foreign-owned companies and transactions with certain related parties.

(j) There are no consolidated net operating losses, net capital losses, net unrealized built-in losses, foreign tax credits, minimum tax credits, investment tax credits or other tax credits allocable to the Company and its Subsidiaries under Treas. Reg. § 1.1502-21, § 1.1502-22, § 1.1502-79 or § 1.1502-95, and there are no limitations applicable to the Company and its Subsidiaries under Sections 382 and 383 of the Code (taking into account the apportionment or nonapportionment of the Section 382 limitation under Treas. Reg. § 1.1502-95).

(k) None of the Company, any of its Subsidiaries or, for any Tax period during which the Company or any of its Subsidiaries was a member of an Affiliated Group, such Affiliated Group has participated in, or cooperated with, an international boycott within the meaning of Section 999 of the Code.

(l) Neither the Company nor any of its Subsidiaries will be required to include any item of income in, or exclude any item of deduction from, its Taxable income for any Tax period (or portion thereof) ending after the Closing Date as a result of: (i) a change in method of accounting for a Tax period (or portion thereof) ending on or prior to the Closing Date, (ii) any “closing agreement” as described in Section 7121 of the Code (or any corresponding provision of state, local, or foreign income Tax Laws), (iii) any intercompany transaction or any excess loss account (or any corresponding or similar provision or administrative rule of federal, state, local or foreign income Tax Laws), (iv) any installment sale or open transaction made on or prior to the Closing Date, or (v) as a result of any prepaid amount received on or prior to the Closing Date.

(m) None of the property of the Company or any of its Subsidiaries (i) is “tax-exempt use property” within the meaning of Section 168(h) of the Code, (ii) is “tax-exempt bond financed property” within the meaning of Section 168(g) of the Code, or (iii) is subject to a tax benefit transfer lease under Section 168(f)(8) of the Internal Revenue Code of 1954.

(n) Neither the Company nor any of its Subsidiaries has distributed stock of another Person, or has had its stock distributed by another Person (other than the indirect distribution of such stock in connection with the spin-off of Live Nation from Clear Channel Communications, Inc.), in a transaction that was purported or intended to be governed in whole or in part by Section 355 or 361 of the Code.

(o) Neither the Company nor any of its Subsidiaries is a party to any joint venture, partnership, limited liability company or other arrangement or contract that could be treated as a partnership for federal income Tax purposes.

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(p) Neither the Company nor any of its Subsidiaries has engaged in a transaction that is a “reportable transaction” within the meaning of Section 6707A of the Code or Treasury Regulation § 1.6011-4.

(q) Neither the Company nor any of its Subsidiaries has ever elected, or had an election made with respect to it, to be treated as an “S corporation” or “qualified subchapter S subsidiary” within the meaning of Section 1361 of the Code.

(r) Any claim of breach of representation or warranty regarding Taxes shall be made only under this Section 4.09 and shall not be made under any other representation or warranty contained in this Agreement.

#### 4.10 Contracts and Commitments.

(a) Except for the contracts, commitments, agreements, leases and licenses set forth on Schedule 4.10(a), as of the date of this Agreement, neither the Company nor any of its Subsidiaries is party to any written or, to the Company’s knowledge, oral: (i) agreement for the employment of any officer, individual employee or other individual on a full time or consulting basis; (ii) loan agreement or indenture relating to Indebtedness; (iii) lease or agreement under which it is the lessee of, or holds or operates, any tangible personal property owned by any other Person for which the annual rental exceeds \$100,000 and which is not terminable on 60 or fewer days notice by the Company or any of its Subsidiaries without material liability; (iv) contract, or group of related contracts with the same Person (other than purchase orders entered into in the ordinary course of business), which (A) by its terms requires (x) payments by the Company or any of its Subsidiaries in excess of \$100,000 annually or in excess of \$200,000 over the remaining term of such contract or (y) payments to the Company or any of its Subsidiaries in excess of \$250,000 annually or in excess of \$500,000 over the remaining term of such contract and (B) is not terminable on 60 or fewer days notice by the Company or any of its Subsidiaries without material liability; (v) contract containing covenants materially limiting the ability of the Company or any of its Subsidiaries to compete in any line of business (other than exclusivity arrangements entered into in the ordinary course of business); (vi) license by which the Company or any of its Subsidiaries is granted the right to use Intellectual Property material to the conduct of its business, other than licenses for commercial software that is “off-the-shelf” or widely available; (vii) joint venture, partnership or similar contract or agreement involving a sharing of profits, losses, costs or liabilities by the Company and its Subsidiaries; (viii) contract that provides for the radio or television broadcast of any events organized or conducted by the Company or any of its Subsidiaries; (ix) guarantee of any Indebtedness or other obligations of any other Person; (x) any agreement relating to the sponsorship of any events of the Company or any of its Subsidiaries providing for annual payments to the Company or its Subsidiaries in excess of \$250,000; (xi) any agreement for the use of venues for events of the Company or any of its Subsidiaries occurring after the date hereof that is material to the operation of the Company Business as currently conducted, or (xii) any sanctioning agreements with any professional motor sports association (each contract, commitment, agreement, lease or license described in subsections (i) – (xii) above, a “Material Contract”).

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(b) The Company has made available to the Buyer Parties true, correct and complete copies of all Material Contracts. With respect to each Material Contract, except (x) as set forth on Schedule 4.10(b) or (y) where the failure of any of the following to be true would not have a Material Adverse Effect: (i) the agreement is legal, valid, binding and enforceable and in full force and effect with respect to the Company or one of its Subsidiaries, and to the Company's knowledge, is legal, valid, binding, enforceable and in full force and effect with respect to each other party thereto, in either case subject to the effect of bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors' rights generally and except as the availability of equitable remedies may be limited by general principles of equity; and (ii) none of the Company, any of its Subsidiaries and, to the Company's knowledge, any other party is in breach or default, and, to the Company's knowledge, no event has occurred which with notice or lapse of time or both would constitute a breach or default by the Company, any of its Subsidiaries or, to the Company's knowledge, any such other party, or permit termination, modification or acceleration, under such agreement.

#### 4.11 Intellectual Property.

(a) Schedule 4.11(a) contains a list of all (i) Intellectual Property owned by the Company or any of its Subsidiaries and used in the conduct of the businesses of the Company and its Subsidiaries (including, as applicable for each item listed, the record owner, the jurisdiction, the application and registration numbers, the filing date, the issuance or registration date, the registrar and the expiration date) and registered with any Governmental Authority (or with any Person that maintains domain name registrations) and all applications for any such registration; (ii) common law trademarks owned by the Company or any of its Subsidiaries that are material to the conduct of the businesses of the Company and its Subsidiaries; and (iii) common law copyrights owned by the Company or any of its Subsidiaries that are material to the conduct of the businesses of the Company and its Subsidiaries. Except as set forth on Schedule 4.11(a) or as would not have a Material Adverse Effect, each such registration or application has been maintained effective by all requisite filings, renewals and payments, and remains in full force and effect. Except as indicated therein, none of the material Intellectual Property identified in Schedule 4.11(a) has been abandoned or cancelled.

(b) Except as set forth on Schedule 4.11(b) or as would not have a Material Adverse Effect, (i) the Company or one of its Subsidiaries owns all right, title and interest in and to, or possesses the valid and enforceable right to use, all material Intellectual Property used by the Company and its Subsidiaries in the conduct of their respective businesses free and clear of any Liens, other than Permitted Liens; (ii) during the three-year period prior to the date of this Agreement neither the Company nor any of its Subsidiaries has received any written notices of infringement or misappropriation from any Person with respect to the Company or any of its Subsidiaries' use of any material Intellectual Property; (iii) no other Person has any license, option or other right in and to any material Intellectual Property; (iv) neither the Company nor any of its Subsidiaries is a party to any co-existence, consent, settlement or similar agreements, limiting or modifying the rights of the Company or any of its Subsidiaries in any material Intellectual Property; (v) neither the Company nor any of its Subsidiaries has brought any action, lawsuit, proceeding, investigation, demand or other claim against any Person nor provided notice to any Person (including by cease and desist letter) that such Person is infringing, diluting or misappropriating any material Intellectual Property and to the Company's knowledge, no Person

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is infringing any material Intellectual Property owned by the Company or any of its Subsidiaries; and (vi) neither the Company nor any of its Subsidiaries has received written notice that any material Intellectual Property has been declared unenforceable or otherwise invalid by any Governmental Authority.

(c) The Company's and its Subsidiaries' use and dissemination of any and all personally identifiable data and information provided by users in connection with the use of its web sites by users is in compliance in all material respects with all applicable privacy policies, terms of use and Laws.

(d) This Section 4.11, Section 4.10(a)(vi) and Section 4.07(c) constitute the sole and exclusive representations and warranties of the Company with respect to any matters relating to Intellectual Property.

#### 4.12 Litigation.

(a) Except as set forth on Schedule 4.12(a), (i) there are no actions, suits or proceedings pending or, to the Company's knowledge, threatened against the Company or any of its Subsidiaries or any properties or rights of the Company or any of its Subsidiaries, before any Governmental Authority or in connection with any arbitration or mediation proceeding, which, individually or in the aggregate would have a Material Adverse Effect, (ii) neither the Company nor any of its Subsidiaries is subject to or in default under any material outstanding judgment, order or decree of any Governmental Authority, and (iii) none of the Company, its Subsidiaries or, to the Company's knowledge, any of their respective officers, directors or employees, is the subject of, has been named in or has received any written notice of any material investigation by any Governmental Authority.

(b) Except as set forth on Schedule 4.12(b), to the Company's knowledge, no event or occurrence has taken place prior to the date hereof in connection with any event constituting a part of the Company Business which is reasonably likely to result in a workers' compensation or tort claim against the Company or any of its Subsidiaries.

#### 4.13 Employee Benefit Matters.

(a) Employee Benefit Plans. Schedule 4.13(a) sets forth a list of each material Employee Benefit Plan. With respect to the Employees, each Employee Benefit Plan (1) complies in form and in operation in all material respects with the applicable provisions of ERISA, the Code and other applicable law, (2) other than routine claims for benefits, there are no claims or lawsuits pending or, to the Company's knowledge, threatened against or arising out of an Employee Benefit Plan, and (3) all contributions and deposits due and payable under or with respect to each Employee Benefit Plan have been made.

(b) Benefit Plan Documents. With respect to each Employee Benefit Plan, the Company has made available to the Buyer Parties, as applicable, true, correct and complete copies of (i) all plan documents, including all amendments thereto, (ii) all summary plan descriptions, (iii) the most recent annual report (including any reports on Form 5500) filed with the Internal Revenue Service, and (iv) the most recent determination, opinion or other qualification letter, if any, issued by the Internal Revenue Service (the "IRS").

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(c) Plan Qualification. Each Employee Benefit Plan that is intended to qualify under Section 401(a) of the Code does so qualify and either is a prototype plan covered by an IRS opinion letter, or has received a favorable determination letter from the Internal Revenue Service, and the Internal Revenue Service has not taken and, to the Company's knowledge, does not have grounds to take action to revoke any such letter.

(d) Certain Plans. Neither the Company nor any ERISA Affiliate maintains, contributes to or has any liability in respect of any Multiemployer Plan or any other pension plan (as defined in Section 3(2) of ERISA) that is subject to Title IV of ERISA. No Employee Benefit Plan provides medical or other welfare benefits to any present or former employee, director or consultant of the Company or its Subsidiaries beyond termination of service other than group health plan coverage mandated by law. Except as set forth in Schedule 4.13(d), (1) since January 1, 2005 each Employee Benefit Plan that is covered by Section 409A of the Code has been operated in good faith compliance, with respect to present or former employees, directors and consultants of the Company and its Subsidiaries, with the provisions of Section 409A of the Code and the applicable guidance issued by the IRS thereunder such that no such person could be reasonably expected to incur any additional tax under Section 409A(a)(1)(B)(i) of the Code with respect to his or her participation in such Employee Benefit Plan, and (2) no payment made or to be made by the Company or any Subsidiary in connection with or as a result of the contemplated transaction will be nondeductible for federal income tax purposes by reason of Section 280G of the Code.

(e) Characterization. The Company and its Subsidiaries have properly characterized the status of its and their workers for income and employment tax purposes.

(f) Foreign Plans. Except as set forth on Schedule 4.13(f), neither the Company nor any of its Subsidiaries maintains, contributes or has any obligation to contribute to any employee benefit plan that is subject to the laws of a jurisdiction outside the United States (a "Foreign Plan"). All Foreign Plans have been maintained in compliance in all material respects with their terms and applicable local law, and neither the Company nor any Subsidiary has any unfunded obligation for the payment of any previously accrued benefits under a Foreign Plan.

4.14 Insurance. Schedule 4.14 lists each insurance policy maintained by or in favor of the Company or any of its Subsidiaries (collectively, the "Insurance Policies" and each individually, an "Insurance Policy"), indicating for each Insurance Policy the carrier, the insured, the type of insurance, the amounts of coverage and the expiration date. All of such insurance policies are valid, enforceable and in full force and effect, and neither the Company nor any Subsidiary of the Company is in default with respect to its obligations under any of such insurance policies, except where such default would not have a Material Adverse Effect. There is no individual claim in excess of \$100,000, and there are not aggregate claims exceeding \$250,000, pending under the Insurance Policies and relating to the Company or any of its Subsidiaries as to which coverage has been questioned, denied or disputed by the underwriter(s) of such policy. Except as set forth on Schedule 4.14, all premiums due and payable under the Insurance Policies have been paid.

4.15 Compliance with Laws. Except as set forth on Schedule 4.15, the Company and its Subsidiaries are in compliance in all material respects with all laws and regulations of

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Governmental Authorities applicable to the business and operations of the Company and its Subsidiaries as presently conducted. Neither the Company nor any of its Subsidiaries, nor to the Company's knowledge any director, officer, agent, employee or other Person acting on behalf of any of the Company or any of its Subsidiaries, has used any corporate funds of the Company or any of its Subsidiaries for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity, or made any direct or indirect unlawful payments to government officials or employees from corporate funds, or established or maintained any unlawful or unrecorded funds. No representation or warranty is made in this Section 4.15 with respect to compliance with laws relating to matters covered by Sections 4.09 (Tax Matters), 4.11 (Intellectual Property), 4.13 (Employee Benefit Plans), or 4.16 (Environmental Matters).

4.16 Environmental Matters. Except as set forth on Schedule 4.16:

(a) The Company and its Subsidiaries are, and for the past five years have been, in compliance with all applicable Environmental Laws, except for such noncompliance as would not reasonably be expected to have a Material Adverse Effect.

(b) Except as would not reasonably be expected to have a Material Adverse Effect, the Company and its Subsidiaries have all permits, licenses and other authorizations required under applicable Environmental Laws, and are in compliance with such permits, licenses and authorizations.

(c) Neither the Company nor any of its Subsidiaries has, within the five years prior to the date of this Agreement, received any written notice from any Governmental Authority, that alleges that any of them is in violation of Environmental Laws or has any material liability arising under applicable Environmental Laws or obligations under any consent decrees, orders, directives or other similar agreements arising under Environmental Law, including any investigatory, remedial or corrective obligation, relating to the Company, its Subsidiaries or their facilities, the subject of which is unresolved, and which would reasonably be expected to have a Material Adverse Effect.

(d) Neither the Company nor any of its Subsidiaries has caused or allowed the generation, use, treatment, storage or disposal of Hazardous Materials at or on any of the properties owned or occupied by the Company or its Subsidiaries at the time owned or occupied by the Company or any of its Subsidiaries except in accordance with all applicable Environmental Laws or except as would not reasonably be expected to have a Material Adverse Effect.

(e) The Company and its Subsidiaries have provided the Buyer Parties with copies of reports in its possession regarding any material pollution, contamination or other environmental conditions existing on, at, or underlying any properties used by the Company or any of its Subsidiaries in connection with their operations, and pertaining to any violations of Environmental Law known to the Company or any of its Subsidiaries that have not been remedied or resolved.

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(f) This Section 4.16 constitutes the sole and exclusive representations and warranties of the Company with respect to any environmental, health or safety matters, including, without limitation, any arising under Environmental Laws.

4.17 Affiliated Transactions. Except as set forth on Schedule 4.17, no officer, director, stockholder or Affiliate (other than the Company or any of its Subsidiaries) of Seller, the Company or any of their Subsidiaries is a party to any agreement, contract, commitment or transaction with the Company or any of its Subsidiaries or has any interest in any property or assets used by the Company or any of its Subsidiaries.

4.18 Employees.

(a) Neither the Company nor any of its Subsidiaries is a party to any collective bargaining agreement with respect to the Employees with any labor organization, group or association and, to the Company's knowledge, there have been no attempts to organize the Employees within the one-year period prior to the date of this Agreement. There is no labor strike, labor disturbance or work stoppage pending against the Company or any of its Subsidiaries. Except as would not have a Material Adverse Effect, (i) there are no administrative proceedings or court complaints pending or, to the Company's knowledge, threatened against the Company or any of its Subsidiaries before the U.S. Equal Employment Opportunity Commission or any Governmental Authority concerning alleged unlawful harassment, employment discrimination, wage and hour claims, breach of contract, wrongful termination, defamation, intentional or negligent infliction of emotional distress or similar tortious conduct, and (ii) there is no unfair labor practice charge or complaint pending or, to the Company's knowledge, threatened against the Company or any of its Subsidiaries before the National Labor Relations Board, or any similar state or local body. Except as set forth on Schedule 4.18(a), there are no claims pending or, to the Company's knowledge, threatened against the Company or any of its Subsidiaries under any workers' compensation or long-term disability plan or policy applicable to any current or former Employees.

(b) Schedule 4.18(b) sets forth a true, correct and complete list of all Employees, and with respect to each Employee, the following information: (i) the employer of such Employee; (ii) the current annual salary rate or hourly pay rate, as applicable, of such Employee and the amount of compensation paid in 2007 (if applicable); (iii) any bonus or other cash compensation, other than salary or hourly pay, proposed to be paid during calendar year 2008; and (iv) the nature and amount of any perquisites or personal benefits currently being provided to or for the account of such Employee in excess of \$1,000, other than the employee benefit plans or policies of general application described herein. Also set forth in Schedule 4.18 is a list of individuals who are (A) "leased employees" within the meaning of Section 414(n) of the Code or (B) "independent contractors" within the meaning of the Code and the rules and regulations promulgated thereunder, and in each case, the amount paid by the Company or any of its Subsidiaries during calendar year 2007 and the periodic pay rate or other compensatory arrangements with respect to each such Person. The Company and its Subsidiaries have properly classified all service providers as employees or independent contractors under applicable Laws.

(c) To the Company's knowledge, no key Employee is a party to any confidential information or other agreement that restricts the ability of such key Employee to

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perform his or her duties for the Company or any of its Subsidiaries, except for restrictions that, individually or in the aggregate, would not have a Material Adverse Effect.

(d) Except as set forth on Schedule 4.18(d) or as would not reasonably be expected to have a Material Adverse Effect, (i) the Company and its Subsidiaries have provided all Employees with all wages, benefits, relocation benefits, stock options, bonuses and incentives and all other compensation which have become due and payable and (ii) the Company and its Subsidiaries have provided all Seller Affiliate Employees employed by any Affiliate of Seller prior to the Closing Date, with all wages, benefits, relocation benefits, stock options, bonuses and incentives and all other compensation which have become due and payable and are required to be provided by the Company or any of its Subsidiaries. Neither the Company nor any of its Subsidiaries has instituted any “freeze” of, or delayed or deferred the grant of, any legally binding obligations to provide cost-of-living or other salary adjustments for any Employee.

4.19 Brokerage. Neither the Company nor any of its Subsidiaries has incurred, nor shall any of them become liable for, any brokerage commissions, finders’ fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement made by or on behalf of Seller, the Company or any of their Affiliates, other than any fees and expenses of Goldman, Sachs & Co., which fees and expenses shall be paid by Seller.

4.20 Permits. Schedule 4.20 contains a list of all permits and licenses of Governmental Authorities (collectively, the “Permits”) owned or possessed by the Company and its Subsidiaries that are material to their businesses and no other permits and licenses of any Governmental Authority are required in the conduct of their respective businesses or used by the Company and its Subsidiaries in the conduct of their respective businesses. The Company and its Subsidiaries are in compliance in all material respects with all such Permits. This Section 4.20 constitutes the sole and exclusive representations and warranties of the Company with respect to any matters relating to Permits.

4.21 Bank Accounts. Schedule 4.21 sets forth a list of all bank accounts, and all safe deposit boxes, maintained by the Company and its Subsidiaries, and a listing of the persons authorized to draw thereon or make withdrawals therefrom or, in the case of safe deposit boxes, authorized to obtain access thereto.

4.22 No Other Representations. Except for the representations and warranties contained in Article III and this Article IV, as qualified by the Disclosure Schedules delivered pursuant hereto, none of the Company, its Subsidiaries, Seller or any other Person makes any express or implied representation or warranty in respect or on behalf of the Company, its Subsidiaries or Seller, and the Company and Seller disclaim any such representation or warranty, whether by Seller, the Company or any of its Subsidiaries, or any of their respective officers, directors, employees, agents or representatives or any other Person, with respect to the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby or thereby or the business or assets of the Company and its Subsidiaries, notwithstanding the delivery or disclosure to the Buyer Parties or any of its officers, directors, employees, agents or representatives or any other Person, of any documentation or other information with respect to the foregoing.

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ARTICLE V.

REPRESENTATIONS AND WARRANTIES OF BUYER

The Buyer Parties, jointly and severally, represent and warrant to the Company and Seller as follows:

5.01 Organization and Authority. Each of the Buyer Parties is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation, with all requisite power and authority and full legal capacity to execute and deliver this Agreement and perform its obligations hereunder.

5.02 Authorization; Valid and Binding Agreement. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all required corporate action on the part of each Buyer Party and no other corporate proceedings on the part of any Buyer Party are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly executed and delivered by each Buyer Party and, assuming that this Agreement is a valid and binding obligation of the Company and Seller, this Agreement constitutes a valid and binding obligation of each Buyer Party, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy laws, other similar laws affecting creditors' rights and general principles of equity affecting the availability of specific performance and other equitable remedies.

5.03 No Breach. Except for the applicable requirements of the HSR Act and any other applicable Antitrust Law, the execution, delivery and performance of this Agreement by Seller and the consummation of the transactions contemplated hereby do not result in any breach of, constitute a default under, result in a violation of, result in the creation of any Lien (other than a Permitted Lien) upon any asset of the Company or any of its Subsidiaries, or require any material permit, authorization, consent or approval by, filing with or notice or declaration to any Governmental Authority, under (a) the provisions of any Buyer Party's certificate of incorporation or bylaws, (b) any indenture, mortgage, note, bond, encumbrance, license, government registration, contract, lease, franchise, permit, agreement or other instrument or obligation to which any Buyer Party is a party or by which any Buyer Party or its properties or assets may be bound, or (c) any law, statute or regulation or order, judgment or decree to which Buyer is subject, except, in the case of clauses (b) and (c), where the failure of any of the foregoing to be true would not have a material adverse effect on the ability of any Buyer Party to consummate the transactions contemplated by this Agreement.

5.04 Consents. Except for the applicable requirements of the HSR Act and any other applicable Antitrust Law, no Buyer Party is required to submit any notice, report or other filing with any Governmental Authority in connection with the execution, delivery or performance by it of this Agreement, or the consummation of the transactions contemplated hereby. No consent, approval or authorization of any Governmental Authority or any other Person is required to be obtained by any Buyer Party in connection with its execution, delivery and performance of this Agreement, or the consummation of the transactions contemplated hereby.

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5.05 Litigation. There are no actions, suits or proceedings pending or, to Parent's knowledge, overtly threatened against or affecting any Buyer Party before or by any Governmental Authority, which would adversely affect in any material respect any Buyer Party's performance under this Agreement or the consummation of the transactions contemplated hereby.

5.06 Brokerage. There are no claims for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement made by or on behalf of any Buyer Party, other than any fees and expenses of Deutsche Bank Securities Inc., which fees and expenses shall be paid by Parent.

5.07 Investment Representation. Buyer is purchasing the Shares for its own account with the present intention of holding such securities for investment purposes and not with a view to or for sale in connection with any public distribution of such securities in violation of any federal or state securities laws. Buyer is an "accredited investor" as defined in Regulation D promulgated by the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Securities Act"). Buyer acknowledges that it is informed as to the risks of the transactions contemplated hereby and of ownership of the Shares. Buyer acknowledges that the Shares have not been registered under the Securities Act or any state or foreign securities Laws and that the Shares may not be sold, transferred, offered for sale, pledged, hypothecated or otherwise disposed of unless such transfer, sale, assignment, pledge, hypothecation or other disposition is pursuant to the terms of an effective registration statement under the Securities Act and are registered under any applicable state or foreign securities Laws or pursuant to an exemption from registration under the Securities Act and any applicable state or foreign securities Laws.

5.08 Solvency. Immediately after giving effect to the transactions contemplated hereby, (a) Buyer and each of its Subsidiaries (including the Company and its Subsidiaries) shall be able to pay their respective debts as they become due and shall own property which has a fair saleable value greater than the amounts required to pay their respective debts (including a reasonable estimate of the amount of all contingent liabilities), and (b) Buyer and each of its Subsidiaries (including the Company and its Subsidiaries) shall have adequate capital to carry on their respective businesses. No transfer of property is being made and no obligation is being incurred in connection with the transactions contemplated by this Agreement with the intent to hinder, delay or defraud either present or future creditors of Buyer and its Subsidiaries (including the Company and its Subsidiaries).

## ARTICLE VI.

### COVENANTS OF SELLER AND THE COMPANY

#### 6.01 Confidential Information.

(a) From and after the Closing, Seller and its Affiliates shall keep confidential all non-public, confidential or proprietary data or information (whether oral or written) about the Company and its Subsidiaries, including without limitation, all financial information, cost and expense data, revenue data, production data, technology, projections of business results and all

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other information obtained from the books, records and properties of the Company and its Subsidiaries, and including marketing and customer data and information which is not publicly available, together with analyses, compilations, studies or other documents or records that contain or otherwise reflect or are generated from any of the foregoing (“Company Confidential Information”). The term Company Confidential Information does not include information which (i) is or becomes generally available to the public other than as a result of a disclosure by Seller or its Affiliates in contravention of its obligations hereunder or (ii) that becomes available to Seller or any of its Affiliates on a non-confidential basis from a source other than the Buyer Parties, the Company or any of its Subsidiaries. Notwithstanding anything herein to the contrary, (x) nothing set forth in this Section 6.01(a) shall prevent Seller and its Affiliates from disclosing any Company Confidential Information to the extent required (upon the reasonable advice of counsel) in order to comply with applicable securities Laws or the rules and regulations of any national securities exchange upon which the securities of Seller or its Affiliates are traded, and (y) in the event that Seller can reasonably demonstrate that it or any of its Affiliates is or has become otherwise legally compelled (by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to disclose any of the Company Confidential Information (which requirement shall not have been caused by the acts of Seller or its Affiliates), Seller shall provide Parent with prompt written notice of such requirement so that Parent may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this Section 6.01(a). In any such case, Seller shall use, and shall cause its Affiliates to use, reasonable efforts in cooperation with Parent to obtain such protective order or other relief. In the event that such protective order or other remedy is not obtained and Seller and its Affiliates have otherwise satisfied their obligations under this Section 6.01(a), or if Parent otherwise waives compliance with the provisions hereof, Seller shall furnish (and cause its Affiliates to furnish) only that portion of the Company Confidential Information which is legally required, in which case Seller shall use (and cause its Affiliates to use) reasonable efforts in cooperation with Parent to obtain assurance that confidential treatment will be accorded such Company Confidential Information.

(b) From and after the Closing, Parent and its Affiliates (including Buyer, the Company and its Subsidiaries) shall keep confidential all non-public, confidential or proprietary data or information (whether oral or written) about Seller and its Affiliates (other than the Company and its Subsidiaries), including without limitation, all financial information, cost and expense data, revenue data, production data, technology, projections of business results and all other information obtained from the books, records and properties of Seller and its Affiliates (other than the Company and its Subsidiaries), and including marketing and customer data and information which is not publicly available, together with analyses, compilations, studies or other documents or records that contain or otherwise reflect or are generated from any of the foregoing (“Seller Confidential Information”). The term Seller Confidential Information does not include information which (i) is or becomes generally available to the public other than as a result of a disclosure by Parent or its Affiliates in contravention of its obligations hereunder or (ii) that becomes available to Parent or any of its Affiliates on a non-confidential basis from a source other than Seller, the Company or any of its Subsidiaries. Notwithstanding anything herein to the contrary, (x) nothing set forth in this Section 6.01(b) shall prevent Parent and its Affiliates from disclosing any Seller Confidential Information to the extent required (upon the reasonable advice of counsel) in order to comply with applicable securities Laws or the rules and regulations of any national securities exchange upon which the securities of Parent or its

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Affiliates are traded, and (y) in the event that Parent can reasonably demonstrate that it or any of its Affiliates is or has become legally compelled (by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to disclose any of the Seller Confidential Information (which requirement shall not have been caused by the acts of Parent or its Affiliates), Parent shall provide Seller with prompt written notice of such requirement so that Seller may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this Section 6.01(b). In any such case, Parent shall use, and shall cause its Affiliates to use, reasonable efforts in cooperation with Seller to obtain such protective order or other relief. In the event that such protective order or other remedy is not obtained and Parent and its Affiliates have otherwise satisfied their obligations under this Section 6.01(b), or if Seller otherwise waives compliance with the provisions hereof, Parent shall furnish (and cause its Affiliates to furnish) only that portion of the Seller Confidential Information which is legally required, in which case Parent shall use (and cause its Affiliates to use) reasonable efforts in cooperation with Seller to obtain assurance that confidential treatment will be accorded such Seller Confidential Information.

6.02 [Intentionally Omitted]

6.03 Covenant Not to Compete.

(a) Seller acknowledges that if Seller and its Affiliates were to compete with the Company Business following the Closing, great harm may come to Buyer and the Company Business, thereby destroying the value associated with the purchase of the Company and its Subsidiaries and the goodwill of their respective businesses.

(b) In furtherance of the sale of the Shares to Buyer hereunder by virtue of the transactions contemplated by this Agreement and to more effectively protect the value of the Company Business so sold, Seller covenants and agrees that, for a period of four (4) years from and after the Closing Date (the "Restricted Period"), Seller and its Affiliates shall not, whether for compensation or without compensation, directly or indirectly, engage in the promotion, production, management, booking, operation, presentation, hosting, staging or other similar activity of a Competing Tour or any Specialized Sports Event anywhere in the United States, Canada, Mexico and the Caribbean.

(c) Notwithstanding Section 6.03(b) hereof:

(i) The obligations of Seller and its Affiliates pursuant to Section 6.03(b) shall terminate and be of no further force and effect in the event of a transaction contemplated by Section 1.05(e)(v) which is consummated after December 31, 2010 and in which the aggregate consideration received by Parent and its Affiliates is less than \$125,000,000 and the successor to the Company Business in connection with such transaction does not expressly assume in writing the obligations of Parent pursuant to Section 1.05.

(ii) Nothing set forth in this Section 6.03 shall restrict the ability of Seller or any of its Affiliates to (A) sell tickets for, or engage in any related ticket sales operations or ticket sales promotions with respect to, any Competing Tour or Specialized

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Sports Event or (B) acquire (whether by acquisition of securities or assets, merger or otherwise), invest in or enter into any joint venture or similar arrangement with any Person or business which derives up to 49% of its consolidated revenues from the production, promotion, management, booking, operation, presentation, hosting or staging of any Competing Tour or Specialized Sports Events; provided, however, that in the event Seller or any of its Affiliates acquires, invests in or enters into a joint venture or similar arrangement with any Person or business which derives more than 15%, but no more than 49%, of its consolidated revenues from the production, promotion, management, booking, operation, presentation, hosting or staging of any Competing Tour or Specialized Sports Events, Seller and its Affiliates shall use (or cause such Person to use) commercially reasonable efforts to wind up, dispose or divest of the assets or operations used in such business as promptly as practicable, and in no event later than 24 months after the acquisition, investment, or establishment of the joint venture relationship (as the case may be), to the extent necessary to reduce the portion of such Person's or business' consolidated revenues derived from the production, promotion, booking, operation, presentation, hosting or staging of any Competing Tour or Specialized Sports Events to 15% or less.

(iii) In the event of (A) a sale of all or substantially all of the assets of Seller, Live Nation or any other direct or indirect parent company of Seller to a Person which is not an Affiliate of Seller; (B) a merger, reorganization, consolidation, amalgamation, offer or exchange involving the outstanding shares of Seller, Live Nation or any other direct or indirect parent company of Seller that results in the holders of Live Nation's outstanding capital stock immediately prior to such transaction no longer holding, directly or indirectly, a majority of the outstanding voting power of the successor entity immediately upon completion of such transaction; or (C) an acquisition of all or substantially all the outstanding capital stock of Seller, Live Nation or any other direct or indirect parent company of Seller by one or more Persons who are not Affiliates of Seller (any such transaction, a "Change of Control Transaction"), then the restrictions set forth in this Section 6.03 shall apply only to the production, promotion, management, booking, operation, presentation, hosting or staging of any Competing Tour or Specialized Sports Events at venues owned, managed, booked or operated by Seller or any of its Affiliates (including through any partnership, joint venture or other contractual relationship) immediately prior to the consummation of such Change of Control Transaction.

(d) For purposes of this Section 6.03:

(i) "Competing Tour" means any tour of Specialized Sports Events; and

(ii) "Specialized Sports Events" means any specialized sports events involving any or all of the following: monster truck shows, supercross races, arenacross races, motocross races, freestyle motocross events, motorcycle road racing, dirt track motorcycle racing, drag racing events and bull riding or other rodeo events.

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(e) During the period commencing on the Closing Date and ending on the third (3<sup>rd</sup>) anniversary thereof, neither Seller nor any of its Affiliates, whether for its own account or for the account of any other Person, shall:

(i) Solicit for employment any employee of Parent listed on Schedule 6.03(e)(i);

(ii) Solicit for employment (A) any employee of the Company or any of its Subsidiaries who was employed by the Company or any of its Subsidiaries as of the Closing Date or (B) any individual set forth on Schedule 6.03(e)(ii); or

(iii) hire any Person listed on Schedule 6.03(e)(iii);

provided, however, that the restrictions set forth in clauses (i) and (ii) of this Section 6.03(e) shall not apply to (A) any newspaper or Internet help wanted advertisement, or any search firm engagement which, in any such case, is not directed or focused on personnel employed by Parent or any of its Subsidiaries (including the Company), or (B) any solicitation which is implemented without the knowledge or participation of any employee of Seller or its Affiliates who is aware of the restrictions contained in this Section 6.03(e); provided that Seller shall use commercially reasonable efforts to notify its and its Affiliates' appropriate employees of such restrictions and to comply therewith.

(f) The covenants set forth in this Section 6.03 (the "Restrictive Covenants") have been separately bargained for to protect the businesses, including goodwill, being acquired by Buyer hereunder and to ensure that Buyer shall have the full benefit of the value thereof. Seller, on behalf of itself and its Affiliates, recognizes and acknowledges that the businesses and markets of Buyer are global in scope, and that Buyer is investing substantial sums in purchasing the Shares and in consideration for the Restrictive Covenants contained herein, that such covenants are necessary in order to protect and maintain the legitimate business interests of Buyer and are reasonable in all respects, and that Buyer would not consummate the transactions contemplated by this Agreement but for such agreements. Seller, on behalf of itself and its Affiliates, hereby (i) waives any and all right to contest the validity of the Restrictive Covenants on the ground of the breadth of their geographic or product coverage or the length of their term, (ii) agrees that substantial and legally sufficient consideration is attributable to the Restrictive Covenants, and (iii) waives any right to assert inadequacy of consideration as a defense to enforcement of the Restrictive Covenants should such enforcement ever become necessary.

(g) If Seller or any of its Affiliates breaches, or threatens to commit a breach of, any of the Restrictive Covenants, Buyer shall have, in addition to, and not in lieu of, any other rights and remedies available to it under law or in equity, the rights to have the Restrictive Covenants specifically enforced by any court of competent jurisdiction, including pursuant to Section 12.14 hereof, it being agreed that any breach or threatened breach of the Restrictive Covenants may cause irreparable injury to Buyer and that money damages may not provide an adequate remedy. Seller, on behalf of itself and its Affiliates, covenants and agrees that neither it nor any of its Affiliates will oppose any demand for specific performance and injunctive and other equitable relief in case of any such breach or attempted breach on the grounds that such breach or attempted breach is or would be compensable solely by an award of money damages.

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ARTICLE VII.

ADDITIONAL COVENANTS AND AGREEMENTS

7.01 Access to Books and Records.

(a) From and after the Closing, Parent shall, and shall cause the Company to, provide Seller, and its authorized representatives with reasonable access (for the purpose of examining and copying), upon advance notice and during normal business hours, to the books and records of the Company and its Subsidiaries with respect to periods on or prior to the Closing Date and/or in connection with any matter relating to or arising out of this Agreement or the transactions contemplated hereby. Unless otherwise consented to in writing by Seller, Parent shall not permit the Company or any of its Subsidiaries, for a period of seven years following the Closing Date, to destroy, alter or otherwise dispose of any of its books and records, or any portions thereof, relating to periods on or prior to the Closing Date and/or matters relating to this Agreement and the transactions contemplated hereby without first giving at least thirty days prior written notice to Seller and offering to surrender to Seller such books and records or such portions thereof.

(b) From and after the Closing, Seller shall provide Parent and its authorized representatives with reasonable access (for the purpose of examining and copying), upon advance notice and during normal business hours, to the books and records of Seller relating to the Company and its Subsidiaries with respect to periods on or prior to the Closing Date and/or in connection with any matter relating to or arising out of this Agreement or the transactions contemplated hereby. Unless otherwise consented to in writing by Parent, Seller shall not, for a period of seven years following the Closing Date, destroy, alter or otherwise dispose of any of its books and records, or any portions thereof relating to the Company and its Subsidiaries, relating to periods on or prior to the Closing Date and/or matters relating to this Agreement and the transactions contemplated hereby without first giving at least thirty days prior written notice to Parent and offering to surrender to Parent such books and records or such portions thereof.

7.02 [Intentionally Omitted].

7.03 [Intentionally Omitted].

7.04 [Intentionally Omitted].

7.05 [Intentionally Omitted].

7.06 Employees and Employee Benefits.

(a) Participation in Employee Benefit Plans as of the Closing.

(i) Except as expressly provided on Schedule 7.06(a)(i), upon the Closing, the Company, its Subsidiaries and each individual who is an employee of the Company and/or any of its Subsidiaries (an "Employee") will cease to participate in each of the Employee Benefit Plans. Each individual who is an Employee immediately prior to the Closing, including active employees and employees on any legally protected leave

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(including, without limitation, leave under the Family and Medical Leave Act, the California Family Rights Act, the California Fair Employment and Housing Act's pregnancy disability provisions, or under applicable workers' compensation laws) or on short term leaves such as vacation, sick, bereavement or jury duty leave and who return to work upon the end of the scheduled or legally protected leave period, shall continue as an Employee of the Company or one of its Subsidiaries immediately after the Closing (each, a "Continuing Employee"). Except as may be provided under any applicable agreement in existence on the date of this Agreement between any Continuing Employee and the Company or any of its Subsidiaries, nothing contained in this Section 7.06(a) shall limit the right of Parent or any of its Affiliates to terminate the employment of any Continuing Employee after the Closing.

(ii) Subject to the last sentence of Section 7.06(a)(i), for a period of no less than 12 months from and after the Closing Date, (A) Parent shall provide, or shall cause one of its Affiliates to provide, to the Continuing Employees, benefits which are the same or similar to the benefits (exclusive of long term incentive plan participation) provided to similarly situated employees of Parent and its Affiliates; and (B) Parent shall not reduce or permit the reduction of any Continuing Employee's base salary, wage rate and annual bonus opportunity, determined in the aggregate on an annualized basis, below the applicable levels, determined in the aggregate on an annualized basis, in effect immediately prior to the Closing, exclusive of any form of equity-based compensation and any other compensation received from Seller or any of its Affiliates in connection with the transactions contemplated hereby.

(iii) With respect to each employee benefit and welfare plan of the Parent or its Affiliates (the "Buyer Plans") in which any Continuing Employee becomes eligible to participate, (A) for purposes of vesting, eligibility and calculation of severance benefits, all Continuing Employees shall retain their respective levels of seniority and shall, where applicable, receive full credit under such Buyer Plans for all service with the Company and/or any of its Subsidiaries credited to such Continuing Employees under the corresponding Employee Benefit Plans prior to the Closing, and (B) Parent shall, where applicable, waive or cause to be waived all limitations as to preexisting conditions, exclusions and waiting periods with respect to participation and coverage requirements under the Buyer Plans (to the extent satisfied before the Closing Date under the corresponding Employee Benefit Plan) and shall provide each Continuing Employee with credit for any co-payments and deductibles paid during the Company plan year that includes the Closing Date in satisfying any applicable deductible or out-of-pocket requirements under corresponding Buyer Plans.

(b) Post-Closing Obligations.

(i) Parent shall be solely responsible for, and shall indemnify, defend and hold Seller and its Affiliates harmless from and against, any Losses incurred by any of them arising from or relating to any acts or omissions of Parent or its Affiliates (including the Company and its Subsidiaries) from and after the Closing in connection with the employment or termination of Continuing Employees.

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(ii) From and after the Closing, Parent and its Affiliates (including the Company and its Subsidiaries) shall pay, discharge and be responsible for all salary, wages, severance costs, employee benefits and claims (including (x) workers' compensation or other similar benefits and claims, (y) liabilities for salary continuation and short-term disability benefits and (z) the payment of accrued payments or bonuses under any incentive or bonus plans, programs or arrangements) that are (A) accrued and unpaid as of the Closing Date (to the extent taken into account in the determination of the Final Purchase Price pursuant to Section 1.04 hereof) or (B) earned and become payable by the Company or a Subsidiary to Continuing Employees after the Closing Date. From and after the Closing Date, Parent and its Affiliates (including the Company and its Subsidiaries) shall honor, pay and/or discharge and be responsible for all vacation, holiday, sick leave and other paid-time-off earned or accrued and unused as of the Closing Date, or earned or accrued after the Closing Date, with respect to the Continuing Employees. From and after the Closing, Parent and its Affiliates (including the Company and its Subsidiaries) shall be fully responsible and liable for all employment-related claims relating to any Employee or independent contractor (employed or under contract at any time) of the Company or any of its Subsidiaries which relates to, arises out of, or results from the employment or engagement of such Person from or after the Closing.

(iii) Except if a Continuing Employee has otherwise agreed in writing, to the extent listed on Schedule 4.13(a), from and after the Closing, Parent shall cause the Company and its Subsidiaries to honor in accordance with its terms any employment agreement in effect between either such party and any Continuing Employee.

(iv) For purposes of allocating responsibility under this Section 7.06, a medical claim is deemed incurred when the services that are the subject of the claim are performed; in the case of hospitalization, upon commencement of hospitalization; in the case of life insurance, when the death occurs; in the case of long-term disability benefits, the later of when the disability is determined to have occurred or when the employee ceased active employment as a result of the disability; and, in the case of workers' compensation, when the event giving rise to the claim occurs.

(v) COBRA. Seller shall provide notifications required by applicable Law under Section 601 of ERISA, et seq. (if any) to Employees (and their qualified beneficiaries) who lose coverage under Seller's health plans as a result of the transactions contemplated herein. Seller will be responsible for, and will indemnify the Parent and its Affiliates from and against any Losses incurred in connection with, the satisfaction of COBRA obligations with respect to any individual who becomes an "M&A qualified beneficiary" in connection with the transactions contemplated by this Agreement, as determined in accordance with Treasury Regulation Section 54.4980B-9, Q&A 4(b); it being understood, however, that any individuals who become Continuing Employees (and their covered spouses and/or dependents who have not experienced a qualifying event on or prior to the Closing Date) will not be treated as "M&A qualified beneficiaries" for this purpose. Parent shall (i) have responsibility for all obligations to provide continuation coverage pursuant to Section 601 of ERISA, et seq., with respect to Continuing Employees and their qualified beneficiaries (excluding any individual who became a qualified beneficiary prior to Closing), and (ii) indemnify Seller and its

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Affiliates for any and all Losses incurred as a result of Parent's failure to provide continuation coverage to any such Continuing Employee or qualified beneficiary (excluding any individual who became a qualified beneficiary prior to Closing), including, but not limited to, any Losses or excise taxes arising pursuant to Code Section 4980B.

(vi) 401(k) Plan. As soon as practicable after the Closing, the parties will cause the account balances of the Continuing Employees under Seller's 401(k) Plan to be transferred to a new or existing 401(k) plan of Parent or an Affiliate of Parent in a plan-to-plan transfer that satisfies the requirements of applicable Law, including, without limitation, Section 414(1) of the Code; provided, however, that Seller and Parent reasonably believe the other's plan is tax qualified as of the date of the transfer. The parties will take such actions as are necessary or reasonably requested by the other in order to effectuate such plan-to-plan transfers in an orderly manner, including, without limitation, adoption of plan amendments, and satisfaction of applicable notice and IRS filing requirements.

(c) Certain Employees of Affiliates of Seller. As promptly as reasonably practicable following the Closing Date, and in no event later than December 31, 2008, Parent shall, or shall cause an Affiliate of Parent to, offer employment to each of the individuals employed by an Affiliate of Seller and listed on Schedule 7.06(c) (each, a "Seller Affiliate Employee"); provided that (i) the employment terms of each such Seller Affiliate Employee shall consist of salary and pension benefits in amounts that are equal to or greater than those provided to such Seller Affiliate Employee prior to Closing and (ii) that the length of service (years employed) with the applicable Seller or its Affiliates shall be recorded with the new employment contracts entered into between such Seller Affiliate Employee and Parent or one of its Affiliates. In the event that any Seller Affiliate Employee has not been hired by Parent or an Affiliate of Parent on or before December 31, 2008, Parent shall be responsible for, and shall reimburse Seller and its Affiliates for, any and all severance or similar payments required to be paid to such Seller Affiliate Employee under applicable Laws in connection with any subsequent termination of such Seller Affiliate Employee.

(d) No Other Rights. Nothing in this Section 7.06 shall be deemed to create or confer any rights or remedies (including any agreement for employment or other benefits) in any Person other than the parties hereto.

#### 7.07 Corporate Names; Intellectual Property Matters.

(a) As soon as reasonably practicable after the Closing, but in any event no later than ninety (90) days thereafter, Parent shall cause the Company to amend its articles of incorporation and bylaws so as to delete any reference to "Live Nation" in its legal name and, within such ninety (90) day period, to make all required filings with Governmental Authorities to effect such amendments.

(b) After the Closing, Parent agrees that Parent shall not, and shall cause Buyer, the Company and its Subsidiaries not to, adopt or use any trademarks, trade names, trade dress, domain names, URLs, e-mail addresses or other marks, symbols or indicia containing the

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names “Live Nation” or “SFX” or any confusingly similar term (the “Live Nation Marks”), except as otherwise expressly provided in this paragraph (b) or as may be otherwise expressly authorized in writing by Seller; provided that nothing contained in this Section 7.07 shall be deemed to limit in any way the rights of Parent, the Company and its Subsidiaries after the Closing in any Intellectual Property owned by the Company or its Subsidiaries, including, without limitation, the Intellectual Property listed on Schedule 4.11(a). Notwithstanding the preceding sentence, Parent shall have (i) a reasonable period of time after the Closing, but no more than ninety (90) days after the Closing Date, to effect any removal of the Live Nation Marks from their publicity or public places (including, without limitation, letterhead and signage), except as may be otherwise expressly authorized in writing by Seller, (ii) the right for internal purposes only to utilize existing inventories of goods which may contain or utilize the Live Nation Marks, but may not sell, distribute, provide or disseminate any such goods to any third parties (except as may be otherwise expressly authorized in writing by Seller) and (iii) the right until April 30, 2009 to use the Live Nation Marks in public advertising of the change in ownership of the Company and its Subsidiaries in connection with the transactions contemplated by this Agreement, provided that (A) such use of the Live Nation Marks is consistent with the Company’s use thereof prior to the Closing, does not disparage Seller or its Affiliates and does not impair the value of the Live Nation Marks, (B) prior to such use, Parent shall provide Seller with examples of each such use of the Live Nation Marks for Seller’s review and comment, and (C) promptly upon receipt of notification from Seller that such use does not comply with the terms of this Section 7.07(b), Parent shall discontinue such use of the Live Nation Marks. Parent acknowledges that, after the Closing, Seller and its Affiliates own all right, title and interest (including goodwill) in and to the Live Nation Marks, and to any and all causes of action and rights of recovery for violations of or infringements upon any of the Live Nation Marks. Parent agrees that Parent shall not, and after the Closing shall cause Buyer, the Company and its Subsidiaries not to, directly or indirectly challenge the ownership or other rights of Seller and its Affiliates in or to, or the validity or strength of, any of the Live Nation Marks. Parent agrees that Parent shall not, and after the Closing shall cause the Company and its Subsidiaries not to, file any applications for registration, or make any efforts to acquire applications for registration, for the Live Nation Marks, and Parent shall, and after the Closing shall cause Buyer, the Company and its Subsidiaries to, cooperate fully as reasonably requested by Seller in connection with any registration by Seller or its Affiliates of the Live Nation Marks.

(c) From and after the Closing, Seller shall execute and deliver any documents reasonably required, make all filings or public recordings reasonably necessary or desirable, and cooperate with Parent in good faith, to update record title for any trademark or copyright listed in Schedule 4.11(a) in each jurisdiction in which such Intellectual Property exists.

(d) To the extent that Seller is unable to effectuate the transfer of all domain names listed in Schedule 7.07(d) at or prior to Closing, Seller hereby agrees to cooperate with Parent and to follow the reasonable instructions of the relevant registrar in order to effectuate the transfer of the domain names listed in Schedule 7.07(d) in a reasonably timely manner and to assist Parent, upon request, by taking any reasonable action that may be necessary for the transferring of such right, title and interest in and to such domain names. Any transfer, renewal or registration fees incurred in connection with the transfer of such registration shall be paid by Seller. Seller and Parent agree to execute such further documents and perform such further acts

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as may be required or desirable to carry out such assignment. The transfer shall be deemed completed only when the “whois” database of the Network Solutions web site (or similar web site for non-U.S. domain names) shall reflect Parent as the registered owner of all of the domain names listed in Schedule 7.07(d).

(e) From and after the Closing, Parent hereby agrees to cooperate with Seller and to follow the reasonable instructions of the relevant registrar in order to effectuate the transfer of the domain names listed in Schedule 7.07(e) in a reasonably timely manner and to assist Seller, upon request, by taking any reasonable action that may be necessary for the transferring of such right, title and interest in and to such domain names. Any transfer, renewal or registration fees incurred in connection with the transfer of such registration shall be paid by Parent. Seller and Parent agree to execute such further documents and perform such further acts as may be required or desirable to carry out such assignment. The transfer shall be deemed completed only when the “whois” database of the Network Solutions web site (or similar web site for non-U.S. domain names) shall reflect Seller as the registered owner of all of the domain names listed in Schedule 7.07(e).

7.08 Insurance; Risk of Loss.

(a) As of the close of business on the Closing Date: (i) Seller will terminate or cause its Affiliates to terminate all coverage relating to the Company and its Subsidiaries and their respective businesses, assets and employees under the policies of insurance of Seller maintained for the benefit of all of its controlled subsidiaries, including the Company and its Subsidiaries; provided, however, that (A) no such termination of any “occurrence based” policy in force as of the Closing Date shall be effected so as to prevent the Company and its Subsidiaries from recovering under such policies for losses covered thereby from events occurring on or prior to the Closing Date, it being understood that the Company and its Subsidiaries shall be responsible for any deductible payable under the terms of the applicable policy in connection with any such claims, subject to the Buyer Indemnified Parties’ right to seek indemnification for such amounts in accordance with Article IX hereof; and (B) no such termination of any “claims made” policy in force as of the Closing Date shall be effected so as to prevent the Company and its Subsidiaries from recovering under such policies for losses covered thereby arising from or out of any claim made on or prior to the Closing Date, it being understood that the Company and its Subsidiaries shall be responsible for any deductible payable under the terms of the applicable policy in connection with any such claims, subject to the Buyer Indemnified Parties’ right to seek indemnification for such amounts in accordance with Article IX hereof; and (ii) Parent shall become solely responsible for all insurance coverage and related risk of loss with respect to the Company and its Subsidiaries and their respective businesses, assets and employees in connection with events occurring after the Closing Date.

(b) To the extent that, after the Closing Date, the Company or any of its Subsidiaries or Seller require(s) any information regarding claims data or payroll or other information in order to make filings with insurance carriers, Seller shall promptly supply such information to the Company and its Subsidiaries, and Parent shall cause the Company and its Subsidiaries to promptly supply such information to Seller, as applicable. Parent shall, and shall cause the Company and its Subsidiaries to, promptly notify Seller of any claims pertaining to matters on or prior to the Closing Date if Parent, the Company or any of its Subsidiaries should

tender or attempt to tender the defense of such claim to an insurer pursuant to an occurrence based policy of insurance maintained by Seller or any of its Affiliates.

ARTICLE VIII.

[INTENTIONALLY OMITTED]

ARTICLE IX.

INDEMNIFICATION

9.01 Survival of Representations, Warranties, Covenants and Agreements. The covenants and agreements made by Seller or the Buyer Parties herein, or in any certificate, schedule or exhibit delivered pursuant hereto and required by their terms to be performed or complied with following the Closing, shall survive the Closing and continue in full force and effect until the 12-month anniversary of the date upon which such covenant or agreement has expired in accordance with its terms and shall thereafter be of no further force or effect. The representations and warranties of Seller, the Company and the Buyer Parties set forth in this Agreement and in any certificates delivered at the Closing in connection with this Agreement shall survive the Closing and continue in full force and effect until the 12-month anniversary of the Closing Date and shall thereafter be of no further force or effect; provided, however, that (a) the representations and warranties set forth in Section 4.11 shall survive the Closing and continue in full force and effect until the 24-month anniversary of the Closing Date and shall thereafter be of no further force or effect, (b) the representations and warranties set forth in Sections 4.09, 4.12, 4.13 and 4.16 shall survive the Closing and continue in full force and effect until the date that is ninety (90) days after the expiration of the applicable statute of limitations and shall thereafter be of no further force or effect, and (c) the representations and warranties set forth in Sections 3.01, 3.02, 3.03, 4.01(a), 4.02, 4.03, 4.19, 5.01, 5.02 and 5.06 shall survive the Closing indefinitely and continue in full force and effect.

9.02 Indemnification by Seller for the Benefit of the Buyer Parties.

(a) Subject to the provisions of this Article IX, from and after the Closing, Seller shall indemnify the Buyer Parties and their respective officers, directors, partners, members, employees, agents, representatives, successors and permitted assigns (collectively, the "Buyer Indemnified Parties") against any Losses which the Buyer Indemnified Parties suffer as a result of (i) any breach by Seller or the Company of any representation and warranty set forth in Article III or Article IV of this Agreement or any certificate delivered by or on behalf of Seller hereunder at or prior to the Closing (without giving effect to any materiality or Material Adverse Effect qualification contained therein), (ii) any breach of any covenant or agreement contained in this Agreement to be performed or complied with by Seller, (iii) any claim, action, suit or proceeding set forth on Schedule 4.12(a) (each, an "Indemnified Dispute"), subject to the Buyer Indemnified Parties' compliance with their respective obligations under Section 9.09(a) with respect to such Indemnified Dispute, and (iv) any worker's compensation or tort claim arising from any event or occurrence set forth on Schedule 4.12(b).

(b) Notwithstanding any other provision in this Agreement to the contrary, (i) Seller shall not have any liability under Section 9.02(a)(i) above (other than for Losses arising from or in connection with breaches of representations and warranties set forth in Sections 3.01, 3.02, 3.03, 4.01(a), 4.02, 4.03, 4.09, 4.12 and 4.19), unless the aggregate of all Losses relating thereto for which Seller would be liable but for this Section 9.02(b) exceeds on a cumulative basis \$4,100,000 (the “Threshold”), and then only to the extent such Losses exceed on a cumulative basis \$2,050,000 (the “Deductible”), (ii) Seller shall not have any liability under Section 9.02(a)(i) above, to the extent attributable to Losses arising from or in connection with breaches of representations and warranties set forth in Section 4.12(b), or Section 9.02(a)(iv) above unless the aggregate of all Losses relating thereto for which Seller would be liable but for this Section 9.02(b) exceeds on a cumulative basis \$1,000,000 (the “Special Deductible”), and then only for the amount of such Losses in excess of the Special Deductible, (iii) the aggregate liability of Seller under Section 9.02(a)(i) (other than for Losses arising from or in connection with breaches of representations and warranties set forth in Sections 3.01, 3.02, 3.03, 4.01(a), 4.02, 4.03, 4.09, 4.12 or 4.19), including, for the avoidance of doubt, the aggregate amount of any reduction(s) to any Earnout Amount or the Acceleration Amount by reason of the application of Sections 1.05(f)(vi)(B) or 1.05(g), shall in no event exceed \$17,500,000 (the “Cap”), and (iv) the aggregate liability of Seller under Section 9.02(a) shall in no event exceed the Final Purchase Price. In determining whether aggregate Losses for which Seller is obligated to indemnify the Buyer Indemnified Parties pursuant to Section 9.02(a) exceed the Threshold or the Cap for purposes of this Section 9.02(b), the amount of any Company EBITDA Losses, as determined in accordance with Section 9.02(e), shall be taken into account only to the extent any Earnout Amount or Acceleration Amount otherwise payable to Seller pursuant to Section 1.05 is actually reduced by such Company EBITDA Losses by reason of the application of Section 1.05(f)(vi)(B) or 1.05(g); provided, that in the event that the taking into account of any Losses pursuant to this sentence would result in the aggregate amount of Company EBITDA Losses thereafter available to reduce any Earnout Amount or Acceleration Amount otherwise payable to Seller by reason of the application of Sections 1.05(f)(vi)(B) or 1.05(g), when taken together with the sum of (x) the amount by which the Earnout Amount or Acceleration Amount otherwise payable to Seller pursuant to Section 1.05 has previously been reduced by the application of Sections 1.05(f)(vi)(B) or 1.05(g) and (y) all other Losses subject to Section 9.02(b)(iii), to otherwise exceed the Cap, then (A) the Company EBITDA Losses available to reduce any Earnout Amount or the Acceleration Amount by reason of the application of Section 1.05(f)(vi)(B) shall be reduced by an amount equal to 50% of any excess Losses so taken into account pursuant to this sentence and (B) the Company EBITDA Losses available to reduce any Earnout Amount or the Acceleration Amount by reason of the application of Section 1.05(g) shall be reduced by an amount equal to 50% of any excess Losses so taken into account pursuant to this sentence.

(c) Notwithstanding any other provision in this Agreement to the contrary, Seller shall not be liable to, or indemnify, the Buyer Indemnified Parties for any Losses (i) to the extent that such Losses result from or arise out of actions taken by the Buyer Indemnified Parties or the Company, its Subsidiaries or any of their respective Affiliates after the Closing Date, or (ii) that were taken into account in the determination of the Final Purchase Price pursuant to Section 1.04 hereof.

(d) Except as otherwise expressly provided herein, this Section 9.02 constitutes the Buyer Indemnified Parties’ sole and exclusive remedy for any and all Losses

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(including Company EBITDA Losses) or other claims relating to or arising from this Agreement and the transactions contemplated hereby, other than to the extent arising from, or claims for, fraud.

(e) Notwithstanding any other provision in this Agreement to the contrary, the Buyer Indemnified Parties shall not (i) be entitled to recover any Losses relating to any matter arising under one provision of this Agreement to the extent that the Buyer Indemnified Parties had already recovered such Losses with respect to such matter pursuant to other provisions of this Agreement or (ii) use “multiple of profits,” “multiple of cash flow,” “multiple of EBITDA” or any similar valuation methodology in calculating the amount of any Losses for which the Buyer Indemnified Parties may seek indemnification from the Seller pursuant to this Article IX; provided, however, that the Buyer Indemnified Parties may seek to use the methodologies described in the preceding clause (ii) for purposes of calculating Losses suffered by the Buyer Indemnified Parties as a result of a Company EBITDA Breach, subject to the determination by a final, non-appealable decision of a court having jurisdiction over such matters pursuant to Section 12.16 as to (x) the existence of a Company EBITDA Breach and (y) the amount of any Company EBITDA Losses resulting therefrom; provided, further, that, in the event that any such methodologies are utilized for purposes of calculating Company EBITDA Losses, the Buyer Indemnified Parties’ sole and exclusive remedy for such Company EBITDA Losses shall be to reduce any Earn-Out Amount or Acceleration Amount otherwise payable to Seller in accordance with Section 1.05(g) and to reduce the Maximum Earn-Out Amount in accordance with Section 1.05(f)(vi).

#### 9.03 Indemnification by the Buyer Parties for the Benefit of Seller.

(a) From and after the Closing Date, the Buyer Parties shall, jointly and severally, indemnify Seller, its Affiliates and their respective officers, directors, partners, members, employees, agents, representatives, successors and permitted assigns (collectively, the “Seller Indemnified Parties”) against any Losses which Seller Indemnified Parties suffer as a result of: (i) any breach of any representation or warranty set forth in Article V of this Agreement or any certificate delivered by or on behalf of the Buyer Parties hereunder (without giving effect to any materiality or material adverse effect qualification contained therein), or (ii) any non-fulfillment or breach of any covenant, agreement or other provision set forth in this Agreement to be performed by the Buyer Parties or, from and after the Closing, the Company or any of its Subsidiaries.

(b) Notwithstanding any other provision in this Agreement to the contrary, (i) the Buyer Parties shall not have any liability under Section 9.03(a)(i) above (other than for Losses arising from or in connection with breaches of representations and warranties set forth in Sections 5.01, 5.02, 5.03 and 5.06), unless the aggregate of all Losses relating thereto for which Seller would be liable but for this Section 9.03(b) exceeds on a cumulative basis the Threshold, provided that once the Threshold is exceeded, the Buyer Parties shall be liable for all such Losses in excess of the Deductible, (ii) the aggregate liability of the Buyer Parties under Section 9.03(a)(i) (other than for Losses arising from or in connection with breaches of representations and warranties set forth in Sections 5.01, 5.02, 5.03 and 5.06) shall in no event exceed the Cap, and (iii) the aggregate liability of the Buyer Parties under Section 9.03(a) shall in no event exceed the Final Purchase Price.

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9.04 Manner of Payment. Any indemnification payment pursuant to this Article IX shall be effected by wire transfer of immediately available funds from the applicable indemnifying party to an account designated in writing by each applicable indemnified party within 20 days after the determination thereof.

9.05 Notice and Defense of Third Party Claims. Any Person making a claim for indemnification under Section 9.02 or Section 9.03 (an “Indemnitee”) shall notify the indemnifying party (an “Indemnitor”) of the claim in writing promptly after receiving notice of any action, lawsuit, proceeding, investigation, demand or other claim against the Indemnitee (if by a third party, a “Third Party Claim”), describing the claim, the amount thereof (if known and quantifiable) and the basis thereof in reasonable detail (such written notice, an “Indemnification Notice”); provided that the failure to so notify an Indemnitor shall not relieve the Indemnitor of its obligations hereunder except to the extent that (and only to the extent that) the Indemnitee is materially prejudiced thereby. Any Indemnitor shall be entitled to participate in the defense of such Third Party Claim giving rise to an Indemnitee’s claim for indemnification at such Indemnitor’s expense, and at its option shall be entitled to assume the defense thereof by appointing a reputable counsel reasonably acceptable to the Indemnitee to be the lead counsel in connection with such defense; provided that the Indemnitee shall be entitled to participate in the defense of such Third Party Claim and to employ counsel of its choice for such purpose; provided, however, that the fees and expenses of such separate counsel shall be borne by the Indemnitee and shall not be recoverable from such Indemnitor under this Article IX. If the Indemnitor shall control the defense of any such Third Party Claim, the Indemnitor shall be entitled to settle such Third Party Claim; provided that the Indemnitor shall obtain the prior written consent of the Indemnitee (which consent shall not be unreasonably withheld) before entering into any settlement of a Third Party Claim or ceasing to defend such Third Party Claim if, pursuant to or as a result of such settlement or cessation, injunctive or other equitable relief will be imposed against the Indemnitee or if such settlement does not expressly and unconditionally release the Indemnitee from all liabilities and obligations with respect to such claim. If the Indemnitor assumes such defense, the Indemnitor shall not be liable for any amount required to be paid by the Indemnitee that exceeds, where the Indemnitee has unreasonably withheld or delayed consent in connection with the proposed compromise or settlement of such Third Party Claim, the amount for which that Third Party Claim could have been settled pursuant to that proposed compromise or settlement. In all cases, the Indemnitee shall provide its reasonable cooperation with the Indemnitor in defense of Third Party Claims, including by making employees, information and documentation reasonably available. If the Indemnitor shall not assume the defense of any such Third Party Claim, the Indemnitee may defend against such matter as it deems appropriate; provided that the Indemnitee may not settle any such matter without the written consent of the Indemnitor (which consent shall not be unreasonably withheld) if the Indemnitee is seeking or will seek indemnification hereunder with respect to such matter.

9.06 Determination of Loss Amount. The amount of any Loss subject to indemnification under Section 9.02 or Section 9.03 shall be calculated net of (i) any Tax Benefit inuring to the Indemnitee on account of such Loss, (ii) any reserves set forth in the Financial Statements and/or Closing Statement relating to such Loss and (iii) any insurance proceeds or other amounts under indemnification agreements received by the Indemnitee on account of such Loss. If the Indemnitee receives a Tax Benefit on account of such Loss after an indemnification

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payment is made to it, the Indemnitee shall promptly pay to the Person or Persons that made such indemnification payment the amount of such Tax Benefit at such time or times as and to the extent that such Tax Benefit is realized by the Indemnitee. For purposes hereof, "Tax Benefit" shall mean, with respect to an Indemnitee, the amount of any refund of Taxes actually paid to such Indemnitee or the amount by which such Indemnitee's Tax liability is actually reduced. An Indemnitee shall seek full recovery under all insurance policies and/or indemnification agreements covering any Loss to the same extent as it would if such Loss were not subject to indemnification hereunder. In the event that an insurance or other recovery is received by any Indemnitee with respect to any Loss for which such Indemnitee has been indemnified hereunder, then a refund equal to the aggregate amount of the recovery shall be made promptly to the Person or Persons that provided such indemnity payments to such Indemnitee. The Indemnitors shall be subrogated to all rights of the Indemnitees in respect of any Losses indemnified by the Indemnitors. For Tax purposes, the parties agree that all payments made under this Article IX constitute adjustments to the Final Purchase Price and shall report any payments as such on their Tax Returns, unless otherwise required by applicable Law.

9.07 Termination of Indemnification. The obligations to indemnify and hold harmless a party hereto in respect of a breach of representation, warranty, covenant or agreement shall survive the Closing, regardless of any investigation by the Buyer Parties or Seller (as the case may be), in accordance with Section 9.01; provided, however, that such obligations to indemnify and hold harmless shall not terminate with respect to any item as to which an Indemnitee shall have, prior to the expiration of the applicable survival period, previously made a claim by delivering an Indemnification Notice to the Indemnitor; provided, further, that the Seller's obligation to indemnify and hold harmless the Buyer Indemnified Parties from any workers' compensation or tort claim arising from any event or occurrence set forth on Schedule 4.12(b) shall survive only for so long as the applicable statute of limitations during which any prospective claimant may bring a workers' compensation or tort claim arising from the event or occurrence set forth thereon in accordance with applicable Laws.

9.08 Limitation on Recourse. No claim shall be brought or maintained by the Buyer Parties or any of their respective Subsidiaries or their respective successors or permitted assigns against any officer, director, employee (present or former) or Affiliate of any party hereto which is not otherwise expressly identified as a party hereto, and no recourse shall be brought or granted against any of them, by virtue of or based upon any alleged misrepresentation or inaccuracy in or breach of any of the representations, warranties, covenants or agreements of any party hereto set forth or contained in this Agreement or any exhibit or schedule hereto or any certificate delivered hereunder.

9.09 Defense of and Awards under Indemnified Disputes.

(a) Seller shall, at Seller's expense, be entitled to assume the defense of and/or assert any claims or counter-claims relating to (as applicable) any Indemnified Dispute and appoint the lead counsel of its choice in connection therewith; provided that the Buyer Indemnified Parties shall be entitled to participate in the defense of such Indemnified Dispute and to employ counsel of its choice for such purpose; provided, however, that the fees and expenses of such separate counsel shall be borne by the Buyer Indemnified Parties and shall not be recoverable from Seller under this Article IX. If Seller shall control the defense of and/or

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assert any claims or counter-claims relating to any such Indemnified Dispute, Seller shall be entitled to settle such Indemnified Dispute; provided that Seller shall obtain the prior written consent of Parent (which consent shall not be unreasonably withheld) before entering into any settlement of a Indemnified Dispute or ceasing to defend such Indemnified Dispute if, pursuant to or as a result of such settlement or cessation, injunctive or other equitable relief will be imposed against the Company or any of its Subsidiaries or if such settlement does not expressly and unconditionally release the Company and its Subsidiaries which are parties to such Indemnified Dispute from all liabilities and obligations with respect to such Indemnified Dispute. If Seller assumes the defense of any Indemnified Dispute, Seller shall not be liable for any amount required to be paid by the Buyer Indemnified Parties that exceeds, where Parent has unreasonably withheld or delayed consent in connection with the proposed compromise or settlement of such Indemnified Dispute, the amount for which that Indemnified Dispute could have been settled pursuant to that proposed compromise or settlement. In all cases, the Buyer Indemnified Parties shall provide, and shall cause the Company and its Subsidiaries to provide, their cooperation to Seller in connection with such Indemnified Disputes, including, without limitation, by making employees, information and documentation relating to such Indemnified Dispute available to Seller as and to the same extent as such employees, information and documentation had or would have been made available to Seller prior to Closing. If Seller shall not assume the defense of and/or the assertion of any claims or counter-claims relating to such Indemnified Dispute, the Buyer Indemnified Parties may do so as they deem appropriate; provided that the Buyer Indemnified Parties may not settle any such matter without the prior written consent of the Seller (which shall not be unreasonably withheld).

(b) In consideration for Seller's agreement to indemnify the Buyer Parties for the Indemnified Disputes in accordance with this Article IX and subject to Seller's compliance with its obligations under Section 9.02(a)(iii) with respect to the applicable Indemnified Dispute, the Buyer Parties acknowledge and agree that Seller shall be entitled to any and all damages, expenses and other amounts recovered by Seller, the Buyer Indemnified Parties, the Company or any of its Subsidiaries from any party to any such Indemnified Dispute (or from any insurance carrier) in connection therewith (including without limitation, pursuant to any counter-claim asserted on behalf of the Company or any of its Subsidiaries in connection therewith or any appeal thereof or in connection with any related Proceeding) (collectively, the "Indemnified Dispute Recoveries"). In furtherance of the foregoing, Parent hereby agrees that Parent shall pay, and shall cause the other Buyer Indemnified Parties, the Company or any of its Subsidiaries to pay, to Seller the full amount of any and all Indemnified Dispute Recoveries paid or otherwise delivered to the Buyer Indemnified Parties, the Company or any of its Subsidiaries at any time from and after the Closing Date within three Business Days following the receipt or delivery thereof.

#### ARTICLE X.

##### ADDITIONAL COVENANTS AND AGREEMENTS

10.01 Disclosure Generally. If and to the extent any information required to be furnished in any schedule is contained in this Agreement or in any other schedule, such

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information shall be deemed to be included in all schedules in which the information is required to be included to the extent that the meaning of such disclosure is reasonably apparent on its face. The inclusion of any information in any schedule shall not be deemed to be an admission or acknowledgment by the Company or Seller, in and of itself, that such information is material to or outside the ordinary course of the businesses of the Company and its Subsidiaries.

10.02 Acknowledgment by the Buyer Parties.

(a) The Buyer Parties acknowledge that they have conducted, to their satisfaction, an independent investigation and verification of the financial condition, results of operations, assets, liabilities, properties and projected operations of the Company and its Subsidiaries and, in making its determination to proceed with the transactions contemplated by this Agreement, the Buyer Parties have relied on the results of their own independent investigation and verification and the representations and warranties of the Company and Seller expressly and specifically set forth in this Agreement, including the schedules. **SUCH REPRESENTATIONS AND WARRANTIES BY THE COMPANY AND SELLER CONSTITUTE THE SOLE AND EXCLUSIVE REPRESENTATIONS AND WARRANTIES OF THE COMPANY AND SELLER TO THE BUYER PARTIES IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED HEREBY, AND THE BUYER PARTIES UNDERSTAND, ACKNOWLEDGE AND AGREE THAT ALL OTHER REPRESENTATIONS AND WARRANTIES OF ANY KIND OR NATURE EXPRESS OR IMPLIED ARE SPECIFICALLY DISCLAIMED BY THE COMPANY AND SELLER.** The Company, its Subsidiaries and Seller do not make or provide, and the Buyer Parties hereby waive, any warranty or representation, express or implied, as to the quality, merchantability, fitness for a particular purpose, conformity to samples, or condition of the Company's or any of its Subsidiaries' assets or any part thereto.

(b) In connection with the Buyer Parties' investigation of the Company and its Subsidiaries, the Buyer Parties have received from or on behalf of the Company, its Subsidiaries or Seller certain projections. The Buyer Parties acknowledge and agree that there are uncertainties inherent in attempting to make such estimates, projections and other forecasts and plans, that the Buyer Parties is familiar with such uncertainties, that the Buyer Parties are taking full responsibility for making its own evaluation of the adequacy and accuracy of all estimates, projections and other forecasts and plans so furnished to it (including the reasonableness of the assumptions underlying such estimates, projections and forecasts), and that the Buyer Parties shall have no claim against the Company, its Subsidiaries, Seller or any direct or indirect equity holder of Seller with respect thereto. Accordingly, except as expressly set forth herein, none of the Company, its Subsidiaries and Seller makes any representations or warranties whatsoever with respect to such estimates, projections and other forecasts and plans (including the reasonableness of the assumptions underlying such estimates, projections and forecasts).

10.03 Tax Matters. The following provisions shall govern the allocation of responsibility as between Parent and Seller for certain tax matters following the Closing Date:

(a) Responsibility for Filing Tax Returns.

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(i) Consolidated Income Tax Returns — Tax Periods Ending On or Before the Closing Date. Seller will include or cause to be included the income of the Company and its Subsidiaries (including any deferred items triggered into income by Treas. Reg. § 1.1502-13 and any excess loss account taken into income under Treas. Reg. § 1.1502-19) on the consolidated federal income Tax Return of the Affiliated Group of which Seller, the Company and its Subsidiaries are members (and any other Seller Tax Returns for any Taxes imposed upon, or measured by, income; and for which Seller files with the Company and its Subsidiaries on a consolidated, combined or unitary basis) for all periods through the Closing Date, shall prepare and timely file (or cause to be prepared and timely filed) such Tax Returns, and shall pay (or cause to be paid) any Taxes attributable to such income. The income of the Company and its Subsidiaries will be apportioned to the period up to and including the Closing Date and the period after the Closing Date by closing the books of the Company as of the end of the Closing Date. The parties hereto agree that they will treat the Company and its Subsidiaries as if they ceased to be part of the Affiliated Group of which Seller is a member within the meaning of Section 1504 of the Code, and any comparable or similar provision of state, local or foreign Laws or regulations, as of the close of business on the Closing Date.

(ii) Nonconsolidated Tax Returns Filed After Closing — Tax Periods Ending on or Before the Closing Date. Seller shall prepare or cause to be prepared and file or cause to be filed all Tax Returns for the Company and its Subsidiaries for all Tax periods ending on or prior to the Closing Date which are required to be filed after the Closing Date (other than Tax Returns described in Section 10.3(a)(i) above). At least fifteen (15) days prior to the date on which each such Tax Return is due to be filed, Seller shall submit such Tax Return to Parent for its review and approval, which approval shall not be unreasonably withheld or delayed. A failure by Parent to object to Seller in writing to a Tax Return described in this Section 10.03(a)(ii) within ten Business Days shall be considered Parent approval of such Tax Return. To the extent permitted by applicable Laws, such Tax Returns shall be prepared on a basis consistent with the past custom and practice of the Company.

(iii) Nonconsolidated Tax Returns Filed After Closing — Tax Periods Beginning Before and Ending After the Closing Date. Parent shall prepare or cause to be prepared and file or cause to be filed any Tax Returns of the Company and its Subsidiaries for Tax periods which begin before the Closing Date and end after the Closing Date. At least fifteen (15) days prior to the date on which each such Tax Return is filed, Parent shall submit such Tax Return to Seller for its review, and, to the extent such Tax Return relates to the portion of a Tax period ending on the Closing Date, its approval, which approval shall not be unreasonably withheld or delayed. A failure by Seller to object to Parent in writing to a Tax Return described in this Section 10.03(a)(iii) within ten Business Days shall be considered Seller approval of such Tax Return. To the extent permitted by applicable Laws, such Tax Returns shall be prepared on a basis consistent with the past custom and practice of the Company. For purposes of this Agreement, in the case of any Taxes that are imposed on a periodic basis and are payable for a Tax period that includes (but does not end on) the Closing Date, the portion of such Tax that relates to the portion of such Tax period ending on the Closing Date shall (i) in the case of any Taxes other than Taxes based upon or related to income or receipts, be

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deemed to be the amount of such Tax for the entire Tax period multiplied by a fraction the numerator of which is the number of days in the Tax period ending on the Closing Date and the denominator of which is the number of days in the entire Tax period, and (ii) in the case of any Tax based upon or related to income or receipts, be deemed equal to the amount which would be payable if the relevant Tax period ended on the Closing Date.

(iv) Dispute Resolution for Nonconsolidated Tax Returns Filed After Closing. In the event Parent or Seller timely objects to the filing of a Tax Return described in Section 10.03(a)(ii) or (iii), respectively, and Seller and Parent cannot agree on a resolution of such objection prior to the due date (including extensions) for such Tax Return, then notwithstanding the disagreement Seller or Parent, respectively, shall be permitted to file such Tax Return by its due date (including extensions). As soon as practicable thereafter, Parent and Seller shall submit such dispute to the Independent Auditor for a determination as to whether the position(s) taken by Seller or Parent, respectively, on such Tax Return comply with applicable Laws and are reasonably consistent with the past custom and practice of the Company (to the extent permitted by applicable Laws). If the Independent Auditor determines that the Tax Return prepared and filed by Seller or Parent, respectively, either does not comply with applicable Laws or is unnecessarily inconsistent with the past custom and practice of the Company, and that the position of Parent or Seller, respectively, is correct, Seller or Parent, respectively, shall (a) prepare and file, at its expense, an amended Tax Return consistent with such conclusion, and (b) pay the costs of the Independent Auditor. If the Independent Auditor determines, on the other hand, that the Tax Return prepared and filed by Seller or Parent, respectively, complied with applicable Laws and was not unnecessarily inconsistent with the past custom and practice of the Company, Seller or Parent, respectively, will not be required to file an amended Tax Return and Parent or Seller, respectively, shall pay the costs of the Independent Auditor. If multiple positions on such Tax Return were disputed and, in accordance with this Section 10.03(a)(iv), the Independent Auditor determines that Parent should prevail with regard to certain such positions and Seller should prevail with regard to others, then Parent and Seller shall share the costs of the Independent Auditor in the ratio that matches the relative success of their positions in accordance with this Section 10.03(a)(iv).

(b) Cooperation on Tax Matters. Parent, the Company and its Subsidiaries, and Seller shall cooperate fully, as and to the extent reasonably requested by the other party, in connection with the preparation and filing of Tax Returns pursuant to this Section 10.03 and any audit, litigation or other proceeding with respect to Taxes. Such cooperation shall include the retention and (upon the other party's request) the provision of records and information that are reasonably relevant to preparing any Tax Return or to any such audit, litigation or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Company and Seller agree (A) to retain all books and records with respect to Tax matters pertinent to the Company and its Subsidiaries relating to any Tax period beginning before the Closing Date until the expiration of the statute of limitations (and, to the extent notified by Parent or Seller, any extensions thereof) applicable to such Tax period, and to abide by all record retention agreements entered into with any Tax authority, and (B) to give the other party reasonable written notice prior to transferring,

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destroying or discarding any such books and records and, if the other party so requests, to allow the other party to take possession of such books and records.

(c) Audits; Contests.

(i) Tax Claims. If, subsequent to the Closing, Parent, the Company or any of its Subsidiaries receives notice of a claim by any Taxing authority that, if successful, could result in an indemnity payment by Seller under this Agreement (a "Tax Claim"), then within thirty (30) days after receipt of such notice, Parent shall give written notice of such Tax Claim to Seller. If, subsequent to the Closing, Seller receives notice of a Tax Claim that, if successful, could result in an indemnity payment by Seller under this Agreement, then within thirty (30) days after receipt of such notice, Seller shall give written notice of such Tax Claim to Parent. Seller shall have the right, at its own expense, to control the conduct and resolution of any such Tax Claim; provided, however, that Seller shall keep Parent informed of all developments on a timely basis and shall not settle such Tax Claim without Parent's approval, which approval shall not be unreasonably withheld, if the settlement of such Tax Claim would, in Parent's reasonable opinion, have more than an insignificant adverse effect on Parent's, the Company's or any of the Company's Subsidiaries' liability for Taxes in any period after the Closing. If Seller elects not to control the conduct and resolution of any such Tax Claim, Seller shall notify Parent in writing, and Parent shall have the right to control the conduct and resolution of such Tax Claim; provided, however, that if Parent exercises its right to control the conduct and resolution of such Tax Claim, Parent shall keep Seller informed of all developments on a timely basis.

(ii) Certain Seller Audits. If, subsequent to the Closing, Seller receives notice of a claim by any Taxing authority relating to an Affiliated Group that, if successful, would have more than an insignificant adverse effect on the Tax liability or the Tax basis of any asset of the Company or any of its Subsidiaries for any period after the Closing, then within thirty (30) days after receipt of such notice, Seller shall give written notice of the same to Parent. Seller shall permit Parent and its counsel to participate, at Parent's expense, in the defense of any such claim to the extent not expressly prohibited under the Clear Channel Tax Sharing Agreement. To the extent not expressly prohibited under the Clear Channel Tax Sharing Agreement, Seller shall not settle such claim without Parent's approval, which approval shall not be unreasonably withheld, if the settlement would have more than an insignificant adverse effect on Parent's, the Company's or any of the Company's Subsidiaries' liability for Taxes in any period after the Closing.

(iii) For purposes of this Section 10.03(c) above, an "insignificant adverse effect" shall mean an adverse effect in an amount less than five hundred dollars (\$500).

(d) Refunds. Seller shall be entitled to an amount equal to any refunds (including any interest paid thereon) or credits of Taxes attributable to Tax periods of the Company or any of its Subsidiaries ending (or deemed pursuant to Section 10.03(a) to end) on or before the Closing Date. Parent shall promptly notify Seller in writing of any Tax refund(s)

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received by or payable to the Company or any of its Subsidiaries after the Closing in respect of a period ended before or including the Closing Date. Parent shall, or shall cause the Company or its Subsidiaries to, promptly forward to or reimburse Seller for any such refunds (including any interest paid thereon) or credits due Seller (pursuant to the terms of this Agreement) after receipt thereof. Notwithstanding the foregoing, however, in the event the Affiliated Group of which Seller, the Company and its Subsidiaries are members files, after the Closing Date, an amended consolidated income Tax Return for any Tax year ended on or before the Closing Date and such amended Tax Return results in an increase in the amount of income which otherwise would be reportable by Parent, the Company or any of its Subsidiaries for a Tax period ended after the Closing Date, Seller shall indemnify, defend and hold Parent, the Company and its Subsidiaries harmless from and against the amount of any increase in Parent's (or its stockholders'), the Company's or any of its Subsidiaries' liability for Taxes by reason of the filing of such amended consolidated income Tax Return.

(e) Post-Closing Transactions.

(i) Parent and Seller agree to report (or cause to be reported) all transactions not in the ordinary course of business occurring on the Closing Date, but after the Closing, on Parent's federal income Tax Return to the extent permitted by Treas. Reg. § 1.1502-76(b)(1)(ii)(B). Parent agrees to indemnify Seller Indemnified Parties for any additional Tax owed by Seller, Holdco or any of their Affiliates (including Tax owed by Seller, Holdco or any of their Affiliates due to this indemnification payment) resulting from any transaction engaged in by the Company or any of its Subsidiaries not in the ordinary course of business occurring on the Closing Date and after Parent's purchase of the Shares hereunder.

(ii) In addition to, and not in limitation of, Seller's indemnification obligations for the benefit of Parent under Section 9.02 hereof in respect of any breach by Seller or the Company of a representation, warranty or covenant relating to Taxes, Seller shall indemnify, defend and hold Parent, the Company and its Subsidiaries harmless from and against any and all Taxes for which the Company or any of its Subsidiaries may be liable as a result of the application of Treas. Reg. § 1.1502-6 with respect to transactions entered into by Persons other than the Company and its Subsidiaries and occurring after the Closing Date, but during the Tax year of the Affiliated Group of which Seller, the Company and its Subsidiaries are members and in which the Closing occurs.

(f) Tax-Sharing Agreements. All tax-sharing agreements or similar agreements to which the Company or any of its Subsidiaries is a party shall be terminated as of the Closing Date and, after the Closing Date, the Company and its Subsidiaries shall not be bound thereby or have any liability thereunder, although it is specifically understood and agreed that the Company and its Subsidiaries shall continue, after the Closing Date, to be beneficiaries of the indemnification obligations of Clear Channel Communications, Inc. and subject to the obligations set forth in the Clear Channel Tax Sharing Agreement.

(g) Transfer Taxes. Parent and Seller shall each pay one-half of any documentary, stamp, stock transfer, or similar Tax payable as a result of the transactions contemplated by this Agreement (collectively, "Transfer Taxes") and the parties hereto shall

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cause all such Transfer Taxes to be paid in full at the Closing. Each of Parent and Seller agrees to cooperate with the other party in the filing of any Tax Returns it may be required to file with respect to the Transfer Taxes, including promptly supplying any information in its possession reasonably requested by such party that is reasonably necessary to complete such Tax Returns.

10.04 Further Assurances. From time to time, as and when requested by any party hereto and at such party's expense, any other party shall, and shall cause their Affiliates to, execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions as the requesting party may reasonably deem necessary or desirable to evidence and effectuate the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, Seller shall, as promptly as reasonably practicable following receipt thereof, respond to any written inquiry received from Parent from time to time during the three-year period following the Closing Date as to the continued existence of a directors and officers insurance policy applicable to the officers and directors of Live Nation and its Subsidiaries.

## ARTICLE XI.

### DEFINITIONS

11.01 Definitions. For purposes hereof, the following terms, when used herein with initial capital letters, shall have the respective meanings set forth herein:

“Affiliate” of any particular Person means any other Person controlling, controlled by or under common control with such particular Person. For the purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct the management and policies of a Person whether through the ownership of voting securities, contract or otherwise. For purposes of Section 1.05 hereof, Affiliate shall include, as to any Person who is a natural Person, the Immediate Family of such Person, trusts, limited partnerships or other entities for the benefit of such Person or such Person's Immediate Family and any entity (other than the Company or its Affiliates) that, directly or indirectly, through one or more intermediaries, is controlled by or is under common control with such Person or the Immediate Family of such Person.

“Affiliated Group” means an affiliated group as defined in Section 1504 of the Code (or any analogous combined, consolidated or unitary group defined under state, local or foreign income Tax law) of which the Company is or has been a member.

“Antitrust Law” means the Sherman Antitrust Act of 1890, as amended, the Clayton Antitrust Act of 1914, as amended, the HSR Act, the Federal Trade Commission Act of 1914, as amended, and all other applicable competition, merger control, antitrust, trade regulation or similar transnational, national, federal or state, domestic or foreign laws, statutes or regulations, and other laws, statutes or regulations and administrative and judicial doctrines that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition.

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“Business Day” means a day other than Saturday or Sunday or any other day on which banks in New York City are required to or may be closed.

“Cash on Hand” means, with respect to the Company and its Subsidiaries, all cash (including deposits in transit), cash equivalents and marketable securities, as of 11:59 p.m. (New York City time) on the day immediately preceding the Closing Date; provided that in no event shall “Cash on Hand” include any cash, cash equivalents or marketable securities distributed by the Company to Seller or to any of Seller’s Affiliates (other than a Subsidiary of the Company) on the Closing Date prior to Closing.

“Code” means the Internal Revenue Code of 1986, as amended.

“Company’s Accounting Practices and Procedures” means the customary accounting methods, policies, practices and procedures, including classification and estimation methodology, used by the Company in the preparation of the Audited Financial Statements.

“Company EBITDA” means the Company’s and its Subsidiaries’ consolidated earnings before interest, taxes, depreciation and amortization for the 12-months ended June 30, 2008, as set forth on Schedule 11.01(a)(i).

“Company EBITDA Breach” means, in response to an action brought by the Buyer Indemnified Parties in accordance with the applicable provisions of Article IX, a final, non-appealable decision of a court having jurisdiction over such matters pursuant to Section 12.16 that (i) the representations and warranties of the Company set forth in the second sentence of Section 4.06(a) have been breached and that (ii) such breach has resulted in Company EBITDA being less than the amount set forth on Schedule 11.01(a)(ii); provided that in no event shall any Buyer Indemnified Party bring any such action with respect to, or shall any Company EBITDA Breach be determined to exist in connection with, any Designated Accounts Receivable.

“Company EBITDA Losses” means the amount of any Losses resulting from any Company EBITDA Breach, as determined by a final, non-appealable decision of a court having jurisdiction over such matters pursuant to Section 12.16, the amount of which Company EBITDA Losses shall be subject to the limitations on the liability of Seller set forth in Sections 9.02(b)(i) and (iii).

“Designated Accounts Receivable” means those accounts receivable of the Company and its Subsidiaries set forth on Schedule 11.01(b).

“Employee Benefit Plan” means each “employee benefit plan” (as such term is defined in Section 3(3) of ERISA), whether or not subject to ERISA, and each other employment, severance, retention, change-in-control, incentive (equity or otherwise), fringe benefit or other compensatory agreement, plan, program or arrangement maintained, or contributed to, by the Company or its Subsidiaries (as a participating employer or otherwise) with or for the benefit of any current or former officer, employee or other personnel of the Company or any of its Subsidiaries or with respect to which the Company or any of its Subsidiaries has any liability.

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“Environmental Laws” means any and all applicable federal, state, local and foreign laws including common law, statutes, ordinances, rules, permits, regulations, or orders of any Governmental Authority pertaining to the protection of human health, safety or the environment enacted and in effect on or prior to the Closing Date, including, without limitation, all those relating to the presence, use, production, generation, handling, transportation, treatment, storage, disposal, processing, discharge, release, threatened release, control, or cleanup of any Hazardous Materials.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate,” with respect to any Person, shall mean any entity other than such Person that, together with such Person, is required to be treated as a single employer under Section 414(b), (c), (m) or (o) of the Code.

“GAAP” means United States generally accepted accounting principles, consistently applied.

“Governmental Authority” means any domestic or foreign, federal, state, municipal or local government (or any political subdivision thereof) or any domestic or foreign governmental, regulatory or administrative authority or any department, commission, board, agency, court, tribunal, judicial body or instrumentality thereof.

“Hazardous Materials” means any substance that is identified and regulated (or the cleanup of which can be required) under any Environmental Law. Without limiting the generality of the foregoing, the term Hazardous Materials shall include (i) “hazardous wastes,” “solid wastes,” “hazardous substances,” “toxic substances,” “pollutants,” or “contaminants” or other similarly identified designations in, or otherwise subject to regulation under, any Environmental Law; and (ii) petroleum, crude oil, refined petroleum products and fractions or by-products thereof, in each case whether in their virgin, used or waste state.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

“Immediate Family” means, with respect to any individual, such individual’s spouse, parents, children, grandchildren, siblings, nieces or nephews.

“Indebtedness” means, without duplication, the sum of all obligations of the Company and its Subsidiaries for borrowed money and any accrued interest or prepayment premiums related thereto. For the avoidance of doubt, Indebtedness shall not include any (a) guarantees, letters of credit, performance bonds, sureties and/or similar obligations of any kind or nature issued by or on behalf of the Company or any of its Subsidiaries in connection with any customer contracts, proposals or otherwise and (b) intercompany accounts among the Company and any of its Subsidiaries.

“Indebtedness Payoff Amount” means the amount required to repay all Indebtedness of the Company, and any of its Subsidiaries, outstanding as of immediately prior to the Closing.

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“Intellectual Property” means (a) all patents, patent applications and patent disclosures, (b) all trademarks, services marks, trade dress, logos, trade names, domain names and corporate names, and all applications, registrations and renewals in connection therewith, (c) all copyrightable works, works of authorship and all copyrights, and all applications, registrations and renewals in connection therewith, and (d) all trade secrets, confidential information and know-how.

“Latest Balance Sheet” means the unaudited, consolidated balance sheet of the Company and its Subsidiaries, as of June 30, 2008.

“Laws” means all federal, state or local laws, ordinances, regulations, rules, orders, writs, judgments, injunctions or decree of any Governmental Authority.

“Liens” means any lien, charge, security interest, mortgage, pledge, deed of trust, restriction on transfer, option, right to purchase, easement or other encumbrance.

“Live Nation” means Live Nation, Inc., a Delaware corporation.

“Losses” means all losses, costs, damages, penalties, judgments, fines, amounts paid in settlement, liabilities and expenses (including, without limitation, reasonable legal, accounting and other professional fees and expenses), other than punitive damages, lost profits (including damages for loss of business reputation) or consequential, incidental, special or other unforeseen damages, except to the extent such punitive damages, lost profits or consequential, incidental, special or other unforeseen damages constitute a Third Party Claim.

“Material Adverse Effect” means any change, effect or development that is materially adverse to the assets, financial condition or results of operations of the Company Business; provided, however, that none of the following shall be deemed in themselves, either alone or in combination, to constitute, and none of the following shall be taken into account in determining whether there has been or will be, a Material Adverse Effect: (a) any adverse change, effect, event, occurrence, state of facts or development attributable to the announcement or pendency of the transactions contemplated by this Agreement (including, without limitation, the impact thereof on the Company’s and any of its Subsidiaries’ relationships with customers, suppliers, partners and employees); (b) any adverse change, effect, event, occurrence, state of facts or development attributable to conditions affecting the industry in which the Company and any of its Subsidiaries participate, the U.S. economy or any other economy where the Company or any of its Subsidiaries do business (in each case, as a whole) or the capital markets in general or the markets in which the Company and any of its Subsidiaries operate that does not have a disproportionately adverse effect on the Company Business; (c) the effect of any change arising in connection with any outbreak of hostilities, acts of war, sabotage or terrorism or military actions or any escalation or material worsening of any such hostilities, acts of war, sabotage or terrorism or military actions; (d) any adverse change, effect, event, occurrence, state of facts or development arising from or relating to any change in accounting requirements or principles or any change in applicable Laws, rules or regulations or the interpretation thereof; (e) any adverse change, effect, event, occurrence, state of facts or development arising from or relating to compliance with the terms of this Agreement; (f) any failure by the Company or any of its Subsidiaries to meet internal projections for any period ending (or for which revenues, earnings

or other financial data are released) after the date of this Agreement (but not the underlying events that gave rise to such failure); or (g) any failure to renew or extend the contracts and agreements set forth on Schedule 11.01(c) (including, without limitation, any resulting loss by the Company or any of its Subsidiaries of any of the rights or benefits thereunder).

“Multiemployer Plan” shall have the meaning set forth in Section 3(37) of ERISA.

“Net Working Capital” means the result of (i) all current assets (excluding Cash on Hand and income Taxes and deferred Taxes) of the Company and its Subsidiaries minus (ii) all current liabilities (excluding Indebtedness, interest payable on Indebtedness, income Taxes and deferred Taxes) of the Company and its Subsidiaries, in each case determined, except as set forth on Schedule 1.04, in accordance with GAAP applied on a basis consistent with the Company’s Accounting Practices and Procedures; provided that, notwithstanding anything herein to the contrary, for purposes of calculating “Net Working Capital” (x) all Tax deductions, Tax refund receivables, reduction in Tax liabilities and other Tax benefits of the Company and its Subsidiaries related to or arising out of the transactions contemplated hereby (whether or not realizable within 12 months after the Closing), including as may be related to the payment of any portion of Indebtedness Payoff Amount, shall be treated as current assets or a reduction in current liabilities, as applicable, of the Company that arose as of 11:59 p.m. (New York City time) on the day immediately preceding the Closing Date (i.e., such that such Tax benefits shall be included in the computation of the Estimated Net Working Capital Amount and the final Net Working Capital Amount) and (y) except to the extent contemplated by the preceding clause (x), in no event will the determination of “Net Working Capital” include any intercompany accounts. Schedule 1.04 sets forth an example of the calculation of Net Working Capital based on the current assets and current liabilities reflected in the Latest Balance Sheet.

“Net Working Capital Amount” means the Net Working Capital of the Company and its Subsidiaries as of 11:59 p.m. (New York City time) on the day immediately preceding the Closing Date.

“ordinary course of business” means, with respect to the Company and its Subsidiaries, the ordinary course of business of the Company and its Subsidiaries consistent with past practice, including, without limitation, (i) the promotion, production, sponsorship and operation of motorsports and other events (or series of events), including all Supercross, Arenacross, Monster Jam, Thunder Nationals, Nitro Jam, Street Warriorz, Thunder Jam, Freestyle Motocross and Professional Bull Riding events, (ii) the entry into venue, sponsorship, licensing, television and marketing agreements and other contracts related to such motorsports and other events, and (iii) the conduct by the Company and its Subsidiaries of business activities related to such motorsports and other events, including the development, promotion and marketing thereof and sales of merchandise related thereto.

“Permitted Liens” means (i) any restriction on transfer arising under applicable securities law; (ii) Liens for current Taxes or other governmental charges not yet due and payable or the amount or validity of which is being contested in good faith by appropriate proceedings by the Company and its Subsidiaries and otherwise shown in the Latest Balance Sheet; (iii) mechanics’, carriers’, workers’, repairers’, landlords’ and similar statutory Liens

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arising or incurred in the ordinary course of business for amounts which are not delinquent and which are not, individually or in the aggregate, material; (iv) zoning, entitlement, building and other land use regulations imposed by Governmental Authorities having jurisdiction over the Owned Real Property or the Leased Real Property which are not violated by the current use and operation or proposed use in connection with the Company's and its Subsidiaries' businesses conducted or to be conducted at the Owned Real Property or the Leased Real Property; (v) covenants, conditions, restrictions, easements and other similar matters of record affecting title to the Owned Real Property or the Leased Real Property which do not impair the occupancy or use of the Owned Real Property or the Leased Real Property for the purposes for which it is currently used or proposed to be used in connection with the Company's and its Subsidiaries' businesses and any matters disclosed on the Commitment No. NCS-121656-CHI1 dated September 7, 2005 and issued by First American Title Insurance Company; (vi) Liens arising under workers' compensation, unemployment insurance, social security, retirement and similar legislation; (vii) purchase money Liens and Liens securing rental payments under capital lease arrangements; (viii) Liens of lessors and licensors arising under lease agreements or license arrangements; (ix) other Liens arising in the ordinary course of business and not incurred in connection with the borrowing of money; (x) prior to the Closing, Liens securing the Senior Credit Facility or other Indebtedness to be paid off at the Closing; (xi) those Liens set forth on Schedule 11.01(d); and (xii) other Liens that either individually or in the aggregate do not have a Material Adverse Effect.

“Person” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or Governmental Authority.

“Post-Spin Off Tax Period” means any Tax period beginning on or after the December 21, 2005 spin-off of Live Nation from its former parent, Clear Channel Communications, Inc.

“Senior Credit Facility” means that certain Second Amended and Restated Credit Agreement, dated as of July 17, 2008, among JPMorgan Chase Bank, N.A., as Administrative Agent, Live Nation, Seller and certain other parties thereto, as amended, together with all agreements and instruments entered into or delivered pursuant thereto.

“Subsidiary” or “Subsidiaries” means, with respect to any Person, any other Person of which (i) if a corporation, a majority of the total voting power of shares of stock entitled to vote in the election of directors thereof is at the time owned or controlled, directly or indirectly, by that Person or (ii) if a limited liability company, partnership, association or other business entity (other than a corporation), (A) a majority of the ownership interests thereof is at the time owned or controlled, directly or indirectly, by that Person or (B) that Person shall be or control, directly or indirectly, any managing director or general partner of such business entity.

“Target Net Working Capital Amount” means \$5,500,000.

“Tax” or “Taxes” means any federal, state, local or foreign income, gross receipts, franchise, estimated, alternative minimum, add-on minimum, sales, use, transfer, real property gains, registration, value added, excise, natural resources, severance, stamp, occupation,

premium, windfall profit, environmental, customs, duties, real property, special assessment, personal property, capital stock, social security, unemployment, disability, payroll, license, employee or other withholding, or other tax, of any kind whatsoever, including any interest, penalties or additions to tax or additional amounts in respect of the foregoing.

“Tax Return” or “Tax Returns” means any return, report, information return or other document (including schedules or any related or supporting information) filed or required to be filed with any Governmental Authority in connection with the determination, assessment or collection of any Tax or the administration of any laws, regulations or administrative requirements relating to any Tax.

“Transaction Expenses” means any and all expenses, fees, commissions, compensation or other amounts of Seller, the Company or any of its Subsidiaries that are payable by the Company or any of its Subsidiaries as a result of, or in connection with, the consummation of the transactions contemplated by this Agreement to the extent that such amounts (x) have not been paid at or prior to the Closing and (y) were not taken into account in the determination of the Final Purchase Price pursuant to Section 1.04 hereof, which shall include without limitation: (a) the fees, expenses, charges and other payments to counsel, accountants, financial advisors or investment bankers of Seller, the Company or any of its Subsidiaries arising out of the transactions contemplated by this Agreement; and (b) all amounts due to any employee or consultant of Seller, the Company or any of its Subsidiaries in respect of any stay bonuses, severance payments, change of control payments or other payments (i) arising solely from the consummation of the transactions contemplated by this Agreement, and (ii) that do not require any action on the part of the Buyer Parties, the Company or any of its Subsidiaries following the Closing to make such amounts due, including termination of employment of such person.

11.02 Cross-Reference of Other Definitions. Each capitalized term listed below is defined in the corresponding Section of this Agreement:

<u>Term</u>	<u>Section No.</u>
Acceleration Amount	1.05(f)
Acceleration Event	1.05(e)
Agreement	Preamble
Annual Acceleration Amount	1.05(f)
Audited Financial Statements	4.06(a)
Average Commission Amount	1.05(f)
Average Commission Percentage	1.05(f)
Buyer	Preamble
Buyer Indemnified Parties	9.02(a)
Buyer Parties	Preamble
Buyer Plans	7.06(a)
Cap	9.02(b)
Change of Control Transaction	6.03(c)
Clear Channel Tax Sharing Agreement	4.09(h)

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Closing	1.03(a)
Closing Date	1.03(a)
Closing Payment Certificate	1.01(a)
Closing Statement	1.04(a)
Common Stock	Recitals
Company	Preamble
Company Business	1.05(c)
Company Confidential Information	6.01(a)
Competing Tour	6.03(d)
Continuing Employee	7.06(a)
Declaration	4.08(b)
Deductible	9.02(b)
Disclosure Schedule	Article III
Dispute	12.17
Earn-Out Amount	1.05(f)
Earn-Out Expiration Date	1.03(a)
Earn-Out Notice of Disagreement	1.05(a)
Earn-Out Statement	1.05(a)
Earn-Out Year	1.05(a)
Employee	7.06(a)
Enterprise Value	1.01(b)
Estimated Cash on Hand	1.01(a)
Estimated Net Working Capital Amount	1.01(a)
Final Adjustment Amount	1.04(d)
Final Purchase Price	1.04(d)
Financial Statements	4.06(a)
Foreign Plan	4.13(f)
Holdco	4.09(h)
Indemnification Notice	9.05
Indemnified Dispute	9.02(a)
Indemnified Dispute Recoveries	9.09(b)
Indemnitee	9.05
Indemnitor	9.05
Independent Auditor	1.04(b)
Insurance Policy	4.14
Insurance Policies	4.14
Interim Financial Statements	4.06(a)
IRS	4.13(b)
Leased Real Property	4.08(c)
Live Nation Marks	7.07(b)
Material Contract	4.10(a)
Maximum Earn-Out Amount	1.05(f)
Objections Statement	1.04(b)
Owned Real Property	4.08(b)
Parent	Preamble
Partial Disposition Event	1.05(d)

Permits	4.20
Present Value	1.05(f)
Purchase Price	1.01(b)
Real Property	4.08(c)
Real Property Leases	4.08(c)
Restricted Period	6.03(b)
Restrictive Covenants	6.03(f)
Securities Act	5.07
Seller	Preamble
Seller Affiliate Employee	7.06(d)
Seller Confidential Information	6.01(b)
Seller Indemnified Parties	9.03(a)
Shares	Recitals
Special Deductible	9.02(b)
Specialized Sports Events	6.03(d)
Sponsorship Commissions	1.05(f)
Sponsorship Gross Revenue	1.05(f)
Sponsorship Net Revenue	1.05(f)
Subsequent Earn-Out Year	1.05(d)
the Company's knowledge	12.03
Target Sponsorship Gross Revenue	1.05(f)
Tax Benefit	9.06
Tax Claim	10.03(c)
Third Party Claim	9.05
Threshold	9.02(b)
Transferred Business Segment	1.05(d)
Transfer Taxes	10.03(g)
Transition Services Agreement	2.01(b)

## ARTICLE XII.

### MISCELLANEOUS

12.01 Press Releases and Communications. No press release or public announcement related to this Agreement or the transactions contemplated herein, any other announcement or communication to the employees, consultants, customers or suppliers of the Company or any of its Subsidiaries, shall be issued or made by any party hereto without the joint approval of Parent and Seller, unless required (upon the reasonable advice of counsel) by applicable Law or the rules and regulations of any national securities exchange upon which such party's (or any of its Affiliate's) securities are traded, in which case Parent and Seller shall have the right to review such press release, announcement or communication prior to its issuance, distribution or publication.

12.02 Expenses. Each of the parties hereto shall pay the fees and expenses incurred by it in connection with the negotiation, preparation, execution and performance of this Agreement, including, without limitation, brokers' fees, attorneys' fees and accountants' fees; provided, each

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of Seller and Parent shall be responsible for half of the filing fees under the HSR Act and any other applicable Antitrust Law.

12.03 Knowledge Defined. For purposes of this Agreement, the term “the Company’s knowledge” as used herein shall mean the actual knowledge after reasonable inquiry of Charlie Mancuso, Mark Thompson, Louis Gurwitch, Eric Cole, Tim Murray, Ken Hudgens, Kathy Willard and Michael Rowles.

12.04 Notices. All notices, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given when personally delivered, one day after deposit with Federal Express or similar overnight courier service or three days after being mailed by first class mail, return receipt requested. Notices, demands and communications to the Buyer Parties, the Company and Seller shall, unless another address is specified in writing, be sent to the addresses indicated below:

Notices to the Buyer Parties or, following the Closing, the Company:

Feld Entertainment, Inc.  
8607 Westwood Center Drive  
Vienna, VA 22182  
Fax: (703) 448-4095  
Attn: Jerome S. Sowalsky

with a copy to:

Fulbright & Jaworski L.L.P.  
666 Fifth Avenue  
New York, NY 10103-3198  
Fax: (212) 318-3400  
Attn: Richard A. Palmer, Esq.  
Jeffrey M. Marks, Esq.

Notices to Seller and, prior to Closing, the Company:

Live Nation Worldwide, Inc.  
9348 Civic Center Drive  
Beverly Hills, CA 90210  
Fax: (310) 867-7158  
Attn: Michael Rowles

with a copy to:

Latham & Watkins LLP  
355 South Grand Avenue  
Los Angeles, California 90071-1560  
Attn: James P. Beaubien  
Fax: (213) 891-8763

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Notwithstanding the foregoing, any party may send any notice, request, demand, claim, or other communication required or permitted hereunder to the intended recipient at the address set forth above by personal delivery, messenger service, ordinary mail and/or facsimile transmission; provided, however, that no such notice, request, demand, claim, or other communication will be deemed to have been duly given unless and until it actually is received by the intended recipient. Any party may change the address to which notices, requests, demands, claims and other communications required or permitted hereunder are to be delivered by giving the other party(ies) notice in the manner herein set forth.

12.05 Assignment; Third Party Beneficiaries. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided that no party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of each other party hereto. Nothing in this Agreement, express or implied, is intended to or shall confer upon any Person other than the parties hereto or their respective successors and permitted assigns, any rights, remedies or liabilities under or by reason of this Agreement, other than Article IX (Indemnification), which is intended to be for the benefit of the Persons covered thereby or to be paid thereunder and may be enforced by such Persons.

12.06 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable Law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

12.07 References. The table of contents and the section and other headings and subheadings contained in this Agreement and the exhibits hereto are solely for the purpose of reference, are not part of the agreement of the parties hereto, and shall not in any way affect the meaning or interpretation of this Agreement or any exhibit hereto. All references to days or months shall be deemed references to calendar days or months. All references to "\$" or "dollars" shall be deemed references to United States dollars. Unless the context otherwise requires, any reference to a "Section," "Exhibit," or "Schedule" shall be deemed to refer to a section of this Agreement, exhibit to this Agreement or a schedule to this Agreement, as applicable. Any reference to any federal, state, county, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. For all purposes of and under this Agreement, (i) the word "including" shall be deemed to be immediately followed by the words "without limitation"; (ii) words (including defined terms) in the singular shall be deemed to include the plural and vice versa; (iii) words of one gender shall be deemed to include the other gender as the context requires; (iv) "or" is not exclusive; and (v) the terms "hereof," "herein," "hereto," "herewith" and any other words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including the exhibits hereto and the Disclosure Schedules) and not to any particular term or provision of this Agreement, unless otherwise specified.

12.08 No Strict Construction. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction shall be applied against any Person.

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12.09 Amendment and Waiver. Any provision of this Agreement, or the schedules or exhibits hereof, may be amended or waived only in a writing signed by Parent and Seller. No waiver of any provision hereunder or any breach or default thereof shall extend to or affect in any way any other provision or prior or subsequent breach or default.

12.10 Complete Agreement. This Agreement (including the Disclosure Schedules hereto) and the Transition Services Agreement contain the complete agreement between the parties hereto and supersede any prior understandings, agreements (including that certain Confidentiality Agreement, dated April 2, 2008, by and between Seller and Parent) or representations by or between the parties, written or oral, which may have related to the subject matter hereof in any way.

12.11 Counterparts. This Agreement may be executed in multiple counterparts (including by means of facsimile signature pages), any one of which need not contain the signatures of more than one party, but all such counterparts taken together shall constitute one and the same instrument.

12.12 Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH OF THE PARTIES HERETO HEREBY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 12.12.

12.13 Guarantee. Subject to the terms and conditions of this Agreement, Parent will cause Buyer to perform its pre-Closing and Closing obligations under this Agreement and will cause Buyer to consummate the purchase transaction contemplated thereby and to pay the Purchase Price and all other payments required to be made by Buyer under this Agreement. Subject to the terms and conditions hereof, Parent hereby waives any and all defenses specifically available to a guarantor (other than non-performance of any of Seller's obligations hereunder and other than performance in full by Buyer or any of its Affiliates).

12.14 Specific Performance. Each of the parties to this Agreement acknowledges and agrees that the other parties to this Agreement would be irreparably damaged in the event that any of the terms or provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached. Therefore, notwithstanding anything to the contrary set forth in this Agreement, each of the parties to this Agreement hereby agrees that the other parties to this Agreement shall be entitled to an injunction or injunctions to prevent breaches of any of the terms or provisions of this Agreement, and to enforce specifically the performance by such first party under this Agreement, and each party to this Agreement hereby agrees to waive the

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defense in any such suit that the other parties to this Agreement have an adequate remedy at law and to interpose no opposition, legal or otherwise, as to the propriety of injunction or specific performance as a remedy, and hereby agrees to waive any requirement to post any bond in connection with obtaining such relief. The equitable remedies described in this Section 12.14 shall be in addition to, and not in lieu of, any other remedies at law or in equity that the parties to this Agreement may elect to pursue.

12.15 Governing Law. All matters relating to the interpretation, construction, validity and enforcement of this Agreement shall be governed by, and construed in accordance with, the domestic laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of laws of any jurisdiction other than the State of Delaware.

12.16 Jurisdiction. Except as otherwise expressly provided in this Agreement, any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought in the Delaware Court of Chancery or any federal court located in the State of Delaware, and each of the parties hereby consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 12.04 shall be deemed effective service of process on such party.

12.17 Dispute Resolution. From and after the Closing Date, except as otherwise provided by Article I and subject to Section 12.14 above, in the event any claim, demand, disagreement, controversy or dispute (a "Dispute") arises from or in connection with this Agreement or the breach hereof, the parties shall negotiate in good faith to resolve such Dispute prior to the submission thereof to any court having jurisdiction over such Dispute pursuant to Section 12.16 hereof; provided, however, that if (a) any such Dispute involves only monetary damages in an amount not in excess of \$100,000 and (b) such Dispute cannot be settled through direct discussions, the parties agree to endeavor first to settle such Dispute in an amicable manner by non-binding mediation to be held in Los Angeles, California, administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to any such court for the resolution thereof.

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IN WITNESS WHEREOF, the parties hereto have executed this Stock Purchase Agreement on the day and year first above written.

COMPANY:

LIVE NATION MOTOR SPORTS, INC.

By: /s/ Kathy Willard

Name: Kathy Willard

Its: Executive Vice President, Chief Financial Officer and Secretary

PARENT:

FELD ENTERTAINMENT, INC.

By: /s/ Michael Little

Name: Michael Little

Its: Senior Vice President - Finance, Treasurer and Chief Financial Officer

BUYER:

FELD ACQUISITION CORP.

By: /s/ Michael Little

Name: Michael Little

Its: Senior Vice President - Finance, Treasurer and Chief Financial Officer

SELLER:

LIVE NATION WORLDWIDE, INC.

By: /s/ Kathy Willard

Name: Kathy Willard

Its: Executive Vice President, Chief Accounting Officer and Assistant Secretary

**CERTIFICATION**

I, Michael Rapino, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Live Nation, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 7, 2008

By: /s/ Michael Rapino

Michael Rapino  
President and Chief Executive Officer

**CERTIFICATION**

I, Kathy Willard, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Live Nation, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 7, 2008

By: /s/ Kathy Willard

Kathy Willard  
Chief Financial Officer

EXHIBIT 32.1 – SECTION 1350 CERTIFICATION OF CHIEF EXECUTIVE OFFICER

In connection with this Quarterly Report of Live Nation, Inc. (the “Company”) on Form 10-Q for the quarter ended September 30, 2008 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Michael Rapino, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 7, 2008

By: /s/ Michael Rapino

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Michael Rapino  
President and Chief Executive Officer

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

EXHIBIT 32.2 – SECTION 1350 CERTIFICATION OF CHIEF FINANCIAL OFFICER

In connection with this Quarterly Report of Live Nation, Inc. (the “Company”) on Form 10-Q for the quarter ended September 30, 2008 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Kathy Willard, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 7, 2008

By: /s/ Kathy Willard

Kathy Willard  
Chief Financial Officer

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.